



TOWN OF PALM BEACH

Planning, Zoning & Building Department

MINUTES

LANDMARKS PRESERVATION COMMISSION

WEDNESDAY, JANUARY 21, 2004 AT 9:00 A.M.

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

I Call to Order: Chairman Pandula called the meeting to order at 9:00 a.m.

II Roll Call:

PRESENT: Eugene Pandula, Chairman
Ann Blades, Secretary
Ann Vanneck, Member
Jack Pyms, Member
Judy Hoffman, Member
Patrick Segraves, Member
Wendy Victor, Alternate Member
William Lee Hanley Jr., Alternate Member
Robert T. Eigelberger, Alternate Member
John C. Randolph, Town Attorney
Robert L. Moore, Director of Planning, Zoning & Building
Timothy M. Frank, Planning Administrator
Jane Day, Staff Preservation Consultant

ABSENT: Sari Wilkey, Vice Chairman (Excused)

RECORDING SECRETARY: Cynthia M. Delp

III Approval of the Minutes of the December 17, 2003 Meeting:
MOTION BY MR. PYMS FOR APPROVAL OF THE MINUTES.
MOTION SECONDED BY MRS. BLADES.
MOTION CARRIED UNANIMOUSLY.

IV Administration of the Oath to all persons who wish to testify: By Mrs. Delp

V Public Hearings:

A. Application for Certificate of Appropriateness #25-2003,(deferred from Dec. 2003)
Continuing renovation with miscellaneous changes
Owner/Applicant: 123 LLC
Address: 455 North County Road
Architect: J.F. Brennan Design/Build L.C., Ralph Cantin
Project Description: Request approval of the following:

"The main purpose of this project is to fully restore and rehabilitate the existing building on the exterior, bringing out the richness of the Mizner design with cypress outlookers, barrel tile roofs, balconies and lookouts and unique fenestration. On the interior, major rooms such as the living room, library, and family rooms will be restored with wood beams and/or equal ceiling and details, and be brought back to its original function and use. All existing masonry openings for windows and doors shall remain in place, as well as any existing structural walls and/or supports, with the exception of one proposed window on the west stair (refer to second floor plan and north elevation) to bring in light. In addition, the proposed elevations will have two more proportionate windows within existing masonry openings in the second floor laundry room

and his bath area on the south elevation. Further, the proposed plans and elevations present a grander and more refined and developed entry staircase and planting area."

CALL FOR DISCLOSURE OF EXPARTE COMMUNICATION: None declared

Let the record show that at the December meeting, there was a motion for approval of the fenestration changes presented, and there was a second motion for deferral of the stairs (together with driveway and motorcourt) to the January meeting.

PLEASE BE ADVISED THAT THE APPLICANT IS REQUESTING DEFERRAL TO THE MARCH 2004 MEETING AT WHICH TIME THE GRAND STAIRCASE WILL BE PRESENTED IN ADDITION TO A NEW CERTIFICATE OF APPROPRIATENESS REQUEST FOR THE LANDSCAPING.

**MOTION BY MRS. VANNECK FOR DEFERRAL TO THE MARCH MEETING.
MOTION SECONDED BY MRS. BLADES.
MOTION CARRIED UNANIMOUSLY.**

B. Application for Certificate of Appropriateness #1-2004.

Mechanical enclosure, relocate cooling tower

Owner: George and Susan Levin

Applicant: Coco Palm Beach, LLC

Address: 280 Sunset Avenue

Architect: Giacomelli Architecture, Inc.

Project Description: Request approval of the following:

1. Addition of a 10.5' x 20.5' CBS mechanical enclosure at parking lot to contain a new electrostatic precipitator (scrubber) for kitchen exhaust system.
2. Installation of ventilation duct along south wall of building from kitchen to mechanical enclosure
3. Relocation of cooling tower and concrete pad for dumpsters.
4. Other associated changes as presented

CALL FOR DISCLOSURE OF EXPARTE COMMUNICATION: None declared

Mr. Frank testified that this matter, to place the equipment in the parking lot, had been before the Town Council. At that time, the Town Council moved to defer this project for additional technical information. As such, staff recommended deferral to the February LPC meeting.

**MOTION BY MRS. VANNECK FOR DEFERRAL TO THE FEBRUARY MEETING.
MOTION SECONDED BY MR. PYMS.
MOTION CARRIED UNANIMOUSLY.**

VI Designation/Undesignation Hearings:

Item 1: 158 South Ocean Boulevard (Undesignation Hearing)

Owner: First Naugatuck Capital

(Let the record show that the following is primarily a verbatim record of the undesignation hearing, but certain elements are paraphrased. Verbatim portions are noted by the speaker's name at the left margin.)

Mrs. Delp administered the oath to all those who had not previously been sworn.

Exparte Declarations:

Mr. Pyms: Met with the attorney and the architect's representative to review the property

Mr. Segraves: Met with the attorney

Mrs. Hoffman: Met with the attorney at the site.

Mr. Pandula: Has had conversations with the attorney

Mrs. Blades: Met with the attorney at the site

Mrs. Vanneck: Visited the site

Mrs. Victor: Met with the attorney at the site.

Mr. Eigelberger: Visited the site

ATTORNEY MAURA ZISKA: Good morning, Mr. Chairman and members of the commission. For the record, my name is Maura Ziska. I'm here on behalf of Robert and Mia Mathews who are the property owners at 158 South Ocean. I am also accompanied by Harold Smith and Ted, from Smith and Moore Architects. Basically, this is on the agenda for a request for undesignation of the portion of the house that is landmarked. This house...the first floor east facade, ten feet back, was landmarked in 1990 by the commission. Just to give you a brief history of the property, the property was originally designed, or the residence was originally designed in either the late teens or the early twenties by an unknown architect and was described as a cottage. In the 1930's there were renovations done to the property by Howard Major, and then another bout of extensive renovations in the 80's that was done by William Davis, who was the property owner when this property was landmarked. In 1989/1990, the zoning...the Landmarks Commission did landmark over 50 properties, and it is our contention that, at the time, this property was mistakenly landmarked, and that is basically why we are here today, to seek undesignation of it. It was...in the report it met the criteria (a), (c) and (d) that it exemplifies a period of time and it was a notorious architect. We submit that there was no overall historical relevance to preserve this forever because of the fact that it was not a Howard Major original. It was described as being a hybrid of different designs, and architects, and contractors that worked on it over the years. And I think that the Town Council, when they voted to only landmark the east facade, noted that. And that was an issue to us, that if they thought that the entire property was worthy of it, they would have done the entire property, but instead they just limited it to the arcades. It's not an original specimen. It's not an original Howard Major. There are better examples of Howard Major in the town, and he was not specific to British Colonial. He basically did Mediterranean Revival, Monterey, Neo-classical designs, and I think that Ted will be able to show you. I'm going to turn it over to him first. He can show you different examples of this property in respect to Howard Major.

TED SONG, SMITH & MOORE ARCHITECTS: Good morning. For the record, Ted Song with Smith and Moore Architects. We're here, as previously stated, about 158 South Ocean Boulevard. Both at the Town Council meeting and at the Landmarks Commission meeting in 1990, reservations were brought up about the potential of landmarking some or all of the eastern portion there. Like Maura mentioned, the three criteria were (a), (c) and (d), the first of which that it exemplified the broader cultural, political significances...and our statement on that is that to a certain extent, architectural design, by definition, is an embodiment of a given political, cultural or physical characteristics of a given era. The one criteria that we wanted to address... that it was a noteworthy architect or master builder...Howard Major, as mentioned, did do the renovation in the 30's, but the Town's own expert, Mr. Sved, at the time, described the house on more than one occasion, in his testimony before the Landmarks Commission, as a hybrid....that you can see from one side Major's work, but from the others, you can most definitely see the cottage that still remains. And in both instances, both at Landmarks and at Town Council, reservations were brought up about whether or not landmarking a single portion of the house, which is the five bays here on the loggia, was indeed a good idea, and that about 90% of the report, including the elements mentioned by Mr. Sved, both in writing and in person before the commissions, that he mentioned were not landmarked. The most noteworthy items, Mr. Sved mentioned, in fact, were some of the third story windows and some of the elements that then weren't even put under consideration for Landmarks. And that this element, the five arches there, is a British Colonial element, but we feel that there are a number of more noteworthy British Colonial elements similar to that throughout the town, and that including specifically Howard Major designs, elements such as Major Alley, and other elements that Mr. Major did throughout Palm Beach, we feel are a better embodiment of his work. And here you can see some of the condition of the existing. That's looking back...looking toward the east. And some of the...also...and a couple of the items that were mentioned in the minutes of the Town Council meeting that I wanted to read was one...I believe Mrs. Weiner...she pointed out that in the classification of the houses it states this is a "good" Bermuda house. "Although it is nice and it is good, she thought they were going too far and it weakens other homes of beautiful tradition, when they merely grab at something like this." That was her exact quote when it was brought before the Town Council for approval of the Landmark's recommendation. And then, even though Mrs. Weiner went along with Mr. Davis and with a 4-1...and then Mr. Newman, at Landmarks as well, was hesitant in that whether or not it was done at the owner's request or kind of the owner was talked into doing it was another issue brought forth in the minutes. We feel that overall, architecturally there are better examples of Howard Major's work. There are more consistent examples...examples that are truly all Howard Major, and not kind of a conglomeration of different styles and elements. So, we feel that this is not a good embodiment of some of Major's work, such as Major Alley or even a Mediterranean that he's done within the town that better capture some of Major's work. So we feel that this was perhaps designated inappropriately. As we said, it's just the first ten feet there. And other elements of Major's work...we brought the original drawings of Mr. Major along if the commission has any question. Other elements of the work that Mr. Major did are no longer there, and so we feel that in trying to capture Mr. Major's work, some of what he did is already gone. So we don't feel that maintaining this piece is truly maintaining the work that Mr. Major did on this project. And we'd be more than willing to answer any questions the commission might have.

① **ATTORNEY MAURA ZISKA:** And I just wanted to add one more thing. I'm just going to request for you to look at this on a case by case basis because I know that this is a touchy subject with regard to what's been going on in the past few months with the Landmarks Preservation Commission and the Munn property to the north, but, I guess, the bottom line is was this worthy of being designated in 1989/90. Would you have designated this today? And if it was a mistake, and if it's not worthy of being designated and meeting criteria, is it something that should be preserved in perpetuity? So we'd be happy to answer any questions...the property owner, the architects...at this time.

ANN BLADES (LPC MEMBER): Could I ask please what is to be gained by having the arches undesignated? I clearly do not understand the point of this.

ATTORNEY MAURA ZISKA: It actually gives more flexibility to what the property owner can do with the property...the owner, whoever wishes to buy it in the end. Because it does restrict what you can do with the property. You cannot...you obviously cannot demolish the house, but what are our options at that time? Can you demolish everything up to the arches, and do whatever behind it? Can you move it off the property to another location? Can you relocate it on the property? It just gives more flexibility.

ROBERT EIGELBERGER (LPC ALTERNATE MEMBER): Maybe I should say something because I was Chairman of the commission in those days. And that was before me. And I don't understand what this is all about...period. There are no plans to build something new. That is a very attractive house. I don't care whether it's Howard Major's best house or whatever. If we start doing things like this....say, Mizner. Mizner worked on many buildings. They're not all Mediterranean Revival. Volk worked on many buildings. Obviously, in those days, there were a certain maybe half dozen architects in Palm Beach. So if someone would build a house, they'd hire Howard Major or Addison Mizner or John Volk to remodel the house. It's a typical ongoing process...architecture. You know, the house has to go along with whatever it's being used for. I think this is a very attractive house, and I think it would be an enormous mistake to de-designate it, especially for no reason. There's not a reason on the floor that says you know, the place is falling down. I mean, I see cracks in it...well, you know, we can't go by construction faults. I mean it should have been maintained. But there is nothing wrong with that house and it should definitely be not designated in my viewpoint...period.

○ **JUDY HOFFMAN (LPC MEMBER):** I can't see why you want to take away the designation on the facade. It doesn't hurt the economic value of the house. My father-in-law designed and built a house in the 30's, and its facade on the east was landmarked, and it certainly didn't stop any renovations, and it certainly didn't stop the value of that house. It just shot way up. And so, I don't think landmarking just the facade restricts the economic development of the place, and I, too, feel this is very attractive. I'd hate to see it turned into a Mediterranean, pseudo-Mediterranean Revival, which is what all the developers are doing. Our town is turning into a ghetto...an expensive one, but a ghetto.

PATRICK SEGRAVES (LPC MEMBER): I've got a question for the staff. When I looked at the house, I looked at the facade, and in reading the report about how it was designated, it was kind of unclear and there were some statements, and I know just because you take minutes, sometimes things are kind of not clear after the meeting. But, two questions. One is I then saw some photographs of the interior of the courtyard of the house, and although they are not landmarked, the feeling of that is kind of carried on by the arches in the front, in my opinion....that the whole house takes on that character of those arches. Is it true that they could tear the whole house down except for those arches.? Because...

○ **TIMOTHY FRANK (PLANNING ADMINISTRATOR):** No. I think I should testify because I was here at the hearing when it was landmarked, as was Mr. Eigelberger. Essentially, the Landmark Commission agreed with staff, and I believe they unanimously endorsed our recommendation for this to become a landmark. When it went to Town Council, the owner of the house at that time presented a scenario where he wanted to make some modifications to the interior. And he was afraid that by being landmarked he might be, you know, not allowed to do what he wanted to do. And so the Town Council listened to that even though we explained to them that the purpose of our ordinance is merely exterior review only. The Town Council chose to offer a compromise, and that compromise was to landmark the Major first entry, which was the east facade, but then also, as a caveat, the Town Council said that any future changes to the exterior of the building would be reviewed and approved by the Landmark Commission. And that was to give...to make it very clear to him that he could do what he wanted to with the inside of the house, but they basically thought that the changes should be reviewed by this commission and kept consistent with the Howard Major architecture. I didn't get the feeling, being at the hearing myself, that the owner was opposed to this, and I didn't get the feeling that the Town Council felt that they were hampering the owner. They just wanted to make it

clear to him that he could make any interior changes that he wanted. Also, this always brings rise to speculation. There is speculation on this house. We had asked, when we were first invited to review it, if the house was for sale. We were told that it wasn't. It is, in fact, for sale. There's a sale on the property, and that brings staff questions openly whether or not this is advice by the realtor as to whether the landmark designation should be removed or not.

ATTORNEY MAURA ZISKA: I would like to respond to that. It has been on the market for two years. I don't know who told you it wasn't for sale, but I know that it's been on the market for a couple of years. And, you know, it is what it is. Whatever the Town Council decided, the bottom line is the only thing that is landmarked is the first floor east facade, and maybe this is a question for Mr. Randolph, but I believe that because that is the only portion that is landmarked, that everything could be demolished behind the first floor east facade. We would have to get demolition approval like we would for ARCOM or Landmarks for any house that you're going for demolition, but I think legally they could do whatever they want behind the arches, whether it's demolition or changes.

ATTORNEY JOHN RANDOLPH: That would be normally the case, and that would be my statement absent having heard what Mr. Frank has said. I think we'd have to review the minutes and the conditions that were imposed at the time to see what the import of that is. I mean he seems to be indicating that there was a condition that even though we are just designating the certain portion of the facade, that the Landmarks Commission would still have jurisdiction over the remainder. Now, what that might mean is that the only part that's designated is the facade. You can demolish the remainder, but we still have jurisdiction over that, and whatever goes up is going to have to be in keeping with the facade.

ATTORNEY MAURA ZISKA: Whether it...whatever...it does say that any changes would be in...would vest in the jurisdiction of the Landmarks Commission, but it doesn't say specific to additions, renovations, demolition, anything like that. So...

ATTORNEY JOHN RANDOLPH: Yeah. That would more than likely be the case...is that because they have only designated a portion of the house, that there is nothing to preclude them from doing what they want with the rest, however, the rest is under your jurisdiction so you would have to look at it to make sure whatever they did was in keeping with the rest of it.

ATTORNEY MAURA ZISKA: Although...although there have been many changes that have been ongoing throughout the interior of the house...changing out windows, etc. that has not come before Landmarks.

ATTORNEY JOHN RANDOLPH: Interior...we would...it would not come before.

ATTORNEY MAURA ZISKA: There have been exterior changes. Oh, the kitchen windows on the exterior have been changed out too.

ATTORNEY JOHN RANDOLPH: Well, maybe those should have been coming.

TED SONG (SMITH AND MOORE ARCHITECTS): And the entrance was moved from the east side to the south side at some point. The front door was moved as well.

EUGENE PANDULA (LPC CHAIRMAN): Mr. Eigelberger

ROBERT EIGELBERGER (LPC ALTERNATE MEMBER): Just as a question...if the footprint of this house was eliminated except for the arches, could another building...are all the setbacks met? I'm sure that most of these old buildings were sort of squeezed into a lot, and if you start a corner lot like that, and if you start with a 35 foot setback from the front, and a 35 foot setback....could you, in fact, if you let the arches there, build a house of this square footage on that property? I mean it seems to me a very...a very tight house on a very tight space, and so, if you had the audacity to destroy everything but the arches, I mean, what kind of house could you put on a narrow lot like that on a corner?

TIMOTHY FRANK (PLANNING ADMINISTRATOR): I can only give a hypothetical, but it would have to...it would have to meet the code if it was voluntarily removed. There are certain portions in our code that if it was removed by a hurricane, act of God, fire or something like that, that they could probably get the same house back in the same footprint.

ROBERT EIGELBERGER (LPC ALTERNATE MEMBER): Well, let's not plant seeds here. I mean...

TIMOTHY FRANK (PLANNING ADMINISTRATOR): Well, no. And there are also protections of landmarks that guarantee that type of thing too. For example, Brazilian Court. If it was smashed more than 50% by a hurricane, they could build back at their same use, their same density, same violations of setback and so forth. These are benefits that are afforded landmarks.

ROBERT EIGELBERGER (LPC ALTERNATE MEMBER): But those are emergencies. Those are emergency situations. We're talking now about voluntary demolition where you...if the arches are preserved, and then they want to build something behind, surely the setbacks today are far more stringent, and they might end up with what they started with...a cottage.

ATTORNEY MAURA ZISKA: Right. It would be a smaller house.

TIMOTHY FRANK (PLANNING ADMINISTRATOR): I would have to state, for the record, that I have not studied this specific house with regards to the code. Aside from making that statement, you know, I believe that you are correct. The density on this house is rather high for the zoning district that it's in.

ANN BLADES (LPC SECRETARY): And the green space is very limited. And also, I don't think they have enough front footage, do they? What I can see is 97 feet, not 100, so there are restrictions that lie with the land.

EUGENE PANDULA (LPC CHAIRMAN): Have you guys calculated any of your zoning issues?

TED SONG (SMITH AND MOORE ARCHITECTS): No, sir. At this time, we have not.

EUGENE PANDULA (LPC CHAIRMAN): O.K. So you're just ...you're trying to make an aesthetic presentation here, essentially.

TED SONG (SMITH AND MOORE ARCHITECTS): Correct.

WENDY VICTOR (LPC ALTERNATE MEMBER - VOTING TODAY): I have a question for Mr. Randolph. Normally, when a house is landmarked, the entire property is landmarked. If a portion of the house is landmarked, does that apply to the whole property?

ATTORNEY JOHN RANDOLPH: No. It only applies to the portion that is landmarked. You don't have...it doesn't apply to the whole property. That is the specific reason that Councils in the past have designated just a portion so as not to have the jurisdiction of the remainder of the property with Landmarks.

EUGENE PANDULA (LPC CHAIRMAN): But that's not true in this case because they designated the front facade, the arcade, and then they specifically mandated that the Landmarks Commission retain control of the aesthetic of the balance of the building. And I've read these minutes several times, and to me, it was done purposefully. The conversation was a little convoluted as it went back and forth, and...

TED SONG (SMITH AND MOORE ARCHITECTS): Correct.

ATTORNEY MAURA ZISKA: Well, it was between whether we were going to have ARCOM or Landmarks, and it doesn't make any sense to have just one portion of it if you're going to do something above the arches...does that go to Landmarks or does the rest of the house go to ARCOM? So, I think it was trying to determine who has jurisdiction, as if you were, just for any other house in town, doing a renovation.

EUGENE PANDULA (LPC CHAIRMAN): That's not true typically because we've got a project up on Hi-Mount where the front facade, a certain portion of it, and two feet back, is landmarked, and the balance of it goes to ARCOM. So, I think, and that's why I think this is important, because I think they specifically made mention of having this remain in the jurisdiction of Landmarks.

TED SONG (SMITH AND MOORE ARCHITECTS): Yes, Mr. Moore was very clear about that because Mr. Davis...I think that was one of Mr. Davis' concerns. In the minutes, Mr. Moore said rather than make you go through this longer process, this is what we recommend.

① **EUGENE PANDULA (LPC CHAIRMAN):** In my interpretation of the whole thing that I read was that designation of only the arcade was more of an accommodation to the gentleman that owned the house at the same time, but the net effect of having the building landmarked by having us retain jurisdiction was met. So, I think it was, like I say, just reading the minutes was a little convoluted, but I think, to me, the intent was very clear. So, and I think, if they didn't see the value of the balance of the building,, they wouldn't have mandated that. They would have let it go to ARCOM for their level or their kind of review. I don't...let me just tell you what I disagree with, and then...I don't think that the conversation about whether this is Howard Major's best or whether there are several others, or any of that, is really valid to this. This pertains to this property, and I think it needs to stand on its own regardless of if it's his best, or if it's not. It was evaluated. I think it meets the criteria. And I think it still does. You haven't told us that it no longer meets the criteria of being a Howard Major or anything else. Thirdly, I'm not so sure that a hybrid is bad, and you present it as it is. And that's your opinion, but I've got a different one, and maybe some others do. And I think that typically, here in town, up until fairly recently, most houses were, in fact, hybrids. They evolved. And I think, interestingly enough, the measure of a good architect or a great architect is being able to come in and honor and recognize the good work that was done before you and add onto it successfully. And I think that is what has occurred here on this property, by people that we don't know and some that we do, but I think they've been able to allow the house to progress through the ages in a very nice manner. I think the whole that is there right now is very nice, and the fact that, you know, only a remnant of it is actually the true, original Major, or recognizable, is really immaterial to the whole of the property. Well, I think that's about it. Oh, have there been any applications made for Certificates of Appropriateness? Have we denied you anything?

ATTORNEY MAURA ZISKA: Not that I'm aware of.

EUGENE PANDULA (LPC CHAIRMAN): Oh, so...so basically, you've gotten everything you've needed out of this commission or anybody else. Right? There has been no...

ATTORNEY MAURA ZISKA: I don't know if there's anything....the only changes that we're aware of that have come to the commission was before ARCOM actually in the 80's when William Davis did the addition.

① **JANE DAY (STAFF PRESERVATION CONSULTANT):** I think that Jeff Smith worked on the house in the 90's.

EUGENE PANDULA (LPC CHAIRMAN): I think so.

TIMOTHY FRANK (PLANNING ADMINISTRATOR): Mr. Chairman, staff, through myself, made some responses to a question by Mr. Segraves, but staff does have a presentation, and Mrs. Day might want to enlighten us on what staff's opinion is as to whether the house still meets the criteria in the ordinance or not.

① **JANE DAY (STAFF PRESERVATION CONSULTANT):** Good morning. Jane Day, for the record. I see this as an opportunity, an opportunity to educate the public about the benefits of landmarking as much as a hearing for you to decide whether or not you want to de-designate it. Staff recommends that you not undesignate the east facade of this house. I'm passing around the front...the original front elevation which is along North Ocean Boulevard...or South Ocean Boulevard, and Mr. Smith's office has that as well, and also photographs that I took last week when I visited the site with Maura Ziska and the architect, and I think that you can see that the portion, the arches that were designated by the Town Council, remain pretty much as Howard Major designed them in 1931. I think it's also important, although I tend to agree with Eugene Pandula that we shouldn't look just at the numbers...Howard Majors are relatively rare in the Town of Palm Beach although he's a well known name. Major came to Florida in 1925. He worked in Addison Mizner's office, and originally worked in the Mediterranean Revival style. But in 1925, he wrote an article for the Architectural Forum entitled *A Theory Relating to Spanish and Italian Houses in Florida*, and suggested that other styles of architecture were more appropriate to the Florida climate and what he called the national character. This, I believe, is one of those houses. It is part of Major's attempt to break away from the Spanish style, and in that respect, I think that it does meet criteria (a). It represents a time period when the citizens of Palm Beach were looking at other styles of architecture and building major houses along the ocean in these new styles. At the present time, including this property, there are only seven Howard Majors that are designated within our ordinance out of, I think, 254 total designations. And I went back and looked at the Master Site File forms that we identified as things that we should be looking at in the future, and there were only 19 Howard Majors of that over 1500 worth of structures that were identified then. So, I think Howard Major is an important architect. Obviously, I think the majority of this work is still his. It still has the architectural integrity of that front facade that used to be the front of the house on Ocean Boulevard. It is still representative of the time period in the Town of Palm Beach that

tastes were changing from the large Mediterranean style homes to British Colonial, Art Deco, and other style homes, and it's also very representative of Mr. Major's work in his field. So, I think it still meets criteria (a), (c), and (d), and staff would recommend that you vote against de-designation.

EUGENE PANDULA (LPC CHAIRMAN): Thank you.

TIMOTHY FRANK (PLANNING ADMINISTRATOR): Mr. Chairman, also to piggy-back on this report, I'd like to state...it might be a little bit repetitious, but I'd like to state, for the record, that this house was a voluntary designation, although the deal was changed at the Town Council level, the applicants at the time were there and they agreed to the conditions that the Town Council put on the table. In addition to that, the present owner knew that this house was landmarked when they bought it. It was properly filed and so forth with the County Records Department and so forth. So, this is not a situation where the landmarking was designated during the tenure of the present owner. They bought into a landmark situation. And that's just for the record. Thank you.

EUGENE PANDULA (LPC CHAIRMAN): Thank you.

ROBERT MOORE (DIRECTOR OF PLANNING, ZONING & BUILDING): Mr. Chairman, I have some additional comments too, if I might. In following up what Mr. Frank has just advised you, and there may be persons on this commission that aren't aware that every time we do a designation, although we haven't done one in quite a while, it's actually recorded in the Court House. It's a matter of record, and when any lawyer who is doing his or her due diligence on researching a property for a client, it is very evident that there is an encumbrance, if you will, on this property. And that person is made very well aware of this before that person or persons purchase a property. It is not a surprise that occurs to them after the fact. Secondly, it would be analogous to a zoning restriction for not renting a garage apartment where we have kitchen agreements that are recorded which says that those garage apartments may be for your relatives or your employees, but not to be rented separately. It would be analogous to have that type of agreement come back to the Town Council saying... Hey, I bought this property and I want to go into the rental business and I want to rent that garage apartment. Furthermore, when this property was designated, and I'm very happy that Mr. Eigelberger has returned to us on this commission because his memory, I hope, will serve somewhat closer to mine as well. This was at a time when our Town Council was shifting in its desires to landmark properties. They were paying much more attention to the owners' requests and the owners' feelings on these, rather than arbitrarily simply landmarking them as we had done in the past. It was at a time when the Council negotiated with the property owner, as Mr. Frank has so said. And it is a time, and the minutes do reflect this, where you believed, as a commission, that it was appropriate. The Council, listening to concerns of the owner, did agree to a compromise, but the clear indication, and I think, the crux of the issue, and I think that this is what Ms. Ziska may want to argue when I'm finished, was that they gave the jurisdiction for the rest of the house and the structure to this commission. Now, in doing so, you have a much stronger set, or a much stronger test for demolition than the Architectural Commission does. So, demolition of the rest of the house, although be it...it could be accomplished by following your standards and your ordinance, because of the giving of the authority to you for the rest of the house, is a much tougher road to follow. So, it's much simpler for Ms. Ziska to bring her clients, who knew what they bought, in here today to ask you to remove this designation. And certainly, you should listen to the reasons for it. I think they're valid to listen to reasons for it, but in the bottom line, if you see no reason to remove the designation, we, the staff, don't believe you should do it.

ATTORNEY MAURA ZISKA: I would...can I respond to Mr. Moore for a second? I just want to clarify one thing, though. You're talking about demolition of the entire structure including the arches. Correct?

ROBERT MOORE (DIRECTOR OF PLANNING, ZONING & BUILDING): I'm talking about any demolition of any portion of the structure that was under the Landmarks Commission. Your permission to demolish would have to be here rather than the Architectural Commission.

ATTORNEY MAURA ZISKA: O.K. So, if we want to preserve the arches and demolish the rest of the house, that jurisdiction vests in the Landmarks Commission?

ROBERT MOORE (DIRECTOR OF PLANNING, ZONING & BUILDING): I would say to you, Ms. Ziska, that your clients would have to go through this commission to get that permission to demolish the rest of the house. Very analogous to the First National Bank. First National Bank, Wachovia, is...has a facade designation. Mr. Sullivan, and I think Mr. Eigelberger, was on the commission at the time, negotiated with the attorneys for the First National Bank. I think that was a Gunster Yoakley representation. And they have the first fifteen feet, if I'm not

mistaken, from the west facade going to the east that is in control of the Landmarks Commission. But if they wish to demolish the rest of the building, I believe we also retained the same...I believe we retained the same authority that we have here...that any demolition of the rest of the building would come to you for your review and meet your tests, and not the Architectural Commissions tests.

ROBERT EIGELBERGER (LPC ALTERNATE MEMBER): But I think that's true of all the buildings we ever landmarked. I mean there were many portions of buildings that we landmarked, but the property went with the landmarking. Like if it was a lot...ba, ba, ba...then the...as long as that building and that portion was on that lot, then any other portion of the building came before Landmarks. That was the whole issue at the time about someone could save a quarter of the building and it would be foolish for the rest of the building to go to ARCOM because if part of that building is landmarked, the whole building,, any plans for that building, would come to Landmarks. And, I mean, I think that when at the beginning of the Landmark Commission, it was very difficult. People didn't understand that. There's no law against change on landmarks even. I mean if something happens to a building, and it's a change of use...they take twenty-nine staff rooms and they try to make nice guest rooms and you want to change some of the windows, there was a whole issue of being lenient towards accommodating people that had a landmark building. It has a change of use now. You don't have twenty-nine maids anymore. You want to make a nice playroom for your children. Well, come before us with a good plan. Sure we can. Buildings are always being changed.

ATTORNEY MAURA ZISKA: But in this case, the only thing that's landmarked is the first floor east facade although the rest of the jurisdiction lands in the Landmarks Commission.

ROBERT EIGELBERGER (LPC ALTERNATE MEMBER): But it's true of any landmark building, or any portion of any landmarked building in Palm Beach.

ATTORNEY MAURA ZISKA: Why would you only do a portion of the house, then? I mean it doesn't make sense.

ROBERT EIGELBERGER (LPC ALTERNATE MEMBER): I recall...when I read the minutes, I remembered the gentleman who bought the house. He was doing a lot of the work himself. He had been through three contractors. I mean we had some sympathy toward the man. And he was coming before us all the time, and so, it was a way to resolve the issue, to get the building landmarked. He didn't know exactly what he was going to do with the building. He went before the Town Council. It was exactly as staff has said. It was a way to get it resolved...the issue resolved because we had a very full agenda in those days. But there is no question in my mind that this building should be landmarked. I don't care what portion of it.

EUGENE PANDULA (LPC CHAIRMAN): But I think that what it says is that the portion that is not landmarked is contributing to the landmarked portion.

ATTORNEY MAURA ZISKA: But the bottom line legally is that the only thing...whatever they talked about at Landmarks and Town Council, the rule, the finding, the ruling of the Town Council is that the only thing that is landmarked is the first floor east facade.

ROBERT EIGELBERGER (LPC ALTERNATE MEMBER): But the rest of the building goes with it. Any other construction on the building would go before Landmarks, and not ARCOM. Do you understand?

ATTORNEY JOHN RANDOLPH: The distinction, I think, that needs to be made here is this. That this is distinct from a building that you would landmark in total, or a property that you would landmark in total. Clearly, in a case where it's been landmarked in total, you have full control over whether anything is demolished or not on the property. I think there is a distinction when the Landmarks Commission and the Town Council only landmarks a portion of the building, such as the facade. I think in this particular case, they could not touch that facade without your approval because its under your jurisdiction, but with the remainder of the building, you have jurisdiction over it to make sure that whatever is done to it is in sympathy with the facade, but I don't think they are precluded from demolishing the remainder of the building as long as the plans that they bring in are approved by you.

ROBERT MOORE (DIRECTOR OF PLANNING, ZONING & BUILDING): But if you carry that, and I don't disagree with Mr. Randolph's opinion. In fact, I agree 100%. But if you carry that a step further that in some way, shape or form, the property is to be demolished behind the facade, and then a scheme put forward to put up new

houses on that property, I think that that goes beyond the intent of what your control would be on this particular property. So, I have not looked at it for zoning, and Mr. Frank has also said he has not looked at it for zoning. I don't know. I suspect that the architects have probably looked, because they are in this business, to find out how much...how many houses this property would support. They probably have a better idea of that than we do at this point in time. We certainly will look at that, but anything that would be beyond, as Mr. Randolph has pointed out, the work associated with the existing structure..I think, absolutely correct, that you have that jurisdiction and they can make a great deal of change to that, but I don't believe that they would have the right to prop up the first balcony and just take down the rest of the house, and just either move it on the property or do something to it in order to subdivide that property or split that property.

WENDY VICTOR (LPC ALTERNATE MEMBER-VOTING TODAY): I'd just like to add something into the mix that maybe will encourage the owners, so they don't think we're entirely heartless here. There is a program starting up in town, and I think the proper name is Properties for Preservation. It's drawn from the National Trust for Historic Preservation, and it's to preserve properties that are worthy of being landmarked, or are landmarked, and the Preservation Foundation of Palm Beach, and actually the president is sitting right behind you, is just starting this program, and they, in fact, will be restoring houses to how they used to be, and I'm not clear whether they buy the property or advise you, or whatever, but as I look at the photographs of how your house used to be, I love the old feeling of it and the views to the ocean, and the shrubbery cut down, and this wonderful sense of openness, and air and light and breeze coming through. And that might be another option for you, you know, instead of butting heads with us and the Town Council. Maybe talk to the Preservation Foundation and see if by partnering with them, you can end up with a property that perhaps is even more valuable than what you're thinking about now.

ANN VANNECK (LPC MEMBER): Let me add my...

EUGENE PANDULA (LPC CHAIRMAN): But we're also trying to attempt to solve a problem that we don't know what the problem is. So...

ANN BLADES (LPC SECRETARY): Exactly. What is the intention for the house? It's on the market. It's on the market, may I say, for \$10,900,000. Excuse me for interrupting, but the taxes, if it sells at \$10,000,000 are absolutely heart stopping with the current formula that the Tax Assessor's Office has now, which is approximately one and a half to two percent of the sale price. So, my way of thinking is that it's not the facade that's the problem. It's the potential taxes. So, I still don't get the point.

JANE DAY (STAFF PRESERVATION CONSULTANT): And one other thing...because a portion of this property is landmarked, we could, if another owner came back and wanted to landmark the entire property, perhaps get this in the ad valorem tax exemption program which might help with some of the problem that you are talking about. It gives an opportunity that you wouldn't have if there was not landmarking in the mix.

ANN VANNECK (LPC MEMBER): I'd like to bring up one thing. It's obvious that the old saying that no good deed goes unpunished has come back and bitten us. I think that the Town Council made an error not landmarking the entire house. It's worthy...the entire house...of landmarking, and I see no reason to de-designate it. Also, it has...it is a presence on a corner that we see almost daily. It is very visible. It is part of this town and we need to keep it.

EUGENE PANDULA (LPC CHAIRMAN): I think, just from a different standpoint also, that the Landmarks Commission was set up years ago to evaluate information and materials like this and make judgements, and it will continue to do that for years to come, but tastes change and styles change. And my view is absent, really, a substantive error of fact. I think it would be philosophically incorrect and practically incorrect for us to go back and second guess what a previous commission did in their best judgement, potentially losing something, only to find out ten or twenty years from now that Howard Major is just the best. It's a valuation...you know, changes would have occurred to cause other people to view him differently, or any other project. So, I think...I really don't think we want to go down the road again absent substantive fact errors to second guess what other people, exercising the same judgement that we're doing now have done on our behalf. Is there anyone in the audience that wants to contribute anything?

MAIA GAILLARD (ASSISTANT DIRECTOR OF THE PRESERVATION FOUNDATION): Good morning. For the record, Maia Gaillard of the Preservation Foundation of Palm Beach. I have a prepared remark that I can give a copy to you. The Preservation Foundation wishes to be on the record in its opposition to the request for

undesignation of the first floor east facade of 158 South Ocean Boulevard. The applicant cites that this house is, and I quote, "not the best example of a Howard Major design in Palm Beach" and that the subject area is in need of repair. We disagree that these factors constitute a compelling rationale to strip the house of its landmark status. We believe the house is a valuable and charming example of Palm Beach's early British Colonial architecture and urge that its landmark status be honored and upheld. Our primary consideration today, however, is less about a discussion of architectural aesthetics and significance and more about process and precedent. To undesignate any property for whatever reason would weaken the Town's landmark ordinance and undermine its ability to enforce the ordinance. We hope the Landmarks Preservation Commission will deny this request to undesignate a landmarked property and avoid setting a dangerous precedent that could lead to capricious undesignation of landmarked properties across the island. Thank you.

EUGENE PANDULA (LPC CHAIRMAN): Thank you. Mr. Mashek.

MR. JOHN MASHEK (PRESIDENT OF THE PRESERVATION FOUNDATION): Maia has already spoken.

EUGENE PANDULA (LPC CHAIRMAN): Oh, great. Thank you. Anyone else?

ATTORNEY MAURA ZISKA: The property owner would like to say a couple words.

PROPERTY OWNER, BOB MATTHEWS: Good morning everybody. My name is Bob Matthews, and for the record, I do historic rehabs. I've done a dozen historic rehabs, and I'm sure Tim is familiar with the investment tax credits associated with those with historic buildings in Connecticut. In fact, I'm doing one with three buildings right now in New Haven, Connecticut. So, it's interesting kind of sitting on the other side listening to this discussion. The reason I'm here is that I'm building a new house down on Casa Bendita out on the water. And the reason I'm here is purely economic. O.K. The reason I'm here is because I was approached by three people that want to know if they could buy the house and they were worried about the ten feet, and the going up ten feet and going back ten feet. And so I decided it would probably be in my best interest to have the house de-plaques. Now, obviously that's not going to happen today, and I understand that, and I'll probably be back before you for a demo permit on the back. Now, the house has been...the back of the house...David Kosoy has worked on the house, and all the windows on the back are all new, in the 90's. So, I don't think it's a big deal in the back. If I did really in my heart, I wouldn't be standing in front of you guys today. Gene's worked on the house...Gene Pandula was my architect for a while and worked on the house, and I think he knows what's there and what's not there. And we did some interior, some neat crown base and some fun trims inside, but that's really why I'm here. The house...I like the house. I bought the house. I remodeled it. I mean that's what we did. We just want to do a different house on a cul de sac because South Ocean and Clarke is a little busy, and I have two little daughters. That's really the bottom line. So, you know, you guys have to vote and I can see a vote is not going to go this way, and I understand completely, and we will do everything we can to retain the front of this when we come back in front of you guys, and leave the facade exactly where it is. Worst case scenario, we might have to try to move the facade forward or backwards. But I just thought you'd under....I thought you'd get a kick out of the fact that I actually do historic rehabs for a living. So, I thought you'd kind of think that's a little ironic, but if you guys have any questions, I'd be happy to answer them. Thank you very much.

ATTORNEY MAURA ZISKA: I have nothing further.

EUGENE PANDULA (LPC CHAIRMAN): O.K. Anyone else? Last chance.

JACK PYMS (LPC MEMBER): MR. CHAIRMAN, I MOVE THAT WE MAKE THE DESIGNATION REPORT A PART OF THE RECORD.

EUGENE PANDULA (LPC CHAIRMAN): O.K. So, is there a motion?

JACK PYMS (LPC MEMBER): THAT'S A MOTION.

EUGENE PANDULA (LPC CHAIRMAN): O.K. Do we need a second?

ANN BLADES (LPC SECRETARY): SECOND.

EUGENE PANDULA (LPC CHAIRMAN): ALL IN FAVOR?

ALL VOTING MEMBERS: AYE.

EUGENE PANDULA (LPC CHAIRMAN): O.K. the designation report....the undesignation report has been made part of the record.

We've already had testimony and comments from everyone. Last chance....anyone else wish to comment on this matter? O.K. Is there a motion?

ANN VANNECK (LPC MEMBER): I MOVE THAT THE REQUEST FOR UNDESIGNATION OF 158 SOUTH OCEAN BOULEVARD BE DENIED AS THE APPLICANT IS UNABLE TO DEMONSTRATE THAT THE ORIGINAL CRITERIA FOR DESIGNATION ARE NO LONGER APPLICABLE, PURSUANT TO THE TESTIMONY PRESENTED, AND THAT THE TESTIMONY IS MADE A PART OF THE RECORD.

ANN BLADES (LPC SECRETARY): I SECOND THAT.

ATTORNEY MAURA ZISKA: Mr. Randolph, if you could just....I don't know if this is something that you could just include in the motion, but you said undesignation of 158 South Ocean. If you could include in there the first floor east facade of 158 South Ocean because that is the only portion that is designated.

ATTORNEY JOHN RANDOLPH: Yeah. I mean she was just reading from the agenda, but clearly the undesignation report was for that east facade of 158 South Ocean Boulevard.

ROBERT MOORE (DIRECTOR OF PLANNING, ZONING & BUILDING): But in no way are you giving up, in this motion, your ability and control over the remainder of this property.

ANN VANNECK (LPC MEMBER): THAT IS ABSOLUTELY CORRECT, AND ANY CHANGES.....ANYTHING...COMES BEFORE LANDMARKS.

ROBERT MOORE (DIRECTOR OF PLANNING, ZONING & BUILDING): Thank you..

ANN BLADES (LPC SECRETARY): SECOND.

EUGENE PANDULA (LPC CHAIRMAN): O.K. THERE'S A MOTION AND A SECOND. ALL IN FAVOR?

ALL VOTING MEMBERS: AYE.

EUGENE PANDULA (LPC CHAIRMAN): Any opposed? Thank you.

VII Other Business:

Mrs. Vanneck regarding landmarked trees on Wells Road: Mrs. Vanneck commented that the landmarked trees on Wells Road have never been pruned as badly in twenty years as they have been now. The pruning was done by the Town, but it was done in early December, which is too late, according to Mrs. Vanneck. She noted that the trees cannot be replaced, and the pruning which was done is detrimental to the trees. It was noted that the 200 and 300 blocks of Wells Road were pruned much earlier, and as a result, they do not look as poorly as the trees in the 100 block of Wells Road. Mrs. Blades stated that she had telephoned Mr. Ugi in Public Works relative to this matter, and Mr. Ugi responded that the trees have been pruned the same way they have always been pruned. Mr. Moore responded that either staff will report back to the commission at next month's meeting, or staff will ask Mr. Ugi to address these issues directly.

It was noted that one of the trees had been replaced by a podocarpus, and the podocarpus did not survive. Mr. Eigelberger suggested that the town seek the services of a landscape specialist to identify a tree species which will survive there, as the Australian pines will eventually die, one by one. He likewise suggested that a stock pile of Royal Palms be grown on the Town's vacant lot in the north end. Mr. Eigelberger also mentioned that there are hazardous Australian Pines at the town dock at the north end of the island.

A. Distribution of Undesignation Report for 1695 North Ocean Way
Copies of the report were distributed to the members in preparation for next month's hearing.

Mrs. Victor regarding Mar-a-Lago crest on the south cabana: Mrs. Victor noted the crest is back on the south cabana. Mr. Pandula acknowledged that fact, but added that the crest has been moved down on the facade as was agreed. It was taken off the chimney and placed below the belt course, which is where it should be.

Comments regarding lights at Mar-a-Lago: Various members stated the lights are too bright at Mar-a-Lago. Mr. Moore responded that staff could check on this.

Mrs. Victor regarding the Mar-a-Lago ballroom: Mrs. Victor thought she remembered that in the approval of the ballroom, it was stipulated that there be a landscape shield between South Ocean Boulevard and the ballroom during construction. She noted there is none. Staff will have to check on this.

Mrs. Vanneck regarding the Bath and Tennis Club hedge: Mrs. Vanneck noted that the second hedge planted to hide the dock area is nearly lost. Staff has suggested to the Bath and Tennis Club that they supplement the soil in this area to encourage plant survivability. Mr. Eigelberger recalled that when the cabanas were originally approved at the Bath and Tennis Club, there was a condition that they improve the loading dock area and return to the LPC with a landscape plan for the area. Staff will look into this.

Mrs. Victor regarding the Royal Poinciana Plaza: Mrs. Victor stated that it has been rumored that the Royal Poinciana Plaza is going to come before the Town Council within the next year, and she wondered if it should be placed under consideration for landmark status. Mr. Moore responded that there is an agreement in place which precludes any major redevelopment at the Plaza due to the playhouse. So, in fact, there is a deed restriction on the waterfront which is already in place.

VII Adjournment:

**MOTION BY MRS. VANNECK TO ADJOURN THE MEETING AT 10:10 A.M.
MOTION SECONDED BY MRS. BLADES.
MOTION CARRIED UNANIMOUSLY.**

The next meeting of the Landmarks Preservation Commission will be held on **Wednesday, February 18, 2004** at 9:00 a.m. in the Town Council Chambers, 2nd floor, Town Hall, 360 South County Road, Palm Beach.

Respectfully submitted,


Ann Blades, Secretary
LANDMARKS PRESERVATION COMMISSION

cmd

**TOWN OF PALM BEACH
LANDMARKS PRESERVATION COMMISSION**

ATTENDANCE RECORD 2004

MEMBERS	1/04	2/04	3/04	4/04	5/04	6/04	7/04	8/04	9/04	10/04	11//04	12/04
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Eugene Pandula	<u>P</u>											
Sari M. Wilkey	<u>E</u>											
Ann Vanneck	<u>P</u>											
Ann Blades	<u>P</u>											
Jack Pyms	<u>P</u>											
Judy Hoffman	<u>P</u>											
Patrick Segraves	<u>P</u>											

ALTERNATE MEMBERS	1/04	2/04	3/04	4/04	5/04	6/04	7/04	8/04	9/04	10/04	11/04	12/04
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Wendy Victor	<u>P</u>											
William Lee Hanley Jr.	<u>P</u>											
Robert T. Eigelberger	<u>P</u>											

LEGEND:

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

**TOWN OF PALM BEACH
LANDMARKS PRESERVATION COMMISSION**

RECORD OF VOTING CONFLICTS 2004

MEMBERS	1/04	2/04	3/04	4/04	5/04	6/04	7/04	8/04	9/04	10/04	11/04	12/04
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Eugene Pandula

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Sari M. Wilkey

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Ann Vanneck

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Ann Blades

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Jack Pyms

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Judy Hoffman

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Patrick Segraves

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ALTERNATE MEMBERS

1/04	2/04	3/04	4/04	5/04	6/04	7/04	8/04	9/04	10/04	11/04	12/04
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Wendy Victor

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William Lee Hanley Jr.

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Robert T. Eigelberger

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LEGEND: V = One Voting Conflict during a meeting
 V2 = Two Voting Conflicts during a meeting
 V3 = Three Voting Conflicts during a meeting

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