

Change of date for appt. of town manager	F. CHANGE OF DATE FOR APPOINTMENT OF TOWN MANAGER. Mr. Heeke noted the Code states the Town Manager is appointed in February, and he would like to see that take place at the August meeting or thereafter, and not right after the election. He doesn't have too much concern with the Department Heads being appointed in February but felt strongly that the Council needed to have some time to work with the Town Manager in order to evaluate him. Mrs. Wiener had no problem with the Department Heads being appointed later in the year and suggested it be in September, as that would be six months later, to which the Council agreed. Mr. Heeke suggested the Town Attorney prepare two ordinances, one for the Town Manager to be appointed in September and one for the Department Heads and the Town Manager to be appointed in September.
Performance Evaluation	G. PERFORMANCE EVALUATION OF THE TOWN MANAGER. Mr. Heeke suggested the anniversary date for the Town Manager be in September to coincide with the appointment date, to which the Mayor and Council agreed. Mr. Heeke reported the Mayor and the members of the Council have met on an individual basis with the Town Manager. Mrs. Douthit moved the Town Manager be given a four per cent cost of living increase and a two and one half per cent merit increase and this be retroactive to his present anniversary date. Seconded by Mr. Ilyinsky. Mrs. Wiener asked if this matter would then be addressed at the next anniversary date which would be September? Mr. Heeke agreed. On roll call, the motion carried unanimously. Motion was made by Mrs. Douthit, seconded by Mr. Ilyinsky that the funding for the increase be taken from the Undesignated General Fund Balance. Motion carried unanimously.
Assistance from Prof. Brennan	H. ASSISTANCE FROM PROFESSOR BRENNAN. Mr. Heeke stated he had the utmost confidence in the Town Manager and is very pleased with all of his efforts as he deals with the members of the Council in an even handed manner. He suggested that perhaps Professor Brennan, who has helped out the Town in the past, may be available for management seminars and rather than have everyone attending management seminars outside, everyone would be hearing the same recommendations and suggestions at the same time and it would be a lot more efficient to think about that as a program and it would not cost very much money. Mrs. Wiener did not agree as sometimes one needs to be talking with other people and there is a certain amount of exposure that is necessary. Mr. Heeke believed it could be done in addition to and the outside dimension would not be lost, but we could probably pick up something else which might be beneficial to the Town. Mayor Marix knew that he was familiar with the inside operations so it may prove beneficial. Mr. Heeke suggested Mr. Doney check with Professor Brennan and work out some scheduling and if funding is needed, it be presented to the Council for authorization. Mrs. Wiener asked exactly what they were doing? Mr. Heeke recalled Professor Brennan did come down once before and spent a weekend and his fee was for airfare only and he would like to use him on a more regular basis, and if that is done, we need to pay him what he would normally charge on a consulting fee. Mr. Heeke recalled one of the recommendations he made was to meet periodically with the entire staff. Mrs. Wiener stated her concern that this Council as a body is going in certain directions that are not exactly in which the Town Charter directs them, as unless there is a specific reason of them involving themselves in management, she didn't believe that is where they should be. Mayor Marix disagreed believing they were trying not to get involved in administrative items and are looking to get someone who is highly knowledgeable in those matters and could be of some help. Mrs. Wiener felt that should be up to the discretion of the Town Manager. She felt if the Town Manager asked the Council for some guidance, then that would be a different story and the Council could go out and seek some help. Mayor Marix felt the Town Manager was too polite to make this request so if there is someone out there who can come up as an expert would be a help in keeping the elected officials out of the administration. Mr. Heeke felt this was a problem that was not unique to government and all they were offering was a leg-up and if it was useful, he should use it. Mrs. Wiener felt if he wants to do it, he would be able to move forward to do it but she believes she is hearing this Council stating that he will do it. Mayor Marix felt it was going to be useful for all of the department heads. Mr. Heeke suggested that it should be left optional and up to the Town Manager and Council would like him to proceed along these lines and as he sees fit, and as discussions develop, the Town Manager may want to take advantage and expand on this. Mayor Marix believed that was what they said to begin with. Mr. Doney indicated he does have respect from Mr. Brennan's knowledge and experience, however, he is holding down a full time job and last time when he was here, he met with him on a Friday night, Saturday and Sunday and from that respect, it makes it difficult, particularly if he was going to involve the Department Heads. Mr. Heeke stated he would prefer to see this done during working hours, but it would be up to whether or not Professor Brennan would be available.
FL. League of cities annual meeting	I. FLORIDA LEAGUE OF CITIES ANNUAL MEETING will be held in Orlando and the key subject is Amendment 3.
Adjournment	J. TOWN PICNIC WILL BE HELD ON JULY 21. XIII. ADJOURNMENT. Meeting was adjourned at 4:55 PM. Grace T. Peters Town Clerk
Roll Call	TOWN COUNCIL MINUTES OF LANDMARK DESIGNATIONS HELD ON JUNE 11, 1990 I. CALL TO ORDER AND ROLL CALL: A Special Town Council Meeting was called to order by President Heeke on June 11, 1990 at 9:30 AM in the Town Hall Council Chambers. On roll call, the following elected officials were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Ilyinsky, Councilwoman Douthit, Councilman Weinberg and Councilwoman Wiener. Also in attendance were Town Attorney Randolph, Mr. Moore, Mr. Frank Mr. Sved and Mrs. Peters.
Invocation	II. INVOCATION AND PLEDGE OF ALLEGIANCE: Invocation was given by Mrs. Peters. Pledge of Allegiance was led by President Pro Tem Ilyinsky.
Apr. of Agenda	III. PROOF OF PUBLICATION: Mrs. Peters reported the Proof of Publication has been filed. IV. APPROVAL OF AGENDA: Mr. Ilyinsky moved for approval of agenda. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.
Procedures for Public Hearing of Landmarks	V. PROCEDURES FOR PUBLIC HEARING REGARDING LANDMARK DESIGNATIONS: Mr. Moore indicated staff will make its presentation, then comments will be received from those who support the designation and then those who object, followed by discussion of the Mayor and Council and then the action on the designation. Mr. Randolph explained since this is somewhat of a quasi-judicial proceeding, anyone who wishes shall have the right of cross-examination of any of the witnesses and all those who wish to speak in favor or against the designation should be sworn in. Mr. Randolph swore in the staff members. A. Designation Report for 765 Ni-Mount Rd. - Consideration of Res. No. 5-90. Deferred from March 9, 1990

Public Hearing. Attorney Robert Deziel was sworn in by Mr. Ranolph.

Mr. Frank reported staff believes this meets the Criterion A, C, and D, which are A: Exemplifies and reflects the broad cultural, political, economic or social history of the nation, state, county or town.

C. Embodies distinguished characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction, or use of indigenous materials or craftsmanship.

D. Representative of the notable works of one or more master builders, designers or architects, whose individual ability has been recognized to have influenced their age.

Mr. Frank indicated the architect in this case was Maurice Fatio.

Mr. James E. Sved, Preservation Consultant gave the information on the Designation Report. He stated the use of an octagon as an architectural element dates back into the early Greek period of architecture and is found in every period of architecture following that. He stated this was designed in 1936 as an artist's studio for Bernard Boutet de Monvel, a painter and legend has it that Mr. Fatio traded the design for a portrait of his daughter, Alex. He indicated this was also intended to be a retreat in addition to being a studio. He stated the building does sit high on the coral cut and is a double lot and the foliage offers a glimpse of early Palm Beach foliage. He stated the center of the octagon was the artist's studio and had a southern exposure. He noted two of the projecting bays contained two bedrooms, one is a bathroom and one is a kitchen. He noted this building is very similar to the type of architecture built in this country in the eighteenth and nineteenth century. He stated this building is an excellent representation of the Men's Bath House in Warm Springs, Va. which was built in 1794 and is among the oldest Classical Revival structures in North America. He stated it is quite worthy of consideration for landmarking.

Mr. Frank stated the owner of this house is concerned since this is a double lot and he did not want anything to interfere with his development rights and he is interested in keeping the structure and is offering it as a voluntary designation with two conditions:

1. He be allowed to develop the undeveloped lot;
2. He be allowed to move the structure.

Mr. Frank stated the Landmarks Commission accepted the conditions and this would be a voluntary designation.

Attorney Deziel representing the Estate of Gertrude Schweitzer and Peter Schweitzer stated he has met with staff on this and has written a letter dated March 27, 1990 which had six conditions which are:

1. Only the existing main house would be considered a landmark - not the patios, pool, property, or other structures. He noted Mr. Sved described the house indicating it had a kitchen and bedrooms and bathrooms, but to the best of his knowledge, no-one has ever lived in it since the forties, and it was used as an art studio.

2. The four square extensions to the main house would be allowed to be removed, such that the main house would then resemble an octagon shape.

3. The main house would be allowed to be moved to any location on the property and the property owner would agree to use its best efforts and obtain a certified contractor to do the moving and would do their best to see to it that the house would not be damaged. The house would be allowed to be moved with the approval of the Landmarks Preservation Commission - to another site in the Town of Palm Beach.

4. The two lots which make up the property (Lot #122 on the north and Lot 119 on the south) would be allowed to be split or conveyed (to a separate owner) and the main house, as it is currently situated, would not be deemed to be in violation of any setback or side yard requirements.

5. The architectural style of any new structures constructed on either lot will not be required to be architecturally consistent with the existing main house; however, any new construction (i.e., additions or renovations) to the main house will, at the request of the Landmarks Preservation Commission, be architecturally consistent with the main house.

6. The Landmarks Preservation Commission and the Town Council should acknowledge that because the main house previously served as an art studio, has never been habitable and is currently inhabitable, major new construction (either additional separate structures or additions to the main house) and/or major improvements/renovations to the main house are contemplated.

Mr. Deziel stated the property owner is willing to have this designated under these conditions and they wish to maintain the structure in Palm Beach. Mr. Heeke asked with respect to splitting of the lot, this would be subject to it meeting all current zoning requirements. Mr. Deziel advised the home is located on the property line between the two lots so they will request that any other variances, other than setback requirements, they would come before the Council and hoped Council would be willing to grant that variance to the extent that they could today to allow them not to come back in the future as it would forbid the splitting and selling off of the second lot.

Attorney Randolph advised he has no objection to the conditions as discussed to the point that nothing that is done by the Landmarks Commission or Council would serve to preclude a future application, however, they could not bind future bodies or future Councils. He thought the intent was that nothing was being done by way of landmarking which would preclude a future application for the things that are being asked for in the letter, but would not necessarily be binding upon a Council if it does have some right of review at a future time.

Mr. Heeke was concerned with the setbacks and unless that is specifically presented to them, they could not address that subject. Mrs. Wiener noted they were discussing two lots and splitting them, and asked if they were in fact talking about two separate lots? Mayor Marix believed they were talking about separate lots but she would like to know if the lots were conforming at this time? Mr. Frank stated the lots are 103.311 feet by approximately 180 to 185 feet so they are conforming to the R-B Zoning. He noted the one lot is totally undeveloped but the problem lot will be with the Landmarked structure which lies on the property line, so that is an existing non-conformity but would be grandfathered, however if they wish to move the structure, and continue the nonconformity, they would need a variance.

Mr. Deziel responded the extent that he mentioned the granting of the variance may be a grandfathering, as for example, if the property owner sold the lot that did not have the structure on it, he wondered if a problem would be created with the lot which has the structure because that lot has no setback. Mr. Moore noted Mr. Deziel is discussing zoning problems and there will be a nonconformity with regards to the lot where the existing house is, and a variance would be needed. He stated the first three conditions in the letter are the only conditions that staff would consider recommending and the other three are zoning and landmark decisions and to allow interior renovations

is not relevant to this proceeding.

Mr. Deziel felt that a lot split is separating one lot and they have two lots by definition and he viewed this as not a lot split. Mr. Moore did not agree. Mr. Randolph noted there may be a need for some approval if a portion of the two lots are sold off, even though they are separately described, since they have been used together throughout the years, and because there would be a nonconformity created, if they are split. He noted that Attorney Deziel is trying to receive assurances for his client that nothing that is being done by landmarking will preclude them from any right they might have in the future with regard to these lots and he has no objection to that from a legal standpoint, however, needed to clarify they would not be binding any future councils to any applications that would come before it for a lot split or architectural approval, etc.

Mr. Deziel understood the aesthetics would take place before a different board, and he doesn't really care if these considerations are broken up into zoning matters, or the Town Council or what board it will be that would be considering it, but they need to know they can go on down the road and do their best effort to preserve the structure and at the same time, somehow maintain their rights, and if they agree to the landmarking today and for some reason or another there was a different group of people sitting on the Council and they came before them, that they would save the structure but the property owner would not be drastically impaired down the road.

Mr. Randolph advised that by landmarking the structure and the structure alone, without landmarking the property, they would be doing that as there would be no impediment being placed upon the property which does not already exist by zoning or otherwise. Mr. Heeke felt by landmarking the structure only, they would have some flexibility with regards to the structure and the only thing in the future is where it would be relocated, and that issue would have to be faced at that time and we cannot speak to it without the specifics.

Mrs. Wiener noted they wanted to do interior modifications and landmarking of the structure would not have any effect on that. She referred to the condition about the style being allowed to differ as the report was there was not another building of this nature in the Town, so it is obvious that they would expect to build something different. She stated with regards to the lot split, she knew the building was located on the property line and she didn't believe they could stop them from using their land.

Mayor Marix did not believe they were saying they couldn't use their land, but what we are really saying is if this building is landmarked, there is no reason they can stop them from requesting the lot split, and that is a zoning matter. Mrs. Wiener stated we are saying to them, we want to landmark this house and we want the nonconformity to continue, as it is on the lot line, and therefore different rules apply and she believed the Council was creating the nonconformity as to the second lot. Mr. Moore did not agree nor did Mr. Heeke who felt the charge is whether or not this structure is worthy of landmarking under the criteria established by the Ordinance. Mrs. Wiener stated she was trying to point out that Criteria A covers every single building in this Town, in her way of thinking. She thought this was an unusual case because of the fact where it sits. Mr. Randolph advised his problem is binding a future Council and he agreed they would be creating a nonconformity if a portion of the lot was sold off and they indeed by doing something which is not allowed under the Zoning Ordinance. Mrs. Wiener wondered if they were being a little premature and put the cart before the horse. Mr. Ilyinsky did not think so, especially if they were simply landmarking the house. Mr. Heeke thought they could give them the right to remove the extensions and relocate the house. Mr. Moore stated they would be getting rid of the nonconformity by relocating the structure on the lot. Mr. Heeke agreed noting as far as the interior is concerned, that is not a problem as that doesn't come before Landmarks or Architectural Commissions. He thought with respect to the architectural style of any new structure, he has no problem that it need not be of the same architectural design.

Mr. Weinberg asked what was the intention of the owner if this house was not landmarked? Mr. Deziel believed it would be torn down as it is an economic detriment to his client.

Mr. Randolph read the Resolution No. 5-90 by title:

Res. 5-90

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARK STRUCTURE PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Motion was made to accept as part of the record the designation report dated Nov. 17, 1989 by Mrs. Douthit. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Motion was made by Mrs. Douthit for approval of the Resolution No. 5-90 for 765 Hi-Mount Road be accepted and this landmark would be for the structure itself, not the land or the four additions and the structure can be relocated on the property or other property in the municipality; and any future additions to the lots would not have to be in the same architectural style, and the reasons for this landmarking is that it meets Criteria A, C. and D as stated in the Landmark Ordinance. Seconded by Mr. Ilyinsky. On roll call, the motion carried 4-1 with a negative vote cast by Mrs. Wiener.

Des.
Report
for 116 Seabreeze Ave.

B. Designation Report for 116 Seabreeze Avenue - Consideration of Resolution No. 36-90 - Deferred from March 9, 1990 Public Hearing. Mr. Frank reported this house is a shingle style of the Queen Anne order and meets Criteria A and C. Mr. Sved gave his report, stating the architect is unknown and it originally was an oceanfront house and it had a large front yard extending to the ocean which was sold off and house still faces towards the rear of that Ocean Blvd. house. He noted the buildings look like clapboarded siding from the street, but in fact they are very small shingles close together designed to imitate clapboarding but is a shingle style house, which was more prevalent in Rhode Island and New England in the 1880's through 1900 and one of the major proponents of this style was H. H. Richardson. He stated many of the Palm Beach residents came here from New England and when they relocated here, they chose to bring that style of architecture with them so this house offers us a fine example and a glimpse into the early settlers of Palm Beach and this building is worth of landmark consideration.

Mr. James Sullivan, Chairman of the Landmarks Preservation Commission was sworn in by the Town Attorney addressed the Council, indicating he has had conversations with the owner of this property who was delighted it was chosen for landmarking and it is a voluntary landmark. Mr. Heeke asked if John Volk had done some alterations to this home and Mr. Sullivan confirmed that fact. Mr. Heeke asked the Designation Report be amended to include that. Mr. Sved stated the only exterior work he knows of which has been done was the enclosing of a porch. Mrs. Wiener asked what comments did Andrea Palladio make about this house? Mr. Sved indicated Palladio has a large number of pages in his book on proportions and design and harmony for building styles and his systems for proportion have been recognized by architectural historians as a universal system and it works throughout all buildings and he used them to see whether or not a house is properly proportioned. Mrs. Wiener assumed the other pieces of bibliography have some reference to this house? Mr. Sved stated many of them do but there are also certain things which are looked for in general. Mrs. Wiener noted the date of the Palladio book is 1961 and she thought there should be

indicated to them in which book is a particular house specifically mentioned, as the other bibliography are relatively new. Mr. Sved stated the purpose of the bibliography in these reports reflect how he has gone about the research for the entire project and not necessarily which books have information on the specific houses. Mrs. Wiener stated when she sees these books listed, she assumed the building has been mentioned in it.

Motion was made to accept the Designation Report on 116 Seabreeze Avenue into the record by Mr. Ilyinsky. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Motion was made that Resolution No. 36-90 be adopted designating the property at 116 Seabreeze Avenue as a Landmark in the Town of Palm Beach on the basis that it meets criteria identified in the Designation Report, A and C of Section 16-39 of the Town of Palm Beach Code and the Landmarks Preservation Ordinance No. 2-84. Seconded by Mrs. Weiner.

Attorney Randolph read the Resolution No. 36-90 by title:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A LANDMARK STRUCTURE PURSUANT TO ORDINANCE 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

On roll call, the motion carried unanimously.

C. Designation Report for 403 Seabreeze Avenue - Consideration of Resolution No. 37-90. Mr. Frank indicated there was a request for deferral on this item. James Harwood was sworn in by the Town Attorney. Mr. James Sullivan addressed the Council indicating they have met with the property owner and they are some personal circumstances which force them to ask for a deferral and both himself, representing the commission and staff agree with the property owners that we would support their request and the owners have assured them that when this matter comes up next season, they will voluntarily grant the landmarking of their home. Mr. Randolph noted the Code requires that the Town Council shall, within ninety days of the Landmark Commission's final decision, hold a public hearing and consider ratification and within thirty days of that date, the document must be filed in the public records and he believes there should be sought from the owner a waiver of any time requirements as set forth in the Ordinance. Mr. Sullivan asked the owner, Mr. Harwood, if he would be willing to grant the waiver to which Mr. Harwood agreed. Mr. Heeke asked if this acceptance could be in writing to which Mr. Harwood agreed.

Designation
Report for
403 Seabreeze
Ave.

Mrs. Douthit moved that Res. No. 37-90 for the landmark designation of 403 Seabreeze be deferred until the next Landmark season, contingent upon the receipt of the written authorization waiving the time constraints from the owner. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

D. Designation Report for 147 El Vedado Road - Consideration of Resolution No. 48-90. Mr. Frank stated staff believes this meets Criterion A and C. Mr. Sved indicated this house was constructed in 1926 with a two story addition in 1930 and the architect is unknown, however the Wilcox Builders are listed as the builders of both the primary structure and the addition. He stated this is in the Mediterranean Revival style and has nice architectural details on it with an interesting use of cast stone around the windows and connects the continuity between the first and second floors. He noted there is a cast stone inlay between the first and second story windows. He indicated there is a courtyard with an arcade on both the first and second levels. He stated there is cast stone inlay all the way through this structure and there is court yard also in the swimming pool area and it has been restored and renovated by its current owners and is a very visible structure as it corners on both County Road and El Vedado and is worthy of consideration.

Designation
Report for
147 El
Vedado
Road

Motion was made to place the Designation Report dated Feb. 16, 1990 into the record by Mrs. Douthit. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Attorney Randolph read the Resolution by title:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Res.48-90

Motion was made by Mrs. Wiener to adopt Resolution No. 48-90 which concerns 137 El Vedado Way and this be considered a landmark of the Town of Palm Beach, since it meets Criteria A and C. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

E. Designation Report for 801 South County Road - Consideration of Resolution No. 50-90. Mr. Frank stated this building meets Criteria A, C and D. Mr. Sved stated the architect is Maurice Fatio and this was originally an ocean to lake estate with the lake side being occupied by a carriage house which is being restored into a private residence. He stated this is in the Mediterranean Revival Style which incorporates Italian and Spanish designs into its fabric. He stated there is an interesting entrance into this property as when you cross through the entrance, none of the building can be seen as it is hidden by the small island around the circular drive. He stated the fortress like front is very indicative of the Spanish style of architecture. He stated on the ocean side, one can see the Mediterranean Revival use of varied group lines and heights set back and the cornices. There are three different styles of cornice which is meant to emulate the house that has been designed throughout the ages. He noted there was quoining which is usually found on the corners of the towers and blocks, but Fatio used quoins for interesting window details. He recommended it for landmarking.

Res.50-90

Mr. Frank explained the owner had some concern initially in the beginning of this process but their attorneyk Peter Broberg, advises they now do not object and he believed it was now voluntary.

Mr. Ilyinsky moved the Designation Report for 801 South County Road dated Feb. 16, 1990 be accepted as part of the record. Seconded by Mr. Weinberg. On roll call, the motion carried unanimously.

Mrs. Douthit moved approval of Res. 50-90 to designate as a landmark 801 South County Road, which meets Criteria A, C, and D. Seconded by Mr. Weinberg.

Mr. Randolph read Res. 50-90 by title:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN THE ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO

TO ORDINANCE 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

On roll call, the motion carried unanimously.

Res. 51-90

F. Designation Report for 700 North Lake Way - Consideration of Res. No. 51-90. Mr. Frank indicated this recommended designation meets Criteria A, C, and D and under D, the architect is Maurice Fatio. He mentioned that this designation is voluntary with two conditions, which the Landmarks Commission has agreed to and it has to do with the size of the parcel:

1. The Landmarks Preservation Commission acknowledges the land and improvements legally described and reflected on the sketch incorporated is a part of the Landmark designation for 700 North Lake Way and represents all of the current property being subject to landmark status, hereinafter referred to as the Landmarked property. The land owned by Mr. & Mrs. Fisher which lies adjacent to the landmarked property is not intended to be included with the landmark designation of 700 North Lake Way and the Landmarks Preservation Commission will not object to or further interfere with subdivision of all or part of the land adjacent to the Landmarked property, providing the subdivision is done in accordance with the applicable Town ordinances.

2. In the event that more than fifty per cent of improvements on the Landmarked property are destroyed by fire or Acts of God, the landmarked status will terminate and the owners of the landmarked property will be under no obligation to restore the improvements to its prior exterior appearance.

Mr. Sved indicated the building at 700 North Lake Way was built in 1938 by the architectural firm of Treanor & Fatio. He stated this is a large piece of property. He stated it is a British Colonial style of architecture was brought to Town by Howard Major and John Volk and adopted by other architects. He noted this is an entirely brick structure down to the retaining wall and the Flemish bond style of laying bricks was used here as opposed to the common bond. He stated it is a sturdy and beautiful design. He stated they have used quoining at the corners. He stated this house is very worthy of consideration for landmarking.

Motion was made to accept the Designation Report dated January 19, 1990 for 700 North Lake Way into the record by Mrs. Douthit, seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Motion was made to approve Resolution No. 51-90 to designate as a landmark 700 North Lake Way on the Criteria A, C, and D. Seconded by Mrs. Wiener.

Attorney Randolph read the Resolution by title:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEET THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE SAID PROPERTY A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, SUBJECT TO CERTAIN CONDITIONS HEREIN SPECIFIED.

Mrs. Douthit stated she meant to state in her motion the conditions that Mr. Frank stated earlier. Mr. Heeke recalled that was the land would be as legally described within the Designation Report and not include the adjacent property and that in the event of destruction by fire or natural calamity by more than 50%, the owners would not be required to restore and the designation status would cease. Mr. Randolph pointed out the conditions are in the Resolution under Section 1. Mr. Moore reported the Building Code would prohibit it and terminate it also at that point in time and staff has no objection to the conditions.

On roll call, the motion carried unanimously.

Res. 53-90

G. Designation Report for 172 South Ocean Blvd., - Consideration of Resolution No. 53-90. Mr. Frank explained this property is known as La Salona and it meets the criteria A, C and D and under D, the architects are Marion Sims Wyeth with major additions and renovations by Maurice Fatio and this is a voluntary designation. Mr. Sved reported this building was constructed in 1926 by Wyeth & King and ten years later, the firm of Trainor and Fatio made some alterations and additions. He stated this is a Mediterranean Revival design. He reported the building fronts on Clarke Avenue, even though it has an Ocean Boulevard address. He stated this building has two large towers on the corners and a lower portion in the center which is a very popular design in Palm Beach. He noted there is a lovely, decorative element on the doorway and there are varying roof lines which add a real beauty. He noticed the block which was added by Trainor and Fatio when this was renovated is very similar to the original and was in cast stone and coquina. He felt this house was very worthy of landmarking.

Mrs. Wiener moved the report which references Res. No. 53-90 be accepted as a part of the record for 172 South Ocean Blvd. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

Mr. Ilyinsky moved Res. No. 53-90 be adopted on the property at 172 South Ocean giving it landmark status on the basis it meets criteria A, C and D, of Section 16 Article 3, of the Town of Palm Beach Code and the Landmarks Preservation Ordinance No. 2-84. Seconded by Mrs. Wiener.

Mr. Randolph read Resolution No. 53-90 by title:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF THE ORDINANCES OF THE TOWN OF PALM BEACH.

On roll call, the motion carried unanimously.

Res. 54-90

H. Designation Report for Town Hall Square Historic District - Consideration of Resolution No. 54-90. Mr. Moore reported some time ago, the Town staff was asked to study the Town Hall Square concept and originally they were looking at the area from Brazilian to Chilean and through the study process and the hearings that ensued, the area was extended from Royal Palm Way to Worth Avenue and the report deals with that area and staff is prepared to discuss each of the buildings. Mr. Heeke asked if staff would have any objection to this District being less than what is covered by the report? Mr. Moore responded negatively. Mr. Heeke requested a motion to limit the discussion to the original areas from Brazilian to Chilean? Mr. Weinberg so moved. Mrs. Wiener seconded the motion.

Mayor Marix mentioned the original idea of studying this was hers, since she felt this is something they needed to work on and she was pleased that it was being reduced to the original area.

On roll call, the motion carried that the discussion be for the original area only.

Mr. Frank reported staff believes this meets Criteria A, C, D and E and he read Criteria E into the record: "It constitutes an unique area of architecture, landscape and planning. In addition in Area B, several architects were involved in the development of this area and the biographies are attached.

Mr. Sved explained the original idea obviously came from the restoration of the Town Hall. He exhibited photographs showing restoration of the Devil Door, which was the original access to the jail cells in the Police Department. He noted the Town Hall Building was built in 1925 by Harvey and Clark. He stated in 1929 the Fountain was given to the Town as a gift and it today is known as Memorial Fountain. He noted there is no water spitting out of the Fountain due to the water restrictions and there are some plumbing problems, which will be soon rectified. He pointed out the decorative horses in the Fountain which represent the true direction of the compass, and the reflecting pond and the garden are an extension of the original Town Hall Square District and are in the 1929 Garden Club Plan for the Town of Palm Beach. He stated some of the other structures which contribute to the District are the renovated Preservation Foundation and the Earl E. T. Smith Park, which contributes green space and adds to the pedestrian quality which the District hopes to attain.

Mr. Sved indicated two of the most historic buildings in this District are the Buckley Building, which is also by Harvey and Clark and was built a year after the Town Hall was built and it is one of the first buildings to have an arcade which would provide shade. He stated the Daily News Building is a local and national landmark and the architect is unknown. He pointed out the Roddy Building at 227 South County Road which was built by Maurice Fatio in 1937 and its design reflects Fatio's use of modern architecture and the use of the slab and glass block is a big departure from Fatio's style but it is a fine piece of architecture.

He noted the Police Facility was built in 1985 and is a modern adaptation of the Mediterranean Revival Style and is wholly conforming to the ideas of the District in its size and proportion.

He noted the Bustani Building has been renovated and is now a Mediterranean Revival style which reflects the Town Hall Square District.

He stated the Scotty Building is a Neo-Classical design and will add to the District.

Mr. Sved explained a bit of non-conformity in this District is the Palm Beach Gulf Station.

Mr. Moore asked the Council to add item #30, which is the Town's Police Station. Mr. Heeke confirmed it would be Items 1 thru 6, 15, 16 24 thru 30, inclusive. Mayor Marix noted it was not the renovation of Town Hall that started the idea of this area being a special district, as it was her concern that the Worth Avenue was being discussed as to being a District or whether the buildings there should be landmarked on an individual basis and as she came back to the Town Hall area, she thought it was a perfect district to be landmarked. She believed at that same time, the Preservation Foundation also was realizing how important the Town Hall was but the renovation of the building had nothing to do with the concept of a Town Hall District.

Mr. Heeke noted there was a letter from Boose, Ciklin, et al, attorneys representing BP Oil which owns the Gulf Station. Mr. Michael Connors, on behalf of the BP Oil Corp. addressed the Council and was sworn in by Mr. Randolph. Mr. Connors noted at the Landmark Commission meeting, this item was discussed and he has been advised that this property is not eligible for the National Register and is not eligible for landmark designation by the Town. He indicated they have no objections to being included in the District as long as what they have been assured about designation is a part of the record, as they cannot meet the criteria for designation and they have been assured that any requested changes to their property would go before the Architectural Commission.

Mr. Randolph explained there is a provision in the Landmarks Ordinance which indicates the criteria that would be used in reviewing buildings which are not necessarily landmarks themselves but are included within a Landmarked District, shall be harmonious with the District. He doesn't know what the intent of the staff was in advising the people that the criteria which would be used is that set forth in the Architectural Commission Ordinance, as in his mind the intent is that just as the Architectural Commission determines whether or not a structure is or is not harmonious with the area, so would the Landmarks Commission determine whether or not a structure is or is not harmonious with the District. He felt to go further than that and say they would use the criteria set forth in the Architectural Commission ordinance, would not be correct as the criteria is whether it is essentially similar or dissimilar to other structures in the area. Mr. Frank responded the staff has had numerous conversations with various people who were affected by this District and in this case, their conversation was with Attorney Ciklin and he was told by the Chairman, Mr. Sullivan and himself that there was a provision in the Landmarks ordinance which states there are structures which may or may not be eligible for designation within a District and they would follow the criteria which is in the Ordinance which basically has a way of treating architectural styles and harmony, etc., and it would be not unlike what they were used to and what the Landmark Commission generally reviews their project with that particular criteria at the present time. He stated because the structures do not meet the criteria, they would not have to come forward with certain items to match the details which certain structures have, but certainly they would be expected to be developed in harmony with the rest of the District and they would be reviewed under the criteria that is in the Ordinance for landmarking, but it would not be unlike that with what they are familiar with in the Architectural Commission's ordinance.

Attorney Randolph read the portion of the Landmark Ordinance which would be applicable to this discussion: "Historic Districts means an area identified by the Commission which contains one or more landmarks or landmark sites as well as those abutting sites which the Commission determines should fall under the provisions of this section to assure that their appearance and development is harmonious with such landmarks and landmark sites." He stated this would be the criteria that would be applied and the intent under the Landmarks Ordinance is the changes be "harmonious" with the capability of the District. Attorney Connors stated he had no objection to it being in the District or being considered for harmoniousness with respect to adjacent structures of the District as a whole, and the reference he made to the Architectural Commission was in a letter he received from the Chairman of the Landmarks Commission stating it is not a landmark and is not eligible for designation and any changes would be reviewed the way the Architectural Commission would review it.

Mr. Moore stated that last sentence is qualified by the preceding sentence which states: "This provision indicates a review level by the Landmarks Preservation Commission of aesthetic compatibility with surrounding structures similar to the review of the Architectural Commission"....and then it qualifies what the Architectural Commission does and he believes they have misinterpreted and he reads it as stating Landmarks should be reviewing it for the compatibility and would use the criteria similar to the criteria found in the Architectural Commission's review. Mr. Heeke stated they would not want to have an applicant go before two commissions, to which Mr. Moore totally agreed. Mr. Connors explained his client has no objection to being under the jurisdiction of the Landmarks Commission, if they are included in the District but does feel that, for example, regarding the logo, which

is grandfathered in, on that one item alone, they would not be eligible for a Certificate of Appropriateness and he is merely asking that what Mr. Sullivan had suggested be memorialized in the Council's actions. Mr. Moore indicated they too had a problem as the issue of the logo is irrelevant as logos are prohibited and that is not an issue. He felt the question was whether the comfort level Mr. Connors is seeking for his client is that they wish it to be on the record that when and if the Gulf Station makes changes to their structure and comes before the Landmarks Commission, the Council and the Commission be aware that the criteria they will be operating under, will be similar criteria to what is in the Architectural Ordinance, for which they are not bound by, but is similarly used.

Attorney Connors stated some of their concerns came about because of the correspondence and the Designation Report which made reference to non-conforming and non-contributory and a different type of review and different considerations which is a reasonable approach, if they knew exactly what they all meant and all he is trying to do is to ensure that all of those things are in fact what they apparently will be and they are merely asking that this condition be included in the notice of designation so that future commissions and councils have no uncertainty in their deliberations. Mr. Randolph felt for the benefit of the property owner, they should know that anything that is recorded in the public records ought to include a statement that the particular property described is not by itself a landmark or is not a contributing building and he felt wording could be put in the Certificate of Designation that that is the case.

Mr. Randolph was not sure the Landmarks Commission would want to apply the criteria in the Architectural Ordinance, which states that buildings shall not be essentially similar to other buildings in the District, when indeed the provisions of the Landmarks Ordinance which is applicable, is that it should be harmonious to other landmarks within the District. Mr. Heeke asked Mr. Connors if this was acceptable to his client? Mr. Connors responded they were hoping for something a bit more specific as he had a concern that this property may fall between the cracks and the use of classifications and the types of properties that are contributing and nonconforming and non-contributing, etc., have been generated out of the Ordinance but they are not sure where they came from and apparently if that is what Mr. Randolph is suggesting, that is what they will accept, however, they would prefer something more specific which would not in any way compromise the abilities of the Council or Commission, but would define the specifics of the situation. Mayor Marix thought if the wording read by Mr. Randolph from the Landmarks ordinance would cover the situation, perhaps that should be included. Mr. Randolph, stated they could do that but they don't need to include it as it is already in the Ordinance.

Mr. Connors stated he wasn't sure that would cover it as he wouldn't be sitting on the Commission, but the concerns are generated by what was given to them in response to different questions and he would like to keep this as simple as possible. Mrs. Wiener stated she was concerned about individual owners not feeling their property is being "appropriated" and she has a strong feeling in this case there would be no consequence whether they be reviewed by the Architectural Commission or by the Landmarks Commission as it makes sense this be a District and there is a feeling of having things look similar and they are there now and sometimes in the future, they may want to make changes but regardless, they will have to come before one of the two commissions and the verbiage boils down to the people who are sitting on those commissions and the Council and basically, they are not looking to having something sitting across the street which is ridiculous and she didn't believe they would want to do that anyway. She thought if they were thinking about demolishing, the fact that this station is not a landmark removes it from that concern. Mr. Connors agreed especially in light of the fact that this building is a gas station and not an office building or a store. Mrs. Wiener noted this would have to come before one of these commissions. Mr. Heeke thought it would be better for them to come in under the "harmonious" language of the Landmarks Commission and would not be put undue burden on them. Mrs. Wiener felt it would give them some comfort to have the knowledge that would not be denied a permit for demolition based on the fact that they were in a District because they are nonconforming. Mr. Randolph clarified he has no objection to giving that type of assurance, however, they need to look at the section of the Code which indicates that no landmark nor any building on a landmarked site or within a Historic District shall be erected, altered, restored, moved or demolished until after an application for a Certificate of Appropriateness has been filed. Mr. Moore pointed out there is language in the Architectural Commission Ordinance which would not allow them to demolish before first going to the Architectural Commission and discussing what they would be putting back.

Mr. Connors suggested they may want to consider revising this section of the Code to define nonconformities and non-contributing structures and how they will be treated and reviewed within a Historic District, which could address the concerns which have arisen in this case, as this is a gas station and will remain as such for quite some time, but what form it takes because it is in a Historic District he is trying to clarify what type of review and make sure that the assurances will be in fact applied. Mr. Randolph felt the subject matter brought up by Mr. Connors has been a concern of not only that firm but of two other law firms who have sought clarification as to the standard of review. Mrs. Wiener asked if the Ordinance, Rules & Standards Committee should take a look at this for these cases that fall between the cracks. Mr. Heeke suggested perhaps it needs to be studied by the Zoning Commission. Mr. Randolph felt the Ordinance actually already addresses these issues as it talks about the harmonious aspect.

Mrs. Wiener moved the Designation Report dated March 16, 1990 and its attachment with respect to Items Number 1 through 6, 15, 16 and 24 through 30 inclusive be made a part of the record. Seconded by Mrs. Douthitt. On roll call, the motion carried unanimously.

Attorney Frank Chopin, Secretary and Trustee of the Preservation Foundation addressed the Council and was sworn in by Mr. Randolph. Mr. Chopin supported the statement of the Mayor with regards to the creation of this District and after it was proposed by the Mayor, the Preservation Foundation supported it and the boundaries which run from Brazilian to Chilean and believed that would pick up the highest concentration of the buildings which fall into this District. He stated they were opposed to what was originally proposed by the Landmarks Commission as that was too broad a scope and what has been suggested is more prudent for a Historic District. He felt they had made a concession to the BP Oil Corp. and suggested the Ordinance be revised to distinguish between contributing and non-contributing and how the Landmarks Commission deals with those buildings which are non-contributing and contributing and he supported the suggestion that the Ordinance should be revised.

Attorney Betsy Burden addressed the Council and was sworn in by the Town Attorney, representing Worth Avenue Associates, Ltd., Mr. Thomas Compianello, Mr. Burton Handlesman, Mr. Karl Griffin, Mrs. Elinore Roddy and the South County Merchants Association. She felt the boundaries as adopted was a wise move as that is the position they upheld. She noted Mrs. Roddy's property will still be included and they would like to see a condition in the Resolution that only the front facade which fronts on South County Road be included in the District, as that is the only part that is visible and the courtyard and other interior areas are not visible and she would like to see that limitation in the Resolution. She stated they would like to communicate what kinds of beautification they might expect to see with this Districting as she understood the Main Street program with the State will be pursued and they would like to have some communication with the property owners and have some input as to how the monies might be spent. She pointed out the newspaper racks outside of the Coronet Apartments are quite unsightly and they would like to see those removed. Mr. Ilyinsky recalled it is difficult to get these removed. Mrs. Burden stated they will try to help with the Town's cooperation in that effort. Mr. Randolph felt the fact they are creating a District may have some relevance to the newspaper racks. Mrs. Burden offered a draft resolution which contained the language on the new boundaries and offered the facade of Mrs. Roddy's property.

Mr. Moore pointed out none of the buildings landmarked have had a restriction on it for the facade only as it is the property the building sits on that usually is considered and he objected it to being limited to the facade and it would not be his recommendation that the Council accept that. Mrs. Burden felt the property was unique and the court yard is not visible and asked the Council to consider the facade only which is the only thing that can be

seen from South County Road. Mr. Moore did not agree. Mayor Marix suggested the owners may be giving consideration to doing some renovations there and believed that was really their worry and pointed out the Landmarks Preservation Commission is very cognizant of this type of construction and she didn't believe they would be stopped from doing renovations. Mrs. Burden felt this had been done before and requested the Council to simply landmark the facade. Mr. Moore recalled facades have been dealt with on an individual basis but not in a District.

Mr. Jesse Newman addressed the Council and was sworn in by Mr. Randolph. Mr. Newman congratulated the Council on the adoption of the boundaries and offered if the Council didn't have enough tax monies granted to them, the Palm Beach Chamber of Commerce would contribute towards the beautification of the area for lighting fixtures, benches, cobblestones, flowers and trees.

Mr. Ilyinsky suggested the Town Attorney research the possibility of eliminating the newspaper racks in this historic District.

Mrs. Douthit moved Resolution 54-90 be adopted on the criteria A, C, D and E, which adopted the Town Hall Square Historic District and it be limited to the area from Brazilian to Chilean on South County Road and including within the Resolution 54-90 the Items 1 through 6, inclusive, 15, 16, and 24 through 30, inclusive. Mrs. Wiener asked if they would consider that since certain information was accepted in the Designation Report, should they not accept all of the report? Mr. Randolph felt it was fine as the motion stated. The motion was seconded by Mr. Weinberg.

Res. 54-90

Mr. Randolph read the Resolution by caption:

Res. 54-90 TOWN HALL SQUARE HISTORIC DISTRICT. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTIES HEREINAFTER DESCRIBED, MEET THE CRITERIA SET OUT IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE SAID PROPERTIES AS A HISTORIC DISTRICT OF THE TOWN OF PALM BEACH, PURSUANT TO ORDINANCE 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

On roll call, the motion carried unanimously.

Meeting was adjourned for lunch.

Meeting called back to order by President Heeke.

I. Undesignation Report for 1800 South Ocean Blvd. - Consideration of Resolution No. 55-90. Mr. Frank explained this is a request for undesignation and he read a statement from the applicant which was Page 7 of the Undesignation Report: "In its Dec. 1989 meeting, the Landmarks Preservation Commission of the Town of Palm Beach requested that staff prepare an undesignation report for the property known as 1800 S. Ocean Blvd. This action was put forth by the Commission as a result of additional renovations and alterations initiated by the current owner of the property. Commission member, Dr. Donald W. Curl, a noted expert in the architecture of Addison Mizner, contended that the structure standing at 1800 S. Ocean Blvd. is no longer representation of Mr. Mizner's original design for that site. The requested removal of designation status will require affirmation by the Town Council, should the Landmarks Preservation Commission choose to grant the request. In accordance with Ordinance 2-84, the Landmarks Preservation Commission should consider the following criteria for the removal of Landmark status from this property:

Undesignation
Report for
1800 So.
Ocean Blvd.
Res. 55-90

1. The historic or architectural significance of the structure.
2. The importance of the structure to the aesthetics of the district.
3. The special character and aesthetic interest that the structure adds to the district.
4. The difficulty or impossibility of reproducing such a structure by virtue of its design, texture, material, detail or uniqueness of location.
5. The future utilization of the site.

The Commission should cite one or more of the above criteria to support their action on the request for the removal of the property's landmark status."

Mr. Frank then read the Analysis of the Request:

"The Staff found that the property known as 1800 S. Ocean Blvd. and/or Sin Cuidado" no longer meets the criteria under which it was designated as a Landmark of the Town of Palm Beach in 1979. In the past two years, "Sin Cuidado" has undergone over 100 approved changes to its overall appearance. Additionally, some 35-50 unapproved changes to the structure have been completed. As a result of these changes, Staff concurs with Dr. Curl's statement that the present structure no longer embodies the original architectural design for this structure. Based upon the evidence of the changes made to this structure, as provided by the Town of Palm Beach Planning, Zoning and Building Department, the structure at 1800 S. Ocean Blvd. no longer meets criteria (c) or criteria (d), as set forth in Ordinance No. 2-84. Additionally, criteria (a) and criteria (b) were not mentioned in the 1979 Designation Report, nor was any other information found to support their inclusion as criteria for the designation of 1800 S. Ocean Blvd. no longer meets any of the four criteria as set forth in Ord. No. 2-84".

Mr. Frank read the Recommendation of Staff as contained on Page 9.

"Based on the numerous changes and alterations to the structure, and as the result of evidence provided by the Town of Palm Beach Planning, Zoning and Building Department and Dr. Donald W. Curl, the Staff believes that the structure at 1800 South Ocean Blvd. no longer meets the criteria for designation as a landmark of the Town of Palm Beach, as set forth in Ord. 2-84. Staff recommends the removal of landmark status from this structure as requested by the Landmarks Preservation Commission."

Mr. Heeke asked if it was the architect that caused the unapproved changes? Mr. Frank responded these changes were not on the architect's drawings and he questioned the builder as to who authorized the changes and was told it was Mr. Herbert Holzheimer, an interior designer and all this was reported to the Landmarks Preservation Commission. He stated Mr. Eugene Lawrence, who was the original architect, was brought back onto the job and he documented the changes not on his original drawings. Mayor Marix wondered how this could possibly happen. Mr. Frank responded when the original drawings were approved by the Landmark Commission, Mr. Lawrence was the architect of record but his services were not continued by the owner after approval was obtained. Mayor Marix wondered how 50 changes could go through without being detected. Mr. Frank explained the project was red tagged by himself and all work was stopped and the owner came to his office and Mr. Frank explained what was going on and Mr. Montgomery indicated he would have the changes made on the plans and would come to the next Landmarks' meeting. Mr. Frank stated when the Landmarks Commission met and informed the owner he could continue with the exterior work if the services of the architect were re-retained and all of the changes made up to date were to be documented and also future changes. He

stated in addition to that, they had a stern meeting with the contractor who implemented the changes without architectural or engineering services or authorization from the Town. Mrs. Douthit wondered if the structure was safe? Mr. Frank stated they also had that concern and that was the reason the Commission requested the documentation from the original architect. Mrs. Douthit stated she would like to see the Town held totally not responsible.

Mrs. Wiener asked when Mr. Frank arrived on the site and noted there were changes, did he have any idea of how far along they were and how much time had expired to execute those changes? Mr. Frank felt the minor revisions could have been implemented in a day's time, but the six he was concerned with were very major items and he documented them quickly and brought them to the contractor's attention and it would have taken several days of work for them to get to that point. Mrs. Wiener asked how often are the inspections made as she had a concern that they were able to do all of this work. Mr. Frank stated he visited the site every two weeks. Mayor Marix asked if that was frequent enough visitation? Mr. Frank responded in this case it obviously wasn't, but normally it is. Mr. Moore stated that until the changes were discovered his department had no knowledge that the architect had been left go from the job. Mayor Marix felt it was the architect's duty to let the Town know he was no longer on the job. Mr. Frank stated the problem was someone had authorized changes to the sealed drawings and directions were being given on the site to the contractor and when it was discovered, the work was stopped on the exterior of the building. Mrs Wiener felt they needed to make more regular inspections when something major like this is going on.

Mr. Heeke wondered if there were any violations of the building ordinances since changes were made to the sealed plans. Mr. Frank stated he would have to research that. Mr. Moore stated he didn't know if there were any structural violations, however as far as visiting the site, this is an A-typical situation as they do visit building sites from time to time and do not generally have an interior director instructing contractors to make changes and when this was discovered, all work was stopped on the exterior. Mayor Marix thought perhaps the designer didn't know he was not authorized to make these changes. Mr. Moore stated they made some changes after they were warned not to. Mayor Marix asked how the decorator and the owner could do this after they were told not to make any more changes and wondered if there were no penalties for them not abiding by the rules? Mr. Moore advised there are no building penalties other than if Mr. Lawrence wanted to take Mr. Holzheimer to court for authorizing changes to his plans. Mr. Ilyinsky asked if anything like this has happened before? Mr. Moore stated not to his knowledge it hasn't happened. Mrs. Wiener felt all of the work should have been stopped until everything was corrected. Mayor Marix agreed and also it should be a requirement when an architect or engineer is changed, the Town should be notified. Mr. Moore explained Mr. Lawrence was not retained for supervising the job and at one time he had made the request of the Landmarks Commission that the architect of record be retained for the entire project when a Certificate of Appropriateness was required and this fee is between five or ten per cent of the project, however there was a decision made that it was rather costly and it was decided that was an unnecessary cost burden to put on to the property owner for the few problems which might occur and had that not been the case, this would never have gotten this far. Mayor Marix felt the Town then should be on notice there is no authentic supervisor and the Town should be making more calls on the project for an extra fee.

Mr. Frank stated not the entire picture is being looked at here as when this returned to the Landmarks Preservation Commission, in a spirit of cooperation and on the insistence of the owners of the building who insisted the changes should be made, many of the changes were allowed, however he wished to point out there were numerous changes which were totally out of character with anyone's style and the Landmarks Commission ordered the owners to return the work to its original condition, however because of the magnitude of the changes, the Landmarks Commission felt the building had lost its landmarked character.

Mayor Marix stated her concern which was the supervisory problems originated from the fact there was no architect and the Commission did all it could. Mr. Heeke felt it was a deliberate act. Mr. Moore felt if they keep going down this road and it is a burden and they should have to pay the Town for the extra inspections or have the architect or someone supervise this. Mrs. Wiener noted there are no charges for the inspections as this is part of the service performed for the taxes that are paid and what she thinks might have precluded this is if there had been early on more regular inspections so it would have been stopped immediately and she thought they needed to be watched more carefully.

Mr. Frank believed that is why the Commission wishes to undesignate this as they feel they have done as much as they could and feel it is inappropriate to just insist it return to the original design as it no longer is the structure that was there originally. Mr. Moore stated some of the changes are tasteful but they do not belong to the Fatio and/or the Mizner creation that was originally there.

Mr. James Sullivan, Chairman of the Landmarks Preservation Commission addressed the Council stating this is a very regrettable matter and somehow this should have been prevented, however, they were powerless to do it as the situation progressed. He stated they were faced with two alternatives, as when they finally found out what was happening, they had a choice of either forcing the property owner to put this back into the condition that was approved originally with the changes that were allowed or the other alternative was to de-designate it as it is no longer worthy of being a landmark. He thought the Commission was cognizant of several things which led them to the decision to de-designate - first, the matter of intent; secondly, the matter of litigation and litigious individuals and they have constantly tried in every way not to expose the Town to that type of litigation so that explains why they arrived at this decision.

Mr. Weinberg noted the damage has been done and now they have to make a decision of what to do about this.

Mrs. Elise MacIntosh of the Landmarks Commission addressed the Council indicating they have to make a decision and they have to come up with some way they would not allow something like this to continue as she is sure there must be other landmarked homes who would like to be de-designated and she hoped there was some way they could control this and it doesn't happen again, perhaps by way of a fine being imposed.

Mr. Heeke asked Mr. Moore and his staff to think about this and perhaps some sanctions could be imposed. Mrs. Douthit thought perhaps that was the way to go and if something is not being built according to plan, we should impose a stiff fine. Mayor Marix agreed.

Mr. Ilyinsky felt the building should continue to retain the landmarked status, as a monument to bad taste, if nothing else and he so moved. Seconded by Mrs. Wiener who explained she thought if they de-designated, it would be a reward to the owner and it is wrong to permit someone to make a mockery of the Landmark ordinance and the members of the Commission.

Mr. Heeke noted the Ordinance doesn't address itself to correct wrongs by removing the landmarked status, and he felt if it were left in a landmarked status they would not be supporting the landmark ordinance. Mayor Marix agreed but felt by re-examining the criteria, they might find that because someone famous lived

there, it still may be eligible for the landmarking status, not as a reward. Mrs. Wiener recalled she had asked the question at a landmark meeting whether a house built yesterday would be eligible for landmarking and the response to that question was affirmative and she agreed with the Mayor that there may be found some criteria in the Ordinance which would be sufficient grounds to continue the landmark status.

Mr. Frank believed staff could sustain criteria A which reflects the broad cultural economic or social history of the nation, state, county or Town. Mr. Frank reported this would be a new finding as this criteria A was not a part of the original designation report. Mr. Sved was asked if he had particular facts which would support this criteria A. Mr. Sved responded this was originally built by Addison Mizners as his personal residence and based on that fact, it would be a historical personage. He stated this was not reflected in the original designation report and it was his understanding there was nothing still standing at that time which would reflect criteria A, as it was never considered at that time. Mayor Marix believed they were looking at the house as it now exists and make a determination as to whether it is a landmark.

Mr. Moore believed the house is a landmark and what is before the Council today is whether or not they are going to remove it and if it is the Council's intention to not accept the staff report along with the Commissions's recommendation to de-designate, the landmark status will remain and what they would have to do is to ensure the actions taken by the property owner are addressed and whether it be by Code Enforcement Board or the courts. Mayor Marix felt that the motion was to keep it as a landmark and they were trying to justify the reasons to maintain the landmark status. Mrs. Wiener noted they have a landmarked house and have been requested to de-landmark it and if the status continues, they can vote for the motion and nothing more would be required. Mayor Marix felt that would make them sitting ducks to contradict the action. Mr. Heeke agreed stating he has a problem with the facts as presented would lead to the conclusion that the house is no longer meritorious of being landmarked under the criteria it was originally landmarked and to say we reject the report is one thing but he wants to hear the reasons to reject the report. Mayor Marix agreed they needed to have reasons why it should remain a landmark. Mr. Sved stated the fact that Mr. Mizner constructed it as his own residence was not considered in the original designation of the property so he didn't believe it could be retained if that criteria was never previously considered. Mrs. Wiener asked why this was not considered to which Mr. Sved responded he did not know.

On roll call, the motion did not carry with Mrs. Douthit, Mr. Weinberg and Mr. Heeke voting against the motion (3-2).

Mrs. Douthit moved the staff's recommendation be approved and the landmark status be deleted and the report of staff's recommendation to de-designate the home be accepted; and all of this on the grounds that this deletion is caused by anywhere from 65 to 75 totally unapproved changes by the Landmarks Preservation Commission and also to the original architect, let alone our staff as everyone was in total ignorance of this ill begotten behavior. Seconded by Mr. Weinberg. On roll call, the motion carried 3-2 with Mr. Ilyinsky and Mrs. Wiener voting against the motion.

Mrs. Douthit moved to adopt Resolution No. 55-90 after the Town Attorney reads it by title. Mr. Randolph read:

Res. 55-90

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED NO LONGER MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY UNDESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

The motion was seconded by Mr. Weinberg. On roll call, the motion carried 3-2 with Mrs. Wiener and Mr. Ilyinsky voting against the motion.

Mayor Marix noted the Staff Report states the 18,500 square foot main house could be subdivided into three spacious residences of approximately 6000 square feet each. Mr. Moore informed the Mayor that was a PUD-4 report from 1979. Mayor Marix asked if they could do that now to which Mr. Moore responded affirmatively.

J. Undesignation Report for 822 South County Road -

1. Appeal of Landmark Preservation Commission Decision - Letter dated April 30, 1990 from William E. Corley, III.

2. Consideration of Resolution No. 56-90.

Res. 56-90

Mr. Frank explained a request was received dated April 30, 1990 to Grace T. Peters, Town Clerk re: Appeal of Landmarks Preservation Commission decision. "This firm represents Mrs. Barbara Hoffstot with respect to the Landmark Designation of her property at 822 South County Road, Palm Beach. Please accept this letter as her notice of appeal to the Town Council pursuant to Section 16-46 of the Code of Ordinances, Town of Palm Beach, of the Landmarks Preservation Commission's decision on April 20, 1990 altering the Landmark Designation with respect to Mrs. Hoffstot's property. It is my understanding that the Landmark matters have already been scheduled to be heard before the Town Council on June 11, 1990. Please schedule this appeal for consideration by the Town Council and advise me of the date the appeal will be heard. Very truly yours, William E. Corley, III of Caldwell, Wicksham and Taft."

Mrs. Douthit recalled this was to de-designate the east and she believed Mrs. Hoffstot wanted the western piece of property de-designated, along the lakefront. Mr. Frank agreed, and explained the statement of the request of the applicant as contained on Page 9 is:

"As stated in the enclosed letter from the applicant's counsel, the applicant wishes to re-establish the terms of the "voluntary" landmarking of her property, dated 1-9-85 (see counsel's map). The applicant wishes to clarify her position as to clearly reflect that only part of her property has been landmarked. The requested removal of partial designation status will require affirmation by the Town Council, should the Landmarks Preservation Commission choose to grant the request. In accordance with ORD. 2-84, the Landmarks Preservation Commission should cite one or more of the following to support their action on the request to, effectively, undesignate portions of the property in question:

1. The historic or architectural significance of the parcels in question, if any.
2. The importance of the parcel(s) to the aesthetics of the district, if any.
3. The special character and aesthetic interests, if any, that the parcel(s) add to the district.

4. Any irreplaceable structures, archaeological discoveries, or specimen foliage unique to the location.
5. The future utilization of said parcel(s)

Mr. Frank then read the Analysis of the Request:

"The Staff found that the property known as 822 S. County Rd. meets the same four criteria today it did in 1985, when the property designation was accepted as a landmark of the Town of Palm Beach. While the applicant claims that she was unaware of the inclusion of the additional property surrounding her Treanor and Fatio designed structure in the 1985 "voluntary" landmarking, Staff determined that that the published legal notice for that public hearing included a description of the entire property, located at 822 S. County Rd. At that time, there were no objections to the legal description used. Furthermore, Staff believes that the undesignation of the property portions described will not interfere with the protection and the future use of the structure at 822 South County Rd. for the following reasons:

The Landmarks Preservation Commission will retain full authority over all four sides of the Treanor & Fatio designed structure.

The Architectural Commission will retain full authority over the parcel fronting South County Rd., since it is visible from Town right-of-way.

Staff found no evidence to prove the existence of prehistoric or historic archaeological remains on the parcel(s) to be considered for undesignation.

Mr. Frank gave the recommendations of the staff:

"After a review of the materials related to the request, Staff recommends the approval of the request to re-establish the terms of the 1985 "voluntary" designation of the property known as 822 S. County Rd. by undesignating the parcel(s) in question, as proposed on the map supplied by the applicant's counsel."

Mr. Frank stated the recommendation was not fully endorsed by the Landmarks Preservation Commission as Staff recommended the western portion of the property starting from the structure going to the Lake be undesignated, or the back yard be the portion to be undesignated; whereas the Landmark Preservation Commission felt the front part of the property was actually that portion of the property which should be undesignated and they left the house, the motor court and the back yard in tact.

Attorney Chopin stated his original letter is really seeking clarification and although Mr. Frank has a great deal of comfort that the legal description of the designation included all of the property. Mr. Chopin stated his client is Barbara Hoffstot who has been a leader in this community for landmarking and was a Landmark Commissioner and she voluntarily designated her house in 1985 but a few months ago when she wanted to install a swimming pool and found that the back of her house was landmarked and she came for a Certificate of Appropriateness which was granted, but it brought out to her that the rear was indeed landmarked and she asked the Landmarks Preservation Commission reconsider this as what Mrs. Hoffstot wanted to voluntarily designate was the motor court and the house and if one reads the designation report, it does talk about the residence and the qualifications it has for landmarking. He indicated the original intent was to landmark the house and the motor court and it doesn't make any sense to have the back yard designated because that is not what she asked to be designated in the first place. He didn't believe there was any reason for the back yard to be designated as it has no significance and what he is requesting is to undesignate that portion or at least clarify that what should have been designated in the first place is the part of the property which had significance, which was the motor court and the house itself.

Mr. Moore advised the request for the voluntary landmarking was confusing request and he believed that the motor court and the portion which fronts on South County Road are important as there is significant landscaping and the intent was the front of the property to be landmarked and the house itself, but the rear had little social redeeming character for no-one but Mrs. Hoffstot and it is their recommendation that Council modify the Landmarks Preservation Commission's action and if any of the property is going to remain designated, it should be the front of the property from South County Road, including the Court Yard and the House and undesignate the rear or western portion of the property. Mr. Chopin wanted to be sure there was no misunderstanding the submitted a map which showed the motor court and the house is the portion which was voluntarily designated but did not intend to designate anything other than that. He recalled the staff recommendation before Landmarks was to clarify the initial voluntary designation which Mrs. Hoffstot had offered and the fact is there was no mistake as they chose to undesignate the front which means it would still be subject to the same reviews that it would be subject to under the Landmarks ordinance, the zoning does not permit any additional structures to be built and the reason she wants the done is because that is what she thought she was voluntarily offering in 1985, as she intended to have her house designated and the fact of the matter is that five years later she finds out there was more designated than she intended to have designated and she came back to the Commission and requested the house and the motor court landmarked as it meets the criteria and she wanted that clarified.

Mrs. Wiener could not understand why as a matter of principle is she requesting this now? Mr. Chopin responded that in 1985 if the Town or staff would have tried to voluntarily designate this house, it wouldn't have happened as voluntary - involuntary disputes in years gone by were that all designations were voluntary and the fact of the matter is this house would not have been designated but for the fact that Mrs. Hoffstot took it on her own initiative to bring it to the Commission and ask that it be designated. He felt someone had made a mistake but Mr. Hoffstot came back and asked to have clarified what she had intended and that is to not have the back property designated and he felt there was nothing in the record which demonstrates conclusively a contrary intent, but they are trying to be honorable and have come in and stated they discovered a mistake which was not intentional and it is not harmful to the Town and no-one opposes it and they are asking the Town to correct a mistake.

Mr. Heeke asked how much footage was involved? Mr. Chopin believed it was about 125'. Mr. Heeke noted it could not be further subdivided or developed to which Mr. Chopin agreed. Mr. Heeke asked if the only improvement that they are talking about on the undesignated part is the swimming pool to which Mr. Chopin responded affirmatively. Mrs. Douthit moved that the Town Council approve Res. 56-90 to de-designate the western portion of the property, contingent upon the actual footages, at 822 South County Road. Mr. Heeke asked if there could be an amendment that this would be subject to the fact that it would not include any structures other than the swimming pool to which Mrs. Douthit agreed. Mr. Moore pointed out this isn't really a pool but a spa. Mr. Ilyinsky seconded the motion. On roll call, the motion carried unanimously.

Mr. Randolph read the Resolution by title:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT A PORTION OF THE PROPERTY HEREINAFTER DESCRIBED DOES NOT MEET ANY OF THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, AND DOES HEREBY UNDESIGNATE SAID PORTION OF SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 16, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Attorney Chopin asked for a clarification of whether or not there was a distinction made between the appeal and the part that the Landmarks Preservation Commission recommended for de-designation and wanted to know if he was correct to assume their recommendation was as to the east part was affirmed and their request that the west part be undesignated was also affirmed and asked if that was what Mr. Randolph just read? Mr. Randolph responded that really didn't happen, however, the Council ratified the determination of Landmarks Preservation Commission but the Landmarks Commission did not de-designate it the way that Mr. Chopin has requested. Mr. Randolph believed they were rejecting the Landmarks' recommendation that the east portion be designated and substituting a determination that the west portion be de-designated and if that is a correct understanding, the Resolution would have to be modified to incorporate that. Mrs. Wiener changed her vote on the previous motion to a negative vote.

Mr. Chopin felt his client has asked and what staff has recommended and what Landmarks Preservation has recommended is that the east portion of the property as well be undesignated as there is no reason for it to be designated as it doesn't achieve anything and the only portion of the property that has any implication is the house itself and the motor court and all he is asking is that the east and the west undeveloped property be treated the same and that was what staff has recommended. Mr. Frank disagreed that staff recommended that. He stated the Landmarks Commission recommended undesignating the eastern portion of the property since it was consistent with certain parcels of land that weren't being used being designated as there were no structures on it, but staff does not agree with that as structures could be constructed that could affect the Landmark Designation, however he felt the east portion of the property has a different context to the property than the west side does and they are not the same.

Mr. Chopin read the recommendation of the staff which stated that after review, staff recommends the approval of the request to re-establish the terms of the 1985 voluntary designation of the property known as 822 South County Road, by undesignating the portions in question as proposed on the map supplied by applicant's counsel. Mr. Frank explained he believed that to break down the legal description will be difficult and the map has the structure and the court yard on it. He knows when Mrs. Hoffstot served on the Commission the Breaker's got a facade easement and therefore she should get the same kind of break, but what the Commission correctly pointed out was at that time they were landmarking entire properties and there are very few structures which are landmarked which are for the house only. Mr. Chopin felt that was no longer the issue and recalled he spoke to Mr. Frank last week and he was told the staff's recommendation and now he finds out it is something different and he doesn't think a property owner in this Town should be treated in that manner and he found that very disturbing. Mr. Frank stated Mr. Chopin is confusing what his recommendation was which was to endorse the proposal with that which the Landmark Commission had pointed out at the meeting and he is not giving any merit to what the Landmark Commission pointed out which was they had a certain track record of how these structures were being designated back in those days.

Mr. Heeke called for a motion on the eastern portion of the real property that is not improved. Mrs. Douthit moved the most easterly unimproved property remain landmarked along with the motor court and the residence. Mr. Heeke passed the gavel to Mr. Ilyinsky to chair the meeting and seconded the motion. Mr. Moore stated this would be 128' and involves the house, the court yard and 128' going towards County Road. Mr. Chopin reminded all the Landmarks Preservation Commission has recommended to undesignate the eastern portion. Mr. Moore stated the staff is stating the rear should not be designated. Mrs. Douthit stated she had a conversation with Mrs. Hoffstot and she stated she didn't care about the east but she was interested in the western part being undesignated.

Mayor Marix noted it is only a driveway. Mr. Chopin pointed out there is no intention to develop this land as it is not big enough to put anything on it. Mr. Moore stated the property cannot be subdivided and he explained that to Mrs. Hoffstot that because of her feeling she did not present this for voluntary designation the entire piece of property that this area should be undesignated.

Mr. Heeke noted Res. 56-90 which was adopted would de-designate the eastern portion of the property, and he called for a motion for reconsideration of that motion. Mrs. Douthit so moved. Seconded by Mr. Ilyinsky. On roll call, the motion carried to reconsider the previous motion to adopt Res. 56-90. Motion carried unanimously.

Mrs. Douthit then moved to undesignate the westerly portion of land from the house to the lakefront on the property known as 822 South County Road, with the spa included as the only improved portion of this property. Seconded by Mr. Ilyinsky. On roll call, the motion carried 4-1 with Mrs. Wiener voting against the motion.

Mr. Randolph stated he will have to modify Res. 56-90 and will bring that Resolution back to the Council at a later date.

Mr. Ilyinsky made a motion to undesignate the eastern 128' and there was no second to the motion which died for lack of a second.

Mrs. Wiener made a motion that the easterly portion remain designated. Seconded by Mrs. Douthit. Mr. Chopin stated this would be to reject the recommendation of the landmarks Preservation Commission. On roll call, the motion carried 4-1 with Mr. Ilyinsky voting against the motion.

VI. REQUEST FOR RECONSIDERATION OF DESIGNATION REPORT FOR 8 SOUTH LAKE TRAIL - RECONSIDERATION OF RESOLUTION NO. 7-90 PASSED ON MARCH 9, 1990. Mr. Randolph swore in those who will address this matter. Mr. Frank reported this item has been ratified by the Town Council and the request comes to reconsider this matter as one of the former attorneys had verbally requested to be heard and were not in attendance at the meeting when this property was landmarked as they thought it was deferred. Mr. Randolph recommended the Council first hear the testimony as to why this should be reconsidered. Attorney Farrish addressed the Council on behalf of Mr. and Mrs. Asher indicating there was a mix-up as they thought this was going to be deferred and did not appear and later found out the Council ratified the action of the Landmarks Commission to make this residence a landmark. A motion was made to reconsider this matter by Mrs. Wiener. Seconded by Mrs. Douthit. Mr. Randolph asked Mr. Farrish if this was reconsidered if the time deadlines as stated in the Ordinance will no longer be in effect and if he had any objection to a waiver being granted in regard to the deadlines and restrictions in the Ordinance. Mr. Farrish stated he would have no objection to the waiver. Mr. Farrish asked if the Certificate of Designation been filed in the public records? Mr. Frank stated it has not.

Res. 7-90

On roll call, the motion carried to reconsider.

Mr. Frank advised 8 South Lake Trail was designed by the late John Volk in 1938 and staff believes it meets criteria A and D. Mr. Sved addressed the Council clarified that this is a two story Neo-classical design although John Volk called it an Adamesque style. He stated the land on which this house lies is almost cigar shaped and is long and thin, and as the entrance is rather unassuming with a hipped roof hidden by a parapet so it appears that the roof is flat. He stated the details are repeated throughout the design on all sides of the house. He stated this lot has been played up and designed with unusual actuality as from the Lake you can look straight through the center axis through the center of the property and is on line with the garden details and a historic specimen tree and is very beautiful and ornate and was planned meticulously and is worthy of landmarking.

Motion was made by Mr. Ilyinsky to receive the designation report dated Nov. 17, 1989 on 8 South Lake Trail and have it made a part of the record. Seconded by Mrs. Wiener. On roll call, the motion carried unanimously.

Attorney Farrish addressed the Council stating to designate this, even with the broad criteria stated,

Res. 7-90

but as was pointed out earlier in this meeting any house in Palm Beach could fall under this criteria, however, it would be a hardship for his client and he opposes it as an economic problem. He felt to designate a piece of property, especially a private residence as a landmark does put a burden on the property and he considers it a violation of the fourth and fifth amendment of the U. S. Constitution as it is taking property without due process and has realtors and appraisers who are prepared to testify that by placing landmarking on this property it would be devaluated. He felt that built in protections of property have been tried and trusted over the years, such as zoning which preserves the value of the property and as far as protecting the public health, welfare and safety of the community, the zoning does take care of that also and the building code takes care of the structural part and the Architectural Commission takes care of the aesthetics. He felt once a property is landmarked, within 30 days this is filed on the public record and this puts the appraiser on the spot, as they must evaluate the property on a fair market value and if the property could be restricted for example, by 25% by being landmarked, then the taxes go down and that 25% is deferred and the Town and the County lose out on the collection of the taxes. He stated when a property owner does not want his property landmarked, he should be left alone as his property rights are violated. He stated in the Statute it also states that the covenant which will be placed on this property shall include provisions of a periodic access by the public to the property. He does not feel this should be designated as they probably could never secure a buyer for the property as most people don't want to purchase a house that was designated. He knows this was designed by a well known architect but it doesn't even have a garage.

Mary Alice Asher addressed the Council indicating she does not want her property landmarked for economic reasons. Mrs. Southit asked if she wished to subdivide it to which Mrs. Asher responded negatively. Mrs. Douthit asked if the house was for sale? Mrs. Asher stated it was not for sale. Mayor Marix asked if they had the house appraised? Mr. Farrish stated it was evaluated by brokers and to a certain degree, it would affect the value of the property. Mrs. Douthit recalled many brokers have a strange attitude in many instances on landmarking.

Mr. Moore asked about the appraisal and wanted to know if it was on the property as a whole or for subdivision to which Mr. Farrish responded it was neither. Mr. Farrish stated that by landmarking the property, they cut down on the marketability of the property and percentage wise the devaluation of the property and although the appraisal has not been fine tuned, they do know it would be devalued.

Mr. Ilyinsky asked if the present house was torn down, how many houses could be built there to which Mr. Moore responded approximately three houses could be built on the property.

Mrs. Wiener asked if the actual residence was on one of the lots or did the house stand in the middle of the property? Mr. Moore responded it is a huge parcel and he believed that probably two houses could be built on the eastern part of the property. Mr. Farrish responded the house is built on the western part on the lakeside.

Mrs. Toni Hollis, real estate broker, addressed the Council, indicating she is presently associated with Sotheby's, International and specializes in residential property located in the Town of Palm Beach and has been in the business over twenty years and is familiar with the property. She knows the Council believes the value of homes are increased by landmarking, however, there are several brokers in Town who disagree. She did not believe this particular house at 8 South Lake Trail was worthy of landmarking and it was her personal opinion that if this house was on the market and was landmarked, the price would be reduced approximately two million dollars. She felt the property was much more valuable than the house. She stated the only part of the house that is visible from the roadway is the front door as it is heavily landscaped. Mr. Farrish asked if she had any sales resistance on a landmarked home to which she responded affirmatively. Mr. Ilyinsky felt there were just as many brokers who would disagree with that statement and he lives in a landmarked home which has tripled in value. Mrs. Hollis stated in her career she has never had anyone come to her and ask her to find them a landmarked home. Mr. Heeke felt there were buyers out there who may be impressed with the fact that a house is landmarked. Mrs. Hollis felt there were many other places in the Town worthy of the time and effort of landmarking then this particular house as she did not view it as an architectural wonder and if they needed a house with Adamesque features, perhaps this should be researched a bit more and another house found that would be more worthy. She knew there were 400 properties which the Landmark Commission would like to see landmarked and she felt that was a bit ridiculous.

Mrs. Wiener asked where this house was classified previously on the original survey. Mr. Frank recalled this house was not on the original survey, probably because it was not over fifty years old at that time. Mrs. Wiener recalled a conversation some time ago about landmarking homes which were over fifty years old, and that most of them were probably not of extreme significance, however, because of what happened on the Wrightsman Estate, there was a great deal of concern and perhaps this is an example of that type of house.

Mayor Marix felt Mrs. Asher's biggest worry is financial and if 25% can be saved on the taxes, she thought that might be a massive asset to a home. Mrs. Hollis stated Mr. Farrish pointed out the Town would not be getting 25% of the taxes. Mayor Marix felt what the Town would lose on this house would be quite nominal. Mrs. Hollis felt to landmark a home just for the sake of landmarking was wrong as nationally, a house must be voluntarily given for landmarking, and if the owner doesn't want it, they shouldn't force it on them, especially if it is not a truly great example of a certain style of house. Mr. Heeke pointed out there was no such thing as voluntary involuntary landmarking as there are certain criteria which are set up and a structure either qualifies or it doesn't and when an owner voluntarily submits their house for landmarking, it just makes the Council's job a bit easier. Mr. Heeke asked Ms. Hollis if she had any examples of a house selling for less because it was landmarked? Mr. Moore stated it was at 702 North County Road. Mr. Frank believed the realtor testified in court that the house wasn't worth more than 3.5 million dollars because it was landmarked and the reported price of sale was 4.5 million. Mrs. Hollis stated they could have gotten much more. Mr. Frank thought it was more than the asking price to which Mrs. Hollis did not agree. Mrs. Wiener felt they were getting off the subject.

Mr. Samuel Holden, Real Estate Appraiser addressed the Council, indicating he was in the business for over forty years and stated his qualifications. He felt a landmarked house definitely has a negative impact. He has been to this house and found it to be in deplorable condition inside and although it is on a big lot and has beautiful trees, a buyer would not buy this property for the house but for the land only. Mr. Holden felt the house was laid out quite poorly and the back door is not accessible and the front has a very small driveway. Mayor Marix asked why the Ashers purchased the house and why they didn't demolish it? Mr. Holden stated Mrs. Asher sleeps on the first floor as there is no plumbing working on the second floor and the house is in deplorable condition, as the central air is long gone and they have a few window air conditioners. Mr. Heeke asked him if he was a MAI appraiser to which Mr. Holden responded he has that designation. Mr. Holden stated he appraises property for the South Florida Water Management and the County and the State of Florida. Mr. Heeke asked if those properties were mostly unimproved? Mr. Holden responded a lot of them were and he also did a lot of farmland.

Mr. Farrish asked Mr. Holden if he sat as a Special Master on the re-evaluations put on properties by Mrs. Walker, the Property Appraiser for the County to which Mr. Holden responded affirmatively indicating this included properties in the Town of Palm Beach.

Mr. Holden stated last year they had the first landmarked house which came before him that wanted his assessment reduced, which they could not do but now on studying the whole thing they find a reduction is available in taxes, which then become payable if the property is sold.

Mr. Frank believed the tax exemption program gave exemptions to income producing properties which are not primary residences and asked how this property filled that criteria. Mr. Holden stated he was talking about the statute which took care of landmarked property. Mr. Frank believed it had to be income producing and not lived in by the primary owner to which Mr. Holden did not agree. Mr. Frank indicated he was not familiar with this particular statute. Mayor Marix stated she owned a landmarked property and when she got the tax notices, she was not notified that there was a downgrade on her property. Mr. Frank stated the heading of what Mr. Holden has furnished is Chapter 193, 505 which is for assessment of historically significant property when development rights have been conveyed or historic preservation restrictions have been covenanted and he didn't believe that affected the landmarked properties.

Mr. Holden disagreed indicating a restrictive covenant is filed when it is landmarked. Mr. Frank stated they do not file a restrictive covenant. Mr. Randolph explained they file a Certificate of Designation of Notification of Landmark within 30 days after a property is landmarked. Mr. Holden felt that was a restrictive covenant. Mr. Frank stated the provision is where there is transfer of development rights or restrictive covenants and it is a State Statute.

Mr. Moore noted some of the information furnished today has talked about the condition of the house and he has not viewed this house personally but he did not want to recommend a home that is preparing to go into Demolition by Neglect and this was not addressed at the previous Landmark Commission meetings. He stated the Town is not interested in taking on a project that could possibly place us in an immediate situation of Demolition by Neglect, although the pictures do not reflect this. He stated the question the staff would raise is to whether he would permit the Town staff to enter the property and make a closer inspection of the property and try to ascertain some of the interior problems and whether they may be Housing Code violations which needs to be taken care of and perhaps this should be considered at the first designation meeting of the Council in December.

Mr. Farrish did not agree.

Mrs. Jane Volk, a Landmark Commissioner was sworn in by the Town Attorney. She addressed the Council indicating she has been led to believe this house is one of the most beautiful Adams, Georgian houses in Palm Beach and she started going to this house when Mr. & Mrs. Davis lived there, the original owners. She knows it is not rather tragic and terrible things have happened to this house but it is of hollow tile and put together with copper pipes and built to last forever and what has happened to it is simply cosmetic and loving hands could restore it. She has had queries from people who wanted to know if it was for sale. She stated it is on the lakefront and her husband was the architect and he kept a journal and wrote about this house: "Charles S. Davis was the President of Borg-Warner Corp. and bought the property on the Lakefront at the foot of Pendleton Avenue, extending from Coconut Row through to the Lake. I designed for them a two story residence in the style of the Adam period. The gardens developed to the west were the most extensive gardens in Palm Beach. Mr. David was a perfectionist and wished every room to be designed in great detail to reflect the elegance of an English Manor House and the result was very fine cornices, fire places, a free standing stairway, beautiful marble and parquet wood floors. The view to the Lake was gained from every room. The extensive grounds to the west, a distance of about 800' allowed me to design various gardens with reflection pools and some planting. At the terminus of this long vista, I constructed a large green house on axis flanked by two glass conservatories. A Giant Cybid tree, having a spread of 150' with a dramatic trunk and root system dominates the area and the gardens were designed to include this tree as one of the features and interest. The tree was commonly known as a silk cotton tree which at certain times of the year blossomed solidly with pink flowers. The tree was brought from Nassau in the late 1800's a hand carried plant by Louis Clarke who developed the area from the Ocean to the Lake, and Clarke Avenue bears his name. The tree is well over one hundred years old." She exhibited pictures showing the vista to the lake and stated the wrought iron gate has been left to fall in disrepair and it is not replaceable. She exhibited pictures also of the interior which showed many of the architectural details. She believed the house was very well suited for landmarking.

Mrs. Ann Metzgar, a Landmark Commissioner, was sworn in by the Town Attorney. She addressed the Council indicating she was here today as a neighbor to the south and she thought it was a beautiful house and should be landmarked. She felt however, it was being allowed to deteriorate. She was confused about the statement that the house cannot be seen as it can be from the west and the east. She encouraged the Council to landmark the house.

Mrs. Polly Earl was sworn in by the Town Attorney. She addressed the Council indicating she was the director of the Preservation Foundation and wanted to clarify the statement that 400 properties were to be designated and that was not so, as these properties were surveyed to be eligible for designation. She believed people in Palm Beach get spoiled by the high quality of what we have around us, that we tend to be impressed only with gems and she wished to assure those who are astounded by that number that no one advocates there be 400 houses that should be designated. She addressed the question of declining property values for landmarks, and felt it was important to remember Mr. Maxwell's comments made at a previous meeting and his examination were that none of the landmarked properties had declined in value, nor had they increased at a rate less than the general increase in property values. She talked about the State Tax abatement, some years ago they came aware of this provision that seemed to allow some abatement in property taxes for certain historic properties but she believed there were only a few that were allowed to qualify for that abatement, one was to the residence in which former Gov. Collins had lived and one other area was a short historic street in Jacksonville that was open to the public one day a year, so it was quite restrictive. She felt Lake Trail was one of the most historic areas in Town and is the heart of the early community that grew into the true residences of Palm Beach and these kinds of estates are important to be preserved.

Mr. Frank stated a letter has been received from Mr. Alan Manning of 7 South Lake Trail stating he felt the house was architecturally outstanding and he encouraged the Council to continue to approve the landmarking of this home.

Mr. Ilyinsky asked Mr. Farrish if his client would allow Mr. Moore to inspect the property? Mr. Farrish did not agree.

Mr. Heeke pointed out at the earlier hearing, the Council found sufficient facts to make a determination of the landmark status of this home and have revisited the issue again today and heard the witnesses and called for a motion.

Mr. Randolph noted there was a Resolution No. 7-90 which was adopted in March. Mr. Heeke thought a new resolution needed to be adopted. Mr. Randolph reminded all they have voted to reconsider that resolution and have gone through a new hearing and he believed they needed a new resolution and they could ratify the previous decision of Res. No. 7-90 and adopt a new Resolution 61-90 which would read:

RESOLUTION NO. 61-90 - 8 SOUTH LAKE TRAIL. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY HEREINAFTER DESCRIBED MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER XVI, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH AND DOES HEREBY DESIGNATE SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE 2-84, ALSO KNOWN AS CHAPTER XVI, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

Res. 7-90

Mr. Moore was asked by Mr. Heeke if there was proof of publication to which he responded affirmatively. Mr. Moore stated with regards to the claim of Mr. Farrish that he had no notification of the previous hearing, he would like to state for the record that the Town on Feb. 5, 1990 sent a certified letter which was signed by Mary A. Asher on Feb. 14, 1990 and this letter stated this matter would be heard and discussed at the Town Council Meeting of March 9, 1990, so there was notice and a signed receipt for same. Mr. Farrish acknowledged this but wanted it to be on the record also that Mr. Moore had agreed to extend it or continue it to which Mr. Moore responded affirmatively.

Mr. Randolph advised it should be acknowledged that the matter has been reconsidered and in light of the reconsideration and the testimony presented today, that the Council ratify the previous action taken on Res. 7-90.

Mr. Ilyinsky moved that the Town Council, having reconsidered this matter ratifies the previous action that was taken on Res. 7-90. Seconded by Mr. Weinberg. On roll call, the motion carried 3-2, with Mrs. Douthit and Mrs. Wiener voting against the motion. Mrs. Douthit stated the reason she voted against it is she views this as a planned demolition by neglect. Mrs. Wiener recalled she voted for this previously since she was told there was no opposition at that time but she was changing her vote to a negative one as she agrees with Mrs. Douthit.

Motion was then made to approve Res. 61-90 as read by the Town Attorney to ratify the determination of the Landmark Preservation Commission to designate the property at 8 South Lake Trail as it meets Criteria A and D of Section 16 of the Town of Palm Beach Code of Ordinances. Seconded by Mr. Weinberg. On roll call, the motion carried with a vote of 3-2 with Mrs. Wiener and Mrs. Douthit voting against the motion.

VII. CONSIDERATION OF DATE FOR NEXT SPECIAL TOWN COUNCIL PUBLIC HEARING ON LANDMARK DESIGNATIONS. Mr. Moore stated he anticipates this will be the Dec. 11, 1990 Town Council meeting. Mr. Heeke stated it does not have to be set at this time since there were no deferrals and this can be set later.

VIII. ANY OTHER MATTERS:

Comments of Mr. Sullivan A. COMMENTS BY MR. SULLIVAN, CHAIRMAN OF THE LANDMARKS PERSERVATION COMMISSION. Mr. Sullivan thanked the Council and the Mayor for their consideration of the Landmarks' recommendations and he would be taking a leave of absence for the summer.

Res. 5-90 B. RESOLUTION NO. 5-90. Mr. Randolph stated this resolution pertains to 765 Hi Mount Road and on page 2, he has included the conditions Council placed on this designation to which the Council agreed.

Res.56-90 C. RESOLUTION NO. 56-90 - Mr. Randolph stated this is on the Barbara Hoffstot property at 822 South County Road and it has been modified by amended rather than ratified the recommendation and determination of the Landmarks Preservation Commission so as to de-designate that property from the portion immediately west of the west facade of the house to Lake Worth, to which the Council agreed.

Res. 54-90 D. RESOLUTION 54-90 - TOWN HALL SQUARE. Mr. Randolph stated this has been modified so as to incorporate only the area Council wished designated and he has taken the numbers and listed them in order on the Resolution.

Adjournment IX. ADJOURN PUBLIC HEARING. There being no further business, the meeting was adjourned at 5:35 PM.

Grace T. Peters
Town Clerk