

TOWN OF PALM BEACH

To: Mayor and Town Council

Via: Kirk Blouin, Town Manager

From: Wayne Bergman, Director of Planning, Zoning & Building

Re: Landmark Matters

Date: September 1, 2023

FOR YOUR INFORMATION

REGULAR BUSINESS

- B. Update On Royal Poinciana Playhouse – Town staff and Town Attorney Randolph to provide an overview of the Playhouse approvals and demolition.
- C. Discussion Regarding Revisiting Properties that Were Considered in the Past, But Not Landmarked

1. Developing a Policy on When to Revisit a Property That Was Not Designated in the Past as a Landmark – The Town Council may consider adopting a policy regarding how and when to revisit properties, once considered for possible Landmark status, but never actually designated. The policy may include triggers for revisiting, such as there is a new owner, new historical information is discovered regarding the building or property, the building has reached a threshold age (50 years?), or a certain number of years has transpired since the first attempt to Landmark (15 years?).
2. List of Properties That have Been Previously Reviewed for Landmarking – An original list of passed-over properties was created by Murphy Stillings LLC that spanned the time that firm has been involved with the Town's Landmark program. That list showed 61 properties that were once considered, but never Landmarked. The staff at the Preservation Foundation of Palm Beach worked to expand that list to cover the time before Murphy Stillings worked for the Town. This revised list is now

complete and attached for your review. This list will serve as to which properties would be covered under the policy proposed above. Murphy Stillings, with your direction, can begin to review the properties to see which may be suited for another attempt.

3. Letter to Properties – a draft letter template could be prepared as contact from the Town to the present property owner. The letters could be signed by the Mayor or another Town official.

D. 2023 / 2024 Designation Dates for Town Council – It was mentioned to staff about the possibility of consolidating all upcoming season Landmark Designation Hearings into one (or two) days of special meetings. This would remove monthly Designation Hearings from your agendas and focus the reviews and decisions to one (or two) meetings to be held in accordance with Chapter 54, Sec. 54-164. This will require careful coordination on the timing of mailings to the property owners, the dates of the Landmark Preservation Commission meetings, and Landmark Preservation Commission rendered decisions, all to conform to the required time frames described in the Code. This would allow the Town Council Designation Hearing Day or Days) to occur in April of 2024. This is just an option – there is no need to do this, and it is presented today as a discussion item since some interest has been expressed regarding this novel way to proceed.

Attached: Current List of Properties Considered, But Not Designated by the LPC
 or by the Town Council
 Staff Memo dated February 1, 2023
 Seth Behn, Esq. Memo, dated January 24, 2023
 Draft Letter

PROPERTIES NOT DESIGNATED
BY LPC

#	PROPERTY NUMBER	STREET	BUILT	STYLE	ARCHITECT	OUTCOME	YEAR HEARD	NOTES	FULL ADDRESS	Column1	Column2
1	318	Arabian Road	1940	no info	Harding	Removed from Consideration	1993	No report on file	318 ARABIAN RD	x	
2	162	Atlantic Avenue	1925	Mediterranean Revival	unknown	Removed without Prejudice	2001	**DEMO 2021**	162 ATLANTIC AVE	x	
3	240	Atlantic Avenue	1945	Art Deco	Simonson & Holley	No Action taken by LPC	1991	No action taken due to not yet being 50 years old. **DEMO 2015**	240 ATLANTIC AVE	x	
4	314	Australian Avenue	c. 1920	Bungalow	unknown/Maass	No Action taken by LPC	1990		314 AUSTRALIAN AVE	x	
5	318	Australian Avenue	c. 1920	Bungalow	unknown	Not Ratified by Town Council	1990		318 AUSTRALIAN AVE	x	
6	130	Banyan Road	1924	Tudor Revival	unknown	Removed from Consideration	2000		130 BANYAN RD	x	
7	240	Banyan Road	1929	Mediterranean Revival	William Gordon Beecher	Not Ratified by Town Council	1990		240 BANYAN RD	x	
8	218	Barton Avenue	1924	Mediterranean Revival	W.B. Eckler - builder	Not Recommended by LPC	2017		218 BARTON AVE	x	
9	131	Barton Avenue	1924/1932	Eclectic	unknown/Wyeth	Not Recommended by LPC	1990	**DEMO POOL GUEST HOUSE 2011**	131BARTON AVE	x	
10	337	Brazilian Avenue	1924	Mediterranean Revival	Theodore Eissfeldt - builder	Not Ratified by Town Council	2014		337 BRAZILIAN AVE	x	
11	141	Brazilian Avenue	c.1920/1937	Georgian Revival	unknown/Volk	Not Recommended by LPC	1999		141 BRAZILIAN AVE	x	
12	Pavilion	Casa Bendita	1921	Mediterranean Revival	attributed to Mizner	Not Recommended by LPC	2010		No address		
13	120	Clarke Avenue	1924	Mediterranean Revival	unknown	Not Recommended by LPC	2016		120 CLARKE AVE	x	
14	150	Clarke Avenue	1934	Monterey	Major	Not Ratified by Town Council	1997		150 CLARKE AVE	x	
15	107	Dolphin Road	1958	Mid-Century Modern	Shoumate	Not Recommended by LPC	2022	Not recommended due to alterations	107 DOLPHIN RD	x	
16	136	Dunbar Road	1923	Mediterranean Revival	Kitchell	Not Recommended by LPC	2018		136 DUNBAR RD	x	
17	211	Dunbar Road	1929-1930	Mediterranean Revival	E.B. Walton	Not Recommended by LPC	2019		211 DUNBAR RD	x	
18	320	El Vedado Way	1940	Neo-Classical Revival	Mack	Not Recommended by LPC	2013		320 EL VEDADO WAY	x	
19	222	Everglade Ave	1927	Mediterranean Revival	R.C. Warner - builder	Not Recommended by LPC	2017		222 EVERGLADE AVE	x	
20	115	Flagler Drive	1924	Mediterranean Revival	Cooper Lightbown - builder	Not Recommended by LPC	1992		115 FLAGLER DR	x	
21	215	Garden Rd	1936	Monterey	Treanor & Fatio	Not Ratified by Town Council	2016		215 GARDEN RD	x	
22	8	Golf Road	1922	Mediterranean Revival	Wyeth	Not Recommended by LPC	1997	**DEMO 2013**	8 GOLF RD	x	
23	1	Golf Road	1951	Mediterranean Revival	Bennett	Removed from Consideration	1997	Removed from consideration due to "not yet of an age appropriate". No report written	1 GOLF RD	x	
24	3	Golf Road	1951	Georgian Revival	Stetson	Removed from Consideration	1997	Removed from consideration due to "not yet of an age appropriate". No report written	3 GOLF RD	x	
25	726	Hi-Mount Road	1938	Colonial Revival	Treanor & Fatio	Not Recommended by LPC	1998	**DEMO 2018**	726 HI-MOUNT RD	x	
26	350	Island Road	1940	Moderne	Treanor & Fatio	Not Recommended by LPC	2012		350 ISLAND RD	x	
27	205	Nightingale Trail	1940	Moderne Stylized Ranch	Seelmann	Not Recommended by LPC	2022		205 NIGHTINGALE TRL	x	
28	475	North County Road	1936	Colonial Revival	Treanor & Fatio	Not Recommended by LPC	2019		475 N COUNTY RD	x	
29	130-132	North County Road	1929/1935	Mediterranean Revival	Kitchell	Not Recommended by LPC	1992		130-132 N COUNTY RD	x	
30	126	North County Road	c. 1932	Mediterranean Revival	Kitchell	Not Recommended by LPC	1992		126 N COUNTY RD		
31	1197	North Lake Way	1937	Monterey	Treanor & Fatio	Removed from Consideration	1994		1197 N LAKE WAY	x	
32	1127	North Lake Way	1941	British Colonial	Maass/Volk	Removed from Consideration	1994		1127 N LAKE WAY	x	
33	444	North Lake Way	1969	Modern	Volk	Not Ratified by Town Council	2001	**DEMO 2003**	444 N LAKE WAY	x	
34	958	North Lake Way	1977-1979	Modern	Richard Meier	Not Ratified by Town Council	2009		958 N LAKE WAY	x	
35	1510	North Ocean Blvd	1925	Mediterranean Revival	E. Bartholomew - builder	Not Ratified by Town Council	2022		1510 N OCEAN BLVD	x	
36	1438	North Ocean Blvd	1937	Tudor Revival	Maass	Removed from Consideration	2005	No report written	1438 N OCEAN BLVD	x	
37	980	North Ocean Blvd	1948	British Colonial	Wyeth, King & Johnson	Not Recommended by LPC	2018	**DEMO 2019**	980 N OCEAN BLVD	x	
38	977	North Ocean Blvd	1963	Georgian Revival	Volk	Not Ratified by Town Council	2010		977 N OCEAN BLVD	x	
39	1545	North Ocean Way	1937	French Eclectic	Treanor & Fatio	Not Ratified by Town Council	2014		1545 N OCEAN WAY	x	
40	1565	North Ocean Way	1938	Mediterranean Revival	Wyeth & King	Removed from Consideration	1993	No report on file **DEMO 2017**	1565 N OCEAN WAY	x	
41	334	North Woods Road	1936	Georgian Revival	Major	Removed from Consideration	1993		334 N WOODS RD	x	
42	256	Orange Grove Rd	1949	Mid-Century Modern	Stetson	Not Ratified by Town Council	2022		256 ORANGE GROVE RD	x	
43	District	Parc Monceau HD	1959-1961	Regency	Mack	Not Ratified by Town Council	2016				
44	269	Park Avenue	c. 1923	Shingle	unknown	Not Recommended by LPC	1991	PART OF HISTORICALLY SIGNIFICANT BUILDING PROGRAM	269 PARK AVE	x	
45	341	Peruvian Avenue	1931	Mediterranean Revival	Wyeth	Removed from Consideration	1983	(PART OF HISTORICALLY SIGNIFICANT BUILDING PROGRAM - incorrect) DEMO TEA HOUSE 2003**	341 PERUVIAN AVE	x	
46	153-155	Root Trail	c. 1920s	Frame Vernacular	unknown	Not Ratified by Town Council	1999		153-155 ROOT TRL	x	
47	255	Royal Poinciana Way	c. 1915	Mission Revival	unknown	Not Recommended by LPC	2015		255 ROYAL POINCIANA WAY	x	
48	335	Seabreeze Avenue	1925	Mediterranean Revival	Eckler	Not Recommended by LPC	2017	**DEMO 2021**	335 SEABREEZE AVE	x	
49	357	Seabreeze Avenue	c. 1900	Shingle	unknown	Not Ratified by Town Council	1990		357 SEABREEZE AVE	x	
50	120	Seabreeze Avenue	c. 1910's	Bungalow	unknown	Removed from Consideration	1993		120 SEABREEZE AVE	x	

PROPERTIES NOT DESIGNATED
BY LPC

51	165	Seaspray Avenue	1919	Colonial Revival	City Builders	Not Ratified by Town Council	2015	**DEMO 2018**	165 SEASPRAY AVE	x	
52	145	Seaspray Avenue	1919	Colonial Revival	City Builders	Not Ratified by Town Council	2019		145 SEASPRAY AVE	x	
53	255	Seaspray Avenue	1933	Mediterranean Revival	Wyeth & King	Not Recommended by LPC	2020		255 SEASPRAY AVE	x	
54	535	South County Road	1937	Monterey	unknown	Removed from Consideration	2000	**DEMO 2014**	535 S COUNTY RD	x	
55	755	South County Road	1941	Mediterranean Revival	Shoumate	Not Recommended by LPC	2022		755 S COUNTY RD	2 parcels	
56	15	South Lake Trail	c. 1921	Colonial Revival/Eclectic	not listed	Not Recommended by LPC	1991		15 S LAKE TRL	x	
57	1410	South Ocean Blvd	1926	Mediterranean Revival	Wyeth	Removed without Prejudice	1998		1410 S OCEAN BLVD	x	
58	224	South Ocean Blvd	c. 1922	Shingle	unknown	Not Recommended by LPC	1991		224 S OCEAN BLVD	2 parcels	
59	241	Tangier Avenue	1936	Monterey	Major	Not Recommended by LPC	1999	**DEMO 2019**	241 TANGIER AVE	x	
60	10	Tarpon Island	1931	British Colonial	Major	Not Recommended by LPC	2011	PART OF HISTORICALLY SIGNIFICANT BUILDING PROGRAM	10 TARPON ISLAND	x	
61	272	Wells Road	1928	Moorish Revival	Charles E. Snyder	Not Recommended by LPC	2012		272 WELLS RD	x	
62	112	Sunset Avenue		Demolished		Removed from Consideration	1979	White Sands, "Not considered a high priority landmark designation"	112 SUNSET AVE		
63	147	East Main Street		Demolished		Removed from Consideration	1979	"Not considered a high priority landmark designation"	147 EAST MAIN STREET		
Hof	800	South County Road		Designated 5/22/1980		Not Recommended by LPC	1979	"As per request of the Trustee of the Stuart-Plankinton estate..."	800 SOUTH COUNTY RD		Hoffstot img
65	226	Phipps Plaza		Designated 5/4/1982		Deferred taking action	1979	Byron Ramsing residence	226 PHIPPS PLAZA		Hoffstot img
66	1820	South Ocean Avenue		Designated 4/17/1982		Removed from Consideration	1979	Removed from consideration after recommended to Town	1820 SOUTH OCEAN AVE		Hoffstot img
67	144	North County Road		Designated 3/9/1990		HELD AT COUNCIL LEVEL	1979	St. Edward's Church	144 N COUNTY RD		
68	236-246	Worth Avenue		Designated 2/11/2009		Referred back to LPC	1979	maybe part of Worth Ave historic district?	236-246 WORTH AVE		Hoffstot img
69	3	South Lake Trail	c. 1891	Frame Vernacular	unknown	Not Ratified by Town Council	1979, 1980	Rabbit Hill	3 S LAKE TRAIL		Hoffstot img
70	60	Cocanut Row	c. 1895	Georgian Revival	Hon. Joseph A. McDonald	Not Ratified by Town Council	1980	Royal Poinciana Chapel, deferred indefinitely by LPC in 1991	60 COCOANUT ROW		Hoffstot img
71	1095	North Ocean Blvd		Gate& Wall Designated 5/16/95		Not Ratified by Town Council	1980		1095 N OCEAN BLVD		
72	101	El Brillo Way		Designated 1/30/1985		Not Ratified by Town Council	1980		101 EL BRILLO WAY		Hoffstot img
73	102	Jungle Road		Designated 2/1/1990		Not Ratified by Town Council	1980	"...a great number of architects involved in the design and so it could not be called the master work of a single architect..."	102 JUNGLE RD		Hoffstot img
74	1425	South Ocean Blvd		Demolished		De-designated	1983	Alice DeLemar, removed from 'B' grade designation, DEMOLISHED	1425 SOUTH OCEAN BLVD		Hoffstot img
75	341	Peruvian Avenue		See Above		Not Ratified by Town Council	1983		341 PERUVIAN AVE		Hoffstot img
76	314	Australian Ave		See Above		No Action taken by LPC	1990		314 AUSTRALIAN AVE		Hoffstot img
77	1095	North Ocean Blvd		See Above		No Action taken by LPC	1990		1095 NORTH OCEAN BLVD		
78	822	S County		Designated 8/27/85; Changed to Partial Designation 6/11/1995		(De-designated ?)	1990	Hoffstot residence	822 SOUTH COUNTY RD		Hoffstot img
79	4	South Lake Trail		Designated 1/30/1985		Not Recommended by LPC	1990	Property not 50 years old	4 SOUTH LAKE TRAIL		
80	460	Worth Avenue		Demolished		Removed from Consideration	1990		460 WORTH AVENUE		
81	102	Flagler Drive	1928	Mixed	unknown	Not Recommended by LPC	1990		102 FLAGLER DRIVE		
82	131	Barton		See Above		Not Recommended by LPC	1990		131 BARTON AVE		
83	357	Seabreeze		See Above		Not Ratified by Town Council	1990	Owner opposed to landmarking	357 SEABREEZE AVE		
84	318	Australian Ave		See Above; Under Consideration		Not Ratified by Town Council	1990	Owner opposed to landmarking	318 AUSTRALIAN AVE		Hoffstot img
85	1800	South Ocean Blvd		De-Designated		De-designated	1990	No longer meets criteria, has undergone over 100 approved changes	1800 SOUTH OCEAN BLVD		
86	15	South Lake Trail		See Above		Not Recommended by LPC	1991	No longer meets criteria	15 SOUTH LAKE TRAIL		
87	224	South Ocean Blvd		See Above; Address changed to 110 Seaspray Avenue		Not Recommended by LPC	1991	Doesn't meet criteria	224 SOUTH OCEAN BLVD		
88	269	Park Avenue		See Above; Now HSB		Not Recommended by LPC	1991		269 PARK AVENUE		
89	240	Atlantic Avenue		See Above; Demolished		No Action taken by LPC	1991	Property not 50 years old..	240 ATLANTIC AVENUE		
90	126	North County		See Above		Not Recommended by LPC	1992		126 NORTH COUNTY RD		
91	130	North County		See Above		Not Recommended by LPC	1992		130 NORTH COUNTY RD		
92	132	North County		See Above		Not Recommended by LPC	1992		132 NORTH COUNTY RD		
93	137	Seaspray		Designated 3/21/18		No Action taken by LPC	1992		137 SEASPRAY AVENUE		Hoffstot img
94	115	N Flagler Drive		See Above		Not Recommended by LPC	1992	No longer meets criteria	115 NORTH FLAGLER DRIVE		Hoffstot img
95	160	Wells Road		Designated 6/12/2001		Not Recommended by LPC	1992		160 WOODS ROAD		
96	120	Seabreeze		See Above		Removed from Consideration	1993		120 SEABREEZE AVENUE		
97	334	North Woods Rd		See Above; Demolished		Removed from Consideration	1993		334 NORTH WOODS ROAD		

Properties “Put Under Consideration” Not Designated by LPC or TC

<u>Address</u>	<u>Year Heard</u>	<u>Date Current Owner Purchased**</u>
318 Arabian Road	1993	2012 * New Owner
314 Australian Avenue	1990	1972
318 Australian Avenue	1990	1984
130 Banyan Road	2000	2018 * New Owner
240 Banyan Road	1990	2015 (PAPA house built in 1991)
131 Barton Avenue	1990	1998 * New Owner
218 Barton Avenue (MS)	2017	2015
141 Brazilian Avenue	1999	2012 * New Owner
337 Brazilian Avenue (MS)	2014	2008
120 Clarke Avenue (MS)	2016	1995
150 Clarke Avenue	1997	2016 * New Owner
60 Cocconut Row	1980	Prior to 1979 Royal Poinciana Chapel
126 North County Road	1992	Owned by Synagogue/Plans for Renovation
130-132 North County Road	1992	Owned by Synagogue/Plans for Renovation
475 North County Road (MS)	2019	1991
107 Dolphin Road (MS)	2022	2023 * New Owner
136 Dunbar Road (MS)	2018	1986
211 Dunbar Road (MS)	2019	2022 * New Owner
320 El Vedado Way (MS)	2013	1988
222 Everglade Avenue (MS)	2017	1993
102 Flagler Drive	1990	2020 * New Owner
115 Flagler Drive	1992	2006 * New Owner
215 Garden Road (MS)	2016	2022 * New Owner
1 Golfview Road	1997	2017 * New Owner
3 Golfview Road	1997	1993
5 Golfview Road	1997	2022 * New Owner
350 Island Road	2012	2002
3 South Lake Trail	1979/1980	Prior to 1979
1127 North Lake Way	1994	1980
1197 North Lake Way	1994	(PAPA house built in 2002)
958 North Lake Way	2009	1992
205 Nightingale Trail (MS)	2022	1980
1438 North Ocean Blvd	2005	2019 * New Owner
977 North Ocean Blvd	2010	1970
1510 North Ocean Blvd (MS)	2022	1986
1545 North Ocean Way (MS)	2014	1996
256 Orange Grove Road (MS)	2022	1989
Parc Monceau HD (MS)	2016	Various
341 Peruvian Avenue	1983	2021 * New Owner
153-155 Root Trail	1999	2015 * New Owner
255 Royal Poinciana (MS)	2015	1999
170 Seagate Road	2013	2022 * New Owner
120 Seabreeze Avenue	1993	2012 * New Owner

357 Seabreeze Avenue	1990	2015 * New Owner
145 Seaspray Avenue (MS)	2019	2019 * New Owner
255 Seaspray Avenue (MS)	2020	2021 * New Owner
755 South County Road (MS)	2022	2003
15 South Lake Trail	1991	2015 * New Owner
224 South Ocean Blvd	1991	2020 * New Owner (110 Seaspray Ave)
1410 South Ocean Blvd	1998	1994
10 Tarpon Island	2011	2021 * New Owner (HSB)
272 Wells Road	2012	1984
334 North Woods Road	1993	1998 (Papa house built in 1998)

*According to available records on PAPA; May have some discrepancies if in a trust
(MS) Reports Written & Presented by MurphyStillings

Demolished Properties Not Designated by LPC or TC

162 Atlantic Avenue
240 Atlantic Avenue
Casa Bendita Pavilion
8 Golfview Road
726 Hi-Mount Road
147 East Main Street (147 Royal Poinciana Way)
444 North Lake Way
980 North Ocean Boulevard
1565 North Ocean Way
1425 South Ocean Boulevard (had been de-designated)
335 Seabreeze Avenue
165 Seaspray Avenue
535 South County Road
112 Sunset Avenue
241 Tangier Avenue
*240 Banyan Road (1991)
*1197 North Lake Way (2002)
*334 Woods Road (1998)

*Not on Demolished list but PAPA date much later than original date so likely demolished

New Owners Since “Not Designated by LPC or TC” & “Reports not Written by MS”

318 Arabian Road	Too altered to be considered for Landmark designation
130 Banyan Road	Too altered to be considered for Landmark designation
131 Barton Avenue	
141 Brazilian Avenue	
150 Clarke Avenue	Too altered to be considered for Landmark designation
102 Flagler Drive	Too altered to be considered for Landmark designation
115 Flagler Drive	
1 Golfview Road	
5 Golfview Road	

1438 North Ocean Boulevard	Too altered to be considered for Landmark designation
341 Peruvian Avenue	
153-155 Root Trail	
120 Seabreeze Avenue	
357 Seabreeze Avenue	
170 Seagate Road	
15 South Lake Trail	Too altered to be considered for Landmark designation
224 South Ocean Boulevard (now 110 Seaspray Avenue)	
10 Tarpon Island	HSB

TOWN OF PALM BEACH

Information for Town Council Meeting on:

February 15, 2023

To: Mayor & Town Council

From: Wayne Bergman, Director of PZB

Via: Kirk Blouin, Town Manager

Re: Landmark Program

Date: February 1, 2023

At the December 14, 2022 Town Council meeting, Mayor Moore requested a discussion item to be added to a future agenda regarding the new Landmark Preservation Program. In particular, the Mayor was referring to the change made by Town Council over a year ago to double the budget for the study of Town buildings for possible landmark designations. With this change, in theory, the Town would go from about 10 buildings per year to 20 buildings to be studied and presented to the Landmarks Preservation Commission, and later to the Town Council, for consideration as landmarked buildings.

To date, the Town currently has about 360 landmarked buildings or structures and 36 historically significant buildings (HSB's); within the past five years, 32 buildings out of 71 have received the landmark designation.

Year	Properties Presented for Consideration	Properties Designated a Landmark
2018	8	5
2019	10	5
2020	5	4
2021	28	8
2022	20	10

This designation season, the group of buildings being presented for landmark consideration include many commercial buildings. One reason for this selection is due to the concerns over the new HB 423, which places severe restrictions of the ability to preserve single-family homes in Palm Beach (when such homes are located in special flood hazard areas and when property owners oppose the landmark designation), so a shift was made by the consultants to pursue commercial and multi-family buildings. There are also several single-family homes left over from last year – placed under consideration by the Landmarks Preservation Commission but not yet heard by the Town Council. These homes were deferred to this current season for hearings – most at the request of the owners. These are coming before you now.

Comments have been made by some Landmark Preservation Commissioners and some of the Town Council members that the supply of historically appropriate buildings suitable for future

landmark designation is somehow coming to an end. Therefore, the perception may exist that the recent policy shift to double the number of buildings to be studied each year may no longer be a relevant exercise.

The counterpoint to this line of thinking comes from two primary sources. The first is from the data contained within the Town of Palm Beach Historic Site Survey, December 2020, conducted by Environmental Services, Inc. (ESI). The second source is the current list of properties that were considered, at one time in the past, for landmark designation, but for a variety of reasons were never designated. This is a newly generated list, but one that should be reviewed.

1. The ESI Historic Site Survey - Introduction provides a very compelling snapshot of the Town regarding historic buildings. ESI surveyed 2,240 historic resources and completed a Florida Master Site File (FMSF) form for 1,721 of the resources. Of these 1,721 resources, 936 have the potential for local landmark designation. Further, many buildings were not fully visible during the survey (obscured by hedges or walls) or have not reached fifty (50) years of age. 120 of the surveyed resources were found to [probably] meet the criteria for individual listing on the National Register of Historic Places (NRHP). Therefore, a large number of potential landmark-ready structures exist today.

2. Murphy Stillings and staff completed a list of 61 properties that were considered by the Town in the past but NOT landmarked. Staff then questioned the past and current policy of ignoring buildings forever once they have been presented for landmarking, but the designation was not made (for a variety of reasons). Historically, these properties were not re-visited for landmarking again at any time afterwards, out of fear of *Administrative Res Judicata*. The legal concept of *Administrative Res Judicata* was looked at, and staff questioned whether this was applicable to buildings studied in the past but never landmarked; and more specifically, could the Town re-visit possible landmark designation for properties on the list of buildings that were once studied, and possibly considered, but never designated – this includes a broad span of at least 61 properties dating back to the 1990's. We asked for an independent legal review of the matter.

See attached the legal opinion from Land Use Attorney Seth Behn with Lewis, Longman & Walker. His opinion is that these buildings can be reviewed again when conditions change (change of owner, as an example) or when additional information or facts are discovered, or new background details are found. His letter states "The very nature of historic review is one of evolving scholarship and appreciation. New facts, background information, and admiration for the importance of certain properties is certain to change over time."

The list of properties once studied and considered, but never landmarked, currently number 61 buildings, and will grow in size as more research is conducted. Staff has asked the Preservation Foundation of Palm Beach to help research this matter and to add properties that they find from their historical archives. Unfortunately, due to the policy of the past, 23% of the known buildings on this list have been demolished since being considered. However, many quality examples of historic architecture remain, and likely some preeminent standout architectural edifices exist.

As a reminder, the four criteria for the designation of a landmark building, structure, or site are found on Chapter 54, Section 54-161:

In the Town of Palm Beach, a landmark or landmark site shall meet at least one of the following four (4) criteria:

- (1) Exemplifies or reflects the broad cultural, political, economic, or social history of the nation, state, county or town.
- (2) Is identified with historic personages or with important events in national, state, or local history.
- (3) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship.
- (4) Is representative of the notable work of a master builder, designer, or architect whose individual ability has been recognized or who influenced his age.

For comparison to another architecturally and historically rich south Florida community, these are the criteria used in Miami Beach for landmark designation of single-family homes (LDR Section 118-592):

- (1) An association with events that have made significant contributions to the city, county, state, or nation.
- (2) An association with the lives of significant individuals in the city's history.
- (3) Embodying the distinctive characteristics of an historical period, an architectural of design style, or a particular method of construction.
- (4) Possessing intrinsically high artistic merit.
- (5) Representing the work of an acknowledged master, such as a master designer/ architect/ or builder who contributed to our common historic/ aesthetic/ or architectural heritage.
- (6) Has yielded, or is likely to yield, important historic information.
- (7) Having a listing in the National Register of Historic Places.
- (8) Be part of a geographically defined and distinct area of similar structures united by similar elements, even if individual components might lack distinction.

Attached: List of Properties Not Designated by LPC
Seth Behn, Esq. Memo, dated January 24, 2023




Attorneys at Law
llw-law.com

Reply To: West Palm Beach

MEMORANDUM

TO: Wayne Bergman; James Murphy

CC: Jennifer Hofmeister-Drew

FROM: Seth Behn, Esq., AICP 

DATE: January 24, 2023

SUBJECT: Landmark Designation Review and Administrative Res Judicata

I. Question Presented

You asked: "Does the denial of a request to designate a landmark property preclude that request from coming again before the Town Commission?"

II. Brief Answer

The review of whether a single property should be designated for Landmark Status is *quasi-judicial* in nature. The inquiry is fact based, and a determination is made based upon the record information and status, as is available at that time. However, such a determination does not have the finality that a judicial ruling might carry. *Administrative Res Judicata*, while applicable in certain circumstances, does not preclude reconsideration when changed conditions or additional facts are brought to light. The discretion to determine when changed conditions are found is within the discretion of the Town Council. As a policy decision, however, the Town Council could provide limitations on how often it is willing to reconsider a property previously reviewed.

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III. Discussion

The actions of the Town Council in carrying out its police powers in matters of land development broadly fall into two categories, legislative and quasi-judicial. The distinction is best understood as legislative actions are those rulings which will have a broad application, versus quasi-judicial are those that apply to only a limited number of sites.¹ Examples of legislative actions would include the adoption of a future land use map, the implementation of new zoning code regulations, or the approval of a historic district. Such actions constitute policy-setting activities and will be found lawful so long as the adoption was “fairly debatable”, a highly deferential standard.

When a Town Council makes decisions that impact specific defined parties and their rights, the review is quasi-judicial and a higher standard must be met. Examples of this might include the rezoning of a single property, a request for a variance from the zoning code standards for one structure, or the designation of a single home as a landmarked property. Quasi-judicial rulings must be based upon the facts and evidence presented to the Town Council. The legal standard for quasi-judicial proceedings is “strict scrutiny”, and the ruling must be supported by “substantial competent evidence.”²

Quasi-judicial decisions in Florida are subject to the “doctrine of administrative res judicata.”³ This doctrine holds that, barring any changed circumstances or new facts, prior decisions of the ruling body should not be revisited. However, the courts have found that the application of administrative res judicata “should be applied in zoning cases with great caution.”⁴ In zoning matters, the ability to consider a project anew should be “liberally construed...to provide the necessary flexibility to the zoning ordinance.”⁵ Furthermore, the discretion to determine when such changed facts or circumstances exists lies with the Town Council itself.⁶

Turning to the specific application of administrative res judicata to the process of historic designation, it is clear this doctrine would not bar the Town from reconsidering a property previously rejected for landmark designation. The very nature of historic review is one of evolving scholarship and appreciation. New facts, background information, and admiration for the importance of certain properties is certain to change over time. Accordingly, a Town Council is vested with the power to reconsider a property previously reviewed for landmarking, upon a finding that changed circumstances and facts are present.

¹ Board of County Com'rs of Brevard County v. Snyder, 627 So.2d 469, 474 (Fla. 1993).

² Id.

³ Coral Reef Nurseries, Inc. v. Babcock Co., 410 So. 2d 648, 651 (Fla. 3d DCA 1982).

⁴ Miller v. Booth, 702 So. 2d 290, 291 (Fla. 3d DCA 1997).

⁵ Coral Reef Nurseries at 654.

⁶ Miller at 291.

In reviewing the Town's code of ordinances, there does not appear to be any specific regulations addressing the question of timing for reconsideration of a historic designation. The code does provide for "undesignation procedures", which necessarily implies the right to bring a property back before the Town Council. With that said, there is nothing to prevent the Town Council, as a matter of policy, to provide for explicit guidelines on when it is willing to reconsider, if at all, a property previously reviewed for landmark designation.⁷

⁷ While no examples were found in the Town of Palm Beach Code, the Palm Beach County Unified Land Development Code provides a typical policy stating, "An application for a [Development Order] for all or a part of the same land shall not be considered for a period of one year after the date of denial." (PBC ULDC Art. 2.A.10.D.1.)

Dear “Homeowner”:

I am writing to you as the _____ to let you know that your house appears to be eligible to be a Town of Palm Beach Landmark. Landmarked properties are many of the most prestigious and coveted properties in Town and we believe your house has potential to belong to this exclusive group. Following is a bit of history about the program and reasons why landmarking enhances the Town and benefits owners of landmarked properties.

To combat the loss of the Town’s historic resources, the Town Council adopted a Landmark’s Preservation Ordinance in 1979. The purpose of the ordinance was to study and protect Palm Beach’s historic resources, ensuring that the heritage of Palm Beach would not be lost. The main goals were to protect and enhance the perpetuation of properties that represent the town’s cultural, social, economic, political and architectural history while fostering civic pride in the beauty and notable accomplishments of the past.

Important benefits of the Landmark Preservation program include:

Economic Investment and Resiliency– A recent study, *Landmarking and Property Values in Palm Beach*, found that Landmarked properties experience a premium in the marketplace and performed better in both the declining and the recovery markets. (PalmBeachPreservation.org)

Incentives – Landmarked properties are able to take advantage of several incentives including exceptions in the Building Code and FEMA regulations that allow historic buildings to be renovated while maintaining their character and charm. Additionally, landmarked properties are eligible to participate in the ad valorem tax abatement program, which can result in substantial cost savings over a 10-year period for the restoration and renovation of a landmarked property.

Managing Palm Beach’s Heritage – With all of the changes that are rapidly occurring in Palm Beach, landmarking helps to ensure that the unique character and charm of the Town are preserved for current and future generations. Preservation is about managing change, rather than preventing it. Landmarked buildings can undergo compatible changes and additions that allow for modern updates while preserving the important character of the property.

Sustainability – “The greenest building is the one that is already built.” Maintaining these structures, as opposed to demolition and new construction, is an inherently sustainable practice. It can take up to 80 years for a new energy-efficient building to offset the negative environmental impacts of demolition and new construction.

Historic Preservation Staff and Consultants – As a Landmark property owner, you have access to the Town’s dedicated preservation staff to assist you with project planning and guide you through the application process if you wish to make changes to your Landmark.

Landmarks Preservation Commission – The LPC works with property owners, often allowing many compatible alterations and additions to historic structures. Unlike other communities, landmarking does not add an additional layer of review as landmarked structures are reviewed by the LPC in lieu of the Architectural Review Commission (ARCOM). In addition, the LPC has no

oversight regarding interior changes (unless the owner specifically applies for the tax abatement program).

Good for the Community – A recent survey of Palm Beach residents found that 93.9% attach importance to the town's historic character. In addition, the vision and mission statements of the Town's upcoming strategic plan noted the importance of preserving the Town's history, architecture and heritage.

Leaving a Meaningful Legacy – Landmark is an important title bestowed upon the buildings that represent the full extent of the Town's architectural and cultural history. From a pioneer cottage to a Mizner estate, to a Modern condominium building, Landmarks represent the Town's evolving times and styles and tangibly link us to past and future generations. Landmarking your property ensures that the place you have treasured will be maintained and protected now and in the future.

And You Get a Plaque! Although it isn't required to install your bronze Landmark plaque, many Landmark owners feel a strong sense of pride and stewardship over proudly displaying their plaque.

I know this is a lot of information to process, but our Landmark Preservation Consultants, Town Staff and Landmark Preservation Commissioners are here to assist and answer any questions you may have. Our goal is to designate worthy properties to help protect and preserve the historic and architectural heritage of Palm Beach and we hope you are proponents in having your property join the prestigious list of Town of Palm Beach Landmarks. Please contact our Town Staff with your thoughts on the landmarking of your residence and any questions you may have about the Town's Landmark Program.

Sincerely,