



## FLORIDA DEPARTMENT of STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

May 2, 2019

Josh Martin, Director  
Planning, Zoning, Building  
Town of Palm Beach  
360 S. County Road  
Palm Beach, FL 33480

Dear Mr. Martin,

The Florida Division of Historical Resources (DHR) reviewed your April 8, 2019 submittal requesting a restrictive covenants review related to the addition of a grand staircase on the back side of the fountain within the historic 1929 Memorial Fountain Park designed by famed local architect Addison Mizner. This is not the first request for review of a grand staircase in this location, and it was denied previously (see letter dated April 3, 2014).

The restrictive covenants on this property result from two historic preservation grant awards from DHR, their execution being a requirement of each grant award. Grant SC517 in the amount of \$350,000 was awarded in state fiscal year 2014 to assist with restoration of the fountain within the park, and grant MP512 in the amount of \$350,000 was awarded in state fiscal year 2015 to assist with restoration of the plaza. Total grant funding for the two projects totaled \$700,000.

The covenants run for a 10-year period from the date of recording with the appropriate County Clerk's office. These covenants are transferrable should ownership of the property transfer to a new owner. The restrictive covenant for grant SC517 was recorded and stamped by the Palm Beach County Clerk's office on December 15, 2014 and will expire on December 14, 2024. The restrictive covenant for grant MP512 was recorded and stamped by the Palm Beach County Clerk's office on August 27, 2015, and will expire on August 26, 2025 (see enclosed copies). If the covenant is violated within the first five years it is in effect, the grantee is responsible for repayment of the entire grant amount. Beyond five years, the amount owed for a violation of the covenants decreases by 20% each year until the covenant expires. Both covenants are within the first five years since recording.

Our review of the submitted materials finds that the proposed plan would constitute an "adverse effect" to this National Register listed property. Furthermore, the proposed plans are inconsistent with the Secretary of the Interior's Standards for Preservation. The stairs as proposed would require removal of historic fabric from

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Mr. Martin

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the park and create a false impression of the Mizner design. The main focal point of the park would be irreversibly altered. As such, if carried out the proposed plan would constitute a violation of the restrictive covenants.

We compliment the work accomplished thus far on Memorial Fountain Park, and we hope that you will choose to preserve the current layout without the grand staircase. Since we are still within the first five years of both covenants, if the Town of Palm Beach demolishes the original fabric of the park to build the stairs according to the plans submitted (or similar), DHR will pursue recapture of the \$700,000 in funds awarded per grants SC517 and MP512.

If you have questions or need clarification, please contact Alissa Lotane at [Alissa.Lotane@dos.myflorida.com](mailto:Alissa.Lotane@dos.myflorida.com) or 850.245.6345.

Sincerely,



Timothy A. Parsons, Ph.D.  
Director, Division of Historical Resources &  
State Historic Preservation Officer

TP/asl

Enclosures: Restrictive Covenant – Grant #SC517  
Restrictive Covenant – Grant #MP512  
Letter from the Division to the Town of Palm Beach dated April 3, 2014