

Attorney Klein provided details of the project.

Zoning Administrator Castro provided Staff comments.

Director Martin provided additional comments.

Landmarks Preservation Commission Chairman Cooney spoke about floodplain variances and asked council to remain supportive.

Deputy Clerk Ruderman swore in all those who would be providing testimony.

Architect Seagraves provided additional information.

Motion was made by Council Member Crampton, and seconded by Council Member Lindsay, that Site Plan Review Z-18-00143 be approved, based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329, items 1 through 11 with the caveat that the owner will provide a utility easement, satisfactory to the Town of Palm Beach, prior to building permit issuance. On roll call, the motion carried unanimously.

Motion was made by Council Member Crampton, and seconded by Council Member Lindsay, that Variance No. Z-18-00143 be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been met. On roll call, the motion carried unanimously.

c. Z-18-00144 SPECIAL EXCEPTION WITH SITE PLAN REVIEW Zoning District: C-TS Town-Serving commercial The application of Palm Beach Centennial Commission, Inc. on behalf of the Town of Palm Beach, Applicant, relative to property located at 360 S COUNTY RD, MEMORIAL FOUNTAIN, legal description on file, is described below. A special exception with site plan review request to modify Town Hall public open space as identified below. Applicable Zoning sections - Section 134-1109, Section 134-229, Section 134-327, Section 134-329. 1. Construction of stairs onto the south side of the Memorial Park Fountain area as geographically described on the plans and specifications submitted with this application. 2. Repair of any existing landscaping disturbed by the construction process. [Applicant's Representative: John C. Randolph, Esq.] [Landmarks Preservation Commission Recommendation: Implementation of the proposed special exception with site plan review will not cause negative architectural impact to the subject landmarked property. Carried 5-2.]

Deputy Clerk Ruderman swore in all those who would be providing testimony.

Ex-parte communications were declared by Council Members Crampton and Lindsay, Mayor Coniglio, Council President Moore and President Pro Tem Zeidman.

Zoning Administrator Castro provided Staff comments.

Addison Link, 251 Esplanade Way, spoke in opposition of the Memorial Fountain stair construction.

Rob Link, 251 Esplanade Way, played a telephone message from a State Historic Preservation Officer, Tim Parsons, and provided information from 2014 letter from former State Historic Preservation Officer.

Director Brazil clarified status of State grant money.

Attorney Eubanks, requested that if Special Exception with Site Plan Review is approved to be sure to clarify that it does not include parking.

Deputy Clerk Ruderman swore in others who would be providing testimony.

Rene Silvin, Australian Avenue, spoke in favor of the stair construction.

Ted Cooney, Landmarks Preservation Chairman, provided historical information on the grant from the State.

Director Martin reported on restricted covenant on grants for fountain / stairs.

Thomas Bradford, 44 Chestnut Trail, Tequesta, asked when the discussion would take place for parking around Memorial Fountain.

Ann Pepper, 333 Seaspray Avenue, does not want to risk losing the grant.

Deputy Clerk Ruderman swore in others who would be providing testimony.

Anita Seltzer, Coconut Row, spoke in opposition of the Memorial Fountain stairs.

Clerk's Note: Council Member Araskog arrived at 11:15 a.m. She was not present for entire presentation and did not vote on the item.

Attorney Bone, provided additional details, and requested that the special exception be granted so that the process of constructing the stairs may begin.

Architect Vertesh provided details on Memorial Fountain stair addition.

Motion was made by President Pro Tem Zeidman, and seconded by Council Member Crampton that Special Exception Z-18-00144 shall be granted, based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code have been met subject to approval by the State and that parking is not part of the approval. On roll call, the motion carried 3-1 with Council President Moore dissenting.

Motion was made by President Pro Tem Zeidman, and seconded by Council Member Crampton that Site Plan Review Z-18-00144 be approved, based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council

certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329, items 1 through 11. On roll call, the motion carried 3-1 with Council President Moore dissenting.

The Town Council recessed at 12:05 p.m. and reconvened at 12:10 p.m.

d. Z-18-00145 SITE PLAN REVIEW WITH VARIANCE(S) Zoning District: C-TS Town-Serving Commercial The application of Bradley Park Owner, LLC, Applicant, relative to property located at 280 SUNSET AVE SUITE: SITE, legal description on file, is described below. The property owner is requesting Site Plan Review with Variances, including a variance to modify an existing, nonconforming Landmarked hotel. The renovations include relocating the hotel entrance and lobby east into the space currently occupied by C'est Si Bon Gourmet Grocery, adding a swimming pool and pool deck in the north courtyard area, renovation of all rooms, improvement of the parking lot by replacing asphalt with pavers, construction of a pergola connecting the new entrance to the street, and the modification of an existing rooftop utility structure by adding roof tiles and decorative elements. The new hotel lobby will include 18 accessory bar or dining seats based on the principle of equivalency from the former C'est Si Bon Gourmet Grocery retail space. The existing restaurant, Trevini, is not being changed at this time, and the number of hotel rooms will remain at 32. In addition to the modification of the variance for hotel use in the C-TS district, which is required by 134-387, other variances are requested, including: 1. A variance from Chapter 50, Flood Damage Prevention, requesting relief from the requirement to raise the finish floor elevation of the hotel to 7.0 NAVD. 2. A variance from Chapter 134, Article IV, Nonconformities, to allow the height of the nonconforming hotel to be increased by 4.25' to accommodate a new decorative roof element. 3. A variance from Chapter 134, Sec. 1113(11)b., that requires a minimum of 25% landscaped open space. The existing landscaped open space is 15.26% and proposed is 14.70%, for a reduction of 0.56%. 4. A variance from Chapter 134, Sec. 1113(11)c., that requires a minimum of 35% landscaped open space in the front yard. The existing front yard landscaped open space is 9.32% and proposed is 6.63%, for a reduction of 2.69%. 5. A variance from Chapter 134, Sec. 1113(5)b. that requires a minimum front yard setback for unattached accessory structures, to allow a front setback of 1.75' in lieu of the 5' minimum required for a pergola connecting the new front lobby entrance to the public sidewalk on Sunset Avenue. [Applicant's Representative: James M. Crowley Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed site plan review with variances will not cause negative architectural impact to the subject landmarked property. Carried 6-1. The proposed development will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. Carried 7-0.]

Motion was made by Council Member Cooney and seconded by Council Member Araskog to approve Resolution No. 049-2021. On roll call, the Motion passed unanimously.

4. Update and Request for Direction Regarding the Proposed Addition of Stairs on South Side of Memorial Fountain
[Jay Boodheshwar, Deputy Town Manager]

Jay Boodheshwar, Deputy Town Manager, gave a historical overview of the Memorial Fountain stair request process. He then showed a video (narrated by Jorge Sanchez, Landscape Architect) of the various aspects of the fountain.

Deputy Town Manager Boodheshwar explained the steps necessary to proceed with this project. He advised that next summer would be the soonest this project could be done. He asked for direction from Council.

Council President Zeidman called for public comment.

Addison Link, 251 Esplanade Way, expressed his disapproval for the addition of stairs to the Memorial Fountain, but to keep the fountain original, and asked that the Council not approve this request.

Robert Link, 251 Esplanade Way, expressed his disapproval for the addition of the stairs to the Memorial Fountain, and submitted items for the record.

Bill Bone, 322 Pendleton Lane, expressed his support for the addition of the stairs to the Memorial Fountain.

Anita Seltzer, 44 Cocoanut Row, expressed her disapproval for the addition of the stairs to the Memorial Fountain and asked the Town Council to vote against it.

Bill Metzger, 277 Esplanade Way, expressed his support for the addition of the stairs to the Memorial Fountain.

Jane Day, 728 Grenada Drive, Boca Raton, was the preservation consultant to the Landmarks Preservation Commission for 21 years. She gave a history of the grant received for the project.

Council Member Araskog felt the town had pushed the state too far on the grant. She read from a letter from Mr. Parsons. She did not feel Council could make the changes and was concerned about safety hazards with the stairs. She expressed shock because a previous motion stated staff would

be involved in a conference call or a meeting but she had learned many other people actually participated. She was not in favor of doing this now.

Council Member Cooney spoke in support of the restoration project, which had been taken to a new level, except for the stairs. He wanted that part of the fountain to remain in its original state.

Council President Pro Tem Lindsay stated she saw both sides of this issue. She expressed concern regarding the ADA reference in Mr. Parson's letter. She asked staff if they knew whether there would be additional requirements to meet the ADA standard if stairs were added. She agreed with Mr. Cooney and Council Member Araskog.

Council Member Crampton commented no one was wrong and different people had difference opinions. He felt connectivity was important and felt the stairs were appropriate in a Town Square. He felt safety could be worked out by staff, and favored addition of the stairs.

Mayor Moore thought also it was a matter of opinion and was glad she did not have to vote.

Bill Bone commented with regard to ADA requirements, he felt the Town's legal department should weigh in. He also felt there was no ADA requirement. He suggested just voting to move forward so there could be more discussion, and this had previously been approved.

Mr. Link spoke on behalf of his neighbor, Minnie Pulitzer, who thought her mother would be shocked at adding stairs.

Mayor Moore felt the previous approval was only to let the conference call proceed, not the project.

Council President Zeidman commented they had been waiting to see if the grant money was taken away, indicated this was the idea behind the call with Mr. Parsons. Council President stated she liked the fact that adding the stairs would add balance to the fountain. She reminded the Council that stairs were not added in the original design because the town's fire station was located directly behind the Fountain. The original architecture was meant to hide what lay to the south, not to incorporate it. She asked Council to decide whether to vote today or to defer for more public involvement.

Council Member Cooney had expressed his feelings on the matter.

Council Member Araskog wanted to table until the grants were settled, or forever.

Council Member Crampton respected everyone's decision and would go along with whatever was decided. He felt it could go back to Landmarks for discussion.

Council President Pro Tem Lindsay asked staff about ADA requirements. Director Brazil responded the ADA requirement had been met years ago. Council President Zeidman read from Mr. Parson's letter that the new stairs could only be reviewed by the Town. Council President Pro Tem Lindsay was in favor of taking this back to Landmark Preservation Commission, which gave an opportunity for more people to weigh in.

Council President Zeidman asked Town Attorney Randolph to provide legal counsel to find out more about ADA requirements.

Council Member Araskog commented no one had raised safety issues.

Deputy Town Manager Boodheshwar noted two similar plans had been approved by Landmarks. He commented it would have to go back to Landmarks for COA.

Motion was made by Council Member Araskog and seconded by Council Member Cooney to defer this item to the October, 2021 Council meeting for more public involvement and further information on the ADA/safety requirements, and staff can decide when they should bring back the special exception so that it does not expire. On roll call, the Motion passed unanimously.

C. New Business

1. Proposed Changes to Town Caucus and Qualifying Date
[Queenester Nieves, CMC, Town Clerk]

Town Clerk Nieves requested the Town Council consider revising the caucus and qualifying date to the first Tuesday in December from the first Tuesday in January, based on the Supervisor of Elections' request for municipalities to change their qualifying dates. Staff was seeking direction to make appropriate updates to the Town Charter.

Council Member Araskog commented it could cost the Town \$40,000 to finance their own election, so their hands were tied.

Motion was made by Council Member Araskog and seconded by Council Member Crampton to approve the change to the first Tuesday and Wednesday of December for the Town Caucus and Qualifying Date. On roll call, the Motion passed unanimously.

President Zeidman commented all boards were on Zoom now, and a decision would be made in September how to continue.

5. Update on ADA Access Associated with the Proposed Addition of Stairs on the South Side of Memorial Fountain
Jay Boodheshwar, Deputy Town Manager

Deputy Town Manager Boodheshwar recalled this was last discussed in May, resulting in delaying any decision on the merits of this project until the October Town Council meeting, and a request from Council to staff to explore ADA requirements. Director Bergman wrote a memo, which was in Council's backup, providing the opinion that the Town would need to provide some sort of platform lift which would be the least impactful to the site. He reported a conversation with the Centennial Commission and they made a commitment to fund the additional cost to the project. He reminded Council of additional actions needed if they decided to move forward after weighing the merits of the project in October, including review by Landmarks and updated renderings and drawings for LPC to consider, full approval process and site plan approval.

Director of Planning, Zoning and Building Wayne Bergman reported he looked at all possible exemptions from the ADA requirement or from the accessibility requirement for the proposed Mizner stairs and could not find one. The only opportunity to receive any type of relief would be from the State, and it was a State agency that told him we probably need accessibility for this project.

Council President Zeidman asked if Mr. Bergman had contacted the State after the May meeting for further clarification about the ADA requirements. Mr. Bergman stated he had not, but there were numerous references in the accessibility code and the Florida Building Code that said you would need to comply, and to be even safer, he had done a peer review with three other Building Officials in Palm Beach County. Two had responded and both said absolutely comply.

Council Member Crampton stated he was prepared to make a motion which would be to defer the question of the new design of the stair lift installation and send it back to the Landmarks Preservation Commission for a full review and decision on the proposed design.

Council Member Araskog opposed making a motion because in May the decision had been to consider at the Council meeting in October whether to move forward or not. Today was just to be an update from Director Bergman.

Council Member Crampton agreed.

President Zeidman also agreed and stated if Council decided to move forward in October, then it would go to Landmarks.

Town Attorney Randolph stated no motion was needed for it to go to Landmarks. If Council decided to move forward, it would automatically go to Landmarks.

Discussion ensued. Council Member Crampton withdrew his motion.

Public Comment:

Bill Bone, 322 Pendleton Lane, speaking as a resident and as the Chairman of the not-for-profit known as the Palm Beach Centennial Commission, thought the motion was right. He reported he had consulted with experts and learned that disabled access could be designed in an attractive, subtle way, completely harmonious with the new stairs. He felt waiting until October to see what it would look like was a mistake and asked Council to authorize staff to work with architects engaged by the Centennial Commission without cost to the Town, and submit a new stair design to the Landmarks Preservation Commission that met ADA requirements. In his opinion, it was wrong to wait until October because those opposed to the stair lift would take the position the ADA requirements would make it look ugly. He indicated the Centennial Commission was committed to a beautiful stair design that everyone could be proud of.

Council President Zeidman thought there were two ways of looking at this—one was from the owner's point of view (the Town), and the other was his point that Landmarks was the arbiter of taste for a landmarked property.

Addison Link, 251 Esplanade Way, suggested the Centennial Commission should beautify the park they had created before they thought about altering Addison Mizner's memorial fountain. He commented looking at original postcards of what was behind the fountain, there were beautiful luscious colorful flowers. Mr. Link stated he had read Wayne Bergman's memo on the importance of complying with ADA. He reported his father had an informal phone call on July 9 with Alyssa Lutein, Deputy Chief of Historic Preservation for the State, working with Dr Timothy Parson. Mr. Link relayed her comments regarding the stair lift. She preferred a ramp that did not require maintenance or an attendant. Mr. Link reported she noted that the fountain was a historic landmark so you did not need to add a new staircase or a ramp. She had suggested that if access was truly the main issue, a Z-shaped ramp up the rear of the fountain could work in lieu of a grand staircase. If the Town chose to add a new staircase to the fountain, she wouldn't want to be the one to write a letter asking for a waiver of non-compliance with the ADA. She recalled several issues of the fountain renovation that her department argued against, and also mentioned the 10-

year restrictive covenant which prevented significant alterations to the historic landmark site.

Anita Seltzer, Coconut Row commented three things came out of the May meeting. President Zeidman had instructed Attorney Randolph to provide legal counsel. The Town was budgeting thousands of dollars to educate residents about the landmarking program, and this approval would take place in a parallel universe if Council abdicated their own stewardship. She mentioned three town-owned fountains were shamefully neglected, including the one in Phipps Plaza. She asked why the Town was risking scorn and loss of credibility in the preservation community and commented there were enough expenditures without shouldering an ongoing liability with vanity stairs requiring an ADA lift. She felt this was the writing on the wall; however, suggested in October it would be wise for Council to thank the Centennial Commission for their service and terminate the delegation.

Bill Metzger, 277 Esplanade Way, an officer of the Centennial Commission, thanked the Council for continuing to consider this completion of their grand idea for the park. He was in favor of the stairs and respected everyone's opinion. He was seeking a sense of fairness. He reported attending the Zoom meeting where Alyssa Lutein commented they understood the new idea, but asked them to look at the ADA issues, which caused him to do some research and learn about ideas and new technology. His position was to do this right, and be fair to everyone's opportunity to discuss it. It seemed fair to him if it was going to be discussed in October that they have drawings of what was going to be discussed. If it was not attractive to people it would not work, and his request was to find a way of doing the renderings and to have something to discuss.

Mayor Moore commented her concern was with the timeline set out last month. Her understanding was Council's intent was not to have a full discussion on the stairs until more residents were available. She thought Council should wait for more resident participation. She thought today was to be a brief update and the full discussion would be in October.

Council President Zeidman agreed today was to be an update.

Council Member Cooney thanked staff for the update.

Council Member Araskog thanked the speakers for coming and clarified the timeline was not for her, it was to allow more public participation about aesthetics, maintenance costs, accidents, safety and things like that. At the last meeting they had promised to wait until October for any decision. She thanked Director Bergman and the Centennial Committee.

Council President Pro Tem Lindsay now recalled the conversation from last month, which she did not remember when she discussed this with the Centennial Committee representatives. ADA issues often affected architecture, and too often had an aesthetic effect. It was correct that Council made the decision to discuss this in October.

Council Member Crampton stated he had no problem discussing this in October, but the question was, would that be before or after a Landmarks review.

Council Member Araskog responded, before, was what everyone was saying.

Council Member Crampton stated after would be better.

Council President Zeidman commented it might appear to the public that Council had jumped the gun, since they promised to wait until October to discuss and make a decision.

Council Member Crampton commented then it would be the same process with Landmarks as if it had been sent to them before the October meeting with a full presentation and a decision on the merits. In his opinion Landmarks was the normal place for that to happen, but normally as an owner you went to Landmarks to ask for a Certificate of Appropriateness.

Town Attorney Randolph asked, and why would you go to Landmarks before you had made a determination as to whether you want to ask for a Certificate of Appropriateness.

Council Member Crampton stated he was just trying to think about the best way to review this.

Mayor Moore, speaking to her colleagues, commented they were going to have to decide if they wanted stairs. If not, this was dead. If so, it would proceed through the proper channels.

Council Member Crampton responded in order to make that decision Council would need to see the same kind of things Landmarks would see.

Mayor Moore believed it should be taken step by step, with the first step in October when Council made a decision whether to move forward with stairs. If the decision was to move forward you then got renderings. You did not spend time and energy before a decision was made.

Council President Pro Tem Lindsay commented the reason Town Attorney Randolph said the process would include first coming to the Town Council because we are the owner. Once the owner makes a decision then this issue will go to the Landmarks Commission. be to come here with the photos was

the Town had to pay to go to Landmarks, so Council would want to see the project first.

Council Member Araskog commented everyone had spoken, and what she heard from at least two other colleagues was to keep their promise and wait until October. She thought Council Member Crampton had a great idea and maybe they would come with all the drawings, then Council might be more comfortable to send it to Landmarks.

Council President Zeidman commented she would like to see drawings, but the first thing was to decide if Council wanted stairs.

Deputy Town Manager Boodheshwar summarized that the issue of ADA changed the design, so for Council to make an informed decision as owners, they needed to look at something, so he suggested to the Town Attorney there were precedents either way where Council had decided on what they wanted and a design was sent to ARCOM and Landmarks. Or they previously deferred to ARCOM and Landmarks with a conceptual idea asking them to make it look good, as an informal way to help with Council consideration to help make the October decision. He thought making a decision today one way or the other in the absence of any new information would not be good.

Council President Zeidman reminded the Council that the item is on the agenda as a follow up, an update, and that no decision was to be made today. She stated if there were drawings they should be included for review at the October meeting. Council Member Crampton clarified there could be a full presentation in October. All agreed.

C. New Business

1. Discussion and Consideration of Creating a Building Safety Inspection Program

Wayne Bergman, Director of Planning, Zoning & Building

Director Bergman reported on a news article updated at 2:01 p.m. that afternoon that spoke about today's County meeting and another released about 4 p.m. Palm Beach County Commission was interested in moving forward with a building recertification program, but were going to take their time and study it. Nothing was decided today other than the fact they were committed to a program like this and they wanted to send a letter to all their commercial and high-rise and mid-rise buildings to put the people on notice. He discussed the programs in place in Miami and Dade County. If the County created a program that the Town of Palm Beach followed, the timing might be more like 25 years for reinspection. Another thing for the Town to decide was the threshold building that would trigger this program. In Miami and Dade County it included square footage as well as height. He had