



## **MINUTES OF THE ARCHITECTURAL REVIEW BOARD**

**May 19, 2022**

**MEMBERS PRESENT:** Chairperson Salter, Vice Chairperson Mead, Board Member Courtney, Board Member Fogarty, Board Member Ramos

**MEMBERS ABSENT:** Board Member McCorvey, Board Member Yee, Advisor Pristera

**STAFF PRESENT:** Historic Preservation Planner Harding, Senior Planner Statler, Digital Media Specialist Johnston, Help Desk Technician Russo

**STAFF VIRTUAL:** Development Services Director Morris, Assistant Planning and Zoning Manager Cannon

**OTHERS PRESENT:** Brain Stocks, Roger Hirth, Susan Ford, Carter Quina, Scott Sallis, Ashley King, Jonathan Graham (virtual), Nannette Chandler

### **CALL TO ORDER / QUORUM PRESENT**

Chairperson Salter called the meeting to order at 2:02 p.m. with a quorum present.

### **APPROVAL OF MINUTES**

Chairperson Salter asked that a correction be made to Item 5 (660 E. Government Street), page 2, 7<sup>th</sup> line from the bottom and that it read, "Board Member Courtney addressed Mr. Sallis and...".

**Board Member Mead made a motion to approve the March 17, 2022 minutes, seconded by Board Member Ramos, and it carried 5-0.**

**OPEN FORUM** - None

### **NEW BUSINESS**

**Item 2**

**419 N. Davis Highway**

**OEHPD**

**New Construction**

**OEHC-1**

**Action Taken: Approved with comments.**

Jonathan Graham is seeking a final review for a new single-family residence. The proposed new home will be a two-story building with a 20" finished floor elevation and on-site ribbon drive parking. Materials have been called out on the elevations and include smooth profile Hardie lap siding, asphalt shingles in a "Shadow Gray" color, and wood louvered shutters. Windows will be

Jeld-Wen double hung and fixed vinyl with exterior grilles. The siding will be “Evening Blue” with “Arctic White” trim.

Mr. Graham presented to the Board. Chairperson Salter read Old East Hill’s comments to the board and questioned the proposed fretwork (the decorative strip below the second-floor balcony). The packet listed the material as vinyl and Mr. Graham confirmed but was open to change it if need be. Old East Hill also questioned the proposed siding as having a 7” reveal and thought a more traditional reveal would be 5-1/2”. Mr. Graham was agreeable to that change. Board Member Courtney did not feel as if the pvc fretwork was appropriate even though the project was new construction. She preferred it to be wood. Mr. Graham was also agreeable to that change. Board Member Courtney also asked for clarification on the grille pattern for the front and side doors since they showed only one exterior vertical muntin. Mr. Graham stated that the intent was to have a single piece of glass without door muntins. Board Member Ramos asked for clarification on the windows and the Board discussed that 2/2 windows (as shown in the elevations) were more appropriate in this district. Mr. Graham was agreeable to that clarification. Board Member Courtney liked that the shutters were wood, and Mr. Graham clarified that they would be functional shutters. **With no further questions Board Member Ramos moved to approve the application with the following modifications: (1) that the fretwork be wood, (2) that the window grid pattern be exterior 2/2, (3) and that the siding reveal be 5-1/2”. Board Member Fogarty seconded the motion and it carried 5-0.**

### Item 3

121 S. Palafox Place

PHBD

#### Contributing Structure

C-2A

**Action taken: Approved with abbreviated review to follow.**

Scott Sallis is seeking final approval to add two new stories above an existing, steel framed contributing building, as well as additional exterior alterations. This project received conceptual approval from the board in March 2022. The scope of work will push the existing ground floor out to be relatively flush with the adjoining buildings and new doors, windows, precast concrete, and decorative tile will be added. Balconies supported by steel columns and covered with standing seam panels will be added to both sides of the building. While the building front at the ground floor will remain commercial, new residential spaces will be added to the rear. The second and third floors will be used for residences.

Mr. Sallis presented to the Board and stated that very little has changed since the conceptual review. Up to thirty custom condos have been designed and his team had worked a little more on the site with car charging stations, fencing, and a gate. Chairperson Salter asked about the site plan and if the proposed entry gate would be in the same location as the existing. Mr. Sallis stated that it was close but that the existing would be torn down and rebuilt as drawn in the packet. The dumpster has been moved from the back of the lot to where it can have direct access to the truck from the street and has been covered with a masonry fence and a rhythm of pilasters along the west property line. The pedestrian gate is incorporating the precast elements and the decorative tile, and it will be capped with the same extruded elements for the “Braxtyn” development. Chairperson Salter stated that the balcony columns on the second and third floors are similar in style to others up and down Palafox, but the proposed elevations showed no column capital or any other kind of element toward the tops of the columns and asked if the intent was to have something in that place or nothing. Mr. Sallis agreed with Chairperson Salter’s comments and did prefer to have some sort of ring capital there.

Board Member Ramos liked the project and was excited to see projects that added density to downtown. Board Member Mead asked if the railing infill was going to be the noted network and

Mr. Sallis stated that it was still planned as painted aluminum. Board Member Mead asked if the cornice should have some level of further detail. Mr. Sallis stated that the cornice was kept simple to blend with other areas of the façade. His team wasn't overly concerned with the cornice since it wouldn't be perceived by many from the street level view. Chairperson Salter clarified that signage was not included in this packet and Mr. Sallis agreed.

**Board Member Mead moved to approve the project with the submission for abbreviated review of an appropriate ring-collar capital with some description and a treatment of the field above the windows in the center portion of the Palafox façade consistent with the ornamentation on the building. Chairperson Salter offered the amendment that no exterior signage be included in the approval and the amendment was adopted. Board Member Courtney seconded the motion and it carried 4-1 with Board Member Ramos dissenting.**

#### Item 4

#### 40 S. Palafox Street

PHBD

#### Contributing Structure

C-2A

**Action Taken: Conceptually approve work to the central alcove and with some form of gate to be approved in a final design; but to deny the modification to remove the alcoves on the streetscape.**

Scott Sallis, Dalrymple | Sallis Architecture, is requesting *final* review to modify the first-floor front elevation of the Thiesen Building. The overall scope of work will include removal of the existing planters and entrance system and to replace the existing storefronts with new, powder coated aluminum storefront systems which will rest on a cast stone curb. The existing interior lobby will be converted into an exterior entranceway and will have a decorative aluminum gate with panic hardware for after-hours use.

Historic Preservation Planner Harding let the Board know that the plans had been revised. Updated plans were included in the PowerPoint and hardcopies were provided to the Board. Mr. Sallis presented to the Board. Based on the timeline to obtain the storefront, Mr. Sallis was looking for final approval of the storefront alteration so they could move forward with ordering the product. He was also looking for final approval of the notion of pushing the entrance of the building back so that the alcove is shown and allowing two new entry systems for flanking tenants. He was asking for conceptual approval for the gate which would remain open during the day and closed during the night. The gate will comply with egress.

Chairperson Salter noted that the existing storefront sits behind and adjacent to the precast veneer and it appeared that the new storefront was pushed farther back. Mr. Sallis stated that the new storefront would be pushed about one foot farther back. The prospective tenant (a fudge and chocolate maker) had a corporate requirement to exhaust the chocolate oven to the sidewalk. Mr. Sallis wanted to make sure there would be no exhaust grilles visible in the historic storefront, so the store front was pushed back so the exhaust could be hidden in the soffit above. Chairperson Salter asked how the difference would be made up on the exterior, between the precast column and the storefront. Mr. Sallis stated that the stone was already in place. Chairperson Salter thought that pushing the storefront back would have a significant impact on the building and asked if the reason for pushing it back (the venting requirement) would be allowed. Mr. Sallis said that it had been done with the Kennedy on the corner of Palafox and Garden. Chairperson Salter asked if the Kennedy had been an instance where there were no other options for a venting location, whereas in this instance there is access to a service right of way. Mr. Sallis stated that the Kennedy had no other options, but it was his understanding that this option would not be rejected. Chairperson Salter stated that the Building Code was not necessarily under ARB's purview, but the venting will have an impact on the aesthetic, so it

needed to be addressed. The mechanical code does prevent exhausting on a public sidewalk, but it's overall a judgement call by the authority having jurisdiction. The point being, if the authority having jurisdiction does not allow the venting (in this case, the Building Official and City Mechanical Inspector), there's no need to push the storefront in and at this point it's unknown if it would be allowed. Chairperson Salter also stated that the existing window system sits on a higher curb than what is shown in the proposal and there is a strong horizontal piece separating lower and upper windows. Mr. Sallis stated that this space is the tallest retail ceiling building in all of S. Palafox. If they were to glaze it as previously and comply with wind loads, they would have to buy a curtain wall system which is very expensive. The architectural bar is a requirement to purchase and use a traditional storefront system that meets wind loads. Chairperson Salter asked if a higher curb system was considered to allow a full 12' span of glass to eliminate the bar. Mr. Sallis was willing to entertain that thought which may still require a transom system. Board Member Mead mentioned that based on historic photographs, it was clear that an alcove treatment has been in that building for a long time. When they first discussed the planters, the strongest comment was that they were removable and that they would have the least impact on the historic façade and historic character of the alcove. Although people couldn't rest in the alcove, they could at least lean on the planters which provided some street amenity. The analogy between Palafox and a channelized stream was made. If you channelize a stream, you diminish the interesting and productive nooks and crannies by turning it into a pipe. The purpose of alcoves is to draw people away from that flow and to draw people into a different passage which is characteristic of a traditional streetscape which we are starting to lose in the "rationalization" of a street plan. Board Member Mead could not support such a notion and could not support the deletion of the side alcoves. He also saw no reason to delete the side alcoves and to remove the planters especially if the side tenants were to have their own off-street entrances. Mr. Sallis understood and thought that they were creating a more traditional space by accommodating a retail tenant who wanted the bay removed to maximize their space. To keep a street presence, they were recreating the main alcove. Board Member Mead asked if there was any consideration to create two street-front tenant spaces. Mr. Sallis responded that there were discussions, but the tenants want the space more than they want the entry. Board Member Fogarty voiced her preference for keeping the side alcoves since it closely resembled the historic façade. Board Member Courtney also favored keeping the side alcoves and mentioned that an arch element in the gate to reflect the main entrance way would be nice. Board Member Ramos commented that an outwardly swinging gate was not a positive change for the streetscape and that he preferred an option where the tenant spaces were accessible from the street front. Board Member Mead thought that, from a marketing standpoint, a tenant would prefer their own storefront rather than sharing an interior entrance with another tenant. Board Member Ramos asked if Advisor Pristera had a chance to review the application. Although Advisor Pristera could not be there, his comments included, "I was looking into this but had to stop because I got sick. From the pictures we found, the windows have changed a number of times and there are examples of flat and recessed windows. I did not hear back from the group that did the tax credit restoration to see if NPS or DHR required them to recess the windows. Since they have changed before, I don't see this as detrimental to the building because they will probably be changed again." Board Member Mead asked staff to remind the Board of the review considerations for this application in the Palafox Historic Business District and Sec. 12-3-27(f)(2)a. was read, "In the case of a proposed alteration or addition to an existing building, that such alteration or addition will not impair the architectural or historic value of the building."

Chairperson Salter stated that this building was accepted to the National Register of Historic Places in 1979. At that time, the ground floor was different than it is now and that it had been modernized and all the architectural features that were original had been removed or covered. In the early- to mid-1990's, the owner of the building hired an architectural firm to do a restoration which is how we got what is there now. When we compare what is there now to what was originally there, it is apparent that someone went to a great deal of effort to give back to the city a piece of architecture, or a portion of piece of architecture, that had been previously lost. In considering this, we must take into account what we're gaining vs what we are losing. This is a prominent piece of architecture, and we are fortunate that someone went to the effort to do this restoration. In addition to the arguments given for altering the two commercial window fronts with recessed alcoves into a straight storefront system, we are also losing the materiality of the windows since they are not metal. The existing windows are painted wood which is a very historic material and a very historic look. We are also losing the side alcoves which, in looking at old photos, are there in some capacity. The fact that the proposed storefront will be brought back into the space by about one foot brings up the question on how much additional space will be provided or lost from a retail standpoint. All that to say, based on what was lost and what we were fortunate to regain (regarding the side alcoves), Chairperson Salter was hesitant to lose that treatment again. The preservation ordinances were established to prevent that since we want to maintain the architectural characteristics of the building. Since great effort went into restoring the building, changing it would be taking a step backwards and is contradictory to the ordinance which the Board has been sworn to uphold. He could not support that portion of the project. Regarding the main entry alcove, Chairperson Salter thought it was an interesting idea and that he could support it with more information.

**Board Member Mead moved to conceptually approve work to the central alcove and with some form of gate to be approved in a final design; but to deny the modification to remove the (two side) alcoves on the streetscape on the grounds of the review standards that were provided by staff and because the proposed project represents a significant retreat from the past restoration efforts conducted under the Secretary of Interior's standards back to something approaching its historical architectural form.** Chairperson Salter clarified that the motion for denial is based on Sec. 12-3-27(f)(2)a which states, "in the case of a proposed alteration or addition to an existing building, that such alteration or addition will not impair the architectural or historic value of the building...", and that the project will indeed impair the historic architectural integrity of the building. Staff suggested that based on the conversation, the denial was also based on Sec. 12-3-27(f)(4)b pertaining to building fronts, rears, and sides abutting streets and public areas which states, "all structural and decorative elements of building fronts, rears, and sides abutting streets or public improvement areas shall be repaired or replaced to match as closely as possible the original materials and construction of that building"; and to Board Member Mead's comments pertaining to ARB's duties according to Sec. 12-12-3(5)b which states, "It shall be the duty of the board to approve or disapprove plans for buildings to be erected, renovated or razed that are located, or are to be located, within the historical district or districts and to preserve the historical integrity and ancient appearance within any and all historical districts established by the governing body of the city". **Board Member Mead amended the motion to state the findings that the application and facts that were presented in support of it did not meet the requirements of the code sections provided by Chairperson Salter and staff (those being Sec. 12-3-27(f)(2)a, Sec. 12-3-27(f)(4)b, and Sec. 12-12-3(5)b). Board Member Fogarty seconded the motion and it carried 5-0.**

In accordance with Sec. 12-3-27(f)(3) regarding "recommendation for changes" which state, "the

board shall not disapprove any plans without giving its recommendations for changes necessary to be made before the plans will be reconsidered. Such recommendations may be general in scope, and compliance with them shall qualify the plans for reconsideration by the board”, Board Member Mead stated that regardless of how the retail tenants or landlord design access, he could see provisions for both access from the central alcove combined with access from the street, or keeping it as is with planters and alcoves on the street with central access from the central alcove. All of those are potentially workable. To Board Member Mead, it made more sense to open the street front alcoves back into working access points since it solves the problems of security issues since people will be coming and going and there will be less concern of people misusing the space.

**Item 5**

**17 Palafox Place**

**PHBD**

**Contributing Structure**

**C-2A**

**Action taken: Conceptually approved with comments.**

Ashley King, Trapolin Peer Architects, is seeking conceptual review of the massing and materials for a new rooftop addition on the Brent Building. The scope of work would add a fourth story in the center of the building for a proposed rooftop bar. Conceptual materials and elevations have been provided in this packet, along with street-level perspectives which speak to the addition’s proposed low profile along the Palafox corridor. Sectionals of the building are also included which show the proposed finished height to be a little over 61’. Since this packet is for conceptual review, final review of all plans will return to the board at a later date.

Ms. King presented to the Board. Chairperson Salter appreciated that the addition stepped back considerably away from the historic building and that it was unfortunate that the existing mechanical equipment forced everything a little higher than it should be. Chairperson Salter recognized the effort to mask the addition and also appreciated that it is broken up into “pods” and that the roofline is simple, being a couple of horizontal elements. The only thing that stood out was the main bar area which had glass garage doors and had a change of materials.

However, the restroom pod was a bit heavier. Ms. King stated that more materials could be added. Chairperson Salter didn’t know if that was necessary. Board Member Mead understood the approach and was not offended in concept. There was good roof space to activate and could give some relation to the streetscape. It was problematic in the sense that the addition could not completely be masked from the street to accomplish the usefulness that Ms. King was trying to get. The reason is that the existing building has such a predominating symmetrical motif that it’s very difficult to see something disjointed, unsymmetrical, and different in materials. If it’s to be there, it should be integrated architecturally and visually more into the massing and materiality of the existing building. It could not simply be tucked away. The idea was great, but the execution was wanting. Ms. King stated she did not want to create a false history of a rooftop addition that was never there. Board Member Mead stated that that was a legitimate point but there was a wide palate of options to choose from within the existing structure without creating a false history, especially the symmetry. Board Member Mead thought that there should be some balance to complement the building’s symmetry. The overall form of the building had been maintained since before the Halloween fire of 1905. Board Member Fogarty liked the concept and was not opposed to a modern addition and liked the idea of not creating a false history. Board Member Ramos thought that there should be more detailing in the modern addition, if it were to be modern, and more details on the balance of the addition. Ms. King asked if a change in materiality of the main restroom façade from stucco to wood elements would help and suggested that she could reduce the visibility of the restroom pod so that the metal panels would

only be on the main bar which has the most public interaction. Board Member Mead thought the butterfly roof made it harder to reduce the visibility and provided a much greater projection closer to the roof line which is causing issue. His concern was also in respect to the rear facing Baylen Street which was now a very prominent street frontage.

**Board Member Mead moved to approve in concept the addition of a roof-top bar facility, however any final review is going to have to address the expressed concern which regard to either reducing the visual impact from the streetscape and its impacts on both symmetry and materiality to a negligible level or will have to approach the project to better integrate with the symmetry and materiality of the structure and the visible components from a streetscape on both frontages. Board Member Courtney seconded the motion and it carried 5-0.**

**Item 6  
Variance**

**18 N. Palafox Place**

**PHBD  
C-2A**

**Action taken: Approved.**

Carter Quina is seeking approval to replace the front entry doors at the Rex Theater. The existing wood doors will be replaced with new painted aluminum doors with impact rated glass and applied trim matching the exiting elements. The window units have been resigned to more closely resemble the existing.

Mr. Quina presented to the Board and stated that the request had been simplified from the past application. Board Member Ramos stated that the packet was a great improvement from the original proposal and does a better job at keeping the historic character. Board Member Mead thought it was an interest compromise. The existing windows are somewhat modeling after the window façade ornament with a rounder element above a long linear element. This approach was appropriate under the circumstances, and he understood the functional need for light.

**Board Member Courtney made a motion to approve as submitted. Board Member Mead seconded the motion and it carried 4-1 with Chairperson Salter dissenting.**

**Item 7  
Request to Keep Unapproved Roofing  
Denied**

**313 E. Jackson Street**

**OEHPD  
OEHC-1**

Nannette Chandler is requesting approval to retain the existing roofing materials on a new construction single family residence. The new construction project was approved in December 2021 and included a silver standing seam metal roof. A standing seam roof is also listed as a product in the building permit. However, an r-panel metal roof was installed. A public 311 complaint was issued in May 2022 notifying Inspection Services of the non-approved roofing material and a hold is currently on the permit. The on-site decision to install an r-panel metal roof was made since all the other cottages along Jackson Street block also have r-panel roofs. The applicant has also provided a list of other houses in Old East Hill with similar roofs. An abbreviated review requesting approval for the r-panel was referred to the board in May 2022. That application and the reviewer's comments are included. This packet contains several items which were provided by the application, by staff, and requested by the ARB abbreviated reviewer. These include the following:

- The abbreviated review referred to the full board and comments from the reviewer.
- The December 2021 final review documents for 313 E. Jackson Street.
- A list of existing r-panel roofs in Old East Hill provided by the applicant. ARB and permitting

records were searched for reference.

- Documentation from May 2019 on 314 E. Belmont Street for reference.
- Information on 314 E. Belmont Street for reference.
- City Council Special Meeting Minutes from May 2019 regarding 314 E. Belmont Street.

Information on a 2019 review for 314 E. Belmont Street was requested since this was a similar case where r-panel roofing was installed instead of the approved material. The application to keep the r-panel was denied by the board and subsequently appealed to City Council who upheld ARB's decision. This has been provided as reference.

Ms. Chandler presented to the Board and stated that she has restored many historic structures, even in Old East Hill, but had never installed a metal roof since they have always been shingles. She had been out of town when the roofer was available. The roofer questioned the standing seam approval since the other houses along Jackson Street had r-panel roofing. Ms. Chandler asked the roofer to match whatever everyone else along Jackson Street had. She did check the Land Development Code to see if any prohibited materials were listed and there were none. She did not know r-panel was prohibited until the neighborhood approached her. Although she was approved for standing seam, she chose to install r-panel to blend in with the block. Since it was a Friday afternoon, she was not able to call staff for guidance. After the issue was brought to her attention, she looked at other houses in Old East Hill with other prohibited roofing types and came up with a list of 13 houses with r-panel roofs.

Ms. Chandler asked if it were possible for there to be an amendment to the LDC to list all prohibited materials so that it is readily available to prevent these situations. There has also been an issue with fencing. Or can an amendment be made that lists allowed materials? Historic Preservation Planner Harding answered that LDC amendment can be requested by Council and offered that he would contact Council Executive.

Ms. Chandler stated that a precedent had been set by the neighborhood association, not ARB. While ARB is in charge of approving projects, the neighborhood association are the ones to see noncompliant issues and to call it in to the Building Department. Ms. Chandler stated that hasn't happened except for the cases of new construction. Ms. Chandler referenced a letter by Mr. Wagley (attached to end of meeting minutes). Ms. Chandler stated that no one who lives in a historic house who has incorrectly changed their roof has been made to change it back. In these instances, there is not a lot of enforcement action options. Maybe they can be fined. With new construction, owners are forced to comply otherwise they are not issued a certificate of occupancy on the dwelling. Ms. Chandler stated that this was selective enforcement - that you cannot have existing homes in violation and that are not enforced. You must enforce rules the same way across the board. This is why Ms. Chandler suggested a code change. If the neighborhood wants all roofs to be corrugated, 5v-crimp, or standing seam, then everyone who has installed incorrect roofs should all be required to comply. You cannot selectively require one person to do it and not everyone else – it is illegal in the state and has been upheld since 1987. Those who did not get permits for their roof also should comply.

Board Member Mead asked staff to provide the review standards under Old East Hill for roofs specifically or at least the provision that would govern roofs if not specifically. Historic Preservation Planner Harding stated that roofs in Old East Hill were governed under Sec. 12-3-10(3)a and b which speaks to the *Purpose* and *Character of the district* referencing development patterns and historic materials.

Sec. 12-3-10(3)a states, "*Purpose*. The Old East Hill preservation zoning districts are established to preserve the existing residential and commercial development pattern and distinctive architectural character of the structures within the district. The regulations are



intended to preserve, through the restoration of existing buildings and construction of compatible new buildings, the scale of the existing structures and the diversity of original architectural styles.”

Sec. 12-3-10(3)b states, “*Character of the district.* The Old East Hill neighborhood was developed over a 50-year period, from 1870 to the 1920's...”

Sec. 12-3-10(3)i had also been referenced regarding new construction which states, “New construction shall be built in a manner that is complementary to the overall character of the district in height, proportion, shape, scale, style and building materials.”

Board Member Mead pointed out the Council meeting minutes from 2019 at 314 E. Belmont Street and asked where in relation to 314 E. Belmont Street was the subject property? 314 E. Belmont Street was a new construction project and is three blocks south of 313 E. Jackson Street.

Board Member Mead stated that we have a situation where there is a number of structures that have been roofed to be not in compliance with the approvals ARB has given at various points in time. In 2019, City Council has already spoken to this issue. He thought that Mr. Wagley’s concerns about what has developed to be an effect of appeals through leniency of enforcement of the decisions of ARB is a concern. But it is not a concern for ARB to address. That is for administration to address in terms of what they are directing staff to enforce. But, when City Council has acknowledged this discrepancy, and ratified the conditions that exist, he felt two concerns: 1) ARB is overruled, factually, on the question of the nature of the roof and consistency with historic district standards; and 2) the applicants concern on equal treatment has merit. Mr. Mead thought there are distinctions between new construction and existing contributing structures. In regard to materials in this setting, the City Council has already spoken, and ARB is not in a position to counter demand it. Because of this, Board Member Mead disagreed with the position that he was in but did not think he had much of an option.

Board Member Courtney told Ms. Chandler that she had done wonderful things in the neighborhood, but she thought the roof should be changed back to one of the complying profile materials. Ms. Chandler said that if everyone else is required to change their non-compliant roof, then she would be fine with changing hers too. She counted 21 houses that did not have the correct roofs in the neighborhood and to expect her and only new construction to have to change their noncompliant roofs was not fair. The neighborhood had been selective on who they report for enforcement. Ms. Chandler pointed out that Board Member Courtney’s house also had the r-panel metal installed. Board Member Courtney stated that she had come before ARB at that time and it had been approved since there was very little available at the time (2004). The only options in 2004 were very thin metal and a commercial grade. Ms. Chandler stated that the 5v-crimp option was still very thin which is why she originally chose the standing seam roof panel. Board Member Courtney stated that she notices the difference in r-panel and approved forms and when the time comes to replace the roof, they will certainly go with an approved type.

Board Member Ramos was sympathetic to Ms. Chandler, especially when it is apparent that others before had not complied. His concern was that ARB was a non-enforcement body. ARB provides approvals (or denials) based on the information that is provided and based on materials that the applicant says they are going to install. In his opinion, ARB may not have the power to tell an applicant to replace their roof.

Historic Preservation Planner Harding clarified that ARB is being asked to review the applicant’s request – to keep the r-panel roof. The board can either approve the applicant’s request to keep the r-panel, or deny it. Inspection Services is the enforcing body for this application. They cannot issue a permit (or in this case a certificate to occupy) until the project is shown to comply with ARB approval. If denied, Ms. Chandler can either replace the noncompliant roof with an

approved type to be issued a certificate to occupy, or she can appeal ARB's denial to City Council.

Board Member Ramos did not feel as if ARB should approve the applicant's request. In his opinion, seeking approval from City Council would be the next step. ARB should not approve a roofing material that was not previously approved. During his time with ARB, they have been fairly consistent with what they approved. ARB had never approved an r-panel during his time on the Board. It's important that ARB stick to that consistency. Board Member Courtney stated that the r-panel had not been approved for any of the other historic areas – Bagdad, Mobile, etc. As a builder, Ms. Chandler is held to a higher standard since she has made a lovely name for herself as someone who has a wonderful aesthetic and reputation. Ms. Chandler stated that she does hold herself to a higher standard but that she could not, legally, be held to a higher standard than anyone else in the neighborhood. It has to be the same standard across the board.

Board Member Mead asked Assistant City Attorney Lindsay if City Council having ruled in the 314 E. Belmont Street, that if is appropriate to take that in to account in their decision.

Historic Preservation Planner Harding interjected to remind the Board that City Council upheld ARB's decision in the 314 E. Belmont Street case and that the unapproved r-panel roof was required to be removed and a compliant 5v-crimp roof was installed as a result. Board Member Mead stated that he had misunderstood in thinking the ARB decision had been overruled. Historic Preservation Planner provided a background on the 314 E. Belmont Street issue which took place in 2019. Board Member Mead determined his question was then moot. He also asked about the fact that there has been disregard or leniency in the permitting or code enforcement regarding the houses on Jackson Street.

Assistant City Attorney stated that the applicant is required to come before ARB to keep the r-panel roof so that she can receive a certificate of occupancy. If you already live in your home and you accidentally or purposefully put the wrong roof on, you are still able to live within the home and you may not ever have any consequences until you sell the home if there is a lien. When these things are happening, that could potentially dilute the ordinance because we don't have a specific ordinance that prohibits an r-panel roof. Board Member Mead asked then if the city was allowing these roofs if there was an equal protection problem with regard to this application. Assistant City Attorney disagreed that the city had allowed these roofs to be placed and that there is a difference in what enforcement action could be taken. If there is a certificate of occupancy that's already been granted, then there's nothing that the city can do to enforce. The issue is that there are ways these issues can be and not be enforced. It's not that the city has allowed violations to occur. The way Assistant City Attorney Lindsay understood the ordinance, ARB is trying to protect the historic character of the district. If the character of the district has been diluted by virtue of these noncompliant activities that ultimately could not be resolved until a later point, then what are you trying to preserve as far as the character now? Board members can vote their conscience on this, but as far as the equal protection concerns of the applicant, that is not ARB's position to worry about. If the applicant has a legal problem with ARB's decision, the applicant's lawyer should contact the city's legal team and discuss the equal protection case that is being referred to.

Board Member Mead asked if there was a concern regarding the pattern of the existing neighborhood. Is it appropriate to consider confining as much as possible variations of the existing pattern of development in the district to a specific area? Assistant City Attorney Lindsay agreed that was in ARB's scope.

Mr. Quina addressed the Board and understood that ARB would not be able to approve this roof. What ARB can do is send a letter to Code Enforcement and to the Inspections Department and take the research that's been done and maybe they can send homeowners a letter stating that

when the homes do change ownership that the noncompliant roof issues become a part of the title and can be ultimately corrected. The issue would not be addressed in the short term but could be addressed in the longer term. It also sends a message to the roofers that they need to think twice about using the nonapproved roof panel which is only a little less expensive than the other options. Historic Preservation Planner Harding thought that was a good idea and thought that roof profiles should be listed in the Land Development Code. At this time, there is nothing prohibiting staff from issuing a “board for board” approval which allows homeowners to repair or change out materials with matching materials, even if those materials are existing nonconforming. Board Member Mead asked if he could suggest such an action in their determination that would help staff advise on board for board applications regarding roofing – that it would have to be approved materials as opposed to the existing. Historic Preservation Planner Harding stated that since 2019, staff has gotten better at catching nonconforming items. There had been several recent issues apart from 314 E. Belmont Street where unapproved r-panel was installed and subsequently removed – 434 E. Zarragossa Street, 500 N. Alcaniz Street, and another house in Old East Hill.

Board Member Courtney mentioned that many people in Old East Hill have been there for a long time and may be older and poorer and apparently installed their roofs without proper permits. That may be part of the difference when we’re talking about new builds since they are being made to be sold. Ms. Chandler agreed that clarifying metal roof profiles in the Land Development Code and slowly requiring that nonconforming roofs be changed to conforming roofs was a good idea. Her largest concern was that it be fair across the board.

Ms. Ford addressed the Board on behalf of the Old East Hill Property Owners Association. She loved the work that Ms. Chandler has done in the neighborhood. There are a lot of people doing things and apologizing later and they are trying to rein that in. After being in the neighborhood and having to request approvals from ARB, she understands why rules are put into place. The rules should be clearer for both existing and new residents.

**Board Member Mead motioned to deny the application.** Board Member Mead was sympathetic to the applicant’s equal protection concerns. However, it was clear from the record and from Council’s 2019 discussion and with staff that there were options for enforcing compliance over a period of time that is capable of equal treatment regardless of the status of the dwelling and whether or not roofs require removal. Since all roofs require removal at some point, the question is when. Board Member Mead recommended that the motion include that staff consult with the City Attorney to come up with an appropriate notice to homeowners regarding the noncompliant roof structures as to notify them of the noncompliant nature of the existing material and that when the time to replace it comes, they should be required to replace it with a compliant material. Board Member Mead also asked that staff consider consulting with the City Attorney in regard to if and what form of an appropriate notice might be recorded for those structures so that in a passage of title the new owner would be noticed; and that when the need of a replacement roof comes, that they also do it with a compliant material. **Board Member Ramos seconded the motion. Staff clarified that based on the discussion of the motion, the board was denying the application based on Sec. 12-12-3(5)b which spoke to ARB’s duties in protecting the ancient appearance of the district, Sec. 12-3-10(3)a and b in speaking to the historic character and preservation purpose of the district, and Sec. 12-3-10(3)i in regards to new construction and the requirement that new construction be complementary to the overall character of the district in height, proportion, shape, scale, style and building materials. With that clarification, Board Member Mead adopted as part of his motion that the application did not meet those standards. Board Member Ramos accepted the adoption and the motion carried 5-0.**

**ADJOURNMENT** – With no further business, the meeting adjourned at 4:40 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Sarah", with a stylized flourish at the end.

Historic Preservation Planner Harding  
Secretary to the Board

## Gregg Harding

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**From:** Christian Wagley <christianwagley@gmail.com>  
**Sent:** Thursday, May 19, 2022 9:48 AM  
**To:** Gregg Harding  
**Cc:** Susan Ford; Casandra Mannis; Dianne Dixie Dixey; Michael Courtney  
**Subject:** [EXTERNAL] OEHPOA comments to ARB  
**Attachments:** email to mayor and council members May 2019 ARB issues.msg

### **THIS EMAIL IS FROM AN EXTERNAL EMAIL ACCOUNT**

Hello Gregg:

Please find comments from the Old East Hill POA Architectural Committee, and an attached letter for background. We ask you to please provide these comments to the ARB members ahead of today's meeting. Thank you!

#### **Item 1 419 N. Davis Hwy.**

##### **We support the proposed project, with some additional comments and concerns:**

--Concern was expressed about the driveway placed in front of the home. However, we recognize that the city requires one off street parking space for most new homes. We appreciate the designer's effort to provide off-street parking in the least obtrusive way, by placing the driveway as far to the side as possible and by providing a space that is suited for small and medium-sized vehicles. We do wish to remind the applicant that larger vehicles could block the adjacent sidewalk, which is a violation of city code. The ribbon drive is also a preferred design over a solid driveway, so that is a welcome touch.

--We appreciate the finish floor elevation of 2' that is shown, which is most consistent with our historic residential building stock. We ask the City staff to ensure that this specified FFE is honored during construction.

--On the proposed "fretwork", we ask the Board to determine whether such materials constructed from vinyl is appropriate. Wood would be more historically-accurate, more aesthetically-pleasing and would weather more pleasurably over time. We appreciate that the proposed shutters are real wood.

--It appears that the proposed windows are utilizing simulated divided lites (our preference) with raised relief muntins rather than flat. We ask the Board to confirm this.

--The proposed siding reveal of 7" is wider than what is normal for Old East Hill and all preservation districts. A reveal of 5.5" is preferred.

#### **Item 7 313 E. Jackson St.**

##### **We ask the Board to deny the request for an after-the-fact permit for an incompatible and unapproved R panel metal roof. We offer the following in support:**

--The ARB has a long and consistent history of denying the use of this modern roof panel known as R panel or similar. One of our committee members distinctly recalls contacting then-ARB staffer Don Kelly in 2009 regarding applying for a new metal roof for his home in Old East Hill. Kelly told him that the only metal roofs allowed by ARB are standing seam, 5 V crimp and corrugated. This indicates a longstanding recognition by the city staff and ARB that R panel roofing is not appropriate in preservation districts.

--The applicant clearly pledged to use a standing seam metal roof on at least two separate occasions: 1) On November 1, 2021 when the applicant signed the application to ARB for approval to construct the home. The application includes a

photo of a standing seam metal roof and states: “The roof will be silver standing seam metal”, and; 2) When the ARB approved the use of the standing seam metal roof at its Dec. 2021 meeting, without objection from the applicant.

Furthermore, there is a clear, simple and deliberate process of abbreviated or full Board review available for any project in which a deviation from approved plans is sought. In this case the abbreviated review process was not initiated until after the applicant installed the incompatible roof and a code enforcement case was initiated. These preservation district standards that outline the review process have been in place in Old East Hill since 1994, and are widely known and routinely followed by builders and homeowners.

--We acknowledge that a number of incompatible and inappropriate R panel or similar metal roofs exist in the neighborhood. However, the evidence presented by staff shows that these roofs are almost entirely the result of installations that occurred without a permit or that did not follow their permit and instead substituted a different roof panel than was permitted. Almost all of those cited in the staff report are located in three separate clusters in the neighborhood. Each of those clusters represent groupings of homes that were or continue to be owned by each of three owners—Belmont and N. Davis, Alcaniz and Belmont, and the 300 block of E. Larua. This indicates a lack of respect for the city permitting process by those three individual owners of multiple structures, and a lack of enforcement of preservation standards under previous directors of the building inspections department.

In fact, back in May 2019 the Old East Hill Property Owners Association sent a letter to Mayor Robinson and all Council members complaining about the lack of enforcement of ARB decisions by the city’s building inspections department (mainly under the previous mayoral administration), and the lack of resolution on complaints by neighbors of inappropriate construction, among other ARB-related issues. A copy of this letter is attached.

--The building inspections department has a more recent history of enforcing ARB’s prohibition on the use of this incompatible panel in the instance of those installed without permission, ultimately resulting in the removal of R panel roofing. In the past three years that includes R panel roofing installed illegally in the Seville District at 434 E. Zarragosa St. (replaced with 5 v crimp), and in Old East Hill at 500 N. Alcaniz St. (replaced with standing seam), 314 E. Belmont St. (replaced with 5 v crimp) and 509 N. Alcaniz St. (now permitted for replacement with 5 v crimp).

--The Pensacola Architectural Review Board’s longstanding precedent prohibiting the use of R panel metal roofing is consistent with that of other historic preservation districts. Our committee reviewed historic preservation district standards for four cities and towns located in the southeast and relatively close to Pensacola. Not a single one allows R panel or similar roofing on residential structures:

City	Is R panel roofing allowed on any residential structures, contributing or non-contributing?
New Orleans	No
Mobile	No
Bagdad, FL	No
Gainesville, FL	No

Thank you for considering our comments, and for your service.



Christian Wagley

Chair

On behalf of the Old East Hill Property Owners Association Architectural Committee

Diane Dixey

Cassandra Manis

Susan Ford Buck

Michael Courtney

Christian Wagley

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**Christian Wagley**  
**(850) 687-9968**

## Gregg Harding

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**From:** Christian Wagley <christianwagley@gmail.com>  
**Sent:** Sunday, May 12, 2019 6:52 PM  
**To:** Amber Hoverson  
**Subject:** email to mayor and council members



May 11, 2019

Mayor Grover Robinson  
Councilwoman Ann Hill  
Councilwoman Sherri Myers  
Councilwoman Jewell Cannada-Wynn  
Councilman P.C. Wu  
Councilman Gerald Wingate  
Councilman Andy Terhaar  
Councilman Jared Moore

City of Pensacola  
222 W. Main St Pensacola, FL 32502

Dear Mayor Robinson and Council Members:

The Old East Hill Property Owner's Association (OEHPOA) (originally West East Hill Property Owner's Association) was founded in 1990 to improve and preserve the Old East Hill neighborhood. The group's efforts were rewarded in 1993 when the Pensacola City Council designated Old East Hill as the fourth of the city's preservation districts.

In the years since we have worked among our neighbors and with the City Council and Mayor to preserve our historic structures and to maintain the integrity of the neighborhood. We regularly offer formal comments to the Architectural Review Board on projects in Old East Hill that appear before the Board. In addition, we have created an architectural guidebook for the neighborhood that we intend to use to help inform property owners on how to make their renovations, new construction, and improvement projects compatible with the historic character of the neighborhood.

We are writing to express our growing concerns about the erosion of the historic character of our neighborhood, its historic structures, and the integrity of our status as a preservation district.

Our concerns center on the following:

-- In recent years we have experienced multiple instances of construction and renovation projects in Old East Hill that do not follow the terms of the projects as specified by the Architectural Review Board (ARB).

--The City's Inspection Services Department has repeatedly and consistently shown an unwillingness to address discrepancies between what is approved by ARB and what is built and installed as part of construction and renovation projects.



--The previous City administration and Council have undermined the ARB and ultimately the integrity of all the City's preservation/special review districts and historic structures by failing to defend the ARB and to fully understand its role, responsibilities, and legal authority--especially when its decisions are contested.

For at least the past decade, throughout the terms of office of three of our POA presidents, the City's Inspection Services Department has failed to address multiple complaints about construction and renovation projects that did not follow the terms of the projects as specified by the Architectural Review Board. Residents who complained about these instances through the City's 311 system often received

responses from staff noting simply the date at which the project was approved by ARB, and then notice that the case was resolved.

But there was no willingness to actually review the meeting minutes and the terms under which the project was approved and to determine the differences between what was approved and what was actually being constructed and installed. The end result has been an erosion of the historic character of the neighborhood through the installation of inappropriate and unapproved materials and deviations in project designs. We are hopeful that with changes in leadership in Inspection Services that this issue is being addressed.

As development pressures have increased in the city's preservation districts, there has been a false narrative created by some in the development community that the ARB is unnecessarily difficult in its proceedings. On the contrary, our Association has found the ARB to be reasonable and fair, helpful to applicants in making suggestions for improving their projects, and in compliance with its authority under city code.

In the case of the demolition of the John Sunday House, the previous administration offered no defense of the ARB when the case was considered in Circuit Court. Emboldened by the success of that appeal (which was decided on procedural rather than substantive grounds) and heightened development pressures, there has been a rash of appeals to Council of ARB decisions. These appeals of ARB decisions operate as a quasi-judicial hearing that makes it more difficult for citizens to present information, full information on ARB's authority is often not presented, and the appellant is allowed to speak at length while citizens are restricted on both the order and length of their comments. This allows inaccurate information presented by the appellant to go unchallenged.

The most recent ARB appeal heard before Council in March 2019 presents an example of such. At no time was the Council reminded by staff of the broad authority granted to ARB by the Land Development Code. That authority is necessary because it is impossible to create code provisions that govern every possible detail of new construction and rehabilitation in historic districts due to the nearly endless variables of proportion, scale, massing, materials, and style.

The ARB is granted the same authority to review and either approve or deny projects in each of the city's four preservation districts. That identical language covering each district reads as follows:

*2. Rules governing decisions. Before approving the plans for any proposed building located or to be located in a district, the board shall find:*

*a. In the case of a proposed alteration or addition to an existing building, that such alteration or addition will not impair the architectural or historic value of the building.*

*b. In the case of a proposed new building, that such building will not, in itself or by reason of its location on the site, impair the architectural or historic value of buildings on adjacent sites or in the immediate vicinity. No plans for new building will be approved if that building will be injurious to the general visual character of the district in which it is to be located considering visual compatibility standards such as height, proportion, shape, scale, style and materials.*

Additional language in the LDC refers specifically to new construction in preservation districts, including Old East Hill (12-2-10(C)(9)):

*“New construction shall be built in a manner which is complementary to the overall character of the district in height, proportion, shape, scale, style and building materials. The regulations established in paragraph (6), relating to streetscape elements, shall apply to new construction. Table 12-2.10 describes height, area and yard requirements for new construction in the Old East Hill preservation district.”*

Citing that authority to deny plans that “will be injurious to the general visual character of the district”, and the requirement that new construction be “complementary to the overall character of the district,” the ARB has denied parts of projects and entire projects in Old East Hill and other preservation districts in the past. Considering that broad authority, the ARB was well within its power to deny the proposed fence at its February 2019 meeting.

The proposed fence was a modern design not appropriate for use on the grounds of a contributing structure. Metal fencing used historically in older neighborhoods in Pensacola and across the country almost always included metal pickets or rounded pieces that extended above the top horizontal piece.

In addition, the applicant presented inaccurate information about the availability of metal fencing with pickets extending above the top horizontal piece—the type of metal fencing that ARB members discussed their preference for when the project was denied by the Board. The applicant stated that such fencing was nearly impossible to find and had to be custom-made, offering an expensive quote from a fence company.

However, such fencing is so readily available that it can be purchased at local big box home improvement stores and is widely installed in historic neighborhoods in Pensacola. Here is an example:

The screenshot shows the Lowe's website interface. At the top, there's a navigation bar with the Lowe's logo, a store location for S.W. Pensacola, and a search bar. Below the navigation bar, the breadcrumb trail reads: Building Supplies > Fencing & Gates > Fence Panels. The product being displayed is the Ironcraft (Actual: 4-ft x 6-ft) Orleans Black Powder-Coated Aluminum Decorative Metal Fence Panel. The price is \$59.94. There are 5 ratings with a 5.0 average, and a 100% recommendation rate. A 'View Now' button is present. The product image shows a black metal fence panel with vertical pickets. To the right of the image, there are bullet points describing the product: 'This is a made to order item, and is fulfilled based on your project needs, which can lead to extended lead times', 'Aluminum panel features a smooth powder-coated finish, a more durable finish than paint, to help prevent chipping, rust, and stand th...', and 'Pressed point picket top, 3-rail Orleans design has 15 pickets'. Below the product image, there's a quantity selector set to 1 and an 'ADD TO CART' button. There are also 'SAVE' and 'SHARE' buttons. At the bottom, there are shipping and delivery options: 'Ships to Store FREE' and 'Delivery' with estimated dates of 06/02/2019.

While evidence was correctly presented that ARB had allowed the more modern fence style desired on some projects in North Hill, Councilman Moore correctly noted that those were only on new infill projects and not contributing structures such as that owned by the applicant.

Additionally, we believe that just because a particular design or feature was approved by a previous ARB is not grounds for its automatic approval today. If a previous ARB makes a decision that is determined to be in error by a subsequent Board, we believe that the law and common sense allow a subsequent Board to correct that mistake. Such correction should be based on a full and rational consideration of the facts and be in-line with ARB's responsibility under the Land Development Code for “the preservation and protection of buildings of historic and architectural value and the

maintenance and enhancement” of the districts to which it is assigned. Our legal system operates in a way that allows for new precedents to be set, without which we would still have government-sanctioned segregation and a number of other state-supported programs and practices that would be considered highly offensive by today’s standards.

Thank you very much for considering our comments, and we welcome your attendance at one of our Association meetings. Old East Hill is a vital part of the historic urban fabric of Pensacola, and our Association looks forward to continuing to work with all of you to preserve and protect the integrity of the District.

Amber Hoverson  
President, OEHPOA  
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Christian Wagley  
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