

William "Rusty" Wells

From: Brandi Deese
Sent: Thursday, May 16, 2019 12:35 PM
To: Sherry Morris; Don Kraher; William "Rusty" Wells
Subject: Fwd: FYI
Attachments: letter to City of Pensacola on failure to protect integrity of Old East Hill Hill.docx; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: Christian Wagley <christianwagley@gmail.com>
Date: May 16, 2019 at 12:18:10 PM CDT
To: Brandi Deese <bdeese@cityofpensacola.com>. Greg Harding
<GHarding@cityofpensacola.com>
Subject: FYI

See attached--recent letter from Old East Hill POA sent to all Council members and Mayor re: ARB issues.

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Christian Wagley



May 6, 2019

Councilwoman Ann Hill
City of Pensacola
222 W. Main St
Pensacola, FL 32502

Dear Councilwoman Hill:

The Old East Hill Property Owner's Association (OEHPA) (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)):

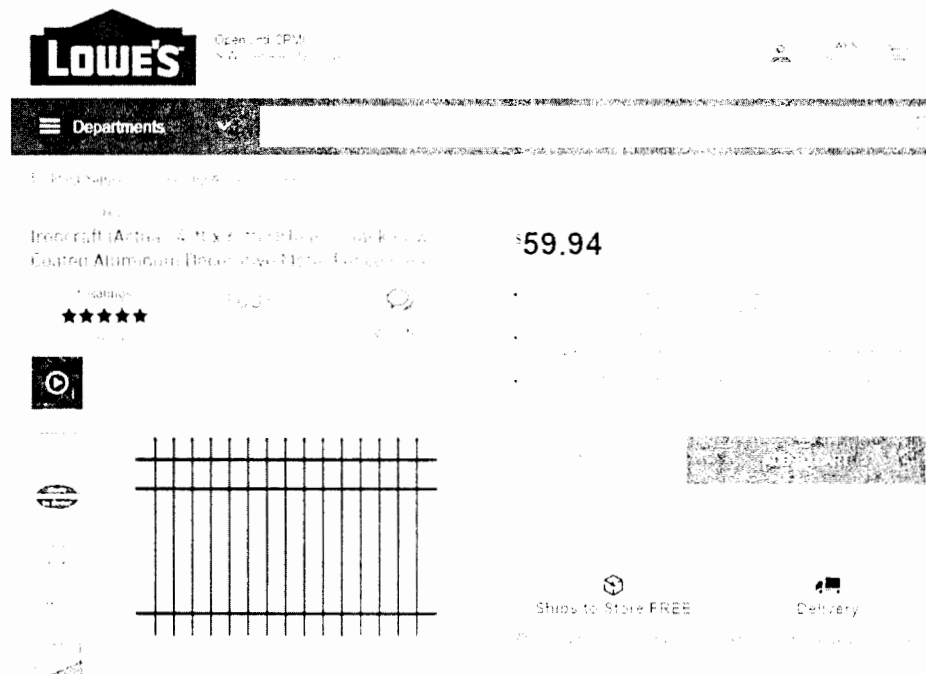
"New construction shall be built in a manner which is complementary to the overall character of the district in height, proportion, shape, scale, style and building materials. The regulations established in paragraph (6), relating to streetscape elements, shall apply to new construction. Table 12-2.10 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:



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.



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