

Filed with the City Clerk

August 20, 2020

AUG 21 2020

To: Venice City Council

City of Venice

From: See Signatories Below and Attached

Re: Appeal of Architectural Review Board Decision on Petition PLAR20-00235 (Demolition of Single Family Home) ("Petition"), John & Genice Sullivan (Parcel 0408120046)

ARB Hearing Date: August 13, 2020

Dear Venice City Council:

Pursuant to City Ordinance Section 86-25(b)(2)(f), the undersigned respectfully appeal the decision by the City's Architectural Review Board ("ARB") to authorize the demolition of the single family home on the above referenced parcel (the "Contributing Structure"). The ARB's action was made at its meeting of August 13, 2020. This letter was filed with the City's Clerk on the date set forth above, and within 10 days of the referenced ARB's decision. **The ARB's action directly affects the public interest by authorizing the demolition of a structure that contributes to the John Nolen Plan of Venice Historic District.**

Background.

The Contributing Structure is located at 233 Pensacola Avenue, within the John Nolen Plan of Venice Historic District ("Historic District") as described in Ordinance Sec. 86-25. The Contributing Structure sits on the south side of Pensacola Avenue, and is part of one of the few remaining clusters of original homes made part of the "Nolen Plan" that forms the basis of Venice's original urban design, and that has been incorporated into Venice's Historic District, listed on the National Register of Historic Places. The Contributing Structure is one of four such original homes surviving on that block that were built by the Brotherhood of Locomotive Engineers in the 1926-28 timeframe. The other contributing structures on the Pensacola block have been well cared for by their owners. **The Contributing Structure has its own Florida Master Site File (SO00555), meaning its is part of Florida's inventory of historical and cultural resources.**

John and Genice Sullivan, as owners, have filed two petitions with the City regarding the Contributing Structure: one to demolish it (Petition PLAR20-00235)("Demolition Petition"), and the other to construct a new single family home (Petition PLAR20-00236). At its meeting on August 13, 2020, the ARB took no action on the second petition, requesting more information regarding the design of the replacement home and its compliance with Historic District regulations. However, the ARB approved the Demolition Petition on a 4-2 vote. The Demolition Petition is the subject of this appeal.

The ARB meeting video of August 13, 2020 is of public record. A review of the recording evidences the following:

1. The Contributing Structure has not been well maintained. The Sullivans' attorney, Jeff Boone, centered his arguments on that essential point. He argued that because the structure had not been

maintained well, apparently including during the 6 year period of the Sullivans' ownership, they had created grounds for demolishing it.

2. The Sullivans' only evidence regarding any unusual cost burden or economic hardship regarding refurbishment was their contractor for their proposed new home, Mr. Greg Hassler. But when questioned, Mr. Hassler repeatedly declined to provide any cost estimate for required repairs to the structure. He claimed that he would be "embarrassed" to provide such an estimate despite repeated questions regarding such analysis. When his contractor refused to provide any such estimate as an expert witness, Mr. Sullivan made an appearance to provide his own estimate of \$300,000. Mr. Sullivan gave no basis for his own cost estimate, or his qualifications for providing it.

3. Several ARB members volunteered their own experiences with rehabilitating old structures. But importantly, it appears that none of the ARB members had requested a site visit or made any meaningful examination of the Contributing Structure apart from a drive-by. Their personal experiences at other sites do not substitute for an analysis of the condition of this Contributing Structure. In short, the ARB members authorized the destruction of the Contributing Structure with no supporting analysis of the cost or condition of that structure.

The Result: If left standing, the ARB's treatment of the Demolition Petition means that in order for any owner of a historic contributing structure within Venice's National Historic District to demolish that structure, the owner need only allege that the structure costs too much to maintain. No evidence to support such allegation is required.

Under this standard, Venice has no functional National Register Historic District— because the standard for demolition of contributing structures is, in practice, no different than any other structure in the City. The ARB's lack of any decisional standard here violates applicable City ordinances and cannot be allowed to stand.

Questions For City Council's Consideration.

I. Did the ARB follow applicable regulations in approving the destruction of a Historic District contributing structure prior to approving the design of a structure that would replace it?

II. What must owners demonstrate in order to demolish Historic District contributing structures?

Applicable City Regulations.

Comprehensive Plan:

- Section II (Background): The summary of public comments leads with "Preserve Venice's character, historical places, John Nolen's planning heritage and cultural resources." Venice's citizens were made these concerns loud and clear to City management.

- LU 1.4.2 (Historic Structures, City Review and Assistance), Section (3): The City through the Land Development Review Process shall (3) [p]rovide information and education to property owners to facilitate economic viability for the retention of historic structures.
- LU 1.4.3: The City recognizes the importance of historic structures within the City and encourages their preservation by the use of various means, such as the following: (2) [a]dvising property owners [of tax credits and regulatory advantages]; (4) Historic Resource Demolition Alternatives as project redesign...and adaptive reuse. “

City Ordinance Sec. 86-32 (Legal Significance of Comprehensive Plan) provides that “No development order shall be issued under the provisions of the LDC [Land Development Code] unless determined to be consistent with the comprehensive plan.”

City Ordinance Sec. 86-25 establishes the ARB, and empowers it to serve as the City’s administrative body with respect to architectural review standards and districts adopted by ordinance (Sec. 86-25(a)(13)(g). Ordinance Sec. 86-25 is part of Chap. 86, Land Development Code.

Sec. 86-25(b)(1) establishes the Historic Venice (HV) district and Venetian Theme (VT) district, and describes their boundaries. The Parcel subject to this appeal lies within the HV district; thus the Petitions by the Sullivans for Certificates of Architectural Compliance to demolish the existing structure and then to construct a new one.

Sec. 86-25(b)(2) requires a Certificate of Architectural Compliance (“CAC”) for, among other things, the demolition or erection of all structures within the HV district.

Sec. 86-25(b)(2)(e)(2) adopts the Architectural Guidelines Handbook (2002 Edition, as amended on March 11, 2014) (“Handbook”) as part of the Ordinance, and includes the Handbook in its definition of “Regulations”. Thus, the Handbook constitutes a duly adopted City Regulation. These particular City Regulations are enforced by the ARB.

Sec. 86-25(b)(2)(f) provides for an appeal by any aggrieved person of an ARB decision to the City Council by filing a letter with the City Clerk within 10 day so of the ARB decision. Because the ARB action affects (i) Venice’s Historic District, and (ii) a property that borders a City park held in trust for all City residents, and further because the undersigned either (a) own property within the Historic District or (b) are standing advocates for Venice’s historic preservation, the undersigned constitute aggrieved persons. As additional grounds, at the ARB’s August 13, 2020 hearing, Curtis & Tommye Whittaker were not allowed 5 minutes of public comment on each of the Sullivan’s Petitions, which were separate matters before the ARB, but were rather confined to a total of 5 minutes.

We request that the City Clerk provide the Council with copies of the Petition.

Arguments.

I. Did the ARB follow applicable regulations in approving the destruction of a Historic District contributing structure prior to approving the design of a structure that would replace it?

NO, for at least the following reasons:

1. The ARB's CAC approving demolition of the Contributing Structure (the "Demolition CAC") is a development order issued under the provisions of Chapter 86 of the City's Land Development Code (the "LDC"). As such, there **MUST** be a determination by the ARB that such order is consistent with the Comprehensive Plan, as per Ordinance Sec. 86-32. However, the ARB made no mention of the Comprehensive Plan at all in addressing the Demolition Petition. Thus, for example, it made no attempt to either advise the property owners of tax credits and regulatory advantages associated with maintaining the Contributing Structure, nor did it review Historic Resource Demolition Alternatives, each as expressly required by the Comprehensive Plan. Nor did the ARB inquire as to whether those requirements had been met by other City departments or staff, and to what extent. Absent an affirmative determination, based on an actual record, that the Demolition CAC would comply with the applicable provisions of the Comprehensive Plan, it was issued in violation of City regulations, and it must be reversed.

2. The Demolition Order was issued prior to any ARB approval of a replacement structure. Since the entire reason for the Demolition Petition was to clear the site for the new structure that is the subject of the second Petition PLAR20-00236, the ARB should have first determined that a new structure actually would be authorized *prior to* approving demolition of the existing structure. The logic of approving demolition within the Historic District *only after approval of a conforming new structure* is reflected in the ARB's own Ordinance Sec. 86-25(b)(2)(a)(2), which lists when a CAC is required within the Historic District. It first lists new structures, new canopies, and *then* demolition of any structure. As it stands, the ARB has approved the demolition of a contributing structure within the Historic District for the purpose of enabling a replacement structure, but that purpose may never be authorized. Reversal of the Demolition CAC would make clear to the ARB that it should never approve demolition of the City's contributing structures until and unless it has ensured that they will be replaced in a manner consistent with the Comprehensive Plan and Land Development Regulations. If in the future the ARB approves the Sullivan's construction petition, it may then again take up the Demolition Petition.

3. The ARB is tasked with both the powers and the duties to "[c]onduct such studies and investigations as may be necessary to ...accomplish the purposes of the [ARB]. Ordinance Sec. 86(a)(13). Those purposes include the enforcement of ordinances, such as issuing CACs (Ordinance Sec. 86(a)(13)(g)), including the architectural and aesthetic standards included in such ordinances. Ordinance Sec. 86(a)(2). In this case, the ARB members undertook no independent studies or investigations regarding the condition of the Contributing Structure, nor were they presented with any such documentary analysis of how the demolition of the Contributing Structure, and its proposed replacement, would impact the architectural and aesthetic standards of the Historic District. *They focused only on the petitioners' immediate preferences for the Contributing Structure, and did not focus on district-wide impacts of the Demolition Petition.* In doing so, they authorized the demolition of one of the City's original pre-1930 structures, a structure integral to the function of Venice's Historic District, on nothing more than an ad hoc guess by the owner, made in the moment of the hearing, that structure rehabilitation costs would be \$300,000. Such a complete lack of analytical effort on behalf of the ARB mocks the duties of that board set forth in its own Ordinance 86-25.

II. What must owners demonstrate in order to demolish Historic District contributing structures?

When applying for a CAC to demolish a Historic District structure, the owner's showing is the mirror reflection of the ARB's duties here. An owner should provide the ARB with at least the following:

A. An analysis, *done by a qualified person*, of the impacts of the demolition on the architectural and aesthetic standards of the Historic District as a standing district, not just the impacts on a single parcel within the Historic District.

B. Confirmation that the applicant has reviewed, with City staff, all tax credits and regulatory advantages associated with rehabilitating a Historic District Property, and (ii) all Historic Resource Demolition Alternatives as required by the Comprehensive Plan.

If an applicant fails or refuses to provide such analysis and certification, the ARB should either undertake such analysis and owner education on its own (if it has the resources), or otherwise reject the demolition application as insufficient.

Requested City Council Action.

For the forgoing reasons, the City Council should reverse the Demolition CAC. Such a reversal would not prevent the Sullivans from continuing to pursue approval of their new home design before the ARB – it would simply preserve the status quo- avoid lasting harm- while the ARB undertakes a meaningful review of both Petitions.

We also request that the City Council instruct the ARB that in reviewing the Sullivans' Petitions, and in fact any similar petitions affecting Historic District contributing structures, that the ARB fully and robustly meet its duties, under its own Ordinance, to gather all relevant analyses *on lasting Historic District impacts of the proposed actions*, and to ensure that applicants are fully aware of the entire menu of tax and regulatory advantages available to them in return for keeping and maintaining a historic structure.

Finally, we ask that apart from the appeal by the signatories here, that the City Council take up these matters on its own motion, if it finds it necessary to do so.

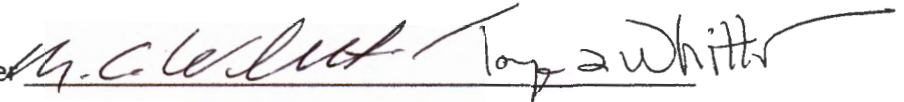
Venice is different because of its National Register-listed Historic District, and the remaining contributing structures that give life to the John Nolen Plan of Venice. Take that away, and Venice is just another Floridian coastal city – nothing special. Preservation of that unique flavor was THE most prominent feedback from residents on the Comprehensive Plan. **Thus, decisions affecting that Historic District cannot be made as quickly, as cavalierly, as was the case here, with a focus only on the momentary preferences of a single applicant, with no account taken of the larger and longer term impacts on Venice's most important civic asset.** The Historic District belongs to all Venetians, and decisions affecting it must take them fully into account in balancing the interests of the community with those of a property owner.

We appreciate the opportunity to bring this matter to your attention.

[SEE ATTCHED SIGNATORIES]

SIGNATORY TO:

Appeal of Architectural Review Board Decision on Petition PLAR20-00235 (Demolition of Single Family Home) ("Petition"), John & Genice Sullivan (Parcel 0408120046)

Name(s): Curtis & Tommye Whittaker 

Address: 613 West Venice Ave, Venice, FL 34285

Phone: 603-731-2080 (cell)

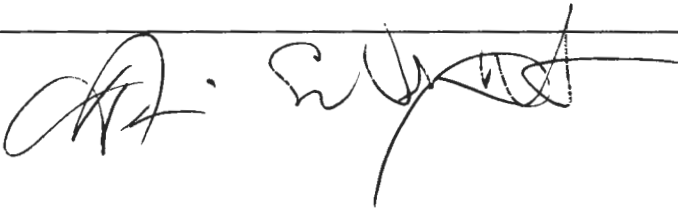
SIGNATORY TO:

Appeal of Architectural Review Board Decision on Petition PLAR20-00235 (Demolition of Single Family Home) ("Petition"), John & Genice Sullivan (Parcel 0408120046)

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SIGNATORY TO:

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SIGNATORY TO:

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SIGNATORY TO:

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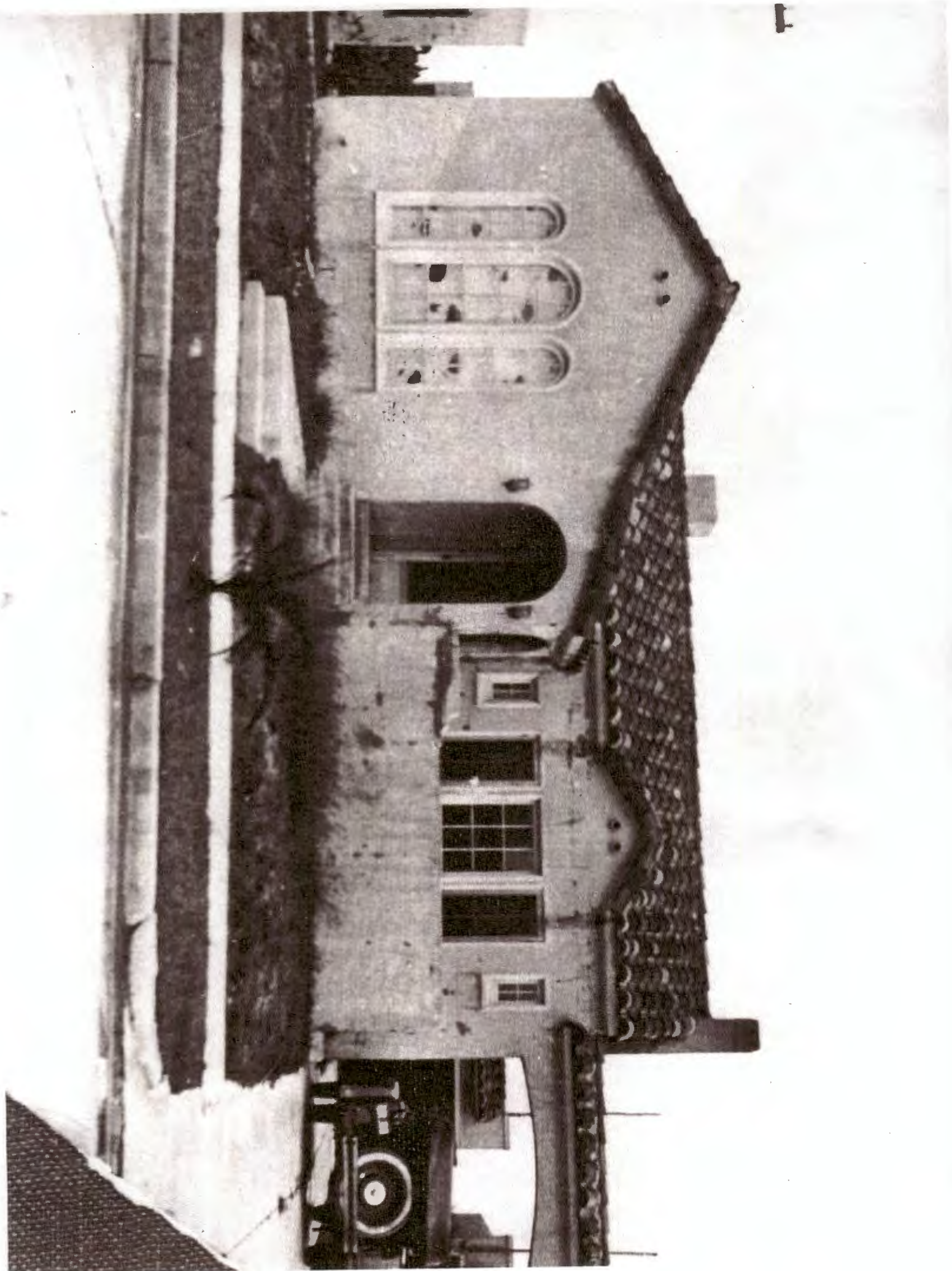
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Organization: Venice Heritage, Inc. _____

By (List Officer Name): Re A President Ronnie Fernandez

Organization Address: P.O. Box 1190, Venice, FL 34284 _____

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SIGNATORY TO:

Appeal of Architectural Review Board Decision on Petition
PLAR20-00235 (John & Genie Sullivan)
Requested City Council Action.

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[Signatories]

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