

March 24, 2023

VIA EMAIL AND HAND DELIVERY

Honorable Mayor Lago and City Commissioners
Of the City of Coral Gables
c/o Mr. Billy Urquia, City Clerk
405 Biltmore Way
Coral Gables, Florida 33134
burquia@coralgables.com

Re: Notice of Appeal of Historic Preservation Board’s Local Historic Designation of 517 Aragon Avenue on March 15, 2023, Department Case File LHD 2022-013 / Clerk’s File 23-5413 (the “Appealed Decision” or the “Decision”)

Honorable Mayor and City Commissioners:

On March 15, 2023, the Historic Preservation Board (the “**HPB**”) strayed from the City Code’s plain legal criteria, from the City’s past precedent, and the intent of the City’s Historic Preservation ordinance when it designated the building at 517 Aragon Avenue (the “**Property**”).



Accordingly, on behalf of Shaan and Pooja Patel who hope to start a family at the Property, and their related corporate entity, 517 Aragon, LLC (collectively, the “**Patel Family**”), the Patel Family hereby appeals the HPB’s March 15 designation of the Property as a landmark in the “Minimal Traditional” style (the “**Appealed Decision**” or the “**Decision**”).

This notice of appeal is filed pursuant to Section 14-208 of the City of Coral Gables' Zoning Code (the “**Zoning Code**”) which provides that such an appeal may be made filing a Notice of Appeal “within ten (10) days from the date of such decision.” The HPB made the Decision on March 15, 2023. Accordingly, this notice of appeal is timely filed with the City Clerk.

The Patel Family appeals the HPB’s Decision on the grounds presented at hearing before the HPB on March 15 (which they incorporate here), and in the supporting documentation entered into evidence both five days before and during the hearing.¹ Indexed copies of the PowerPoint Presentation² and all supporting documents available as of the filing of this notice of appeal are enclosed. A formal order of the HPB has not yet been issued or otherwise provided by City Staff. Likewise, we have ordered but have not yet received a certified transcript of the hearing from the City’s Court Reporter. Accordingly, the Patel Family reserves its right to supplement this Notice of Appeal and supporting documents both in writing and at hearing before the City Commission.

The members of the HPB had no material discussion of the Property before making the Appealed Decision. The HPB members’ discussion was limited to a clarification by one member that the Appeal Decision was made on the basis of Historic Preservation Staff’s report to the board (the “Staff Report”).³ For ease of reference, we therefore refer to determinations of the HPB and information in the Staff Report interchangeably.

In summary, the Patel Family appeals the HPB’s Decision on the following grounds.

A. The HPB Did Not Observe The Essential Requirements of Law When Making the Decision Because It Disregarded Two Threshold Legal Criteria

Zoning Code Section 8-103 lays out the legal “criteria for the designation of historic landmarks or historic districts.” Section 8-103 is divided into two parts. The first is a four-sentence paragraph.⁴ The second is a long list of various criteria. The HPB and City Staff applied the long list of criteria without any consideration of the opening paragraph. By doing so, they missed two threshold legal questions that must be answered before examining Section 8-103’s second half. Those threshold questions ask whether the Property retained its “integrity” and whether the Property is “significant.”

¹ See Exhibit 12 for email correspondence submitting the record evidence in advance of the HPB’s hearing on March 15, 2023.

² See Exhibit 3.

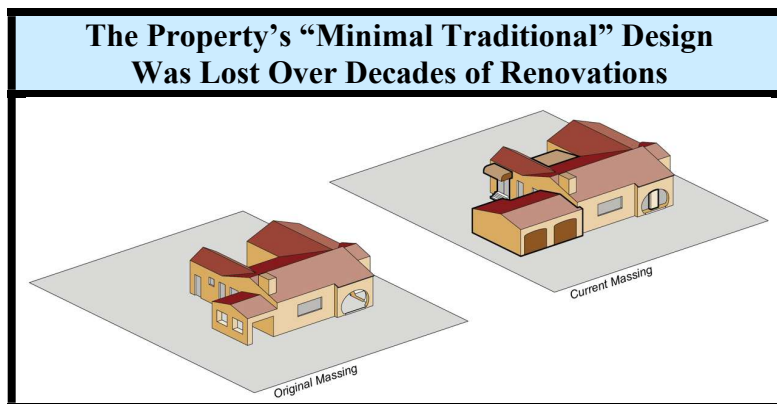
³ See Exhibit 2.

⁴ In its entirety, Section 8-103’s opening paragraph reads: “Districts, sites, buildings, structures and objects of national, state and local importance are of historic significance if they possess integrity of location, design, setting, materials, workmanship, or association. In order to qualify for designation as a local historic landmark or local historic landmark district, individual properties must have significant character, interest or value as part of the historical, cultural, archaeological, aesthetic, or architectural heritage of the City, state or nation. For a multiple property nomination, eligibility will be based on the establishment of historic contexts, of themes which describe the historical relationship of the properties. The eligibility of any potential local historic landmark or local historic landmark district shall be based on meeting one (1) or more of the following criteria:”

The Patel Family’s presentation before the HPB focused on the plain meaning of Section 8-103 including its opening paragraph. A review of Section 8-103 is merited here. We will expand on this analysis at our hearing before the City Commission. The very first sentence in Section 8-103 explains that districts, sites, buildings, *etc.* are historic “**if they possess integrity**” (emphasis added). Before the HPB, the City’s Historic Preservation Officer rightly pointed out the zoning code defines the concept of “historic integrity.” Zoning Code Article 16 defines the term as:

“[T]he authenticity of a property’s historic identity, evidenced by the survival of physical characteristics that existed during the property’s prehistoric or historic period. Historic integrity enables a property to illustrate significant aspects of its past. **Not only must a property resemble its historic appearance, but it must also retain physical materials, design features, and aspects of construction dating from the period when it attained significance.** The integrity of archaeological resources is generally based on the degree to which remaining evidence can provide important information. All six qualities (integrity of location, design, setting, materials, workmanship, or association) do not need to be present for eligibility as long as the overall sense of past time and place is evident.

(Emphasis added). Despite the zoning code’s considerable detail regarding the concept of “integrity” the Historic Preservation Staff’s report on which the Appealed Decision was based lacks any discussion of “integrity” but for the conclusion statement that integrity was retained. The Patel Family’s expert witness—an architect experienced in working with historic homes—detailed at length how the building’s integrity has been lost over the course of multiple renovations in 1961, 1978, 1994 and 2006.



Excerpt from Exhibit 3, p. 25

The next sentence in Zoning Code Section 8-103, specifies a second threshold legal criteria. The sentence explains that it is not sufficient for a building to reflect an architectural style of the past. Rather, “[i]n order to qualify for designation...individual properties **must have significant** character, interest or value as part of the historical, cultural, archaeological, aesthetic, or architectural heritage of the City, state or nation” (emphasis added). In short, whatever makes a building special must be “significant.”

The third sentence in Zoning Code Section 8-103’s opening paragraph is inapplicable to our analysis. It relates solely to the historic designation of applications designating multiple properties. The Appealed Decision designated only the Property.

The fourth sentence opens the section’s second half. It explains that—in addition to a finding of “integrity” and “significance” required earlier in the paragraph— “[t]he eligibility of any potential local historic landmark...shall be based on meeting one (1) or more of the following criteria.” This sentence then leads to the section’s second half, a list of 18 criteria. The Staff Report (and therefore the Appealed Decision) focuses squarely on three of the 18 listed criteria. By failing to examine “integrity” or “significance” but concentrate only on Section 8-103’s fourth sentence. Such an analysis does not satisfy Section 8-103’s minimum requirements.

B. The Appealed Decision was Not Supported by Competent Substantial Evidence

The Appealed Decision was “quasi-judicial” in nature because it to applied existing rules (*i.e.*, Section 80-103) to a particular case, it impacts only a few persons (the Patel Family”), and it was contingent on the nature of facts presented.⁵ Florida law requires that quasi-judicial decisions “be based on evidence submitted at the hearing.” Decision makers at the hearing “cannot base their decision on their own information” or any information outside of what’s presented at the hearing.⁶

The evidence on record was extensive. Records available at the time of this filing are enclosed. However, a transcript of the proceeding will best crystalize our arguments below. That transcript will be submitted as soon as it is available. The Patel Family reserves the right to supplement this notice of appeal after receipt of the transcript.

The Patel Family also reserves its right to walk through the evidence at hearing on appeal before the City Commission. That said, in the broadest terms, the evidence on record demonstrates:

- The Property lacks the “integrity” that Zoning Code Section 8-103 requires as a condition of any historic designation.
- In losing its “integrity” of the course of decades of addition and renovation, the Property also lost this features that made it “significant” and that might otherwise have satisfied the requirements in Section 8-103’s fourth sentence.
- While the Staff Report includes the conclusory statement that changes made to the Property are “reversible”⁷ the only evidence on record is of Mr. Cardona’s extensive

⁵ See *Miami-Dade Cnty. v. City of Miami*, 315 So.3d 115, 120 (Fla. 3d DCA 2020) citing *D.R. Horton, Inc.—Jacksonville vs. Peyton*, 959 So.2d 390, 398-99 (Fla. 1st DCA 2007).

⁶ *Miami-Dade Cnty*, 315 So.3d at 126.

⁷ See Exhibit 2 at p. 14.

inspection of the Property’s structural conditions.⁸ Mr. Cardona’s evidence demonstrates the reversal would require expenditures approaching \$1,000,000.⁹

- The Staff Report’s position with respect to the Property’s integrity and significance was a departure with respect to other buildings in the same style that the HPB has designated.¹⁰
- Mr. Cardona testified that attempts to modernize the home to meet contemporary needs would necessarily take it further away from the defining characteristics of Minimal Traditional architecture.

C. Conclusion

Dictionaries give the word “landmark” two general meanings—one mundane and the other outstanding and important. A landmark can be a simple reference point like the Pollo Tropical that reminds us of the best place to turn if we want to get to Giralda’s restaurant row in a hurry, or like the rods that surveyors drive into the ground to determine the boundaries of a parcel of land.¹¹ A landmark can also be something of “of *outstanding* historical, aesthetic, or cultural, importance.”¹² Think of a landmark Supreme Court decision, a landmark discovery in science, or a landmark moment in history. Or, think of the landmark buildings that stand out in your mind when you think of “Coral Gables”—the George Merrick Home, George Fink’s Studio, or the Biltmore Hotel.

Coral Gables stands out in South Florida as a community that honors its history and strives to preserve it. The City’s success in this regard has been built through a thoughtful and fair application of rules designed to identify truly significant landmarks that are worth preserving. Coral Gables’ landmarks are not mundane things intended to mark a piece of land. The City’s legal criteria are designed to maintain and honor the City’s tradition but they are only as effective as their application. Here, with respect to 517 Aragon, the HPB simply departed from the City’s legal criteria and from the facts on the record. Accordingly, the Patel Family asks that the City Commission reverse the Appealed Decision.

Very truly yours,



Edward Martos

Enclosures

⁸ See Exhibit 3 at p. 40; Exhibit 6 at pp. 16-18.

⁹ See Exhibit 3 at p. 40; Exhibit 5, 6, and 7.

¹⁰ See Exhibits 9, 10, and 11.

¹¹ *Landmark*, Dictionary.com, Accessed 03/23/2023; see also No. 2 “Something used to mark the boundary of land”;

¹² *Id.*

Mr. Urquia
March 24, 2023

cc: Shaan and Patel, the Appellants
Stephanie Throckmorton, Esq., Assistant City Attorney
Warren Adams, Historic Preservation Officer
Chad Friedman, Esq.