

EXHIBIT 1- TOWN'S RESPONSE

PREFACE

This serves as the response to the appeal of the Historic Preservation Board's Order (the Order) rendered on October 9, 2023. The Order was rendered following a quasi-judicial hearing conducted by the Historic Preservation Board (HPB) on October 2, 2023. Following the presentation of evidence and testimony and public comment at the HPB's hearing, the HPB weighed the conflicting evidence presented and entered its order which contained Findings of Fact and Conclusion of Law. This appeal is brought by Adler Lake Park LLC (Owner) regarding the HPB's order pertaining to its application to rescind the historic status of the local historic designation of the Arnold Building (Building).

BACKGROUND

The Building at 918 Park Avenue was originally constructed in 1925 by the Arnold Construction Company in the Mediterranean Revival Architecture style which was popular during the time often referred to as Florida's "Land-boom Era." The Building is the last commercial building which remains of the historic Kelsey City downtown. The historic Kelsey City downtown was a component of the Plat of Kelsey City, created by the Olmstead Brothers and John Nolan, who were, at the time, and historically, two of the most renowned land planning and architectural firms in the history of the United States.

This historic downtown characterized by two story commercial buildings still exists, and it remains the policy of the Town Commission that the redevelopment of the Park Avenue Downtown District (PADD) must remain consistent with and be characterized as *low intensity type of development as set forth in the Town's Comprehensive Plan, Land Development Regulations (LDR) and Community Redevelopment Plan (CRA Plan).*

Objectives 2 and 5 of the Future Land Element of the Comprehensive Plan states that redevelopment shall be undertaken in a manner to ensure the protection of historic resources and “to be considerate to existing neighborhoods and uses” to maintain the Town’s character as prescribed in the town Goal Statement. As expressed in the LDR, specifically § 78-70, the purpose and intent of the Park Avenue Downtown District is to facilitate development of “small scale traditional downtown commercial areas.” The CRA Plan notes that the town has what many cities in Florida lack, an authentic Main Street/downtown and that the preservation of the original Kelsey City downtown character is the key to maintaining the Town’s uniqueness and enhancing its charm and authenticity. The redevelopment of properties within the PADD at significantly increased densities and heights¹ far exceeding the heights of buildings in the PADD would be inconsistent with the policy expressed in the Town Commission’s Comprehensive Plan, LDR, and CRA Plan.

In 1998 the HPB considered designating the building as a locally historic structure, as the owner of the building Charles Watkins intended to apply for designation of the National Register of Historic Places, according to the staff report at that time. On September 9, 1998, the HPB locally designated the Building in accordance with Town Code § 66-9. The HPB determined that the Building met the criteria of Code § 66-9(a)(1)-(4). The designation relied upon the findings of Janus Research, a well-known historic and archeological consulting firm that was engaged by the Town to survey possible historic structures in the Town. (See Exhibit 1 for photos of the building at the time of its designation,)

¹ The request to rescind the historic designation of the Building is part of the Owner’s desire to redevelop its property at significant density increases and with heights of up to *15 stories*. Currently, the PADD’s most intensive development is the One Park Place property which is *3 stories*.

In 2017, Rick Gonzalez, of REG Architects² (REG) was engaged by the Town to review a development application and certificate of appropriateness for the Building. At that time, with respect to the Building's historic integrity, REG found:

“Several minor changes have occurred to the exterior [of the building]. Items such as windows replacement, stucco repair and recoat, storefront alteration, enclosure and insensitive rear (south) alterations, infills and additions. Overall, the existing building retains a moderate degree of historic integrity of location, setting, materials, design, proportion, massing, feeling, and association.”

At the October 2, 2023 Hearing to rescind the local historic designation, the HPB considered the witnesses and evidence presented by the Town and the Owner, received public comment, and asked questions, and then deliberated. The HPB weighed the conflicting evidence and determined that the Building still possessed the qualities supporting its historic designation and that rescinding the designation of the Building to make way for much more intensive development would not be consistent with the Town's Comprehensive Plan or its LDR. (Exhibit 2 shows the building as it is today)

ARGUMENT

Standard of Review

As part of this appeal, the commission must determine whether the evidence supported the HPB's order denying the Owner's request to rescind the Building's designation. In doing so, the commission must evaluate the testimony and evidence from the Record to determine whether it agrees with the HPB that the Building **“complies with the same manners and procedures used in the original designation”** as set forth in

² REG Architects has also been engaged by the Town with respect to the historic Town Hall. No conflict of interest was asserted by the Town staff prior to his submission of REG's report on behalf of the Owner, or later at the HPB's quasi-judicial hearing although REG's arguments are clearly adverse to the Town's position. Consequently, the Town retained RJ Heisenbottle Architects to assist it in evaluating the Owner's application.

Code §66-9(a). This criteria focuses on whether a building is significant to the Town's history, architecture, archeology or culture and possess an integrity of design, setting, materials, workmanship or association, or the following criteria contained in subsections (1)-(5):

- (1) Are associated with distinctive elements of the cultural, social, political, economic, scientific, religious, prehistoric and architectural history that have contributed to the pattern of history in the community, the county, South Florida, the state or the nation;
- (2) Are associated with the lives of persons significant in our past;
- (3) Embody the distinctive characteristics of a type, period, style or method of construction or work of a master, or that possess high artistic value; or that represent a distinguishable entity whose components may lack individual distinction;
- (4) Have yielded, or are likely to yield information in history or prehistory; or
- (5) Are listed in the National Register of Historic Places.

The Owner Did Not Demonstrate The Criteria Were No Longer Met

The Owner's argument relied upon a report by REG³. In its report and testimony to the HPB, REG changed its 2017 opinion regarding the Building which it rendered on behalf of the town, stating: "This ... [Building] does not meet or possess historic significance and does not retain a high degree of integrity." While REG claimed at the HPB meeting it did not have access to all the information in 2017, at a minimum REG would have had access to the Master Site File. It is this same information, accepted in 2017 that it now contests. To reach its different conclusion, REG's report focused on alterations that were made to the Building *before* the HPB's 1998 designation. REG's report did not conduct an analysis

³ REG was also the Town's consulting architect for Town Hall at the time the submission of its report and was recently selected to continue as the Town's architect pursuant to a continuing services contract.

of the criteria in Code § 66-9(a). For example, the REG report failed to address distinctive elements of the Buildings' contributions to the Town's cultural or social history; the lives of persons significant to the Town's past; and the distinctive characteristics of a type period, style or method of construction.

Instead of being guided by the criteria of Code § 66-9(a), the REG report merely compared the Building's appearance in 1925 and 1998, and through the present day. It contains general statements of the changes to the Building since its original construction in 1925, and on this basis alone draws the conclusion that the Property no longer meets the criteria. Accordingly, the report and testimony REG presented regarding the Building's facade in the 1930s and 1940s, was not and is not relevant because it preceded the façade as it existed in 1998 when the Building was designated. Even if REG's argument that the appearance of the Building had changed is accepted as relevant, REG never explained how the Building "lost" its association with the early cultural, social, and economic history of the Town. *Importantly, the only way that the Building could lose its association with the early cultural, social, and economic history of the Town would be if it is demolished.*

The Staff Report Demonstrated The Building Continued To Meet the Criteria

Town Planner Karen J. Golonka presented the staff report of the Community Development Department (the Department) which demonstrated that the Building is associated with: (1) the Town's cultural and social history; (2) persons significant to the Town's past; (3) embodies distinctive characteristics of a type style or method of construction; and yields information important to the Town's history.

- (1) The Building is associated with the Town's cultural and social history.

The Florida Master Site File #8PB9607, which was incorporated into the Department's report of the Building's continuing historic significance:

This is the last remaining commercial building from the Boom Times era. It retains most of its historic physical integrity and modifications are limited to the replacement of some original windows. Based on architectural significance and associations with the early history of Kelsey City, this resource is considered to be potentially eligible for listing on the National Register of Historic Places.

The owner Charles Watkins application to the National Register of Historic Places noted that the Building was originally constructed in 1925 by the Arnold Construction Company in the Mediterranean Revival Architecture style, which was popular at the time of Florida's "Land-Boom" era, and was part of the thriving Kelsey City downtown. The Arnold Construction Company built the Building for its headquarters and was instrumental to the growth and development of Kelsey City. The Building also housed the Arnold Grocery, Dr. Pearson's clinical offices, and later the Town's first United States Post Office. Besides being prominent businessmen, the Arnold brothers and their wives were active in Kelsey City's cultural and social groups, including the Kelsey City Community Club, the Kelsey City School and were the founders of the Community Church. Following their construction of buildings in Kelsey City, the Arnold Construction Company worked throughout Palm Beach County in the 1930s and 1940s.

(2) The Building is associated with persons significant to the Town's past

The Arnold Construction Company was started by two brothers, Herman and J.Y. Arnold. The Arnold brothers traveled to Kelsey City during the Land Boom era, aware of the development opportunities in south Florida. The Arnold brothers entered into a building contract with Harry Kelsey whereby Kelsey provided them with land and the Arnold

brothers agreed to build 100 “spec” houses. The Arnold construction Company also constructed commercial buildings throughout the Town including the Town Hall, the Florida East Coast Railroad Station, and the Kelsey City School.

(3) The Building embodies distinctive characteristics of style, type or method of construction

The Department’s report explained that the Building retains historical features such as a Mediterranean Revival style⁴ with stucco exterior walls, arched openings, twisted cast stone columns, quoins on the first floor, and pecky cypress brackets underneath the roof eaves. When the Building was constructed, it was one of numerous commercial buildings located along Park Avenue. In the 1920s, Park Avenue was lined with other commercial buildings similar to the Building, and other commercial downtown districts which emerged during the Land Boom-era. These predominantly **two-story buildings** exhibited Mediterranean Revival or Spanish influences, flat roofs, hollow tile construction, and substantial lot coverage. (See Exhibit 3)

The Building is setback from Park Avenue approximately 6 to 8 feet, which is much less than the setbacks exhibited by the surrounding non historic buildings. The Building’s placement, directly adjacent to the street without a “sea of parking” in the front, speaks to a time before automobiles dominated the downtown area. These characteristics are associated with the architectural and planning style of this time period thus also the type and style of development during this era in the Town’s history. The September 1928 hurricane destroyed the majority of these commercial buildings. The Building was damaged by the 1928 hurricane. The Building was repaired and its facade modified as

⁴ This style is similar to the historic Town Hall building.

we see it today, either immediately following the hurricane or sometime within the next 22 years. Today, the Building retains its Mediterranean Revival style. The Building is the last remaining commercial building in the Town having the characteristics, type and style of the commercial buildings constructed along Park Avenue.

The RJHA Report Demonstrated The Building Continued To Meet The Criteria

In accordance with the Town Code, RJHA conducted a review of the Building based upon its analysis of the criteria of Code § 66-9(a). RJHA determined that the Building had changed little since it was designated in 1998 and that it maintains its architectural integrity and qualities for which it listed by the HPB. RJHA concluded that the Building continues to meet the criteria of Code § 66-9(a) and that there was no justification for the HPB to rescind its designation. RJHA's report and testimony was that since the 1998 designation, repairs and improvements have been made to the Building, including reroofing, structural reinforcing, signage, etc. The RJHA report revealed that two Special Certificate of Appropriateness approvals were issued for the Building, both confirming that the changes were consistent with the Mediterranean Revival style that was important to the Building's original designation. The RJHA Report concluded that, despite the changes made following the Building's designation, the Building "still possesses its integrity of location, design, setting, materials, workmanship, association for which it was nominated."

Referencing a photograph of the building taken in 1950, which was included with the RJHA Report, Richard Heisenbottle of RJHA testified that the Building had been modified in keeping with its Mediterranean style prior to its historic designation. Given that the Building was designated for its appearance in 1998 and not for its appearance in 1925, Heisenbottle opined that any comparison of the Building to its original appearance would

be “unjustified.” The appropriate comparison would be between the Building’s appearance in 1998 and its current appearance. To this effect, Heisenbottle testified that the Building looks virtually the same as it did when it was historical designated and therefore, the Building has not ceased to meet the criteria for listing as a designated historic landmark. Because the qualities which caused the Building to be originally listed have not been lost or destroyed, Heisenbottle concluded that “the building has changed little since it was designated in 1998, it maintains its architectural integrity and qualities for which it was listed locally, and therefore continues to meet the criteria for designation.”

Dianne Sophinos, an assistant historian with the Lake Park Historical Society, testified that the 100 year old Building has withstood numerous hurricanes. Ms. Sophinos testimony confirmed the many uses of the Building throughout the Town’s history as a United States Post Office, as a Sundry shop, as one of the Town’s first libraries, as a typewriter repair shop, and as many other shops over the years.

Conclusion

The Building is the last remaining 1920s Mediterranean Revival style commercial building in the historic Park Avenue downtown area, which despite the loss of many buildings retains the charm and authenticity of the Town’s architectural, social, cultural and economic history. The totality of the evidence presented to the HPB demonstrated that the Building’s appearance remains nearly identical to its appearance at the time of designation in 1998. The Building still meets the criteria of Code §66-9(a). Accordingly, the Town Commission must affirm the HPB’s unanimous decision to deny the Owner’s application to rescind the historic designation.

1918 BUILDING APPEARANCE AT TIME IT WAS DESIGNATED LOCALLY HISTORIC



Top: Likely appearance. HPB was informed at the Hearing that changes had been approved to add awnings and restore the roof to its original tile appearance- bottom picture.

Photos Included in the Application for the National Register of Historic Places

918 BUILDING – 2023

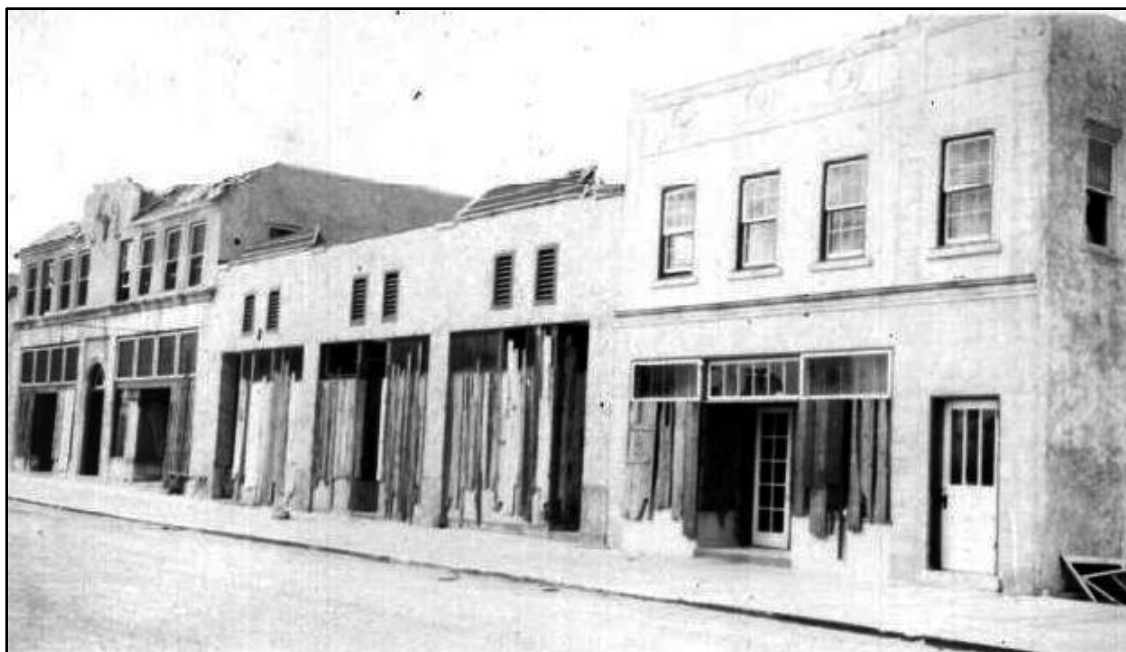


KELSEY CITY- BOOM TIME ERA



Looking east — from the railroad tracks. The Blue Goose is east of Western Union.

Early town character



**Hurricane of 1928 – 900 block of Park Avenue
918 Building is on the left**

EXHIBIT 4

918 Building- 1950

