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**HISTORIC DISTRICTS REVIEW BOARD FIELD TRIP**

**TUESDAY, October 11, 2016 at 12:00 NOON**

**HISTORIC PRESERVATION DIVISION, 2<sup>nd</sup> FLOOR CITY HALL**

**HISTORIC DISTRICTS REVIEW BOARD HEARING**

**TUESDAY, October 11, 2016 at 5:30 P.M.**

**CONVENTION CENTER SECOND FLOOR NAMBE ROOM**

\*\*\*AMENDED\*\*\*

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES: September 22, 2016 and September 27, 2016
- E. FINDINGS OF FACT & CONCLUSIONS OF LAW

Case #H-16-044A. 124 West Booth Street.  
Case #H-16-078. 564 Garcia Street.  
Case #H-16-080. 550 1/2 Canyon Road.  
Case #H-16-082. 326 South Guadalupe Street.  
Case #H-16-069. 715 Gregory Lane.  
Case #H-16-072A. 203 Canyon Road.  
Case #H-16-073A. 320 Paseo de Peralta.  
Case #H-16-074A. 4 Placita Rafaela.  
Case #H-16-075. 1672 Cerro Gordo Road.  
Case #H-16-076B. 222 North Guadalupe Avenue.

Case #H-16-044B. 124 West Booth Street.  
Case #H-16-079. 984 Acequia Madre Unit A.  
Case #H-16-081A. 417 Agua Fria Street.  
Case #H-04-076. 201 Old Santa Fe Trail.  
Case #H-16-071. 1112 Camino San Acacio.  
Case #H-16-072B. 203 Canyon Road.  
Case #H-16-073B. 320 Paseo de Peralta.  
Case #H-16-074B. 4 Placita Rafaela.  
Case #H-16-076A. 222 North Guadalupe Avenue.  
Case #H-16-077. 216 Gonzales Road/216 Lorenzo Lane.

- F. BUSINESS FROM THE FLOOR
- G. COMMUNICATIONS
- H. ACTION ITEMS

1. Case #H-16-083. 347 East Palace Avenue. Downtown & Eastside Historic District. Jerry Powers, agent for 347 Owner LLC, owner, proposes to construct a coyote fence to the maximum allowable height of 8' on a non-contributing non-residential property. (Sobia Sayeda)
2. Case #H-15-056. 461 Camino de las Animas. Downtown & Eastside Historic District. Kate Leriche, agent for Newton White, owner, proposes to construct a 400 sq. ft. freestanding carport to a height of 9'6" on a contributing residential property. (Nicole Ramirez Thomas)
3. Case #H-16-070. 442 Camino de las Animas. Downtown & Eastside Historic District. Jim Swearingen, agent/owner, proposes to construct a 360 sq. ft. attached garage to a height of 12'4" on a non-contributing residential structure. (Nicole Ramirez Thomas)
4. Case #H-16-084. 629 & 629 1/2 Garcia Street. Downtown & Eastside Historic District. Kate Leriche, agent for Anne Burnett Windfohr, owner, proposes to repair historic windows and trim on primary elevations and replace historic windows and remove trim on non-primary elevations on two contributing residential structures. An exception is requested to remove architectural features. (Section 14-5.2(D)(5)(b)). (David Rasch)
5. Case #H-16-081B. 417 Agua Fria Street. Downtown & Eastside Historic District. Jake Rodriguez, agent for Shrine of Our Lady Guadalupe, owners, proposes to replace windows on a contributing structure. An exception is requested to remove historic material and not replace in-kind, change opening dimensions, and add an opening where one does not exist (Section 14-5.2(D)(5)(a)(i) and (ii)). (Nicole Ramirez Thomas)

- I. MATTERS FROM THE BOARD
- J. ADJOURNMENT

Cases on this agenda may be postponed to a later date by the Historic Districts Review Board at the noticed meeting. Please contact the Historic Preservation Division at 955-6605 or check [http://www.santafenm.gov/historic\\_districts\\_review\\_board\\_hearing\\_packets](http://www.santafenm.gov/historic_districts_review_board_hearing_packets) for more information regarding cases on this agenda.



Agenda

DATE 9/22/16 TIME 4:45p

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**HISTORIC DISTRICTS REVIEW BOARD FIELD TRIP**

**TUESDAY, October 11, 2016 at 12:00 NOON**

**HISTORIC PRESERVATION DIVISION, 2<sup>nd</sup> FLOOR CITY HALL**

**HISTORIC DISTRICTS REVIEW BOARD HEARING**

**TUESDAY, October 11, 2016 at 5:30 P.M.**

**CONVENTION CENTER SECOND FLOOR NAMBE ROOM**

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES: September 27, 2016
- E. FINDINGS OF FACT & CONCLUSIONS OF LAW

Case #H-16-044A. 124 West Booth Street.

Case #H-16-078. 564 Garcia Street.

Case #H-16-080. 550 1/2 Canyon Road.

Case #H-16-082. 326 South Guadalupe Street.

Case #H-16-044B. 124 West Booth Street.

Case #H-16-079. 984 Acequia Madre Unit A.

Case #H-16-081A. 417 Agua Fria Street.

- F. BUSINESS FROM THE FLOOR
- G. COMMUNICATIONS
- H. ACTION ITEMS

1. Case #H-16-083. 347 East Palace Avenue. Downtown & Eastside Historic District. Jerry Powers, agent for 347 Owner LLC, owner, proposes to construct a coyote fence to the maximum allowable height of 8' on a non-contributing non-residential property. (Sobia Sayeda)
2. Case #H-15-056. 461 Camino de las Animas. Downtown & Eastside Historic District. Kate Leriche, agent for Newton White, owner, proposes to construct a 400 sq. ft. freestanding carport to a height of 9'6" on a contributing residential property. (Nicole Ramirez Thomas)
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5. Case #H-08-054. 530 Camino del Monte Sol. Downtown & Eastside Historic District. Lisa Roach, agent for Robert and Kris Barrie, owners, proposes to construct 1,641 sq. ft. of additions, a 3'4" yardwall, and replace doors on a contributing residential structure. An exception is requested to exceed the 50% footprint rule (Section 14-5.2(D)(2)(d)). (Nicole Ramirez Thomas)

- I. MATTERS FROM THE BOARD
- J. ADJOURNMENT

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**HISTORIC DISTRICTS REVIEW BOARD**  
October 11, 2016

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**MINUTES OF THE**  
**CITY OF SANTA FÉ**  
**HISTORIC DISTRICTS REVIEW BOARD**

**October 11, 2016**

**A. CALL TO ORDER**

A regular meeting of the City of Santa Fé Historic Districts Review Board was called to order by Mr. Frank Katz, Vice-Chair, on the above date at approximately 5:30 p.m. in the Community Convention Center, Nambé Room, 201 W. Marcy Street, Santa Fé, New Mexico.

**B. ROLL CALL**

Roll Call indicated the presence of a quorum as follows:

**MEMBERS PRESENT:**

Mr. Frank Katz, Vice Chair  
Ms. Meghan Bayer  
Ms. Jennifer Biedscheid [arriving later]  
Mr. Edmund Boniface  
Mr. William Powell

**MEMBERS EXCUSED:**

Ms. Cecilia Rios, Chair  
Mr. Buddy Roybal

**OTHERS PRESENT:**

Mr. David Rasch, Historic Planner Supervisor  
Mr. Zachary Shandler, Assistant City Attorney  
Ms. Sobia Sayeda, Senior Planner  
Ms. Nicole Ramirez Thomas, Senior Planner  
Mr. Carl Boaz, Stenographer

**NOTE: All items in the Committee packet for all agenda items are incorporated herewith by reference. The original Committee packet is on file in the Historic Planning Department.**

## C. APPROVAL OF AGENDA

**Member Boniface moved to approve the agenda as presented. Member Bayer seconded the motion and it passed by unanimous voice vote. Member Biedscheid was not present for the vote.**

## D. APPROVAL OF MINUTES:

### 1. September 22, 2016

Vice-Chair Katz requested the following changes to the minutes:

On page 6, 3<sup>rd</sup> paragraph should be 1996 as the date of the height ordinance rather than 1986.

On page 8 is the same correction.

Maggie's last name is Anderson, not Emerson.

On page 9, 4<sup>th</sup> paragraph, should say Old Santa Fé Trail, not Water Street.

On page 12 at the top, where John Eddy speaking, 4<sup>th</sup> line down it should say "that's kind of where we are" (not poor).

On page 17, last paragraph, 3<sup>rd</sup> line should say "infringing" instead of "infringe." On the 4<sup>th</sup> line, it should say "coming from the other direction."

On page 20, 4<sup>th</sup> line it should say "a design of 49'," not 41'.

On page 49, last line should say "bottom of the interior windows."

Mr. Rasch read changes requested by Ms. Gheen:

On page 6, first paragraph after "she said that is incorrect", it should read: "The District Court in Conclusion of Law number 22, said that 'The Petitioner had no vested right to construct buildings on the Property up to a height of 65 feet.' And Conclusion of Law number 23, that 'The Historic Design Review board and the Santa Fe City Council were not estopped from denying Petitioner's application for a permit to build structures on the property up to 65 feet in height.'"

On page 6, 2<sup>nd</sup> paragraph, it should read, "The same correction applies to the Applicant's response to criterion 6 on page 5 regarding the subsequent ruling from the District Court." The rest should be deleted in that paragraph.

On page 6, 3<sup>rd</sup> paragraph, it should read that "...it was in 1996 that the height ordinance was passed."

On page 8, 9<sup>th</sup> paragraph, it should read, "Ms. Gheen commented that in Marcy 2000 was when the District Court Rule on it and that decision referenced the 1996 height ordinance. One could say that the applicant knew of the height ordinance then since they were an active litigant at that point." In the next sentence, "Council and the Sommer/Karnes law firm" should be replaced with "its legal counsel, the Sommer/Karnes law firm" and Maggie Emerson should be Maggie Anderson.

Member Biedscheid arrived and requested the following changes:

On page 21, 6<sup>th</sup> paragraph, 2<sup>nd</sup> line, should say, "Anything said in the last hour to change my opinion about the responses to the exception criteria." And in the next sentence, it should say, "I have to say that I disagree with Staff..."

**Member Boniface moved to approve the minutes of September 22, 2016 as amended. Member Bayer seconded the motion and it passed by unanimous voice vote.**

## **2. September 27, 2016**

Member Boniface requested the following changes to these minutes:

On page 18, 6<sup>th</sup> paragraph from the bottom where it should say, "There appears to be a few holes in the drawings."

On page 27, 4<sup>th</sup> paragraph from the bottom, it should say, "Mr. Boniface asked if it went all the way to west building."

**Member Boniface moved to approve the minutes of September 27, 2016 as amended. Member Biedscheid seconded the motion and it passed by unanimous voice vote.**

## **E. FINDINGS OF FACT & CONCLUSIONS OF LAW**

**Case #H-16-044A. 124 West Booth Street.**

**Case #H-16-078. 564 Garcia Street.**

**Case #H-16-080. 550½ Canyon Road.**

**Case #H-16-082. 326 South Guadalupe Street.**

**Case #H-16-069. 715 Gregory Lane.**

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**Case #H-16-072B. 203 Canyon Road.**

**Case #H-16-073B. 320 Paseo de Peralta.**

**Case #H-16-074B. 4 Placita Rafaela.**

**Case #H-16-076A. 222 North Guadalupe Avenue.**

**Case #H-16-077. 216 Gonzales Road/216 Lorenzo Lane.**

The Board made no changes to any of these FF/CL.

**Member Boniface moved to approval all the Findings of Fact and Conclusions of Law listed on the agenda. Member Bayer seconded the motion and it passed by unanimous voice vote.**

A copy of the Findings of Fact and Conclusions of Law as listed above is attached to these minutes as Exhibit 1.

**F. BUSINESS FROM THE FLOOR**

There was no business from the floor.

**G. COMMUNICATIONS**

Mr. Rasch introduced Ms. Carla McWilliams, with the New Mexico Historic Preservation Division.

Ms. McWilliams HPD SHPO - Certified Local Government program. She said that Santa Fe has been a CLG since 1986.

This year marked the 50<sup>th</sup> anniversary of the National Preservation Act. The goal is to empower local communities for designating and preserving historic places. The benefits of the CLG program is to extend the federal act into local communities. HPD Staff are available to assist communities. Ten percent of the federal allocations may be made available in competitive grants and last year, over \$75,000 were awarded. The uses include allowing historic preservation commissioners to attend national preservation conferences. Eight communities in New Mexico are in the CLG designation and each program is different but each must have an approved local preservation ordinance.

The SHPO evaluates each one and this year, Santa Fe and Taos are being evaluated. She met earlier with Mr. Rasch to undertake the evaluation. SHPO will provide a report in the next few weeks.

**H. ACTION ITEMS**

Vice-Chair Katz announced to the public the procedures for filing appeals to the Governing Body regarding decisions of this Board which must be submitted within 15 days after the approval of FF/CL.

1. **Case #H-16-083. 347 East Palace Avenue.** Downtown & Eastside Historic District. Jerry Powers, agent for 347 Owner LLC, owner, proposes to construct a coyote fence to the maximum allowable height of 8' on a non-contributing non-residential property. (Sobia Sayeda)

Ms. Sayeda gave the staff report as follows:

**BACKGROUND & SUMMARY:**

347 E Palace Avenue is a non-contributing structure built before 1928 in Spanish-Pueblo Revival style in the Downtown and Eastside Historic District.

The applicant proposes to remodel the property with the following item:

1. 8' high irregular topped latilla fence along north of property as submitted, where the maximum allowable height is 8'. The proposed fence is located on the interior of an existing low fence which is a combination of horizontal board fence and latilla fence. The structural elements are proposed to be on the exterior of the property for ease of construction.

**STAFF RECOMMENDATION:**

Staff recommends approval of this application which complies with 14-5.2(D)(9) General Design Standards, Height Pitch Scale and Massing and (E) Downtown and Eastside Historic District.

Questions to Staff

There were no questions to Staff.

Applicant's Presentation

Present and sworn was Mr. Jerry Powers, who said this property is used as offices for a law firm and recently new condominiums were built behind it. He pointed out that there was no privacy from their windows. Sometimes if you want to see a counselor you need privacy. The latilla is about 8' average height. This is on the back side away from the street.

Questions to the Applicant

Vice-Chair Katz asked how tall the existing latilla fence is.

Mr. Powers said it is 6' high.

Member Boniface asked if they plan to build the fence on the other side of the current latilla fence.

Mr. Powers agreed.



Member Boniface asked if the pipe would be on the outside.

Mr. Powers said it would be on the inside.

Member Boniface said if so, then the drawings are incorrect.

Mr. Powers said the intention is to have that infrastructure on the inside. He agreed to make sure to correct that before going to get a permit.

#### Public Comment

There were no speakers from the public regarding this case and the public hearing was closed.

#### Action of the Board

**Member Boniface moved in Case #H-16-083 at 347 East Palace Avenue, to approve the application as submitted with the condition that the structure for the fence will be to the interior of 347 East Palace and drawings be changed and submitted to staff prior to submitting for a building permit. Member Biedscheid seconded the motion. Member Powell asked for an added condition that no latillas exceed 8' since that is the maximum allowable height and thanked the applicant for the varied heights of the tops. Member Boniface accepted that amendment as friendly and the motion passed by unanimous voice vote.**

- 2. Case #H-15-056. 461 Camino de las Animas. Downtown & Eastside Historic District. Kate Leriche, agent for Newton White, owner, proposes to construct a 400 sq. ft. freestanding carport to a height of 9'6" on a contributing residential property. (Nicole Ramirez Thomas)**

Ms. Ramirez Thomas gave the staff report as follows:

#### **BACKGROUND & SUMMARY:**

461 Camino de las Animas is a Spanish Pueblo Revival style residence which has been designated as contributing to the Downtown and Eastside Historic District. The house was originally constructed in 1927 and the house was added to in 1940 in a design by John Gaw Meem. The addition included a music room with the fenestration designed by Victor Hugo Proetz. A second story was added to the building in the 1950s. Mr. Murphy, who wrote the HCPI form in 2015, notes that while the design of the additions in the 1940s and 1950s were by John Gaw Meem the built interpretation of them fails to capture his detail and character.

The applicant proposes to add a detached carport at the southeast corner of the property.

- The structure will be 9 feet 6 inches in height and 20 feet by 20 feet (400 square feet) in its dimensions.
- It will be set back 5 feet from the east property line.
- The carport roof will have a minimal pitch for drainage which will be concealed by parapets.
- Vigas, posts, and beams will be stained brown and copper flashing is proposed for the roof edge.
- The carport is designed to match the existing carport attached to the main house.

### **STAFF RECOMMENDATION:**

Staff recommends approval of the application as it complies with 14-5.2(D)(9) Height, Pitch, Scale, and Massing and 14-5.2 (E) Downtown and Eastside.

### **Questions to Staff**

Member Boniface noted in the Staff report it says the style of this carport is similar to the style of the existing carport that is attached to the main house in the front, which is a slightly different address. He asked her to show the Board on the site plan where that carport is that they are trying to mimic.

Ms. Ramirez Thomas said she would ask the applicant to show that.

Member Biedscheid asked for the historic status of the garage and adjacent greenhouse. She realized they were not on the subject property but close to it.

Ms. Ramirez Thomas said the greenhouse is Significant and the garage is Contributing.

Member Biedscheid referenced Section 14-5.2 (D) (1) regarding Significant and Contributing structures where it says, "The alteration of architectural features and spaces ...by the status shall be prohibited." She asked Staff to comment on the building of a new structure in the space adjacent to a significant structure and a contributing structure and what effect the new structure will have on them.

Mr. Rasch said Staff believes the carport design does not mimic the greenhouse or garage to minimize their importance so it would not mean downgrading those structures.

### **Applicant's Presentation**

Present and sworn was Ms. Kate- Leriche, 814 Camino Acoma, who said she didn't know if the verbiage was incorrect but this is similar to the rear portal. There is no existing carport but it will have the same treatment for viga ends, etc.

### Questions to the Applicant

Member Boniface said on today's field trip, the wall between the proposed carport and the existing greenhouse is now a coyote fence. When the applicant came last year, she asked to have a masonry stuccoed wall. He asked what happened.

Ms. Leriche said she asked for administrative approval to change it from a wall to get that fence.

Member Boniface asked who approved it.

Ms. Leriche said it was Staff but didn't remember who.

Member Boniface said that was a shame because he really didn't think he would have approved that as a coyote fence. He didn't think it was in keeping with the rest of these two properties.

### Public Comment

There were no speakers from the public regarding this case and the public hearing was closed.

### Action of the Board

Member Biedscheid said while she could see nothing out of compliance with the ordinance in this design, she thought it does detract from a very special property. It is surrounded by significant and contributing buildings and the carport is now in the corner of a large poured asphalt parking lot now. The carport will also now detract from those properties.

**Member Powell moved in Case #H-15-056 at 461 Camino de las Animas, to approve as submitted in compliance with 14-5.2. Member Bayer seconded the motion and the vote resulted in a 2-2 tie vote.**

**Vice-Chair Katz voted no and the motion failed.**

**Member Boniface moved to postpone Case #H-15-056 until the applicant can revise the design to show something more reflective of what is currently on the two properties and that the design not necessarily mimic exactly but still show that it is different and of a different time period.**

He explained that the reason he made the motion is because he feels the application is out of character.

**Member Biedscheid seconded the motion and it passed by majority (3-1) voice vote with Member Powell dissenting.**

Vice-Chair Katz welcomed Mr. Shandler as the Attorney for this meeting.

3. **Case #H-16-070. 442 Camino de las Animas.** Downtown & Eastside Historic District. Jim Swearingen, agent/owner, proposes to construct a 360 sq. ft. attached garage to a height of 12'4" on a non-contributing residential structure. (Nicole Ramirez Thomas)

Ms. Ramirez Thomas gave the staff report as follows:

**BACKGROUND & SUMMARY:**

442 Camino de las Animas is a residential structure built in 2013-14 in Spanish-Pueblo Revival style. It is noncontributing to the Downtown and Eastside Historic District. The applicant proposes to add an attached garage to the southwest elevation of the existing home. The proposed garage will require partial enclosure of an existing portal.

The applicant proposes to remodel the property with the following.

1. Add 360 square foot attached garage, not to exceed the height of 12 feet 4 inches. The owner of the property has a private agreement with his neighbor that the garage not exceed an elevation of 7083 feet above mean sea level. The proposed garage will be at 7082 feet and 10 inches above mean sea level.
2. Garage door color will be an almond color or tan color.
3. Exterior lighting will be sconces like those seen at the Inn on the Alameda and the Inn at Loretto.
4. Stucco will be cementitious El Rey "Buckskin" to match existing.

Ms. Ramirez Thomas noted that three letters were received concerning this application.

**STAFF RECOMMENDATION:**

Staff recommends approval as the application complies with 14-5.2 (D) (9) General Design Standards for All H Districts Height, Pitch, Scale, and Massing and 14-5.2 (E) (2) Downtown and Eastside Design Standards Recent Santa Fe Style.

She said she could provide some information on the history. She also received an email from Nathalie Kent concerning this case. [A copy of the email is attached to these minutes as Exhibit 2.]

### Questions to Staff

Vice-Chair Katz said he didn't see the sconces in the drawings and asked where they are going.

Ms. Ramirez Thomas suggested asking the applicant. They are supposed to go by the doors.

Member Biedscheid asked for the maximum allowable height.

Ms. Ramirez Thomas said it is 15' 8"

Member Biedscheid asked what the total lot coverage with the garage is.

Ms. Ramirez Thomas said the coverage is 27%. >>>

Vice-Chair Katz asked how was the height was derived.

Ms. Ramirez Thomas said it was from the streetscape - the interior circumference around the property.

Vice-Chair Katz asked where the 15' starts from.

Ms. Ramirez Thomas said it is from natural grade but there has been some increase in grade over the years.

Vice-Chair Katz asked where the natural grade is shown.

Ms. Ramirez Thomas said it is about 10' to 15' below the present grade.

Vice-Chair Katz asked why the natural grade wouldn't be where we measure for the garage.

Mr. Rasch said "This is a previous case where there was an appeal and for adjustment, the former Land Use Director brokered a settlement and part of that was an approval through the existing building pad as the starting point. So when this Board approved the house, that's where we started from - the existing pad was the starting point."

Vice-Chair Katz said there was no ruling from the Board of Adjustment on that though.

Mr. Rasch said that was correct.

Vice-Chair Katz said the natural grade - Is the natural grade where the garage is proposed to be different from where the natural grade for where the house is?

Ms. Ramirez Thomas said it will be a little lower than where the grade of the house is.

Vice-Chair Katz recalled that, originally, there was a garage that got deleted from the plans.

Ms. Ramirez Thomas agreed.

Vice-Chair Katz reasoned that it wasn't before the Board of Adjustment.

Ms. Ramirez Thomas agreed. Because of the zoning issues in 2001 and in 2013, the applicant removed the garage and the house was approved without the garage.

Member Powell said, in reading the letters, he wanted to make sure he understood. Was the garage submitted and denied?

Ms. Ramirez Thomas said that was incorrect. It was not submitted.

Member Powell said the elevation he was reading in the letter was 7085 feet and it used to be 7070 feet.

Ms. Ramirez Thomas asked which letter.

Member Powell said it was from Richard Klein.

Ms. Ramirez Thomas said that was from 2012 so it is not current.

Member Powell understood that what happened was that at one point, the height restriction was a certain height and then it changed.

Ms. Ramirez Thomas clarified that there was an opportunity for the Board to provide an exception for additional height to the applicant because the corner slope was lower. But it wasn't granted and it wasn't needed at that time.

Member Powell surmised that the Board can only weigh certain things. The height calculation is 15' 8" and so as long as it doesn't exceed that, it falls within the Board's purview.

Ms. Ramirez Thomas agreed.

Member Powell reasoned that the height issue for the garage is not our purview. The Board of Adjustment set the height.

Ms. Ramirez Thomas disagreed. The Board of Adjustment discussion was for the grade and the fill brought in to create the location for the house.

Member Powell understood that they set the point of the finished grade.

Ms. Ramirez Thomas said that over time, things change. For whatever reason in the past, that was the grade analysis for the height the house was measured from.

Member Biedscheid asked in the calculation of 15' 8" if any allowance was given for slope.

Ms. Ramirez Thomas said it was not. It is the discretion of the Board but that was not requested.

Vice-Chair Katz said his understanding of the issue is not the height of the garage but where it starts from. He also understood the house was built with the height measured from the grade then but he was unclear and sought wisdom of where the natural grade is for where the garage is going in. Because it might be that the 15' 8" started from someplace else than where the house started.

### Applicant's Presentation

Present and sworn was Mr. Jim Swearingen, 442 Camino de las Animas, who said he bought the property in 1972 and remodeled the previous garage which is down the street and added one bedroom and bath and lived there until 1980. Last year, he completed this one on top.

He said he would like to correct that it is not fill. The lot sloped considerably and he had a complete set of plans and height maximum was 20'. His application was tabled for a zoning issue. The ordinance was changed and the maximum guest house size increased from 1,000 to 1,500 square feet so he went back with his plans and Mr. Rasch said the attorney had changed the rules on height calculation and it had to have a radius calculation. So it is now 15' 8" so his plan is now at 13' 8" or 2' below the allowable height. The garage on the west side is lower by 2' so it is 4' below the allowable. "That is below the agreement I entered into with Mr. Klein, who objected to the height. So I lowered the site and in mediation with the Land Use Department, I said I would lower the pad 2' more to accommodate the slope. And it cost me \$22,000. So I could make it one level. I couldn't have a split level home. So the parapet height of the house is below the agreement with Mr. Klein and the elevation is also."

"I complied with the agreement and with the City. The west end of the garage is 30' from the property line so it doesn't encroach on anybody. And it is lower than the house so it would not obscure view and furthermore, Mr. Klein won't be able to see the garage and the tree is there. So I think the objection is not valid. And it is more viable. From the neighbor's standpoint I think it is better to have the garage than an RV or a camper parked than a garage.

### Questions to the Applicant

Member Boniface asked what the height difference is between finished floor inside the residence versus the finished floor inside the garage.

Mr. Swearingen said it is 2'.

Member Boniface asked for the difference of heights between the highest parapet on the residence and the parapet on the garage.

Mr. Swearingen said, "The residence parapet is 13' 8" so two feet below that would be the floor of the garage."

Member Powell asked how tall the garage is.

Mr. Swearingen said it is 12' 4".

Member Powell asked for the ceiling height of the garage.

Mr. Swearingen thought it was 9' but didn't have the interior plans drawn yet.

Member Biedscheid noted in the preliminary zoning worksheet, it says the proposed height is 13' 8". So she asked if there was a change to the design to lower that height.

Ms. Ramirez Thomas agreed it was changed. It was on the September 13 agenda and after that time, we became aware of the agreement with Mr. Klein.

Member Biedscheid asked if that came through zoning.

Ms. Ramirez Thomas said it did not. It came through neighbor negotiation.

Member Biedscheid said it proposed six parking spaces and asked if that was the proposed parking.

Ms. Ramirez Thomas clarified that is for the entire property.

Member Boniface asked to be clear about this. On the Background and Summary, it says "The owner of the property has a private agreement with his neighbor that the garage not exceed an elevation of 7083 feet above mean sea level. The proposed garage will be at 7082 feet and 10 inches above mean sea level." He asked who the neighbor is that has the agreement and if the proposed drawings are within the private agreement.

Ms. Ramirez Thomas said Mr. Klein is the neighbor and the elevation is below their agreed upon height.

Member Boniface asked if it was by 2".

Ms. Ramirez Thomas agreed.

Member Boniface asked if Mr. Klein is in opposition to this.



Ms. Ramirez Thomas agreed. He is.

Member Boniface thought there was no disagreement about this, as far as he knew.

Ms. Ramirez Thomas agreed. This is a different plan from 2012. There is also a discussion about the location of the garage. I believe that is Mr. Swearingen's own doing. But there is no height violation because the grade being used is the one that is allowed.

Vice-Chair Katz, referring to the grading that went on, what the original grade was like in the back of those two houses.

Mr. Swearingen said he had a grading and drainage permit. The back was at 7086 and it came down rather steeply and then more gradually toward the north. It all drains down to the river from that plateau from the south side. In order to have one level, he cut down approximately 4'. He first had cut down 2' and Mr. Klein objected and delayed it year after year and with Mr. O'Reilly, he agreed to lower two more feet and had story poles done before and after and it was in compliance.

Vice-Chair Katz understood the highest point is the southeast corner and from the topo it goes down to the north and to the west.

Mr. Swearingen agreed.

Vice-Chair Katz asked, noting the original grade where the garage is, particularly the northwest corner of the garage - was that lower than where the house now sits?

Mr. Swearingen said the floor level is 7072 for the house floor and that topo line is about 7070 where that corner of the garage is shown.

#### Public Comment

Present and sworn was Mr. Richard Klein, who said they have lived there for 35 years and are the neighbors to the west and will be about 30' away from the garage. There has been a lot of information given that is not entirely accurate so he would be glad to answer questions. He hoped the Board had a chance to read his letter. [A copy of his letter is attached to these minutes as Exhibit 3.]

He said, "My wife and I are asking you to reject this because if you accept it, you will be approving an 18' structure from the bottom of the garage to the top of the house, based upon the way that you measure. It was said to you by me in that letter that he made this very same proposal originally in October, 2012 and it was placed on the calendar for the October 23, 2012 meeting. When he put up the sign, I went down and got a copy of the plans that he filed and met with Joseph Karnes and we looked at it and we saw that the bottom of the garage was going to be at something under 7068' and top ... Actually, it was going to be

7067' 8" and the top - this is based on the plan that he submitted - was going to be at 7085' 8" which is an 18' difference. So Joseph went to meet with David Rasch and right after that meeting, this matter was taken off the calendar and never came to the Board. It was just taken off the calendar. He had the same number when he came back in May."

Mr. Klein shared some exhibits. The first was an exhibit from the original proposal in 2012 showing the site plan. [A copy is attached to these minutes as Exhibit 4.]

Vice-Chair Katz asked if this was different than what was in the packet.

Mr. Klein said it was the same but he wanted to make sure it was put in the record.

Mr. Klein said pointed out the highlighted area on the site plan. He referred to the corner of the garage and pointed out the topo line and said that was why it was taken off the October 2012 calendar and disappeared for 8 months and was resubmitted in May. He wanted to make sure his letter was part of the record.

He said when he sent the letter, Mr. Swearingen knew the garage was a problem and he had other solutions - "because if you look at the size of the space below the maximum limit, all he had to do was add to the space of the house where the orange spots are. That is maybe 3 or 4 times the square footage of the garage - more than adequate space. But he didn't choose to take advantage of that but came back with exactly the same plan and it was rejected by staff. And this is the same plan."

Regarding the claim of changing the grade at the Board of Adjustment - the Board of Adjustment heard the grading plan but it went into mediation and it was never finished because Mr. Swearingen withdrew it from mediation.

He said, "It was said I approved the garage at that height but that is not true. I agreed to withdraw my appeal of his grading plan if any garage that was built at that house was no higher than that. I had no idea what he was going to build."

"So I think that addresses the issue. But when he came back in May 2013 to HDRB, he basically chose to not have a garage. He wanted a house and ... he chose just the house. If you look at his letter, he talked about it. He knows the garage was the problem. Now, frankly ... I think you can get a clear approach to the problem. When he built the house, he knew he would come back to get the 18' - he built the doors of the garage right into the house. That was an opening approved in the building permit. It was clear what he wanted to do. So he has a precedent to get an 18' house in a 15' 8" limit and that is a terrible precedent for you to set. Unfortunately, a lot of this has happened because not everyone remembers the facts."

He said Mr. Katz was asking about natural grade. He said he had a copy of the topo from 1976 and since he destroyed the grade when he illegally graded the plat in 2008. He offered to share his copy of the original topo if the Board would like to see it. He added that it is probably even lower than the 18' the Board is being asked to consider.

Mr. Klein asked them to compare his 2012 plan with this one. He pointed out the south wall of the garage location that paralleled the south property line and showed how it was now changed. He suggested that if they needed an affidavit, Mr. Karnes could supply that.

Mr. Klein saw no compelling reason for this plan. He felt Mr. Swearingen had plenty of opportunity to have a garage within the height limit but he chose to have it this way. He said he had more knowledge and the Board has some bad information about it.

Vice-Chair Katz asked if in his mind there were two options: drop it 3' or not build it.

Mr. Klein said that was a decision that he made, himself when he had the choice.

Member Biedscheid noted the Klein agreement was in place on August 15, 2011 before the house was built. And it sounds like it was in reference to a different plan that included a garage. She asked what the status of this agreement is now in reference to a new plan.

Mr. Klein said at the time the agreement was reached, he had no idea what Mr. Swearingen was going to do. "We made the agreement in the dark. I offered him four different plans. All we knew was what Matt O'Reilly told us about it at that time. One of the four plans, which he ultimately agreed to was that we are not agreeing to anything other than to withdraw our appeal. The others, we said, we would support them at HDRB but he chose a plan that didn't include that. His original application violated that agreement by 2.5 feet.

Mr. Klein said, "It was only when I went to see Mr. Rasch and Ms. Ramirez Thomas that he revised it."

Vice-Chair Katz asked Mr. Shandler about withdrawing the appeal.

Mr. Shandler clarified that this agreement is a private agreement and it is not involving the City. He was still trying to sort out what the basis of their agreement was.

Mr. Klein said, "Mr. Swearingen agreed to 1-5 a, b and c. the only thing I agreed to is #6."

Ms. Ramirez Thomas said she was uncertain where the height of 18' comes from.

Mr. Klein said the property has not changed. The lines for the driveway in 2012 plan - 70 and 68 go through the corner of his driveway. He showed where the 70 and the 68 were located on the topo site map. So from 7068 to 7085 is 18'. And the natural grade is even lower.

Member Boniface understood that even though the garage is 12' 8", he is saying that it is 18' high.

Vice-Chair Katz said the garage is being attached to the house as in the original proposal and, as one project, it would be 18' from the lowest point to the top of the house. And the question to Mr. Shandler was,

if he couldn't do it originally, can he do it now.

Mr. Shandler said in the in the exhibit he submitted, in the photographs, the top picture, it looks like he is representing this is where the proposed garage will sit.

Mr. Klein said the garage door, which he pointed out, is where it was located.

Mr. Shandler saw that one of the two openings would be connected to the garage. He asked where the 18' came in.

Vice-Chair Katz said it is from the bottom of the garage to the top of the house. As an original composition, if he came with it then, he couldn't do it because the grade is lower and the garage was eliminated to go from that level.

Mr. Klein agreed. That was why it was rejected.

Ms. Ramirez Thomas said there is no height exception. And he could have asked for one.

Vice-Chair Katz understood that and the neighbors could have made their comments then but they couldn't because it didn't come up.

Ms. Ramirez Thomas said there were indications in the file that the neighbors did make comments. But for whatever reason, Mr. Swearingen and Mr. Rasch made the decision to remove it and Mr. Swearingen decided not to add the garage. He lowered the grade two feet and from grade to top of the garage parapet is 12' 8".

Vice-Chair Katz said he understood all of that but after removing the garage, he didn't need that four feet.

Mr. Ramirez Thomas agreed he did not need it.

Vice-Chair Katz said then it wouldn't have come up at that time.

Ms. Ramirez Thomas said it is in the record. There are minutes of those discussions on height. The plan submitted here is different from that 2012 plan.

Member Powell thought the Board didn't have enough information to make a decision at this time and now we know there are records of those conversations. He said the Board needed more information and more from the attorney with thought beforehand. They need both accounts in order to be fair to both parties.

#### Action of the Board

**Member Powell moved to postpone Case #H-16-070 at 442 Camino de las Animas to get all of that information. Member Boniface seconded the motion and it passed by unanimous voice vote.**

Ms. Ramirez Thomas said it would have to be heard at the first meeting in November and she needed specifics on what information is needed.

Vice-Chair Katz said the minutes of the hearings would be needed.

Member Boniface asked if the Board could have a formal opinion from the Attorney where some of these heights come in. He thought they needed some guidance regarding the height calculations.

Member Biedscheid said she would like to see the basis for the 18' calculation and the agreement status.

Ms. Ramirez Thomas clarified that the agreement was not with the City. It was a private agreement.

Vice-Chair Katz agreed and it is not for the Board's consideration.

Another neighbor had wanted to speak and was asked to submit her statement in writing, to which she agreed.

- 4. Case #H-16-084. 629 & 629 ½ Garcia Street.** Downtown & Eastside Historic District. Kate Leriche, agent for Anne Burnett Windfohr, owner, proposes to repair historic windows and trim on primary elevations and replace historic windows and remove trim on non-primary elevations on two contributing residential structures. An exception is requested to remove architectural features. (Section 14-5.2(D)(5)(b)). (David Rasch)

Mr. Rasch gave the staff report as follows:

#### **BACKGROUND & SUMMARY:**

629 and 629½ Garcia Street are two single-family residential structures in the Alire Compound at the end of a private ungated driveway. The structures were constructed in a blended Spanish-Pueblo Revival and Territorial Revival style in the 1940s. 629 is listed as contributing to the Downtown & Eastside Historic District and the west elevation is designated as primary. 629½ is listed as contributing and the north and west elevations are designated as primary.

The applicant proposes to remodel the properties with the following four items.

1. The primary elevation historic windows and trim will be repaired and retained. Storm windows will be installed in front of the historic windows. Color will match existing "Pale Slate Blue".

2. Most non-primary elevation windows will be removed and replaced with aluminum clad windows in the existing locations and dimensions, in "Pale Slate Blue".
3. All non-primary elevation window and door trim will be removed and replaced with bullnose stucco. Staff from the Land Use and Legal Departments has determined that the Territorial trim is not part of a window or door, but it is an architectural feature other than doors and windows. Therefore, Section 14-5.2(D)(5)(b) applies. An exception has been requested to remove architectural features and the required criteria responses are at the end of this report.
4. Stucco will be repaired with El Rey cementitious material in "Buckskin".

## RELEVANT CODE CITATIONS

### 14-5.2(D) General Design Standards for All H Districts

#### (5) Windows, Doors, and Other Architectural Features

##### (a) For all façades of significant and landmark structures and for the **primary façades of contributing structures**:

(I) Historic windows shall be repaired or restored wherever possible. Historic windows that cannot be repaired or restored shall be duplicated in the size, style, and material of the original. Thermal double pane glass may be used. No opening shall be widened or narrowed.

(b) For **all façades of significant, contributing** and landmark structures, architectural features, finishes, and details other than doors and windows, shall be repaired rather than replaced. In the event replacement is necessary, the use of new material may be approved. The new material shall match the material being replaced in composition, design, color, texture, and other visual qualities. Replacement or duplication of missing features shall be substantiated by documentation, physical or pictorial evidence.

### PRIMARY FAÇADE

One or more principal faces or elevations of a building with features that define the character of the building's architecture.

### EXCEPTION TO REMOVE ARCHITECTURAL FEATURES (14-5.2(D)(5)(b))

(I) Do not damage the character of the streetscape

**Response:** We propose to only remove the wood trim on non-primary façades that are not visible from the street.

Staff response: Staff agrees with this statement. There are structures in the streetscape that do not have Territorial trim.

(ii) Prevent a hardship to the applicant or an injury to the public welfare

**Response:** The existing wood trim is very damaged and installed incorrectly causing deterioration at the head of the windows and trim and at the sill condition. Removing this trim will prevent the continuous need for repair and paint at the windows on non-primary façades.

Staff response: Staff does not agree with this statement. Maintenance and repair is needed for all structures no matter what their historic status designation is and the applicant has accepted that need for the primary elevations on these structures.

(iii) Strengthen the unique heterogeneous character of the city by providing a full range of design options to ensure that residents can continue to reside within the historic districts

**Response:** All primary façades will remain as is. We are proposing trim repair, paint to match existing and exterior storm windows on all primary façades. By allowing the owner to have aluminum clad windows on non-primary façades without the exposed wood trim, the owner saves money by not having to do the costly repair and replacement of wood trim and windows and cuts down on the maintenance costs associated with all wood windows and trim.

Staff response: The applicant did not address this criterion by discussing other design options available and why they are not the option of choice. Staff does not agree with the applicant's statement. Metal flashing can be applied to the wooden trim tops or the wood trim can be replaced by a wood substitute that does not require as much maintenance.

(iv) Are due to special conditions and circumstances which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the related streetscape

**Response:** The site for these properties is very small and non-primary façades are not visible.

Staff response: The applicant did not address this criterion by comparing this property to other properties. Staff does not agree with the applicant's statement because adjacent sites are similarly small to the applicant's sites and non-primary façades of adjacent structures are not visible, also.

(v) Are due to special conditions and circumstances which are not a result of the actions of the applicant

**Response:** The original install on the wood trim and sill will require yearly maintenance and repair. There is no evidence of flashing at the head of the window trim and the sill does not extend beyond the outside face of the wood trim creating the opportunity for water infiltration behind the stucco system.

Staff response: Staff agrees with this statement.

(vi) Provide the least negative impact with respect to the purpose of this section as set forth in Subsection 14-5.2(A)(1)

**Response:** The proposed removal of wood trim at the window and doors on non-primary elevations will not negatively impact the purpose of this section, as these elevations are not visible from the street.

Staff response: Staff does not agree with this statement. The Territorial trim on these structures are character-defining features that require preservation. There are other options available that would have less impact on the historic integrity of these structures.

### **STAFF RECOMMENDATION:**

Staff finds that the exception request to remove character-defining architectural features has not been met. However, the Board may find that the exception has been met if the applicant can address the deficiencies in the criteria responses at the hearing. Otherwise, this application complies with Section 14-5.2(C) Regulation of Contributing Structures, (D) General Design Standards, and (E) Downtown & Eastside Historic District.

### **Questions to Staff**

Member Biedscheid said regarding the responses that for #1, the whole question is wood trim on the non-primary elevations that are not visible from the street. In the comments, Staff said the streetscape does not have Territorial trim. But this is based on having Territorial trim being public. She was trying to understand that point.

Mr. Rasch said it is at the end of the street and not gated so it is still publicly visible. The streetscape as defined, is a 300' radius so in the applicable streetscape. But he agreed that it would not harm the streetscape because other buildings don't have this character.

Member Boniface understood but asked if it wouldn't be true that by keeping the trim, the design of the residence would be more cohesive. It is dressed up and nice on the front and just goes to a bullnose in the back. We did a walk around today. The bullnose will be very minimal if at all which means he didn't like the proposal. It is important that the building be looked at as a whole and not just the façade.



Mr. Rasch responded that these are not pure Territorial. There is no coping on the parapet and the rounded edges makes it pueblo revival and one has a beautiful pueblo porch. So it is a blend of features so it is not pure Territorial house.

Member Biedscheid recalled the Board had one on Gonzales where we allowed a nonconforming window to continue that façade for the sake of harmony of that building. This is a similar consideration.

Vice-Chair Katz said for criterion #5, what was described was a maintenance problem which he thought was exactly the applicant's responsibility. The owner is required to maintain their property. He was curious why Mr. Rasch thought that it was not their fault.

Mr. Rasch said there was a developer that did most of these in the Alire Compound. The initial remodel caused this problem. The current owner didn't create that but he is required to maintain that. This is the first proposal to mitigate that.

#### Applicant's Presentation

Ms. Leriche (previously sworn) said when she originally submitted this proposal, it was with the understanding that the trim would be part of the window and she got clarification that the trim was an architecture feature. "Unfortunately I probably got the owner all excited."

The building is very well maintained. There are two windows on 629½. It is a question of cost and maintenance. She liked the staff response in #3. That is a great option and there apparently is no opposition from the neighbors. Their preference is for removal because it was poorly installed.

All that said, she thought the owner is willing on the primary façade to provide the replacement of what was there with a composite wood trim product to match existing and get an extension so it can sit forward of the stucco. The stucco has been done several times.

Vice-Chair Katz said the Board was very impressed and wondered why they want to replace this.

Ms. Leriche said she would love to be able to walk away with what the Board has agreed to with the new composite wood trim.

#### Questions to the Applicant

Member Boniface said the Board talked about composite wood which the applicant still has to maintain. That won't stop and some composites break down even quicker so he asked what she proposed to use.

Ms. Leriche said it is called Aztec - a prefinished board that receives paint and is for exterior applications.

Member Boniface said he has worked a lot with these products and they warp and bend. Wood is tried and true and this house is old.

Mr. Rasch said it may be from the large remodel.

Ms. Leriche had the drawings from that remodel and it shows what was replaced. There are subtle differences. It is dimensional lumber

Member Powell said it is very unique and stylistic. The concrete shoulder might be original.

Ms. Leriche agreed and those won't change.

Member Powell thought, in looking at it, that the windows are in remarkable condition considering how old they are. It is really rare to see that. It seems like the cost of replacing with new windows would far outweigh repair of the windows there now. And new windows will never last that long. He would recommend keeping those windows.

#### Public Comment

Present and sworn was Mr. John Eddy, 227 East Palace Suite D, who commended the Board for the direction he thought they were moving here. Elevations are important and the holistic integrity of the house is all around it. He related how he was working on an old adobe and one window was totally gone they thought. But a person found the old window down in the arroyo and dragged it back and it worked.

There were no other speakers from the public regarding this case and the public hearing was closed.

Mr. Rasch said if the Board is moving toward not allowing window replacement, he would ask to allow the applicant to work with Staff on options. The code does allow for thermal pane with rebuilt muntins for true divided thermal pane windows.

Vice-Chair Katz asked Mr. Shandler regarding the windows and the trim. He thought the Code allows replacement of windows that are on non-primary façades without restriction.

Mr. Rasch said not without restriction. They are not required to preserve theme but there are design restrictions.

Vice-Chair Katz agreed. He said on the trim that it does say it should be repaired rather than replaced and if it has to be replaced, it should be of the same composition or material.

Mr. Rasch said the use of new material may be approved but it shall match the existing for visual qualities. He thought the Board has the authority allow replacing trim with non-wood material. But we haven't practiced that on non-primary elevations.

Member Powell asked if openings cannot be altered.

Mr. Rasch said they can be altered. The code is silent on non-primary windows and doors.

Vice-Chair Katz said it seems replacing windows or not is choice of the applicant but the Board could ask them to keep the trim.

Ms. Leriche understood we can replace the wood but the question is on composition or wood.

Vice-Chair Katz said they could choose to go either way.

#### Action of the Board

**Member Boniface moved in Case #H-16-084 at 629 & 629 ½ Garcia Street to approve the application with three conditions:**

- 1. That the primary elevation historic windows and trim be repaired and retained with storm windows installed in front of the historic windows and the color will be the existing slate blue;**
- 2. That most non-primary elevation windows be, as submitted, removed and replaced with aluminum clad windows in the existing locations and dimension;**
- 3. That the trim on those non-primary windows and doors be retained in the same configuration, meaning size and dimension and shape, but that the applicant be allowed to work Staff if they choose to use alternative materials, such as composites; and,**
- 4. That the stucco will be repaired with El Rey Buckskin cementitious stucco.**

**Member Biedscheid seconded the motion with consideration that the applicant review non-primary elevation windows to see whether or not the windows could be salvaged with a storm window like the others, consulting with Staff or a window preservation expert.**

Member Bayer asked if the motion requires an exception.

Mr. Rasch was certain that the intent of recent Santa Fe Style code would allow the new material for a remodel. The Board has allowed applicants to replace material not in-kind without an exception. He was comfortable with same size, style and color and if composite material, was fine with that.

**Member Boniface accepted the amendment as friendly and the motion passed by majority voice vote (3-1) with Member Powell dissenting.**

5. **Case #H-16-081B. 417 Agua Fria Street.** Downtown & Eastside Historic District. Jake Rodriguez, agent for Shrine of Our Lady Guadalupe, owners, proposes to replace windows on a contributing structure. An exception is requested to remove historic material and not replace in-kind, change opening dimensions, and add an opening where one does not exist (Section 14-5.2(D)(5)(a)(i) and (ii)). (Nicole Ramirez Thomas)

Ms. Ramirez Thomas gave the staff report as follows:

**BACKGROUND & SUMMARY:**

417 Agua Fria is a mixed Northern New Mexico Vernacular, Territorial Revival, and Mission Revival style building which is currently listed as noncontributing to the Downtown and Eastside Historic District. The building is historic and modern with an initial construction date estimated to be in the 1800s, and was known to have existed by 1902 according to the 1902 Sanborn map. The building has served as the rectory and office for the Shrine of Our Lady of Guadalupe Parish. At the September 27<sup>th</sup> HDRB hearing the building was designated as significant to the Downtown and Eastside Historic District. As such, all elevations of the building are primary.

The applicant proposes to remodel the property with the following items in an effort to increase safety, provide better ADA access, and to maintain the building and create greater energy efficiency.

1. Addition of a new entry door on the west facing façade of the south elevation. The door will be a custom wood panel door with insulated glass, transom, and casings to match the other exterior openings on the building. The door will be painted white. An exception is requested to create a new

opening where one does not exist (14-5.2(D)(5)(a)(ii).

## RELEVANT CODE CITATIONS

### (D) General Design Standards for All H Districts

In any review of proposed additions or alterations to *structures* that have been declared significant or contributing in any historic district or a *landmark* in any part of the city, the following standards shall be met:

#### (1) General

(a) The status of a significant, contributing, or *landmark structure* shall be retained and preserved. If a proposed alteration will cause a *structure* to lose its significant, contributing, or *landmark* status, the *application* shall be denied. The removal of historic materials or alteration of architectural features and spaces that embody the status shall be prohibited.

(b) If a proposed alteration or new construction will cause an adjacent *structure* to lose its significant, contributing, or *landmark* status, the *application* may be denied.

#### (5) Windows, Doors, and Other Architectural Features

(a) For all façades of significant and *landmark structures* and for the primary façades of contributing *structures*:

(ii) No new opening shall be made where one presently does not exist unless historic documentation supports its prior existence.

### EXCEPTION TO CREATE AN OPENING WHERE ONE PRESENTLY DOES NOT EXIST.

1. Do not damage the character of the district;

*Response: The new door opening will be located below the portal. Its location there, on the elevation perpendicular to Agua Fria St. will minimize its impact on the main elevation of the building.*

Staff response: Staff agrees with this response.

2. Are required to prevent a hardship to the applicant or an injury to the public welfare; and

*Response: The location of the building, in the downtown area attracts significant pedestrian traffic. Most people walking by are there on parish business or headed to other destinations, however, there are also vagrants who loiter in the area and adjacent parks. Installation of this door is needed to provide a safe and secure entrance to the parish offices for staff and parishioners. The door will open into a secure waiting area, where the receptionist will control access to the rest of the building. The new door will enhance the safety and*

*welfare of the parish staff and community.*

Staff response: Staff agrees with this response.

3. Strengthen the unique heterogeneous character of the City by providing a full range of design options to ensure that residents can continue to reside within the Historic Districts.

*Response: The new door will enhance the safety and welfare of the parish staff and community. This includes the parish staff that uses the building during weekday business hours and the Pastor who works and lives in the residential portion of the building. Approval of this exception request will strengthen the character of the district.*

Staff response: Staff does not agree with this response because the response does not address a full range of design option. It is possible that the applicant can provide testimony that will answer this criterion to the Board's satisfaction.

- (iv) Are due to special conditions and circumstances which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the related streetscape.

*Response: The location of the building, in the downtown area attracts significant pedestrian traffic. The parish has some staff that works normal business hours, but also has some staff that work on the pastoral and religious ministries who work in the evenings or weekends. Often, there is only one staff member in the office during certain times of the day. The addition of the new door and secure waiting area will improve the safety of staff. The type of use and services provided by the parish in their offices is unique from other business or offices in the area.*

Staff response: Staff agrees with this response. The concern for safety is in part a condition of the location of the building within the downtown area.

4. Are due to special conditions and circumstances, which are not the result of the applicant

*Response: Often, there is only one staff member in the office during certain times of the day. The addition of the new door and secure waiting area will improve the safety of staff. Due to safety and welfare of its staff, the parish sees the need to install a secure entrance to their building. Safety concerns due to societal changes are driving the need for this new entrance.*

Staff response: Staff agrees with this response.

- (vi) Provide the least negative impact with respect to the purpose of this section as set forth in Subsection 14-5.2(A)(1).

*Response: The ability of the parish to place a door on this elevation which would create a safe entrance into*

*the rectory and offices allows for the general welfare of parish staff. The location and design of the door does not disrupt the harmonious outward appearance of the property and is designed to create general harmony in style, form, height, and proportion.*

Staff response: Staff agrees with this response.

**2) Build a concrete deck, steps, and ramp with iron railing and hand rails in the east courtyard for better ADA access.**

**3) Replace windows on the south, east, and north elevations of the building with white wood clad insulated windows with divided lites. Replacement of windows at the southwest corner is the only location where windows will be replaced on the west elevation. Opening dimensions for windows will remain the same except for one window on the porch addition on the north elevation and in the courtyard. In the east courtyard the applicant proposes to remove one window and replace it with a white clad French door with insulated glass, a transom, and simulated divided light. The applicant requests an exception to remove historic windows, change two opening dimensions, and to not replace the windows in-kind (14-5.2(D)(5)(a)(I)).**

#### RELEVANT CODE CITATION

##### (D) General Design Standards for All H Districts

In any review of proposed additions or alterations to *structures* that have been declared significant or contributing in any historic district or a *landmark* in any part of the *city*, the following standards shall be met:

##### (1) General

(a) The status of a significant, contributing, or *landmark structure* shall be retained and preserved. If a proposed alteration will cause a *structure* to lose its significant, contributing, or *landmark* status, the *application* shall be denied. The removal of historic materials or alteration of architectural features and spaces that embody the status shall be prohibited.

(b) If a proposed alteration or new construction will cause an adjacent *structure* to lose its significant, contributing, or *landmark* status, the *application* may be denied.

##### (5) Windows, Doors, and Other Architectural Features

(a) For all façades of significant and *landmark structures* and for the primary façades of contributing *structures*:

(I) Historic windows shall be repaired or restored wherever possible. Historic windows that cannot be

repaired or restored shall be duplicated in the size, style, and material of the original. Thermal double pane glass may be used. No opening shall be widened or narrowed.

#### EXCEPTION TO REMOVE HISTORIC WINDOWS AND TO CHANGE OPENING DIMENSIONS

5. Do not damage the character of the district;

*Response: The new windows will appear similar to the existing windows, maintaining the original character and its contribution to the Historic District. The new windows will have window light patterns similar to the window that they replace and that are compliant with current HDRB requirements.*

Staff response: Staff agrees with this response. Most window lite patterns and dimensions match the existing.

6. Are required to prevent a hardship to the applicant or an injury to the public welfare; and

*Response: The existing windows allow excessive heat gain in the warm months, and heat loss in the colder weather months, making it difficult to maintain consistent ambient temperatures. The difficulty in maintaining consistent temperature levels for the occupants also causes financial hardships due to the increase energy (utility) costs.*

Staff response: Staff agrees with this response.

Strengthen the unique heterogeneous character of the City by providing a full range of design options to ensure that residents can continue to reside within the Historic Districts.

*Response: Approval of this exception request will strengthen the character of the district. Installation of the new energy efficient windows will enhance the environment comfort of the building occupants. This includes the parish staff who use the building during weekday business hours and the Pastor who works and lives in the residential portion of the building.*

Staff response: Staff does not agree with this response because the answer does not address a full range of design options. It is possible that testimony from the applicant will provide information regarding options that will answer this criterion to the Board's satisfaction.

#### EXCEPTION TO NOT REPLACE HISTORIC MATERIAL IN-KIND.

1. Do not damage the character of the district;

*Response: The new windows will appear similar to the existing windows, maintaining the original character and its contribution to the Historic District. The new windows will have window light patterns similar to the*



*window that they replace and that are compliant with current HDRB requirements.*

Staff response: Staff agrees with this response.

2. Are required to prevent a hardship to the applicant or an injury to the public welfare; and

*Response: The existing windows allow excessive heat gain in the warm months, and heat loss in the colder weather months, making it difficult to maintain consistent ambient temperatures. The difficulty in maintaining consistent temperature levels for the occupants also causes financial hardships due to the increase energy (utility) costs.*

Staff response: Staff agrees with this response.

3. Strengthen the unique heterogeneous character of the City by providing a full range of design options to ensure that residents can continue to reside within the Historic Districts.

*Response: Approval of this exception request will strengthen the character of the district. Installation of the new energy efficient windows will enhance the environment comfort of the building occupants. This includes the parish staff that uses the building during weekday business hours and the Pastor who works and lives in the residential portion of the building.*

Staff response: Staff does not agree with this response because the answer does not address a full range of design options. It is possible that testimony from the applicant will provide information regarding options that will answer this criterion to the Board's satisfaction.

#### **4) Historic wood windows on the pre-1960s west façade will not be removed or replaced.**

#### **(D) General Design Standards for All H Districts**

In any review of proposed additions or alterations to *structures* that have been declared significant or contributing in any historic district or a *landmark* in any part of the *city*, the following standards shall be met:

##### **(1) General**

(a) The status of a significant, contributing, or *landmark structure* shall be retained and preserved. If a proposed alteration will cause a *structure* to lose its significant, contributing, or *landmark* status, the *application* shall be denied. The removal of historic materials or alteration of architectural features and spaces that embody the status shall be prohibited.

(b) If a proposed alteration or new construction will cause an adjacent *structure* to lose its significant, contributing, or *landmark* status, the *application* may be denied.

##### **(5) Windows, Doors, and Other Architectural Features**

(a) For all façades of significant and *landmark structures* and for the primary façades of contributing structures:

(l) Historic windows shall be repaired or restored wherever possible. Historic windows that cannot be repaired or restored shall be duplicated in the size, style, and material of the original. Thermal double pane glass may be used. No opening shall be widened or narrowed.

1. Do not damage the character of the district;

Response: *The new windows will appear similar to the existing windows, maintaining the original character and its contribution to the Historic District. The new windows will have window light patterns similar to the window that they replace and that are compliant with current HDRB requirements.*

Staff response: Staff agrees with this response. Most window lite patterns and dimensions match the existing.

2. Are required to prevent a hardship to the applicant or an injury to the public welfare; and

Response: *The existing windows allow excessive heat gain in the warm months, and heat loss in the colder weather months, making it difficult to maintain consistent ambient temperatures. The difficulty in maintaining consistent temperature levels for the occupants also causes financial hardships due to the increase energy (utility) costs.*

Staff response: Staff agrees with this response.

3. Strengthen the unique heterogeneous character of the City by providing a full range of design options to ensure that residents can continue to reside within the Historic Districts.

Response: *Approval of this exception request will strengthen the character of the district. Installation of the new energy efficient windows will enhance the environment comfort of the building occupants. This includes the parish staff who use the building during weekday business hours and the Pastor who works and lives in the residential portion of the building.*

Staff response: Staff does not agree with this response because the answer does not address a full range of design options. It is possible that testimony from the applicant will provide information regarding options that will answer this criterion to the Board's satisfaction.

#### EXCEPTION TO NOT REPLACE HISTORIC MATERIAL IN-KIND.

1. Do not damage the character of the district;

Response: *The new windows will appear similar to the existing windows, maintaining the original character and its contribution to the Historic District. The new windows will have window light patterns similar to the window that they replace and that are compliant with current HDRB requirements.*

Staff response: Staff agrees with this response.

2. Are required to prevent a hardship to the applicant or an injury to the public welfare; and

Response: *The existing windows allow excessive heat gain in the warm months, and heat loss in the colder weather months, making it difficult to maintain consistent ambient temperatures. The difficulty in maintaining consistent temperature levels for the occupants also causes financial hardships due to the increase energy (utility) costs.*

Staff response: Staff agrees with this response.

3. Strengthen the unique heterogeneous character of the City by providing a full range of design options to ensure that residents can continue to reside within the Historic Districts.

Response: *Approval of this exception request will strengthen the character of the district. Installation of the new energy efficient windows will enhance the environment comfort of the building occupants. This includes the parish staff that uses the building during weekday business hours and the Pastor who works and lives in the residential portion of the building.*

Staff response: Staff does not agree with this response because the answer does not address a full range of design options. It is possible that testimony from the applicant will provide information regarding options that will answer this criterion to the Board's satisfaction.

4. Do not damage the character of the district;

Response: *The new windows will appear similar to the existing windows, maintaining the original character and its contribution to the Historic District. The new windows will have window light patterns similar to the window that they replace and that are compliant with current HDRB requirements.*

Staff response: Staff agrees with this response. Most window lite patterns and dimensions match the existing.

5. Are required to prevent a hardship to the applicant or an injury to the public welfare; and

Response: *The existing windows allow excessive heat gain in the warm months, and heat loss in the colder weather months, making it difficult to maintain consistent ambient temperatures. The difficulty in maintaining consistent temperature levels for the occupants also causes financial hardships due to the increase energy (utility) costs.*

Staff response: Staff agrees with this response.

6. Strengthen the unique heterogeneous character of the City by providing a full range of design options to ensure that residents can continue to reside within the Historic Districts.

Response: *Approval of this exception request will strengthen the character of the district. Installation of the new energy efficient windows will enhance the environment comfort of the building occupants. This includes the parish staff who use the building during weekday business hours and the Pastor who works and lives in the residential portion of the building.*

Staff response: Staff does not agree with this response because the answer does not address a full range of design options. It is possible that testimony from the applicant will provide information regarding options that will answer this criterion to the Board's satisfaction.

#### EXCEPTION TO NOT REPLACE HISTORIC MATERIAL IN-KIND.

1. Do not damage the character of the district;

Response: *The new windows will appear similar to the existing windows, maintaining the original character and its contribution to the Historic District. The new windows will have window light patterns similar to the window that they replace and that are compliant with current HDRB requirements.*

Staff response: Staff agrees with this response.

2. Are required to prevent a hardship to the applicant or an injury to the public welfare; and

Response: *The existing windows allow excessive heat gain in the warm months, and heat loss in the colder weather months, making it difficult to maintain consistent ambient temperatures. The difficulty in maintaining consistent temperature levels for the occupants also causes financial hardships due to the increase energy (utility) costs.*

Staff response: Staff agrees with this response.

3. Strengthen the unique heterogeneous character of the City by providing a full range of design

options to ensure that residents can continue to reside within the Historic Districts.

Response: Approval of this exception request will strengthen the character of the district. Installation of the new energy efficient windows will enhance the environment comfort of the building occupants. This includes the parish staff that uses the building during weekday business hours and the Pastor who works and lives in the residential portion of the building.

Staff response: Staff does not agree with this response because the answer does not address a full range of design options. It is possible that testimony from the applicant will provide information regarding options that will answer this criterion to the Board's satisfaction.

#### **STAFF RECOMMENDATION:**

Staff finds the exception criteria have been met to create an opening where one does not exist and that not all of the exception criteria to remove historic material, change dimensions, and not replace in-kind have been met. Additional testimony at the hearing may bring the exception request into compliance. Otherwise the application complies with Section 14-5.2(C) Regulation of Significant Structures, (D) General Design Standards, and (E) Downtown and Eastside.

Ms. Ramirez Thomas on replacing windows for this structure, said- the building has a lot of character with a gabled roof and three distinct architectural styles. It maintains the footprint and overall massing.

#### **Questions to Staff**

Vice-Chair Katz was puzzled by criterion 3 on the door. This is a safety issue. It is hard to understand door or no door. He asked if she was suggesting reconfiguration of the inside of that building so that there could be a holding area there.

Ms. Ramirez Thomas said right where they suggest to put the door is the office and people could be allowed in or out in more controlled manner.

Vice-Chair Katz understood but asked if she was not satisfied because they didn't talk about other options.

Ms. Ramirez Thomas agreed. It could be anything from not having the opening to using an existing door or something else.

Member Bayer asked her to clarify for the record that she agreed with all but #3.

Ms. Ramirez Thomas said across the board, she did not agree with #3 for any of the exceptions.

Member Biedscheid pointed out that on E2 at the light patterns on that elevation, all the lite patterns are changing. All of them on the west are different.

Ms. Ramirez Thomas said 1 and 2 have to be met.

Member Powell understood there was a three-dimensional element to double hung windows that would change with this proposal.

So there is a three-dimensional element that won't change but they will be set back.

#### Applicant's Presentation

Present and sworn was Mr. Jake Rodriguez, 1424 Second Street, architect for this project, who asked if the floor plan could be shown to address the door first. On the proposed door - the church is in a downtown location and often is staffed by one person and across from it is now a skate park where there is lots of drug activity and pedestrian traffic so the secured entrance is because of that circumstance. There is also a lot of church traffic as well but they want to reorient it for a safe room inside and then be let into the facility. They considered lots of options. The 1963 addition on the southern side are all on grade level with ADA access. The stairs provide access to offices on the second level. They looked at an entrance on the southwest which would require a new door opening and door but the circulation pattern was not very functional.

They also looked at using the door on the east side but it doesn't have any sidewalk to it and is on a corner that people are not accustomed to using. So they felt this was the best option where it is shown.

It is also under a portal, which allows things in the code, so that is why they put it there.

He didn't know how many Board members have gone to the cathedral offices but it is the same. St. John's is also the same configuration. It just provides a safe entry.

In keeping with the style, it is a minimal door and at the same height as other windows and doors. It is not very prominent because of being on the west side. It is not overly prominent but does not detract when looking at the building.

### Questions to the Applicant

Vice-Chair Katz said the other criterion was for more information on the windows. He asked what led them to decide to replace those windows.

Mr. Rodriguez said at the last presentation, they were opposed because of the cost and the hardship to the parish. This project budget is less than \$350,000 for this parish. They don't have a lot of money to deal with it. They are steel sash windows and the window at the southeast corner is 9 by 7 of glass and steel. He could not find any thermal breaks for the window. It was all of single pane glass and the hoppers are fairly small so there is a lot of heat loss.

Vice-Chair Katz asked if the hopper was the only operable part of it.

Mr. Rodriguez agreed - only the top two panels.

Member Powell asked if it would be more cost effective to have storm windows.

Mr. Rodriguez said he original thought was the contributing elevation on the west that had double hung windows and the window panes don't meet the 30" rule. They never thought those windows were in question. But when the Board designated it as significant they don't have a thermal break and a storm sash would have to be inside. On the outside it would change the view of them. He would hate having the storm windows on the inside as it makes permanently dirty windows. And the church has no place to store storm windows. It is a lot of glass to have to store.

Member Powell asked if they have concerns for security.

Mr. Rodriguez said they are putting in an alarm system but they are not concerned so much about burglary but about people coming in asking for money, etc. They were not planning on replacing those windows. For the ones on the west, he spoke to a window expert who estimated the cost for an evaluation was over \$400. So they made the decision it would be better to spend that money toward the project. They weren't thinking they would have to have the steel windows. And last time, the Board said you would work with us.

Member Powell asked if they are not replacing the door and windows there on the second floor.

Mr. Rodriguez said they had snap in muntins. He explained that they are doing this for functional and energy efficiency in the building.

Vice-Chair Katz asked what more Mr. Rodriguez wanted to add.

Mr. Rodriguez asked about the part in the staff report about windows not being the same size.

Ms. Ramirez Thomas said it was the window on the north elevation.

Mr. Rodriguez said there were two reason to replace them. One was the lower head height where you can see the Sangres but a lower head height blocks the top. If we change it, the top is visible. The survey reports done by the City staff in the 1990s talked about this as an add-on but we are not certain. It might have been changed then. It enhances the interior use of the space.

Member Boniface commented that finances were not supposed to be the concern of the Board nor what happens on the interior or whether the view is good. But he felt the proposed increase in head height on the north elevation would work much better and looks more appropriate and fits in with a glassed porch instead of the little strip window on the right. So he had no problem with that. What he did question though, is the south elevation. What he observed on the field trip earlier in the day was that this building and the church itself has lite patterns which have a square proportion pretty constantly. The similarity on lite pattern on south on this building and the church all are square. So he asked if there was a reason why on the south elevation they chose a different lite pattern.

Mr. Rodriguez said it is because they are double-hung windows. He didn't think a manufacturer could offer a window that would work as a double-hung. In the original building in the photo before the 1993 addition, that was what they had. So it was changed from 5 lites high to four.

#### Public Comment

Mr. John Eddy (previously sworn) said going back to the north elevation, Member Boniface had suggested the increased height could be accepted and he wondered if more separation between door and window would create a more agreeable appearance.

Member Powell asked to see the photograph. He felt that was a good point. It probably is from 1961.

Mr. Rodriguez didn't think so. He acknowledged that it is a hodge podge of windows.



Member Powell said the one pushed against that door is a modern interpretation.

Mr. Rodriguez said they are open to making that change if the Board decides.

Member Powell agreed there has to be give and take here.

Mr. Rodriguez agreed, regarding the uneven sashes with three on top and two below, to check into that further.

#### Action of the Board

**Member Powell moved in Case #H-16-081B at 417 Agua Fria Street, to approve the application as submitted with the exceptions granted and a condition that on the south elevation that the windows remain as is currently configured and to approve flexibility in the other elevations per the applicant request.**

Mr. Rodriguez asked if the Board could allow a staff approval on those windows.

**Member Powell agreed that staff could approve the south windows but it would require submission of new drawings to show how that would look.**

Vice-Chair Katz was hearing an approval of everything except the replacement of the windows on the south façade. Maybe with holding off on that until the Board could get more information whether it is possible to have the casement that would maintain the current configuration.

**Member Boniface asked why the Board would need more information. The motion could say either they would retain the existing windows or submit casement windows of the same configuration and submit that to staff.**

**Member Powell agreed.**

Member Biedscheid seconded the motion and asked about the rest.

**Member Powell said everything else is approved as submitted.**

Vice-Chair Katz said the proposed entry door is the best option for security.

Member Powell agreed.

Vice-Chair Katz summarized the motion is to approve all of the requested changes except for the windows on the south elevation which they would either retain or replace with casement windows with that being submitted to staff for approval.

Ms. Ramirez Thomas asked about the exceptions.

Vice-Chair Katz asked if she meant for the other windows.

Ms. Ramirez Thomas said one is for an opening where none exist now.

Member Powell said the applicant verbally explored all the design options they considered so it is accepted.

Ms. Ramirez Thomas said on the exception to change dimensions, Staff disagreed with #3.

Member Powell asked if that referenced changes on the north façade.

Ms. Ramirez Thomas said it is on the north and the east.

Member Powell said the applicant had verbally given the options they considered.

Mr. Rodriguez said on the north elevation, it is exposed to the parking lot and to anyone walking the site and is not ADA accessible. The entrance to the courtyard is into a secure courtyard. But they need access for 22' of ramp to make it ADA accessible. It is a zig zag ramp and he pointed out the location of the gate and stairs to the enclosed porch. There is a ramp on the east side about 19' to a deck to get in. It allows ADA accessibility for priests who need it. Otherwise, there are only stairs from the rectory or the parking lot. They do use the house for meetings with presets, etc.

Member Powell felt that satisfied the exception.

Ms. Ramirez Thomas said the last one was for replacing not in kind. There has been a lot of discussion on that one.

**Member Powell agreed and felt that all exception criteria were met.**

**The motion passed by unanimous voice vote.**

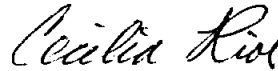
**I. MATTERS FROM THE BOARD**

Vice-Chair Katz announced he would not be at the next meeting on October 25.

**J. ADJOURNMENT**

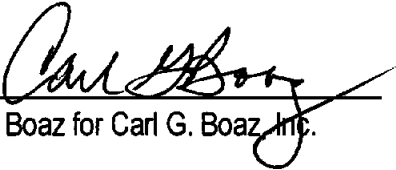
The meeting was adjourned at 8:05 p.m.

Approved by:



Cecilia Rios, Chair

Submitted by:



Carl Boaz for Carl G. Boaz, Inc.

Historic Districts Review Board  
October 11, 2016

**EXHIBIT 1**

City of Santa Fe  
Historic Districts Review Board  
Findings of Fact and Conclusions of Law

**Case #H-16-044A**

**Address** – 124 West Booth St

**Owner/Applicant's Name** – Gregory Chavez

THIS MATTER came before the Historic Districts Review Board ("Board") for hearing on September 27, 2016.

124 West Booth Street is a single-family residence constructed in a vernacular manner by 1928. The southeast corner of the residence with a porch appears to have been filled in between 1930 and 1948, as evidenced by Sanborn maps, but there is no physical evidence of this. Historic wood casement windows are retained. A free-standing single-car garage was constructed between 1930 and 1948. The carriage doors do not appear to be original. Both structures are listed as contributing to the Don Gaspar Area Historic District, but primary elevations have not yet been assigned.

A low, painted, concrete masonry yardwall that surrounds the property on both street frontages was constructed by 1966 and it has no historic status.

**FINDINGS OF FACT**

1. After conducting public hearings and having heard from the Applicant and all interested persons, the Board hereby FINDS, as follows:
2. Staff Recommendation: staff recommended that the north (No. 1) and east (No. 2) elevations of the residence and the east (No. 1) elevation of the garage be designated as primary elevations and that the yardwall be designated as non-contributing due to lack of integrity, streetscape harmony, or value-adding character in the historic district.
3. The project is, without limitation, subject to requirements of the following sections of the Santa Fe Land Development Code:
  - X Section 14-5.2(D)(9) General Design Standards, Height Pitch Scale and Massing (of any structure).
  - X Section 14-5.2(D) General Design Standards
  - X Section 14-5.2(C), Regulation of Significant and Contributing Structures in the Historic Districts
4. The property is located in the following district and subject to the related sections of the Santa Fe Land Development Code:
  - X Don Gaspar Area Historic District (Section 14-5.2(H))
5. A "primary façade" is defined in Chapter 14-12 as "[o]ne or more principal faces or elevations of a structure with features that define the character of the structure's architecture."
6. Under Section 14-12.1, the definition of a "contributing structure" is "a structure, located in a historic district, approximately fifty years old or older that helps to establish and maintain the character of that historic district. Although a contributing structure is not unique in itself, it adds to the historic associations or historic architectural design

qualities that are significant for a district. The contributing structure may have had minor alterations, but its integrity remains.”

7. Code 14-5.2(C)(2)(a–c) gives the Board authority to review and approve "significant," "contributing," or "noncontributing" status designations.
8. The Board, in response to the application, finds the structure:  
  X   The yardwall does not meet the Section 14-12.1 criterion for “contributing” as provided in the presentation and Staff Report
9. The Board, in response to the Application, finds:  
  X   the north elevation and the east elevation have character-defining features.
10. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review have been met.

### CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Board acted upon the Application as follows:

1. The Board has the authority to review and approve the Application.
2. The Board granted the Applicant’s request to review historic status and voted to:  
  X   Assign the existing Noncontributing status of the yardwall;  
  X   Designate the north and east elevations of the residence as primary;  
  X   Postpone a decision on the garage.

**IT IS SO ORDERED ON THIS 11<sup>th</sup> DAY OF OCTOBER 2016, BY THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.**

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date:

FILED:

\_\_\_\_\_  
Yolanda Y. Vigil  
City Clerk

\_\_\_\_\_  
Date:

APPROVED AS TO FORM

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Date:

City of Santa Fe  
Historic Districts Review Board  
Findings of Fact and Conclusions of Law

**Case #H-16-044B**

**Address** – 124 West Booth St

**Owner/Applicant's Name** – Gregory Chavez

THIS MATTER came before the Historic Districts Review Board ("Board") for hearing on September 27, 2016.

124 West Booth Street is a Contributing structure under Case H-16-044A in the Don Gaspar Area Historic District. The Applicant proposed to remodel the property with the following four Items:

1. The existing entry door and the existing adjacent historic window will be switched in location. Since the north elevation was found to be a primary elevation, then an exception is requested to alter openings on a primary elevation (14-5.2(D)(1)(a)).

2. The historic, but non-original, north porch will be not retained in place. Instead, an exception is requested to remove (14-5.2(D)(5)(b)) and reconstruct the porch, with the door and window swap.

3. The non-historic east elevation aluminum slider window will be removed and replaced with a window in the existing opening dimensions and location.

4. The existing yardwall will be demolished. Because the wall was found to be a Noncontributing structure in the previous hearing, no exception request is required. A 3' high yardwall will be reconstructed in the same location with a stone base and stucco-clad top in the color "Colonial White" or "Adobe Brown". An alternative to stone base and stucco is all "sandstone". There are no proposed changes in height or plane. A simple pedestrian gate and a natural finish wrought iron vehicle gate are proposed.

In the immediately prior hearing, the north and east elevations of the residence were designated as primary and the yardwall assigned its Noncontributing status.

**FINDINGS OF FACT**

1. After conducting public hearings and having heard from the Applicant and all interested persons, the Board hereby FINDS, as follows:
2. Zoning staff determined that the Application meets underlying zoning standards.
3. Staff Recommendation: Staff found that the exception request to alter a primary elevation has been met and that the exception to remove the historic porch has not been met. Additional testimony at the hearing may bring the exception request into compliance. Otherwise this application complies with Section 14-5.2(C) Regulation of Contributing Structures, (D) General Design Standards, and (H) Don Gaspar Area Historic District.
4. The project is, without limitation, subject to requirements of the following sections of the Santa Fe Land Development Code:
  - X   Section 14-5.2(D)(9) General Design Standards, Height Pitch Scale and Massing (of any structure).
  - X   Section 14-5.2(D) General Design Standards

- X Section 14-5.2(C), Regulation of Significant and Contributing Structures
5. The property is located in the following district and subject to the related sections of the Santa Fe Land Development Code:  
X Don Gaspar Area Historic District (Section 14-5.2(H))
  6. An Exception Request to alter a primary elevation was applicable to this Application:  
X Exception criteria were met, as found by staff.
  7. An Exception Request to remove the historic porch was applicable to this Application:  
X Exception criteria were met, as found by staff, but with the following additional findings to substitute those by staff:
  8. The Exception Request does not damage the character of the streetscape in that although the current portal is not original, it is historic, so replacing it in a new location further down the wall, would reestablish the streetscape.
  9. The Exception Request does prevent a hardship to the applicant or an injury to the public welfare, in that it, as testified by the Applicant and as seen on the site visit, is not structurally sound and it is not attached securely to the wall, and by leaving the portal in current location and putting a window there, it could misdirect applicants to the house and might misdirect emergency first responders.
  10. The Exception Request does strengthen the unique heterogeneous character of the city by providing a full range of design options to ensure that residents can continue to reside within the historic districts, in that it replaces what is already there in a slightly different location, and that by leaving the portal in current location and putting a window there, it could misdirect applicants to the house and might misdirect emergency first responders.
  11. Under Sections 14-2.6(C), 14-2.7(C)(2), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f) and 14-5.2(C)(3)(b), 14-5.2(C)(3)(a) and Section 14-5.2(D) the Board has authority to review, approve, with or without conditions, or deny, all or some of the Applicant's proposed design to assure overall compliance with applicable design standards.
  12. Under Section 14-5.2(C)(3)(b), the Board has the authority to approve an application for alteration or new construction on the condition that changes relating to exterior appearance recommended by the Board be made in the proposed work, and no permit is to issue until new exhibits, satisfactory to the Board, have been submitted.
  13. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review have been met.
  14. The information contained in the Application, and provided in testimony and evidence establishes that all applicable design standards for Board approval as herein described have been met.

### CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Board acted upon the Application as follows:

1. The Board has the authority to review and approve the Application.
2. The Board approved the Application as recommended by Staff.

X Additional conditions, which are:  
the windows shall retain a deep recess;



the vehicle gate shall match the design of the reused wrought iron pedestrian gate;

the replaced yardwall shall be constructed with a rock base and a stuccoed adobe top and it shall comply with the yardwall guidelines to have an 8" change in height for every 25' of length with pilasters; and

that staff shall approve designs of the porch and yardwall before a construction permit application is submitted.

**IT IS SO ORDERED ON THIS 11<sup>th</sup> DAY OF OCTOBER 2016, THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.**

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Chairperson

\_\_\_\_\_  
Date:

FILED:

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Yolanda Y. Vigil  
City Clerk

\_\_\_\_\_  
Date:

APPROVED AS TO FORM

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Date:

City of Santa Fe  
Historic Districts Review Board  
Findings of Fact and Conclusions of Law

**Case #H-16-078**

**Address** – 564 Garcia St.

**Agent's Name** – Joseph Bransford Builders

**Owner/Applicant's Name** – Roy and Linda New

THIS MATTER came before the Historic Districts Review Board (“Board”) for hearing on September 27, 2016.

564 Garcia Street is a Spanish-Pueblo Revival style residential structure listed as Contributing to the Downtown and Eastside Historic District. No remodel is proposed for the home. The applicant proposes to demolish an existing car port and construct a garage. The carport has no status within the district. It was constructed in the mid-1990s and is therefore less than 50 years in age. A carport existed in nearly the same location prior to 1993 but was approved for demolition by the Board in H-93-088. The existing carport was constructed in its place. The Applicant proposed the following 3 Items:

1) Demolish the old carport. A building inspection report from Inspections and Enforcement is included in the packet. The structure is not more than 75 years old as is stated by the applicant and is evidenced by the materials used to construct the carport. In addition, the 1993 HDRB case provides evidence that the carport was reconstructed after approval to demolish the old carport (photos of the carport in 1993 are provided). An archaeological clearance permit may be required if grading of an area greater than 2500 square feet will be required for drainage.

2) Construct a garage in the Spanish-Pueblo Revival style to replace of the carport.

a) The garage will measure 24' x 24' (576 sq. ft.) and will be 10' 6" high where the maximum allowable height is 14' 9". The garage will be framed and stuccoed cementitious El Rey “Sahara” to match the house.

b) Trim color is proposed to be “Island Oasis.”

c) Garage doors are metal with divided lites. Divided lites are not shown on the drawing but the specs for the garage are provided in the packet.

d) The entrance door located on the east elevation of the proposed garage will be a metal clad wood door with half glass.

e) Skylights will not be visible.

f) The viga arbor proposed on the plans will not be added.

3) Remove existing 4 ft. high coyote fence and existing gate. Replace fence with a 4 ft. tall CMU stucco wall in cementitious El Rey “Sahara.” Replace the gate with a cedar post gate.

**FINDINGS OF FACT**

1. After conducting public hearings and having heard from the Applicant and all interested persons, the Board hereby FINDS, as follows:
2. Zoning staff determined that the Application meets underlying zoning standards.

3. Staff Recommendation: Staff recommended approval of this Application in that it complies with 14-5.2(D)(9) General Design Standards for All H Districts Height, Pitch, Scale, and Massing and 14-5.2(E) Downtown & Eastside.
4. The project is, without limitation, subject to requirements of the following sections of the Santa Fe Land Development Code:
  - X Section 14-5.2(D)(9) General Design Standards, Height Pitch Scale and Massing (of any structure).
  - X Section 14-5.2(D) General Design Standards
  - X Section 14-5.2(C), Regulation of Significant and Contributing Structures
  - X Section 14-3.14(G)
5. The property is located in the following district and subject to the related sections of the Santa Fe Land Development Code:
  - X Downtown and Eastside Historic District (Section 14-5.2(E))
6. An Exception Request was not applicable to this Application.
7. Under Sections 14-2.6(C), 14-2.7(C)(2), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f) and 14-5.2(C)(3)(b), 14-5.2(C)(3)(a), 14-5.2(D), and Section 14-3.14, the Board has authority to review, approve, with or without conditions, or deny, all or some of the Applicant's proposed design and demolition to assure overall compliance with applicable design standards and standards set forth in Section 14.
8. Under Section 14-5.2(C)(3)(b), the Board has the authority to approve an application for alteration or new construction on the condition that changes relating to exterior appearance recommended by the Board be made in the proposed work, and no permit is to issue until new exhibits, satisfactory to the Board, have been submitted.
9. City staff provided to the Board information on a structure under consideration for demolition, pursuant to Section 14-3.14(C).
10. Under Section 14-3.14(G), in determining whether a request for demolition in a historic district should be approved or denied, the Board shall consider whether the structure is of historical importance, whether the structure is an essential part of a unique street section/block front, whether the street section/block front will be reestablished by a proposed new structure, and the state of repair and structural stability of the structure.
11. The old carport has no historic status within the historic district and is less than 50 years old.
12. The old carport is not a part of a unique street section or block.
13. The inspection report indicates there is damage to the foundation of the structure due to the contact with the soil, and due to the grading and drainage issues.
14. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review have been met.
15. The information contained in the Application, and provided in testimony and evidence establishes that all applicable design and demolition standards for Board approval as herein described have been met.

### CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Board acted upon the Application as follows:

1. The Board has the authority to review and approve the Application.
2. The Board approved the Application as recommended by Staff.  
  X   No additional conditions.

**IT IS SO ORDERED ON THIS 11<sup>th</sup> DAY OF OCTOBER 2016, THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.**

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date:

FILED:

\_\_\_\_\_  
Yolanda Y. Vigil  
City Clerk

\_\_\_\_\_  
Date:

APPROVED AS TO FORM

\_\_\_\_\_  
Assistant City Attorney

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Date:

City of Santa Fe  
Historic Districts Review Board  
Findings of Fact and Conclusions of Law

**Case #H-16-079**

**Address – 984-A Acequia Madre**

**Agent's Name – Rod Gesten**

**Owner/Applicant's Name – Greg, Skye and West Cooper**

THIS MATTER came before the Historic Districts Review Board ("Board") for hearing on September 27, 2016.

984-A Acequia Madre is a residential structure built in the Spanish-Pueblo Revival style. listed as noncontributing to the Downtown and Eastside Historic District. An Historic Cultural Properties Inventory (HCPI) form evaluated the property in 2003. At the time, the property was owned by John and Mary Wolf and was recommended noncontributing to the Downtown and Eastside Historic District due to the degree to which the property has been remodeled. The Applicant provided a statement signed by Mr. Wolf stating the home was constructed in 1984. The Applicant proposed to remodel the property with the following Items.

1) Mount an air conditioning unit to the roof of the house. The unit is 51 ¼" deep x 35 ¾" wide x 47" in height. The unit will be placed behind the existing chimney to minimize its visibility from the east side of the house (Martinez Lane). In an effort to completely obscure the visibility of the air conditioning unit the applicant proposed to construct a screen of wood frame and stucco finish which will be placed around two sides of the unit and will be attached to the existing fireplace chimney. The height of the screen will be 14' 5" where the maximum allowable height is 14' 9".

2) On the south façade the applicant proposes to add a fixed transom window that measures 5' in length and 15" in height. The window will be wood clad with divided lites.

3) On the west and rear façade of the unit a 4' 0" wide and 6' 8" wood clad double French door with divided lite panes will replace an existing window.

4) Minor patching of stucco to match existing cementitious El Rey "Buckskin" stucco.

**FINDINGS OF FACT**

1. After conducting public hearings and having heard from the Applicant and all interested persons, the Board hereby FINDS, as follows:
2. Zoning staff determined that the Application meets underlying zoning standards.
3. Staff Recommendation: Staff recommended approval of this Application in that it complies with Section 14-5.2(D)(9) General Design Standards, Height Pitch Scale and Massing and Section 14-5.2(E) Downtown and Eastside.
4. The project is, without limitation, subject to requirements of the following sections of the Santa Fe Land Development Code:  
  X   Section 14-5.2(D)(9) General Design Standards, Height Pitch Scale and Massing (of any structure).
5. The property is located in the following district and subject to the related sections of the Santa Fe Land Development Code:

X Downtown and Eastside Historic District (Section 14-5.2(E))

6. An Exception Request was not applicable to this Application:
7. Under Sections 14-2.6(C), 14-2.7(C)(2), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f) and 14-5.2(C)(3)(b), 14-5.2(C)(3)(a) and Section 14-5.2(D) the Board has authority to review, approve, with or without conditions, or deny, all or some of the Applicant's proposed design to assure overall compliance with applicable design standards.
8. Under Section 14-5.2(C)(3)(b), the Board has the authority to approve an application for alteration or new construction on the condition that changes relating to exterior appearance recommended by the Board be made in the proposed work, and no permit is to issue until new exhibits, satisfactory to the Board, have been submitted.
9. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review have been met.
10. The information contained in the Application, and provided in testimony and evidence establishes that all applicable design standards for Board approval as herein described have been met.

#### CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Board acted upon the Application as follows:

1. The Board has the authority to review and approve the Application.
2. The Board approved the Application as recommended by Staff.

X Additional conditions, which are: that duct work on the roof be painted the same color as the stucco and that it not be visible from any public way.

**IT IS SO ORDERED ON THIS 11<sup>th</sup> DAY OF OCTOBER 2016, THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.**

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date:

FILED:

\_\_\_\_\_  
Yolanda Y. Vigil  
City Clerk

\_\_\_\_\_  
Date:

APPROVED AS TO FORM

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Assistant City Attorney

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Date:

City of Santa Fe  
Historic Districts Review Board  
Findings of Fact and Conclusions of Law

**Case #H-16-080**

**Address** – 550 1/2 Canyon Rd

**Agent's Name** – Tomas Lechner

**Owner/Applicant's Name** – Louanne Ellis

THIS MATTER came before the Historic Districts Review Board ("Board") for hearing on September 27, 2016.

550 ½ Canyon Road is a residential structure build in the Spanish-Pueblo Revival style and is Noncontributing to the Downtown and Eastside Historic District. A building inventory was conducted in 1984 for 550 Canyon Road which is now the Pushkin Gallery. The form includes a photo of the property and indicates the proposed building site for 550 ½ Canyon Road. The building is Noncontributing to the district because it was built after 1984. The Applicant proposed to remodel the property with the following 7 Items:

- 1) Remove a window and replace the opening with a door on the north elevation. The current location of the door on the north elevation will be filled in.
- 2) Relocate the window that was removed from the north elevation and place it at the southwest corner of the south elevation.
- 3) Remove a window from the west elevation and fill in the wall where the window was removed.
- 4) Add two new windows to the east elevation.
- 5) All windows will be simulated divided lite.
- 6) Paint color for the windows and door will match the existing "turquoise green."
- 7) Stucco color for patching will be cementitious El Rey in "Buckskin."

**FINDINGS OF FACT**

1. After conducting public hearings and having heard from the Applicant and all interested persons, the Board hereby FINDS, as follows:
2. Zoning staff determined that the Application meets underlying zoning standards.
3. Staff Recommendation: Staff recommended approval of this Application in that it complies with 14-5.2 (D) (9) General Design Standards for All H Districts Height, Pitch, Scale, and Massing and 14-5.2 (E) Downtown and Eastside.
4. The project is, without limitation, subject to requirements of the following sections of the Santa Fe Land Development Code:
  - X   Section 14-5.2(D)(9) General Design Standards, Height Pitch Scale and Massing (of any structure).
  - X   Section 14-5.2(D) General Design Standards
  - X   Section 14-5.2(C), Regulation of Significant and Contributing Structures
5. The property is located in the following district and subject to the related sections of the Santa Fe Land Development Code:
  - X   Downtown and Eastside Historic District (Section 14-5.2(E))

6. An Exception Request was not applicable to this Application.
7. The building under consideration, 550 ½ Canyon Road is listed as Noncontributing.
8. However, 550 Canyon Rd. is listed as Contributing.
9. Under Sections 14-2.6(C), 14-2.7(C)(2), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f) and 14-5.2(C)(3)(b), 14-5.2(C)(3)(a) and Section 14-5.2(D) the Board has authority to review, approve, with or without conditions, or deny, all or some of the Applicant's proposed design to assure overall compliance with applicable design standards.
10. Under Section 14-5.2(C)(3)(b), the Board has the authority to approve an application for alteration or new construction on the condition that changes relating to exterior appearance recommended by the Board be made in the proposed work, and no permit is to issue until new exhibits, satisfactory to the Board, have been submitted.
11. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review have been met.
12. The information contained in the Application, and provided in testimony and evidence establishes that all applicable design standards for Board approval as herein described have been met.

#### CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Board acted upon the Application as follows:

1. The Board has the authority to review and approve the Application.
2. The Board approved the Application as submitted and as recommended by Staff.  
X Additional conditions, which are: that the window design be submitted to staff for final approval before the construction permit is submitted.

**IT IS SO ORDERED ON THIS 11<sup>th</sup> DAY OF OCTOBERAUGUST 2016, THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.**

\_\_\_\_\_  
Chairperson

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Date:

FILED:

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Yolanda Y. Vigil  
City Clerk

\_\_\_\_\_  
Date:

APPROVED AS TO FORM

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Assistant City Attorney

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Date:



City of Santa Fe  
Historic Districts Review Board  
Findings of Fact and Conclusions of Law

**Case #H-16-081A**

**Address** – 417 Agua Fria St

**Agent's Name** – Jake Rodriguez

**Owner/Applicant's Name** – Shrine of Our Lady Guadalupe

THIS MATTER came before the Historic Districts Review Board ("Board") for hearing on September 27, 2016.

417 Agua Fria is a mixed Territorial Revival and Mission Revival style building which is currently listed as Noncontributing to the Downtown and Eastside Historic District. The building has served as the rectory and office for the Shrine of Our Lady of Guadalupe Parish. An historic building inventory was conducted in 1996 and recommended the status of the building be designated as contributing.

Staff requested a status review to evaluate the building's status and designate primary elevations. The inventory described the building as an historic and modern church initially constructed in the 1800s as an estimated date but known to have existed by 1902 according to the 1902 Sanborn map.

The 1958 aerial photo graph indicated the existing footprint of the building without the 1960s addition to the north. A gabled roof was noted in the 1958 aerial and the current photos of the rectory and office building. The roof line provides a character defining feature of the east (elevations 6, 7, and the north half of 8), west (north half of elevation 3 and elevation 4), and north (elevation 5) elevations of the church. Dormers adorn the roof.

A Territorial Revival style addition was added to the south elevation of the church sometime between 1958 and 1969 (elevations 1 and 2, south corner of elevation 3, and south corner of elevation 8). No definitive date has been determined for the addition though the 1985 building inventory form indicates a remodel in 1961. The Territorial Revival character includes the brick coping, window pediments, a flat roof, and columns under the portal.

A porch was enclosed on the north side of the building (east half of elevation 5), also at an unknown date that appears to have occurred before 1958.

Window styles include wood double hung windows on the north elevation and the east elevation of the building. All of the windows on the east side of the building are newer and have snap-in muntins which are broken. Six lite casement windows are also noted on the north side of the building. The west elevation consists of wood double hung windows. The south elevation is composed of large steel casement windows with fixed lites over hoppers.

Doors on the building are comprised of wood panel with upper lites, wood panel with side lites, transoms, and pedimented lintels. One French door exists on the east elevation.

**FINDINGS OF FACT**

1. After conducting public hearings and having heard from the Applicant and all interested persons, the Board hereby FINDS, as follows:

2. Staff Recommendation: Staff recommended the building as significant to the Downtown and Eastside Historic District 14-5.2 (C) Regulation of Significant and Contributing Structures in the Historic Districts.
3. The project is, without limitation, subject to requirements of the following sections of the Santa Fe Land Development Code:
  - X   Section 14-5.2(D)(9) General Design Standards, Height Pitch Scale and Massing (of any structure).
  - X   Section 14-5.2(D) General Design Standards
  - X   Section 14-5.2(C), Regulation of Significant and Contributing Structures in the Historic Districts
4. The property is located in the following district and subject to the related sections of the Santa Fe Land Development Code:
  - X   Downtown and Eastside Historic District (Section 14-5.2(E))
5. Under Section 14-12.1, the definition of a “contributing structure” is “a structure, located in a historic district, approximately fifty years old or older that helps to establish and maintain the character of that historic district. Although a contributing structure is not unique in itself, it adds to the historic associations or historic architectural design qualities that are significant for a district. The contributing structure may have had minor alterations, but its integrity remains.”
6. Under Section 14-12.1, the definition of a “significant structure” is a “structure located in a historic district that is approximately fifty years old or older, and that embodies distinctive characteristics of a type, period or method of construction. For a structure to be designated as significant, it must retain a high level of historic integrity. A *structure* may be designated as significant: (A) for its association with events or persons that are important on a local, regional, national or global level; or (B) if it is listed on or is eligible to be listed on the State Register of Cultural Properties or the National Register of Historic Places.”
7. Code 14-5.2(C)(2)(a – c) gives the Board authority to review and approve "significant," "contributing," or "noncontributing" status designations
8. The Board, in response to the application, finds the structure:
  - X   meets the Section 14-12.1 criterion for “significant” as provided in the presentation and Staff Report
9. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review have been met.

### CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Board acted upon the Application as follows:

1. The Board has the authority to review and approve the Application.
2. The Board granted the staff’s request to review historic status, concurred with staff’s recommendation, and voted to:
  - X   Upgrade to Significant status.

**IT IS SO ORDERED ON THIS 11<sup>th</sup> DAY OF OCTOBER 2016, BY THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.**

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date:

FILED:

\_\_\_\_\_  
Yolanda Y. Vigil  
City Clerk

\_\_\_\_\_  
Date:

APPROVED AS TO FORM

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Date:

City of Santa Fe  
Historic Districts Review Board  
Findings of Fact and Conclusions of Law

**Case #H-16-082**

**Address** – 326 South Guadalupe St

**Agent's Name** – Suby Bowden & Associates

**Owner/Applicant's Name** – Daniel Razatos

THIS MATTER came before the Historic Districts Review Board (“Board”) for hearing on September 27, 2016.

326 South Guadalupe Street, formerly known as D.L. Miller Cracker Factory Co., Capital Coal Warehouse, H.B. Cartwright and Brother Grocery and Produce Co., and Zia Dinner, is a commercial structure originally constructed in a vernacular manner in 1882 and remodeled in the Mission Revival Style in 1910. The building is Significant to the Westside-Guadalupe Historic District.

The Applicant proposed to install a neon sign on the front, east façade. Previously, Zia Diner had a neon sign with exposed bulbs on the front façade above 15’ high. The sign was removed without permission by the Historic Preservation Division and both of the non-conformities are no longer grandfathered in, so two exceptions were requested to alter and reinstall the previously existing sign. Vandalism was cited as the reason for removal. The large “Zia” signage on the south elevation was also removed without approval.

The Applicant proposed to alter the sign to show the name change for this restaurant and install at 18’ above grade. No other changes were proposed.

**FINDINGS OF FACT**

1. After conducting public hearings and having heard from the Applicant and all interested persons, the Board hereby FINDS, as follows:
2. Zoning staff determined that the Application meets underlying zoning standards.
3. Staff Recommendation: Staff found that neither of the exceptions have been met to install signage with exposed bulbs or to place a sign above 15’. Additional testimony at the hearing may bring the Application into compliance.
4. The project is, without limitation, subject to requirements of the following sections of the Santa Fe Land Development Code:
  - X Section 14-5.2(D)(9) General Design Standards, Height Pitch Scale and Massing (of any structure).
  - X Section 14-5.2(D) General Design Standards
  - X Section 14-5.2(C), Regulation of Significant and Contributing Structures
5. The property is located in the following district and subject to the related sections of the Santa Fe Land Development Code:
  - X Westside-Guadalupe Historic District (Section 14-5.2(I))
6. An Exception Request for neon signage (14-8.10(H)(10)(c)) was applicable to this Application:
  - X Exception criteria were met, as found by staff, but with the following additional findings to substitute those by staff:

7. The Exception Request does not damage the character of the streetscape in that the sign is iconic, has been in existence for over 3 decades, and helps to define the character of the Westside-Guadalupe Historic District and the streetscape.
8. The Exception Request does prevent a hardship to the applicant or an injury to the public welfare, in that this sign is a beloved icon, has been in existence for over 3 decades, and helps to define the character of the Westside-Guadalupe Historic District and the streetscape, and the replacement sign will be very similar to what was in the same location, and any other location would be less than optimal for the Applicant and the public who are accustomed to signage at that location to indicate the location of a restaurant; in addition the usage of existing mounts prevents further damage to the existing wall.
9. The Exception Request does strengthen the unique heterogeneous character of the city by providing a full range of design options to ensure that residents can continue to reside within the historic districts, in that while this is not a residential structure, it is iconic, has been in existence for over 3 decades, and helps to define the character of the Westside-Guadalupe Historic District and the streetscape; in addition the usage of existing mounts prevents further damage to the existing wall.
10. An Exception Request for signage above 15' (Section 14-8.10(H)(26)(a)(i)(D) was applicable to this Application:  
    \_X\_ Exception criteria were met, as found by staff, but with the following additional findings to substitute those by staff:
11. The Exception Request does not damage the character of the streetscape as stated in Finding #7.
12. The Exception Request does prevent a hardship to the applicant or an injury to the public welfare as stated in Finding #8.
13. The Exception Request does strengthen the unique heterogeneous character of the city as stated in Finding #9.
14. The Exception Request is due to special conditions and circumstances peculiar to the land or structure involved and which are not applicable to other lands or structures in the related streetscape as stated in Finding #8.
15. The Exception Request is due to special conditions and circumstances which are not a result of the actions of the Applicant, in that the temporary removal of the sign was not the result of the Applicant's actions, but rather the actions of the landlord.
16. The Exception Request does provide the least negative impact with respect to the purpose of Santa Fe City Code Section 14-5.2, as set forth in Subsection 14-5.2(A)(1) as stated in Finding #8.
17. Under Sections 14-2.6(C), 14-2.7(C)(2), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f) and 14-5.2(C)(3)(b), 14-5.2(C)(3)(a) and Section 14-5.2(D) the Board has authority to review, approve, with or without conditions, or deny, all or some of the Applicant's proposed design to assure overall compliance with applicable design standards.
18. Under Section 14-5.2(C)(3)(b), the Board has the authority to approve an application for alteration or new construction on the condition that changes relating to exterior appearance recommended by the Board be made in the proposed work, and no permit is to issue until new exhibits, satisfactory to the Board, have been submitted.
19. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review have been met.

20. The information contained in the Application, and provided in testimony and evidence establishes that all applicable design standards for Board approval as herein described have been met.

**CONCLUSIONS OF LAW**

Under the circumstances and given the evidence and testimony submitted during the hearing, the Board acted upon the Application as follows:

1. The Board has the authority to review and approve the Application.
2. The Board approved the Application as recommended by Staff.

X No additional conditions.

**IT IS SO ORDERED ON THIS 11<sup>th</sup> DAY OF OCTOBER 2016, THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.**

\_\_\_\_\_  
Chairperson

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Date:

FILED:

\_\_\_\_\_  
Yolanda Y. Vigil  
City Clerk

\_\_\_\_\_  
Date:

APPROVED AS TO FORM

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Assistant City Attorney

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Date:

City of Santa Fe  
Historic Districts Review Board  
Findings of Fact and Conclusions of Law

**Case #H-04-076**

Address – 201 Old Santa Fe Trail

Agent's Name – Eric Enfield

Owner's Name – Teme LLC

THIS MATTER came before the Historic Districts Review Board ("Board") for public hearing on September 22, 2016 (the "Hearing") upon the application ("Application") of Eric Enfield as agent for Teme LLC ("Applicant"). The Hearing was postponed from the September 13, 2016 meeting due to audio-visual technical difficulties, not the fault of the Applicant.

201 Old Santa Fe Trail is a vacant 0.4352 acre parcel of land ("Property") located in the Downtown & Eastside Historic District on the southeast corner of the intersection of Old Santa Fe Trail and Water Street. The Application originally proposed construction on the Property of a 5-story, 38,858 square-foot building on a 12,087 square-foot footprint with a maximum height of approximately 63' 6". On July 28, 2015, the Board postponed the matter, pending legal review of the applicable maximum allowable height and submittal of a 3-D model to establish harmony or lack of harmony with the adjacent streetscapes. By the May 24, 2016 Board meeting, the City Attorney and Historic Preservation Division ("HPD") staff had determined that the 1996 height ordinance applied to the Application and that the maximum allowable building height for the Property is 21' 11". Subsequently, the Applicant presented the same 5-story design that had been presented at the July 28, 2015 hearing, but with a request for a height exception to allow the height above 21' 11" and without the 3-D model requested by the Board. The Board postponed action on the Application at the May 24, 2016 meeting, pending submittal of a proposal for a 3-story structure with stepbacks and a 3-D model showing the relationships between the proposed building and adjacent structures.

At the Hearing, the Applicant presented a revised design for a 4-story building with a 49' maximum height ("Project"), requesting a height exception with the required exception criteria responses. The 25,536 square-foot building on a 13,105 square-foot footprint is designed in the Spanish-Pueblo Revival style with room block massing, floor stepbacks, rounded edges, exposed wooden headers and carved corbels at portals. Proposed finishes include cementitious stucco in "Buckskin", trim color "Mist Blue", a "Medium Walnut" wood stain, and a shale brick "Kiamichi" stone veneer base.

**FINDINGS OF FACT**

After conducting the July 28, 2015, May 24, 2016, September 13, 2016 public hearings and the Hearing and having heard from the Applicant and all interested persons, the Board hereby FINDS, as follows:

1. Zoning staff determined that the Application meets underlying zoning standards.
2. HPD staff found that the Applicant's responses to the height exception criteria were sufficient and recommended approval of the Application as complying with Section 14-

5.2(D)(9) General Design Standards, Height Pitch Scale and Massing and (E) Downtown & Eastside Historic District.

3. The proposed building is, without limitation, subject to requirements of Section 14-5.2(D)(9) of the Santa Fe Land Development Code (“Code”), General Design Standards, Height Pitch Scale and Massing.
4. The Property is located in the Downtown & Eastside Historic District (Section 14-5.2(E)) and is subject to the related sections of the Code.
5. An exception request for greater height was made with the Application, requiring the Applicant to “conclusively demonstrate” that the requested exception complies with all six criteria listed in Section 14-5.2(C)(5)(c) of the Code.
6. The Board finds that Applicant did not meet any of the six criteria for an exception to the maximum allowable height calculated for the Property.
7. The first criterion for the exception requested is that the Project not damage the character of the streetscape. The Board finds that the most relevant part of the streetscape is on the east side of Old Santa Fe Trail south from Water Street consisting first of an empty lot on which Applicant has proposed the building at issue, then the Loretto Chapel, then the one-story retail wing of the Inn at Loretto and then the wall in front of the Inn’s auto court. The multistoried Inn at Loretto is visible from Old Santa Fe Trail, but is set back for almost the entire depth of the Chapel. Also part of the streetscape are the one-story buildings on the west side of Old Santa Fe Trail.. The proposed building would damage the character of the streetscape because it closely crowds and dominates the Loretto Chapel and does not respect the prominence of the Chapel from the north in the way that the single-story wing housing retail shops at the Inn at Loretto does from the south. A building alongside and to the north of the Loretto Chapel fronted with a one-story wing within the allowable height extending for most of the Chapel’s depth would maintain the character of the streetscape by balancing the openness of the single-story south of the Chapel. Such a building could step up toward the back of the Chapel and along Water Street for additional stories permitting greater square footage. Although the exclusion of institutional and hotel buildings from the height calculation results in a maximum allowable height that does not match those adjacent institutional and hotel buildings, the Board recognizes that some additional height may be reasonable in order for the Project to achieve harmony with all buildings in the streetscape. The Board does not concur with the expressed view that the exclusion of institutional buildings in calculating allowable height is unreasonable given the overarching goal of the Code Section 14-5.2 to manage height in the historic districts as one method of maintaining their character.
8. The second criterion for an exception is whether granting it prevents a hardship to the applicant or an injury to the public welfare. The sole basis for claiming hardship is an economic diminution of value due to not being able to build a larger and taller building. In *Penn Central Transportation Company v. New York City*, 438.U.S. 104 (1968), the U.S. Supreme Court held that diminished economic return (there the inability to build a tower over Grand Central Station) cannot be used to trump historic standards unless it meets the standard for a taking. In addition, while the Project is subject to a number of Code requirements and site conditions that impose some constraints on it, those constraints do not prohibit a design that meets all Code requirements and allows the Applicant to develop the Property to meet much of their desired program.



9. The third criterion for an exception is whether granting it would strengthen the unique heterogeneous character of the city by providing a full range of design options to ensure that residents can continue to reside within the historic districts. The Board agrees with staff that this criterion is about design options and whether there are design options that would be an alternative to a building that needs the exception. There definitively is such a design option—a structure within the maximum height limit—that would still afford the Applicant the ability to have retail stores there, complementing the stores south of the Loretto Chapel and across the street. There may be other design options that would work as well and, as noted above, require an exception, but the Applicant refused to work with the Board to discuss those options.
10. The fourth criterion for an exception is whether it is needed due to special conditions and circumstances peculiar to the land or structure involved and which are not applicable to other lands or structures in the related streetscape. Although the lot is small and that limits how many square feet of structure the Applicant can build, that same circumstance obtains for other lots in the streetscape. As noted above, there are constraints on the lot stemming from balancing the streetscape on both sides of the Loretto Chapel and respecting the prominence of the Chapel. There is also a special circumstance that can result from reconciling the way that maximum height is measured excluding certain taller buildings and achieving harmony with those taller buildings, but the Board finds that the proposed design does not achieve that harmony. Applicant had been flexible in working with the Board and the Board wanted to continue to discuss other design options in recognition of these constraints, but the Applicant refused and demanded a final vote. The length of time that the Applicant has been trying to develop the Property is not a circumstance “peculiar to the land or structure”, as it could have developed it when circumstances were more favorable.
11. The fifth criterion for an exception is whether it is needed due to special conditions and circumstances, which are not a result of the actions of the Applicant. While the height ordinance is the action of the City Council rather than the Applicant, there is no reasonable expectation that ordinances will remain the same over time. All applicants are required to follow current law. Hence, as staff has previously recognized, the 1996 height ordinance is not a “special condition or circumstance” that meets this criterion, as the rules apply equally to all.
12. The sixth criterion for an exception is whether it provides the least negative impact with respect to the purpose of Code Section 14-5.2, as set forth in Subsection 14-5.2(A)(1). A building kept to the applicable legal height limit would provide the least negative impact and be more in harmony with the structure to the south of the Chapel as well as less intrusive, crowding and blocking of the Chapel. Moreover, other design options could better minimize the negative impact, including buildings requiring a height exception.
13. Based on the foregoing, the Board finds that there may be design options that could meet the exception criteria for exceeding the maximum allowable height that address all the constraints applicable to the Property, but that the Applicant’s refusal to consider further discussion of the matter required the Board to rule on this Application, which does not meet those criteria.
14. Under Code Sections 14-2.6(C), 14-2.7(C)(2), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f) and 14-5.2(C)(3)(b), 14-5.2(C)(3)(a) and Section 14-5.2(D), the Board has authority to review, approve, with or without conditions, or deny, all or some of the Applicant’s proposed design to assure overall compliance with applicable design standards.

15. Under Code Section 14-5.2(C)(3)(b), the Board has the authority to approve an application for alteration or new construction on the condition that changes relating to exterior appearance recommended by the Board be made in the proposed work, and no permit is to issue until new exhibits, satisfactory to the Board, have been submitted.
16. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review have been met.
17. The information contained in the Application, and provided in testimony and evidence establishes that the height standard required by the design requirements has not been met and that the criteria for an exception to the maximum height limit have not been met.

#### CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Board acted upon the Application as follows:

1. The Board has the authority to review and approve or deny the Application.
2. The Application does not meet the applicable design standards for the Downtown and East Side Historic District and hence is denied.

**IT IS SO ORDERED ON THIS \_\_\_\_\_ DAY OF OCTOBER 2016, THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.**

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date:

FILED:

\_\_\_\_\_  
Yolanda Y. Vigil  
City Clerk

\_\_\_\_\_  
Date:

APPROVED AS TO FORM

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date:

City of Santa Fe  
Historic Districts Review Board  
Findings of Fact and Conclusions of Law

**Case #H-16-076B**

**Address** – 222 North Guadalupe Ave.

**Agent's Name** – Josh Johns

**Owner/Applicant's Name** – Timothy Kittleson

THIS MATTER came before the Historic Districts Review Board (“Board”) for hearing on September 22, 2016, after it was postponed at the September 13, 2016 due to audio-visual technical difficulties, not the fault of the Applicant.

222 North Guadalupe Street was a single-family residential structure now used commercially as Fire and Hops restaurant. It was constructed by 1928 in a vernacular manner. The structure is listed as Contributing to the Westside-Guadalupe Historic District with the north elevation and east elevation of the front block designated as primary in the immediately prior hearing. The Applicant proposed to remodel the property with the following items:

1. The front portal was enclosed without approval or a permit with temporary materials for more than 90 days. The Applicant revised the plan by removing the temporary enclosure and redesigning the enclosure to show permanent materials. The Applicant requested an exception to enclose the portal (14-5.2(D)(4)) and the required exception criteria responses were at the end of staff's report. Wooden panel half walls partially infill the two side openings on the north front of the porch. Single-lite glazing will be inserted on the portal's east and west sides and front portal openings with a bronze-colored aluminum storm door with single-lite glazing side lites to have a visual effect of being open rather than closed.

2. A dining portal was constructed without approval or a permit with a pitched roof. An exception is required to construct a pitch where a pitch is not allowed with only 6 out of 30 pitches in the applicable streetscape (SFCC 14-5.2(D)(9)(d)), but the Applicant has redesigned the structure to include a stuccoed parapet on the north elevation to block visibility from the public way and to remove the exception need. The portal was constructed with wooden timbers and a corrugated metal shed roof.

3. A free-standing walk-in cooler was placed in the side yard without approval or a permit, and it is not publicly-visible. A corrugated metal screen was constructed to block visibility from the dining portal, and it is not publicly-visible.

**FINDINGS OF FACT**

1. After conducting public hearings and having heard from the Applicant and all interested persons, the Board hereby FINDS, as follows:
2. Zoning staff determined that the Application meets underlying zoning standards.
3. Staff Recommendation: Staff recommended approval of this Application in that it complies with complies with Section 14-5.2 (C) Regulation of Contributing Structures, (D) General Design Standards, and (I) Westside-Guadalupe Historic District.
4. The project is, without limitation, subject to requirements of the following sections of the Santa Fe Land Development Code:

- X Section 14-5.2(D)(9) General Design Standards, Height Pitch Scale and Massing (of any structure).
- X Section 14-5.2(D) General Design Standards
- X Section 14-5.2(C), Regulation of Significant and Contributing Structures
5. The property is located in the following district and subject to the related sections of the Santa Fe Land Development Code:
- X Westside-Guadalupe Historic District (Section 14-5.2(I))
6. An Exception Request to enclose a portal (14-5.2(D)(4)) was applicable to this Application:
- X Exception criteria were met, as found by staff.
7. Under Sections 14-2.6(C), 14-2.7(C)(2), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f) and 14-5.2(C)(3)(b), 14-5.2(C)(3)(a) and Section 14-5.2(D) the Board has authority to review, approve, with or without conditions, or deny, all or some of the Applicant's proposed design to assure overall compliance with applicable design standards.
8. Under Section 14-5.2(C)(3)(b), the Board has the authority to approve an application for alteration or new construction on the condition that changes relating to exterior appearance recommended by the Board be made in the proposed work, and no permit is to issue until new exhibits, satisfactory to the Board, have been submitted.
9. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review have been met.
10. The information contained in the Application, and provided in testimony and evidence establishes that all applicable design standards for Board approval as herein described have been met.

#### CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Board acted upon the Application as follows:

1. The Board has the authority to review and approve the Application.
2. The Board unanimously approved the Application as recommended by Staff.

X Additional conditions, which are: (1) that on the north façade of the portal that the two flankings openings be enclosed on the bottom by an adobe (stuccoed) wall to a height to match the height of the window sills behind the façade and with single glazing on top for the remainder of the opening with as little framing as possible; (2) that the very bottom portion is not be flush with 4 flanking columns, that it be set back a few inches so it is demarcated as a portal; and (3) that on the proposal for the dining portal, the Applicant has the option of a parapet or attaching it to the roof so it no longer needs the exception (4) that staff shall approve new design drawings before a construction permit application is submitted.

**IT IS SO ORDERED ON THIS 27<sup>th</sup> DAY OF SEPTEMBER 2016, THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.**

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date:

FILED:

\_\_\_\_\_  
Yolanda Y. Vigil  
City Clerk

\_\_\_\_\_  
Date:

APPROVED AS TO FORM

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Date:

Historic Districts Review Board  
October 11, 2016

**EXHIBIT 2**

**RAMIREZ-THOMAS, NICOLE A.**

---

**From:** Nathalie Kent <nathaliekent@gmail.com>  
**Sent:** Tuesday, September 13, 2016 12:42 AM  
**To:** RAMIREZ-THOMAS, NICOLE A.  
**Cc:** Kent Nathalie  
**Subject:** 442 Camino de Las Animas/Garage/ Case H-16-070

**Importance:** High

Good morning Nicole,

Following our visit, I am writing a few points about this very sad and unfair situation with my neighbor, Jim Swearingen, and his new garage project.

If I recall the history of his project correctly, he was allowed to build his house without the garage due to the elevations of the house in relation to the previously existing original landscape elevations. Now, somehow, the height of the garage seems to have gotten even taller than before, and maybe possible for him to build. My historic property will be even more devastated and dominated by this new tall structure.

I have lived over 20 years in the historic Eastside in a two hundred year old adobe home trying to help preserve and respect the look and feel of the area.

I have already lost my view of the beautiful mountains, having to look at his corrugated metal roof instead. Now he wants me to also look at a tall wall with garage doors, closed or maybe open, as my new daily view. I will also have less daylight and sky view. What's the point of trying to preserve a 19th century historic home and this beautiful area while having to look at a garage door.

Also, do I really need to hear, smell, and breathe his truck fumes? Especially in my garden patio where I have my meals.

I hope you take into consideration how this has negatively affected my life.

Thank you,

Nathalie Kent

PS: I am still searching for the previous case number hoping that David Rasch might remember it was 2 or 3 years ago.

Nathalie Kent  
428 Camino de Las Animas  
Santa Fe, NM 87505  
Cell 505 660-3131  
[nathaliekent@gmail.com](mailto:nathaliekent@gmail.com)

Historic Districts Review Board  
October 11, 2016

## **EXHIBIT 3**



October 10, 2016

Richard Klein & Claire Zoeller  
801 Old Santa Fe Trail, Unit C  
Santa Fe, New Mexico 87505

Historic District Review Board  
200 Lincoln Avenue  
Santa Fe, New Mexico 87504  
HAND DELIVERED

OCT 11 2016

Re: Case # H-16-070, 442 Camino De Las Animas.

Dear Board Members and Staff:

My wife, Claire Zoeller and I are neighbors of applicant Jim Swearingen. We have lived in Santa Fe for 35 years and are currently retired. Our property comes within 10 feet of the southwest corner of the applicant's property and within approximately 30 feet of the proposed new garage, which if constructed will stand directly between our house and the Santa Fe Ski Basin and the Sangre de Cristo Mountains.

As Board members, you are the guardians of the Historic Ordinance. Claire and I, along with our neighbors Nathalie Kent and Jim Arndt, urge you to reject this proposal. Please do not set a terrible precedent here by exercising your discretion to allow this applicant, without any compelling reason, to have his house and garage exceed its Maximum Height Limit of 15' 8" by 28" to 18' particularly since the applicant intentionally chose to have any future garage violate this limit at a time when he had other options which would not violated the Maximum Height Limit .

A. The Same Plan Proposed Here Was Rejected By The Historic Board Staff in October 2012.

In September 2012, Mr. Swearingen submitted a virtually identical plan for this house and garage (see Exhibit 1) to the Board's staff, Case #H-12-081, without directly disclosing that it exceeded the Maximum Height Limitation of 15' 8" by about 2' 4". It was placed on the Board's agenda for an October 2012 meeting, Our former attorney, Joseph Karnes, met with David Rasch and pointed out the height violation **primarily due to the garage's location**. This was easy to do because the submitted elevations on page 2 of Exhibit 1 show the top of the house's highest parapet at an elevation of 7085' 8". Therefore, any portion of the house or garage below 7070' elevation would exceed the Maximum Height Limit. The yellow colored in areas in the proposed garage in Exhibit 1, all fall below an elevation of 7070'. It also clear from the submitted 2012 site plan, Exhibit 1, that the available building site then contained enough additional square footage to accommodate the same size house and garage without exceeding the Maximum Height Limit. (You can observe this for yourself on Exhibit 1 by noting that the area between the North of the house, marked in orange, and the house itself is considerably larger than that portion of the garage marked in yellow, the offending portion of the proposed garage). Following the meeting, the matter was summarily removed from the Board's agenda for non-compliance.

**B. In May 2013 Applicant Resubmitted A Proposal For The Very Same House Omitting The Garage.**

After considering the matter for seven months, instead of modifying his house and garage plan to comply, Mr. Swearingen made a decision to try to gain approval for the very same house previously proposed by choosing to eliminate the garage which was causing the height problem and adding a small portal where the garage had been located. See Exhibit 2. The resubmittal was placed on the Board's Agenda for early June 2013. Prior to the meeting, I met with David Rasch and pointed out that a portion of the portal violated the Maximum Height Limit when measured from its "natural slope", prior to Appellant's illegal grading in 2008. He concurred but said that the Board had the power to exercise its discretion on sloping properties and to grant an exception to the Maximum Height Limit. At the meeting, over objection from us and other western neighbors, but with staff recommendation of David Rasch, the Board exercised its discretion and granted Mr. Swearingen an exception of 15" to the Maximum Height Limit.

**C. No Compelling Reason Exists To Allow The Additional Height Violation For The Garage.**

Comparing the applicant's 2016 proposed house and garage site plan and the rejected 2012 house and garage site plan reveals that with slight exception of the fact that the southern wall of the garage is now parallel to the northern garage wall, instead of being parallel to the southern property boundary, the house and garages are identical. From the point of view of those opposing this application, there is no compelling reason whatsoever offered to this Board for you to exercise your discretion to allow a further exception at this time for the applicant's garage. In fact there exists evidence suggesting that Swearingen had in mind to manipulate this Board to grant him in stages the very exceptions for the house and garage combined that he could not get when he first submitted his rejected house and garage proposal in 2012. At a time when Swearingen had ample space to build a house and garage complying with the height limits, he chose to eliminate the garage. Following that when Swearingen built the western wall of his house, which would now abut the proposed garage as its eastern wall, he built a door frame into that wall which will "coincidentally" serve as the entry from the garage interior to the existing house. Two photographs of the door frame in the wall are attached as Exhibit 3. Instead of any compelling reason for approval, we believe that Swearingen is simply trying to manipulate this Board to approve retroactively the plan that had already been summarily rejected in 2012.

**D. Swearingen's Overall Conduct In Site Development For This Site And House Does Not Warrant Exercise Of Board Discretion To Grant Him An Exception.**

We believe that in evaluating whether this Board should again exercise its discretion and grant Mr. Swearingen a second height exception to make this previously unacceptable and rejected garage a reality, you should consider that Mr. Swearingen, from the very outset, has been a bad actor and has acted in bad faith in the development of this site, his third residence on this same property.

In May, 2008, Swearingen, without any permit whatsoever and prior to being red-tagged, illegally brought large earth moving equipment on the property, grading and building an enormous, level building pad at the top of the property, while intentionally destroying Santa Fe City Code protected slopes greater than 30%. Thereafter, attempting to legitimize his illegal efforts, in 2009 he filed incompetent and misleading documents and obtained a city grading permit. In our appeal, the weaknesses of the permit filing were so apparent, he surrendered the permit prior to any decision. In

2010, he obtained a second grading permit, this time by providing misleading and inaccurate survey plats attempting to hide the existence of protected slopes greater than 30% within his proposed site. At the end of a lengthy appeal hearing at the Board of Adjustment, Case # 2010-97, prior to a decision, the matter was adjourned when City Land Use Director Matt O'Reilly successfully offered to act as a mediator between the parties. The mediation began well but ended secretly when Swearingen, without either notice to his western neighbors (which included us), Matt O'Reilly or the Board of Adjustment, unilaterally withdrew. Personally unknown to O'Reilly, Swearingen then filed for and obtained a new grading permit and posted it while Claire and I were out of the country. By the time we returned to Santa Fe, the newly shortened appeal period for the again flawed grading permit had expired. Nevertheless we appealed the permit on "due process" grounds. While the appeal was still pending before the City Counsel, Land Use Director Matt O'Reilly volunteered and acted to broker an agreement between Swearingen, Claire and me, limiting certain elevations on the property in return for the withdrawal of our appeal. Not unexpectedly, Swearingen's original proposal in this pending matter did not comply with his garage height limitations in his agreement with us but it even exceeded his garage parapet elevation in the rejected 2012 proposal by 2.5' feet. We just recently met with Board staff resulting first in his original proposal being removed from the agenda and placed on indefinite postponement. Shortly thereafter, he resubmitted a proposal to the Board for the top of the garage parapet at an elevation of 7082' 10", within the limitations of our agreement and it was restored to this agenda. In our opinion, Mr. Swearingen's repeated conduct demonstrates a pattern to take whatever advantage he can to obtain what he wants regardless of Board or City regulations or private agreements.

### CONCLUSION

It will set a terrible precedent for this Board to let any future applicant believe that compliance with Maximum Height Limits under the Historic Ordinance can be overcome in situations where (1) options for compliance exist for the applicant; (2) the applicant elects not to comply with the available compliance options; (3) there exists no compelling reason for the Board to exercise its discretion for an exception to the Height Limit; and (4) there exists neighborhood objection to the exception. This application for the proposed garage should be denied.

I look forward to being present and speaking at the hearing and answering any questions that you may have.

Very truly yours,




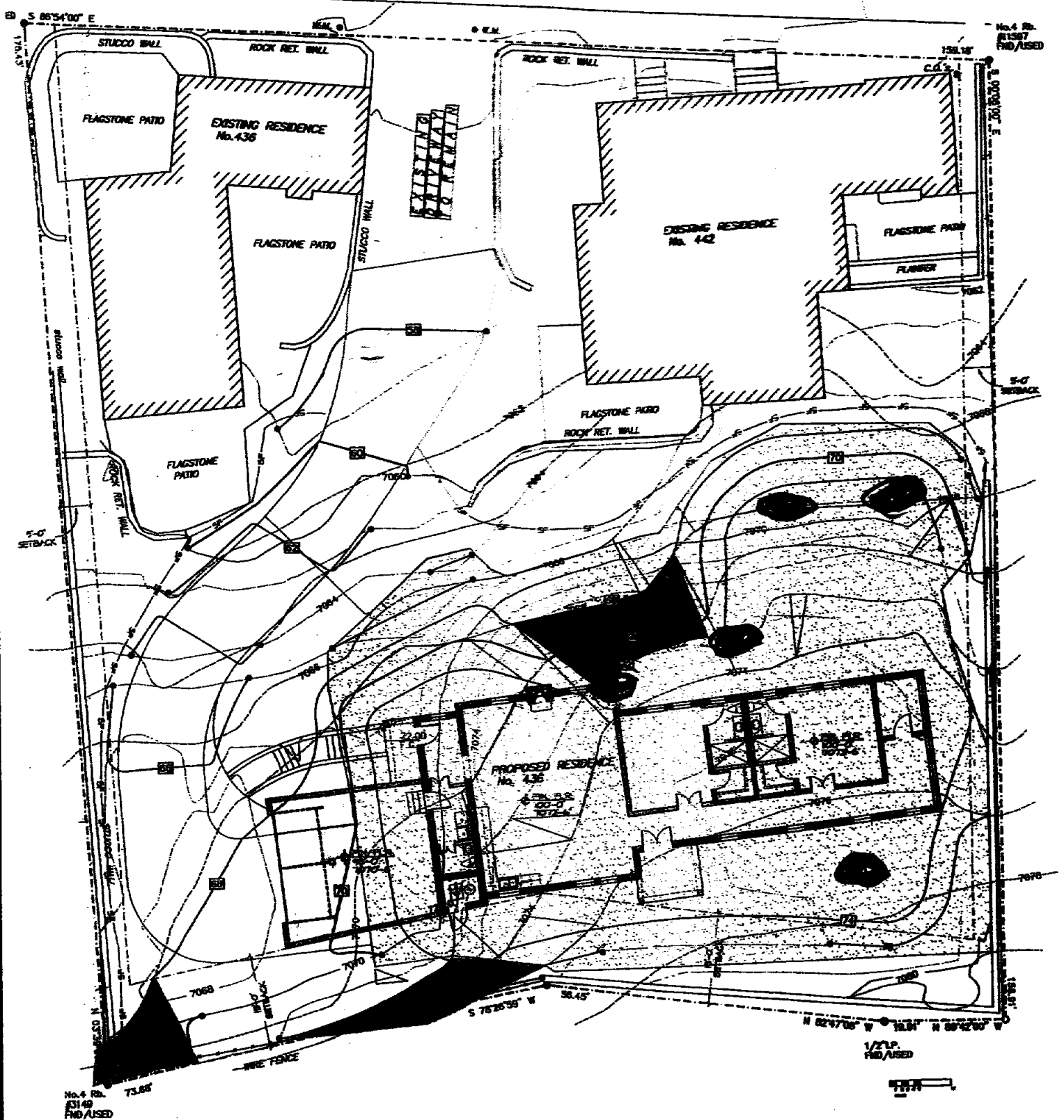
Richard Klein

Exhibits as indicated

# CAMINO DE LAS ANIMAS

TOP OF RIM  
RM- 7055.94  
C. RIVERA TOPOGRAPHY  
DATED: APRIL 19, 1976

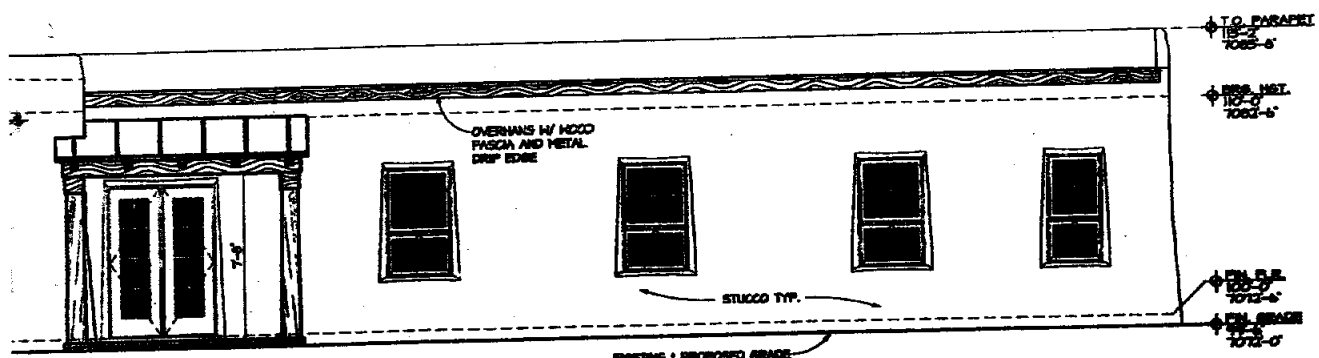
No. 4 Rb.  
#1587  
FND/USED



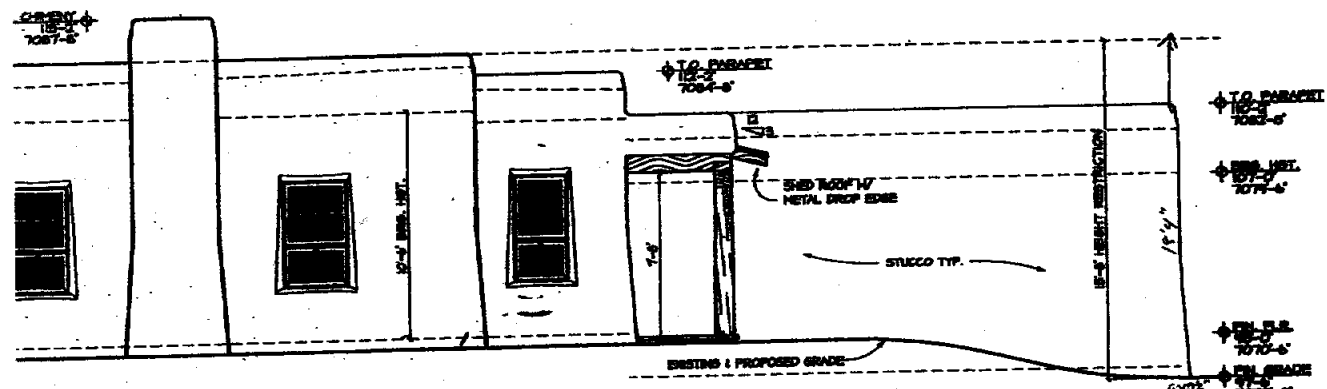
**PROPOSED SITE PLAN**  
1" = 10'

EXIT/BIT "1" - Page 1

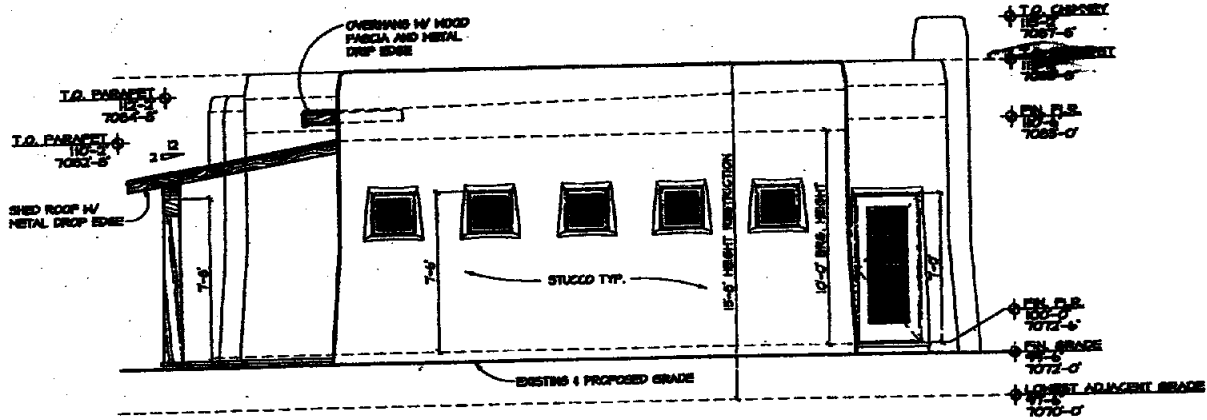
EXCERPT



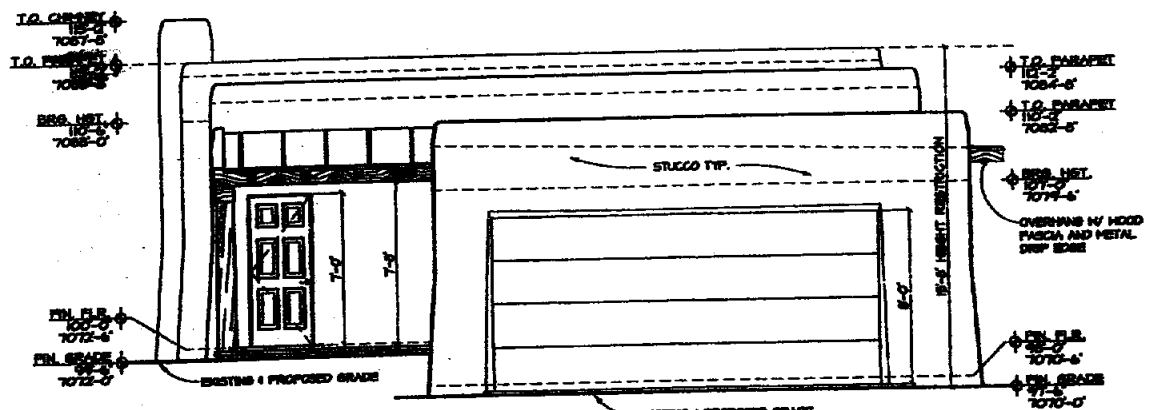
**PROPOSED SOUTH ELEVATION**  
1/4" = 1'-0"



**PROPOSED NORTH ELEVATION**  
1/4" = 1'-0"



**PROPOSED EAST ELEVATION**  
1/4" = 1'-0"



**PROPOSED WEST ELEVATION**  
1/4" = 1'-0"

APPROVALS:	DATE:
OWNER:	
DRAWN BY:	
CHECK BY:	
ENGINEER:	

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**SWEARINGEN RESIDENCE**  
436 CAMINO DE LAS ANIMAS  
SANTA FE, NEW MEXICO

DATE:	25 SEPTEMBER 2012
REVISIONS:	DATE:

<b>A-2</b>
------------

7/9/12

May 9, 2013

TO CITY OF SANTA FE  
HISTORY REVIEW DIVISION



RE: 436 CAMINO DE LAS ANIMAS

THIS REVISED APPLICATION ELIMINATES THE GARAGE  
AND ADDS A PORTAL IN ITS PLACE.

THE SQUARE FOOTAGE OF THE HOUSE IS NOW  
2324 HEATED SPACE, 55 MECHANICAL AND  
232 PORTALS.

Jim Swearingen

JIM SWEARINGEN

984-3056

EXHIBIT "2"



IMG 0393-1.jpg

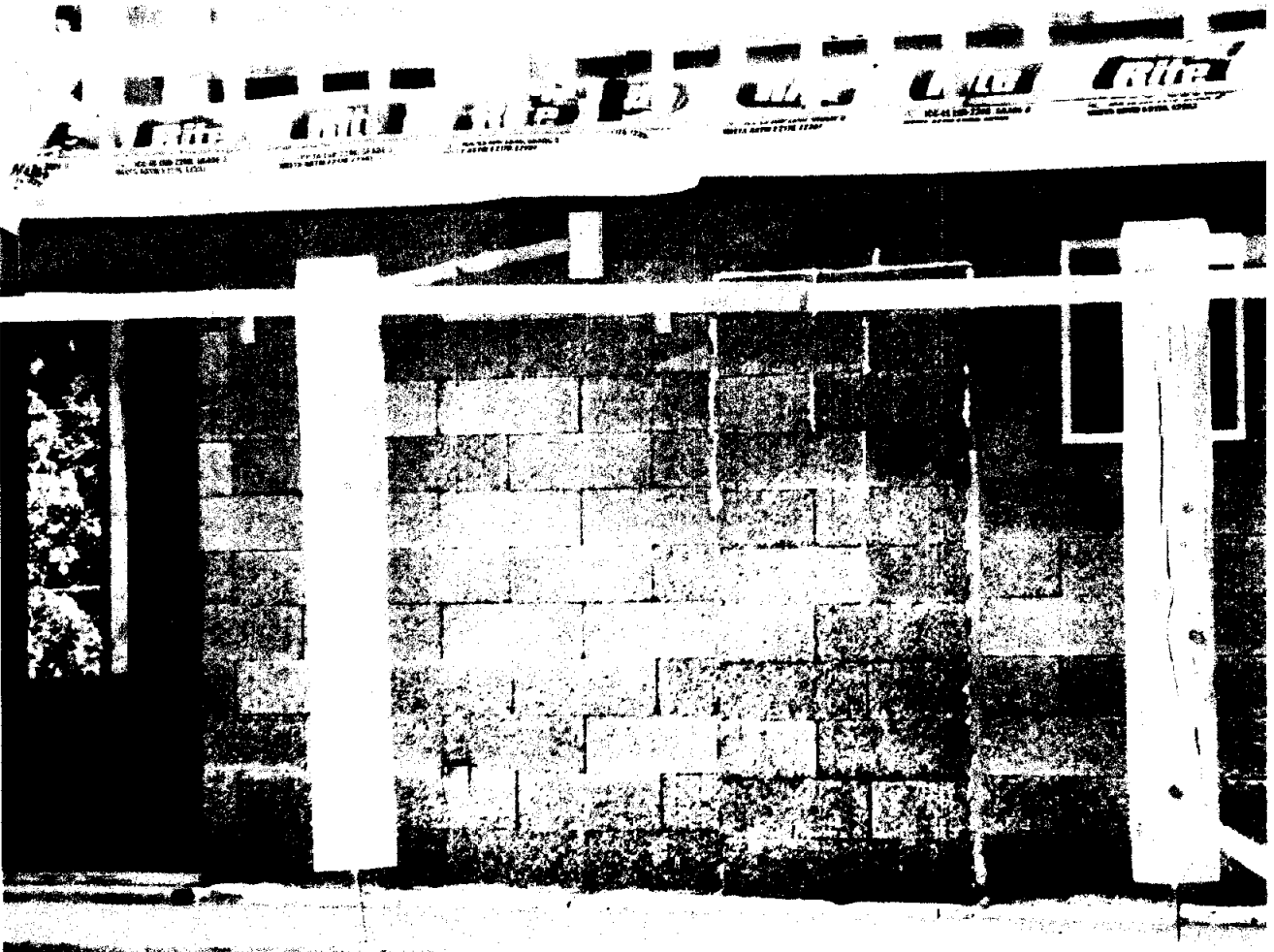


EXHIBIT  
"3"

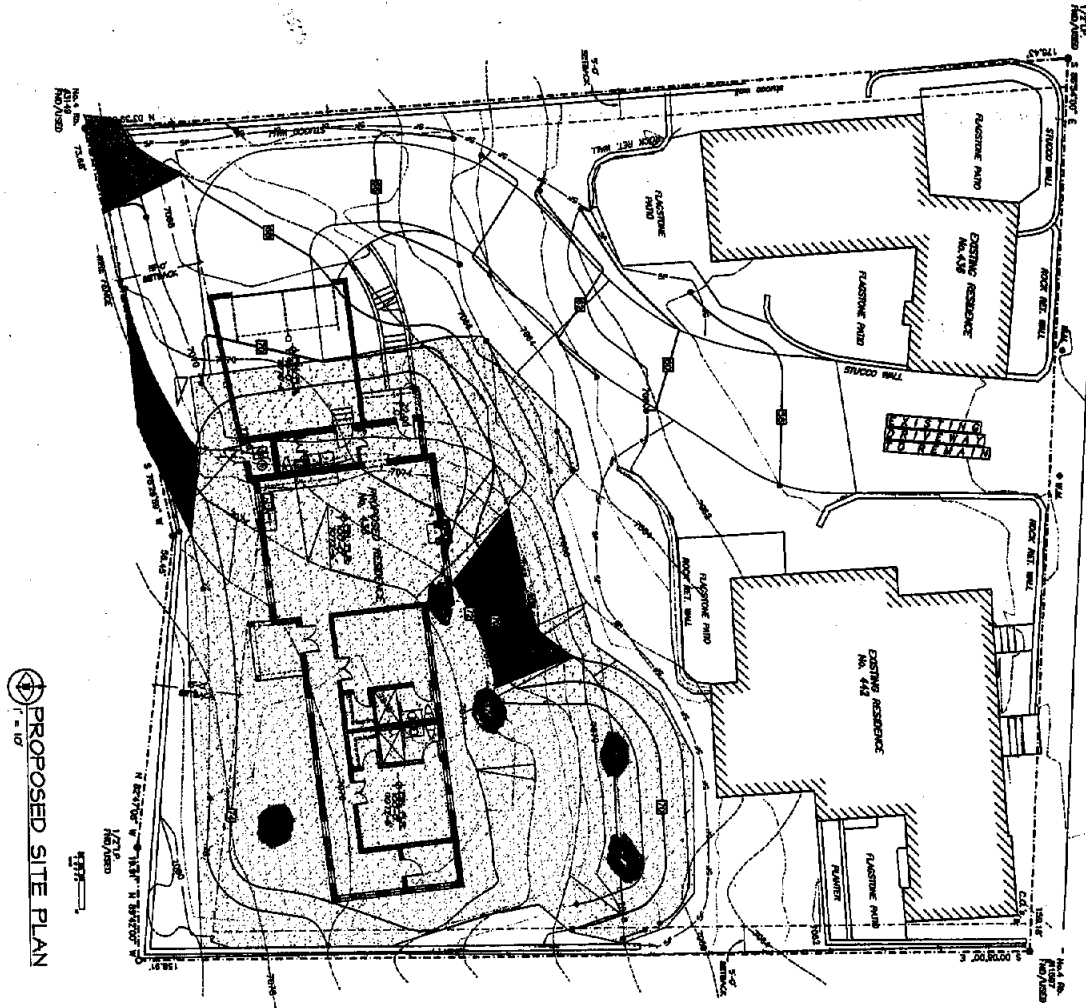
IMG 0243 copy.jpg

Historic Districts Review Board  
October 11, 2016

**EXHIBIT 4**



CAMINO DE LAS ANIMAS



PROPOSED SITE PLAN  
1" = 10'

VICINITY MAP  
N.T.S.



3

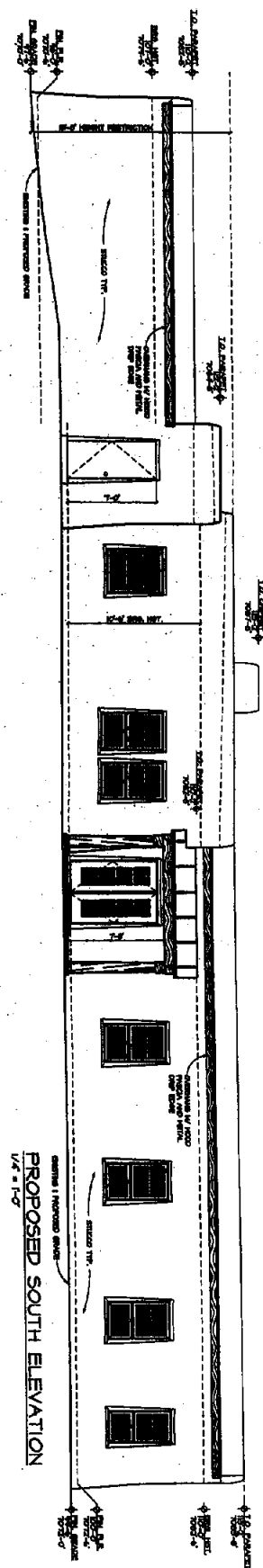
**SWEARINGEN RESIDENCE**  
436 CAMINO DE LAS ANIMAS  
SANTA FE, NEW MEXICO



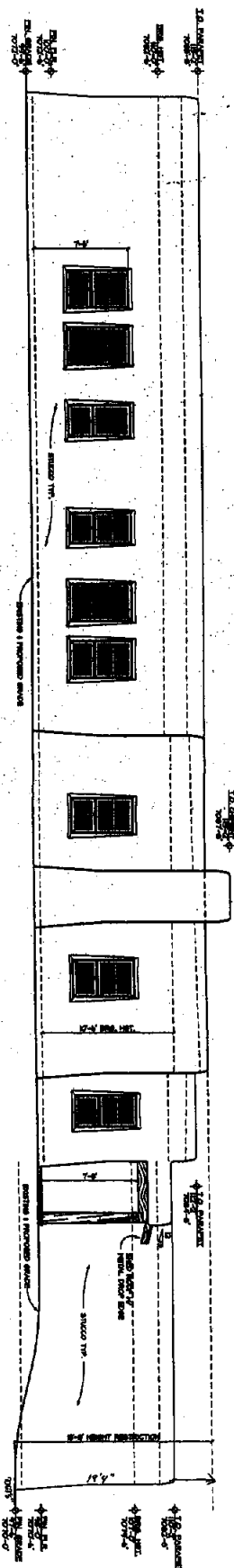
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DATE	12/12/12
DRAWN BY	
CHECK BY	
APPROVED BY	
SCALE	

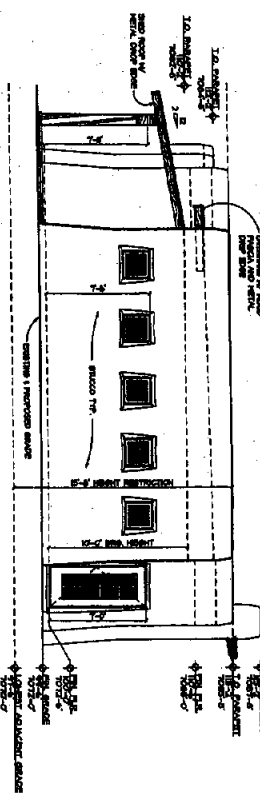
2012 CHSE # 11-12-081



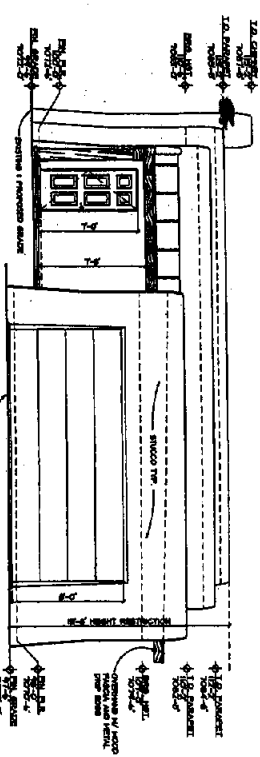
PROPOSED SOUTH ELEVATION  
1/4" = 1'-0"



PROPOSED NORTH ELEVATION  
1/4" = 1'-0"



PROPOSED EAST ELEVATION  
1/4" = 1'-0"



PROPOSED WEST ELEVATION  
1/4" = 1'-0"



7/25/12

**MINUTES OF THE  
CASE MANAGEMENT OPEN MEETING  
NEW MEXICO PUBLIC REGULATION COMMISSION  
September 21, 2016**

**TIME: 9:30 a. m.**

**PLACE: PERA Building  
4<sup>th</sup> Floor Hearing Room  
1120 Paseo de Peralta  
Santa Fé, New Mexico 87501**

A quorum was present as follows:

**Members Present:**

Commissioner Valerie Espinoza, Chairperson  
Commissioner Karen L. Montoya, Vice-Chairperson  
Commissioner Sandy Jones  
Commissioner Lynda Lovejoy  
Commissioner Patrick H. Lyons

**Members Absent:**

**Staff Present:**

Ernest Archuleta, Chief of Staff  
Judith Amer, Acting General Counsel  
Russell Fisk, Associate General Counsel  
David Black, Associate General Counsel  
Michael Smith, Associate General Counsel  
Cydney Beadles, Legal Division Director  
Carolyn Glick, Hearing Examiner  
Frances Sundheim, Hearing Examiner  
Michael Ripperger, Acting Utilities Division Director  
Bill Garcia, Consumer Relations Division Director  
Carlos Padilla, Public Information Officer

**Others Present**

Carl Boaz, Stenographer

**CALL TO ORDER**

The Case Management Open Meeting was scheduled at 9:30 a.m., pursuant to proper notice under NMSA 1978, 10-15-1(c), and the Commission's Open Meeting Policy. Commissioner Valerie Espinoza,



**NEW MEXICO PUBLIC REGULATION COMMISSION**

**OPEN MEETING: CASE MANAGEMENT MEETING**

**Wednesday, October 19, 2016**

**9:30 a.m.**

**PERA Building, 4<sup>th</sup> Floor Hearing Room  
1120 Paseo de Peralta, Santa Fe, NM 87501**

**REVISED AGENDA**

**I. PLEDGE OF ALLEGIANCE/STATE PLEDGE**

**II. INTRODUCTION OF SPECIAL GUESTS**

**III. CONSIDERATION AND APPROVAL OF THE AGENDA**

**IV. CONSIDERATION AND APPROVAL OF MINUTES**

- **Minutes of the Case Management Open Meeting for September 21, 2016**

**V. CONSENT ACTION**

**A. Transportation Matters:**

**NONE**

**B. Utility Matters:**

<b>1)</b>	<b>15-00355-UT David Black</b>	<b>IN THE MATTER OF A COMMISSION INQUIRY INTO PUBLIC UTILITIES CONSTRUCTING AND OWNING DISTRIBUTED GENERATION DEDICATED TO SERVING ONE OR MORE RETAIL CUSTOMERS</b>  <b><u>ORDER</u></b>
<b>2)</b>	<b>16-00269-UT Judith Amer</b>	<b>IN THE MATTER OF SOUTHWESTERN PUBLIC SERVICE COMPANY'S APPLICATION FOR REVISION OF ITS RETAIL RATES UNDER ADVICE</b>

		<p><b>NOTICE NO. 265</b></p> <p><b>SOUTHWESTERN PUBLIC SERVICE COMPANY,</b> <b>Applicant.</b></p> <p><b><u>ORDER</u></b></p>
3)	<p><b>15-00231-UT</b> <b>Russell Fisk</b></p>	<p><b>IN THE MATTER OF THE FILING OF TARIFFS AND TARIFF CHANGES, PRICE CEILINGS AND EFFECTIVE PRICES AND CHANGES THERETO, PROMOTIONS AND INDIVIDUAL CONTRACTS FOR MIDSIZE CARRIERS PURSUANT TO PROVISIONS OF NM STATUTES AND COMMISSION RULES</b></p> <p><b><u>ORDER</u></b></p>

**VI. REGULAR ACTION AND DISCUSSION**

**A. Transportation Matters:**

4)	<p><b>15-00063-TR-R</b> <b>Judith Amer</b></p>	<p><b>IN THE MATTER OF REVISIONS TO THE STATEWIDE WRECKER TARIFF,</b></p> <p><b>AND AMENDMENT TO THE FUEL SURCHARGE RULE, 18.3.15 NMAC</b></p> <p><b><u>ORDER</u></b></p>
5)	<p><b>16-00031-TR-R</b> <b>Judith Amer</b></p>	<p><b>IN THE MATTER OF THE ADOPTION OF A NEW STATEWIDE AMBULANCE TARIFF</b></p> <p><b>STAFF OF THE TRANSPORTATION DIVISION OF THE PUBLIC REGULATION COMMISSION, PETITIONER</b></p> <p><b><u>ORDER</u></b></p>

**B. Utility Matters:**

**NONE**

**VII. PUBLIC COMMENT**

**VIII. EXECUTIVE CLOSED SESSION**

- **PURSUANT TO NMSA 1978, SECTION 10-15-1(H)(2) TO DISCUSS LIMITED PERSONNEL MATTERS**

**IX. COMMUNICATIONS WITH GENERAL COUNSEL**

**X. COMMUNICATIONS AND POSSIBLE ACTION WITH CHIEF OF STAFF, ERNEST D. ARCHULETA, P.E.**

**XI. COMMUNICATIONS WITH COMMISSIONERS**

**XII. ADJOURNMENT**

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The Commission will make reasonable efforts to post the agenda on the Commission's website at least 72 hours before the open meeting, but the inability to do so within the 72 hours prior, will not require the Commission to delay the meeting or to refrain from taking action on any agenda item on which it otherwise could act.

At any time during the Open Meeting the Commission may close the meeting to the public to discuss matters not subject to the New Mexico Open Meetings Act. The Commission may revise the order of the agenda items considered at this open meeting.

Notice is hereby given that the Commission may request that any party answer clarifying questions or provide oral argument with respect to any matter on the agenda. If the Commission makes such a request, any party present at the meeting, either in person or by telephone, shall have an equal opportunity to respond to such questions or argument. In the event a party whose case is on the agenda chooses not to appear, the absence of that party shall not cause such discussion or argument to become ex-parte communications.

**PERSONS WITH DISABILITIES**

**ANY PERSON WITH A DISABILITY REQUIRING SPECIAL ASSISTANCE IN ORDER TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE OFFICE OF DIRECTOR OF ADMINISTRATIVE SERVICES OF THE COMMISSION AT (505) 827-4042 AS SOON AS POSSIBLE PRIOR TO THE COMMENCEMENT OF THE OPEN MEETING.**

### **PUBLIC COMMENT**

All members of the public wishing to provide public comment must sign a sign-up sheet prior to the start of the meeting and identify their name and the name of the organization they represent (if any), and the topic or issue on which they desire to comment. The portion of the agenda allocated for public comment at any one open meeting shall be limited to a maximum of 30 minutes for all persons wishing to provide comment. The order of speakers will be based on the order in which speakers sign up, but public officials may be taken out of order. If a speaker is not present at the time he or she is called to provide comment, that speaker shall forfeit their opportunity to speak. **Public comment by an individual or entity shall be limited to no more than three (3) minutes** unless the Commission acts to extend the period. If the number of individuals on the sign-up sheet desiring to provide comment would exceed the allotted 30-minute period, the Chairman may limit individual remarks to a shorter time period. Individuals represented by or representing a common organization or association may be asked to select one individual to act as spokesperson to speak for the group. Individuals who sign up to comment, but either fail to do so or choose to speak for less than their allotted time, may not cede or yield their time to another speaker. Written comments of individuals who cannot be physically present may not be read aloud at the meeting but may be submitted to the Commission.

The subject matter of public comments shall be relevant to matters within the Commission's jurisdiction. Public comment will not be permitted on matters that should be addressed appropriately as the subject of an informal or formal complaint before the Commission or on pending rulemaking proceedings before the Commission once the opportunity for public comment in those proceedings has closed. Public comment by parties to a proceeding or adjudication pending before the Commission will not be permitted where the comment concerns matters at issue in such proceeding. The Chairman shall retain the right to stop any speaker who raises an issue that is not under the Commission's jurisdiction or is subject to the restrictions above. Public comment will be received without Commission comment or response. However, individual Commissioners may at their option seek clarification or additional information from speakers through the Chairman. No speakers will be accommodated after the public comment portion of the agenda has closed. The Chairman retains the right to exercise discretion in the implementation of this policy and may override the above rules in case of emergency or other unforeseen circumstances.

Speakers providing comment shall at all times conduct themselves in accordance with proper decorum. Profane or vulgar language or gestures will not be tolerated. Audience members shall not disrupt an open meeting by speaking without being recognized by the Commission and shall not incite others to do so. The Commission retains the right to remove disruptive attendees and individuals who fail to conduct themselves in accordance with these provisions from the Commission meeting.