



City of Santa Fe  
Governing Body  
Findings of Fact and Conclusions of Law

Case No. 2015-80

Appellant's Name – Richard Yates for Palacio Azul, Ltd.

THIS MATTER came before the City of Santa Fe (City) Governing Body (Governing Body) for hearing on October 14, 2015, upon the appeal (Appeal) of Richard Yates (Appellant) from the July 28, 2015 decision (the Decision) of the City's Historic Districts Review Board (HDRB) denying the Appellant's application (Application) for certain additions to Unit 7 (Unit 7) at 535 East Alameda Street (Property), including a 574 square-foot second-bedroom addition on the west side, a portal on the southwest side, and a coyote fence in front on East Alameda (collectively, the Project). The Property is located in the Downtown and Eastside Historic District (District). It runs north-south between East Alameda and Palace Avenue and is improved at the approximate center with a residence designed by John Gaw Meem known as the Ashley Pond House (Pond House). The Pond House is designated as "contributing" to the District. The Property is also improved with a number of other, newer, residential units, including Unit 7, which were approved by the HDRB under a number of prior applications. In addition to the Project, the Application requested HDRB approval for improvements to a number of other units on the Property, as well as for a carport addition to Unit 7. These requests were granted by the HDRB and are not subjects of appeal.

The record on Appeal (the Record) includes the following documents:

1. The Verified Appeal Petition filed on August 13, 2015;
2. The report of Land Use Department Historic Preservation Division staff dated July 14, 2015;
3. Those portions of the minutes of the July 14, 2015 and July 28, 2015 HDRB meetings pertaining to the Application;
4. Findings of Fact and Conclusions of Law adopted by the HDRB on July 28, 2015 and filed by the City Clerk with the records of the City as Item #15-0766;
5. Four photographs, two showing existing views from East Alameda and Palace into the Property toward the Pond House, and two showing how those views would be altered if the Project were to be constructed;
6. Two photographs entered for the Record at the Appeal hearing by the Appellant, one showing the existing view of the Pond House behind Unit 7 in its existing configuration and a stand of evergreens taken from directly across the Alameda and the second showing how that view would be altered if the Project were to be constructed;
7. Court's Findings of Fact and Conclusions of Law in *Teme, Ltd., a limited partnership, d/b/a The Inn at Loretto v. City of Santa Fe, et al.*, First Judicial District Court, D-101-CV-1994-02322 (*Teme*); and
8. Memorandum dated October 8, 2014 [*sic*] for the October 14, 2015 Meeting of the Governing Body to the Members of the Governing Body from Zachary Shandler,

Assistant City Attorney via Kelley Brennan, City Attorney, regarding Case #2015-80,  
Appeal by the Appellant from the Decision, with Exhibits A-G.

After conducting a public hearing and having reviewed the Record and heard from City staff and the Appellant's representative, the Governing Body hereby FINDS, as follows:

#### FINDINGS OF FACT

1. The Governing Body reviewed the Record and heard the report of City staff and received testimony and evidence from the Appellant's representative and members of the public interested in the matter.
2. Pursuant to Santa Fe City Code (SFCC) §14-2.2(F), the Governing Body has the power and authority on appeals of final actions of any Land Use Board to hear *de novo* and decide the matter that is the subject of appeal after giving notice in accordance with the notice provisions of SFCC §14-3.1(H)(4).
3. Pursuant to SFCC §14-3.17(A)(1)(b), final actions of a Land Use Board include a decision made after a public hearing.
4. The Decision is a final action subject to appeal to the Governing Body to hear and decide the matter.
5. Notice of the Appeal was properly given in accordance with the notice provisions of SFCC §14-3.1(H)(4).
6. The Decision was based upon the HDRB's belief that (a) it was authorized under Santa Fe City Code (Code) to preserve the existing view that passers-by on East Alameda have of the Pond House, known as a "view corridor"; and (b) the Project, if approved and constructed, would "likely" cause the Pond House to lose its contributing status.
7. The Court, in *Teme*, concluded as a matter of law that "[n]either the [HDRB] nor the Council has the power or authority under [Code] as adopted to preserve 'view corridors'..."
8. The Court, in *Teme*, concluded as a matter of law that "[t]here was no evidence that the historic status of the Loretto Chapel itself would be altered or changed under *Teme*'s application, and the [HDRB's] and the Council's denial of the application on the basis that the Chapel's status or the Chapel itself would be altered or changed was arbitrary, capricious and unlawful."
9. The applicable provisions of Code have not changed since the Court entered its Findings of Fact and Conclusions of Law in *Teme*.
10. The Governing Body recognizes the importance of promoting the economic, cultural and general welfare of the people of the City; of ensuring the harmonious, orderly and efficient growth and development of the City; and of preserving the qualities relating to the history of the City and a harmonious outward appearance, including preserving historic areas and buildings within the City, providing for continued construction in historic styles, and a general harmony as to style, form, color, height, proportion, texture and material between buildings of historic design and those of more modern design, all as set forth in Code Section 14-5.2(A)(1), outlining the general purpose of the historic districts overlay.
11. The location and design of Unit 7 as currently configured was approved by the HDRB, although its construction impinged upon the view from East Alameda of the Pond House.
12. When the Project is complete the Pond House will remain partially visible from East Alameda and from Palace.

13. The Project, together with the carport design approved by the HDRB for Unit 7, is consistent in design with applicable District design standards; with the design of the other buildings on the Property, including the Pond House; and with the general purposes set out in Code Section 14-5.2(A)(1).
14. The Project does not alter or modify the Pond House, which will remain unchanged and partially visible from both East Alameda and Palace.
15. The Project will not cause the Pond House to lose its contributing status.

CONCLUSIONS OF LAW

Under the circumstances and based upon the Record and the evidence and testimony submitted at the hearing, the Governing Body CONCLUDES as follows:

1. The Governing Body has the power and authority to hear and decide the matter that is the subject of the Appeal.
2. The Project, together with the carport design approved by the HDRB for Unit 7, is consistent in design with applicable District design standards; with the design of the other buildings on the Property, including the Pond House; and with the general purposes set out in Code Section 14-5.2(A)(1).
3. The Project does not alter or modify the Pond House, which will remain unchanged and partially visible from both East Alameda and Palace.
4. The Project will not cause the Pond House to lose its contributing status.

**WHEREFORE, IT IS ORDERED ON THE \_\_\_\_\_ OF OCTOBER 2015 BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

1. That the Appeal is granted.
2. That the Project is approved as applied for and that the carport design approved by the HDRB is approved in the location applied for.

\_\_\_\_\_  
Mayor

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

FILED WITH THE CITY CLERK:

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

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

[REMAINING SIGNATURES APPEAR ON FOLLOWING PAGE]

APPROVED AS TO FORM:

  
Kelley Brennan  
City Attorney

10/21/15  
Date: