



**SHANDLER, ZACHARY A.**

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**From:** SHANDLER, ZACHARY A.  
**Sent:** Friday, July 17, 2015 3:23 PM  
**To:** Karl H. Sommer; RASCH, DAVID A.  
**Cc:** Mychal Delgado; SHANDLER, ZACHARY A.  
**Subject:** RE: Field Trust Appeal -- Stipulation to Remand

I concur with the stipulated remand approach.

Thank you,  
Zack Shandler  
City Attorney's Office  
(505) 955-6303

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**From:** Karl H. Sommer [<mailto:karl@sommer-assoc.com>]  
**Sent:** Friday, July 17, 2015 2:10 PM  
**To:** SHANDLER, ZACHARY A.; RASCH, DAVID A.  
**Cc:** Mychal Delgado  
**Subject:** Field Trust Appeal -- Stipulation to Remand

Dear Zach and David:

This e-mail will confirm that the First National Bank would be willing to stipulate to a remand to the H-Board of the Appeal it has filed regarding 355 E. Palace Ave for a determination of the historic status of the property so that all of the issues implicated in the redevelopment of the property are before the Council at one time. If you are in agreement with the idea, please let me know. I will draft a Stipulated Order of Remand preserving all of the parties claims, arguments and positions, requiring that after a determination by the Board we would refile our appeal, if needs be, with the express ability to raise all of the issues currently before the Council.

Please confirm that you can recommend such a stipulation, knowing the Council would have to make the determination.

Thank you.

~ *Karl H. Sommer*

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**SOMMER, KARNES & ASSOCIATES, LLP**

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James R. Hawley, Attorney at Law  
jrh@sommer-assoc.com  
Of Counsel  
Licensed in New Mexico and California

May 22, 2015

VIA HAND DELIVERY

Lisa Martinez  
Land Use and Planning Director  
Land Use and Planning Department  
City of Santa Fe  
200 Lincoln Ave  
Santa Fe, New Mexico 87501

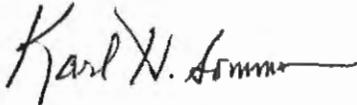
**Re: Appeal in Case No. H-15-042**

Dear Lisa:

This firm represents First National Bank of Santa Fe, N.A., in its capacity as Trustee of the Field Trust, which owns the property located at 355 E. Palace Avenue. On behalf of the Trust and pursuant to SFCC 1987 Section 14-3.17, we submit the enclosed two originals of a Verified Appeal Petition in the referenced case. Enclosed also you will find the required fee for the appeal.

Thank you for your attention to this matter.

Sincerely,



Karl H. Sommer

cc: First National Bank of Santa Fe, N.A.  
Attention: William Zaleski, Maria Sturges and Susan Miller



**LUD Use Only**

Time Filed: \_\_\_\_\_  
 Fee paid: \$ \_\_\_\_\_  
 Receipt attached:

(date stamp)  
**RECEIVED**  
 MAY 22 2015  
 Land Use Dept. *[Signature]*

**VERIFIED APPEAL  
 PETITION**

**\*\*Two originals of this form must be filed. The Land Use Department Director or his/her designee will enter the date and time of receipt and initial both originals. See Section 14-3.17(D) SFCC 2001 for the procedure.\*\***

**Appellant Information**

Name: First National Bank of Santa Fe, N.A., as Trustee of the Martha Field Trust (Attn: Susan M. Miller)  
Last First M.I.

Address: 62 Lincoln Ave  
Street Address Suite/Unit #  
Santa Fe New Mexico 87501  
City State ZIP Code

Phone: (505) 992-2405 E-mail Address: SMiller@FirstNational1870.com

Additional Appellant Names: \_\_\_\_\_

Correspondence Directed to:  Appellant  Agent  Both

**Agent Authorization (if applicable)**

I/We: Susan M. Miller, Trust Officer of First National Bank of Santa Fe, N.A., in its capacity as Trustee of the Martha Field Trust  
 authorize Sommer, Karnes & Associates, LLP to act as my/our agent to execute this application.

Signed: *[Signature]* Date: May 22, 2015  
 Susan M. Miller

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

**Subject of Appeal**

Project Name: Francisca Hinojos House -- 355 E. Palace Avenue

Applicant or Owner Name: The Marth Field Trust

Location of Subject Site: 355 E. Palace Avenue

Case Number: H-15-042 Permit Number (if applicable): Not Applicable

**Final Action Appealed:**

Issuance of Building Permit  Other Final Determination of LUD Director

Final Action of Board or Commission (specify):  Planning Commission  Board of Adjustment  BCD-DRC  HDRB

Basis of Standing (see Section 14-3.17(B) SFCC 2001):

First National Bank of Santa Fe, N.A. is the Trustee of the Martha Field Trust, which owns the property.

Basis for Appeal:  The facts were incorrectly determined  Ordinances/laws were violated and/or misrepresented

Description of the final action appealed from, and date on which final action was taken: The Appellant takes this from the final decision of the Historic Districts Review Board in case H-15-042, which decision was to deny the application for removal and demolition of the remains of the burnt structure on the property. The Findings of Fact and Conclusions of Law were adopted by the Board on April 26, 2015.

Check here if you have attached a copy of the final action that is being appealed. Attached as Exhibit A hereto

**Description of Harm**

Describe the harm that would result to you from the action appealed from (attach additional pages if necessary):  
The Appellant will be denied the rights granted to under SFCC 1987 with respect to the removal and demolition of the remains of the house on the property.  
Without limiting the general nature of the foregoing description, the property is currently unsafe, unusable, and unmarketable, and cannot be feasibly be restored or rebuilt.

**Explain the Basis for Appeal**

Please detail the basis for Appeal here (be specific): The bases of this appeal include the following matters: (a) Appellant contests noncompliance of the Board's decision with Chapter 14, (b) Appellant contests the application of Chapter 14 to the Appellants application; and (c) Appellant contends the decision lacked substantial evidence to support it. More specifically, but without limiting the foregoing, the Board: 1. improperly failed to downgrade the burnt structure to a non-contributing status; 2. improperly found that the criteria for the removal and demolition of the remains of the structure did not meet the criteria of the code; 3. improperly found the property is an essential part of a unique street section or block front; 4. improperly applied the criteria for the removal and demolition.

**Signature and Verification**

I hereby certify that the documents submitted for review and consideration by the City of Santa Fe have been prepared to meet the minimum standards outlined in the Land Development Code, Chapter 14 SFCC 2001. Failure to meet these standards may result in the rejection or postponement of my application. I also certify that I have met with the City's Current Planning staff to verify that the attached proposal is in compliance with the City's zoning requirements.

Appellant Signature: Susan M. Miller Date: May 22, 2015

Agent Signature: Karl H. Sommer Date: May 22, 2015  
Karl H. Sommer, (Sommer, Karnes & Associates, LLP)

State of New Mexico P. O. Box 2476, SFNM 87504-2476

) ss.

County of Santa Fe )

I/We Susan M. Miller, being first duly sworn, depose and say: I/We have read the foregoing appeal petition and know the contents thereof and that the same are true to my/our own knowledge.

Petitioner/s:

Susan M. Miller

Signature

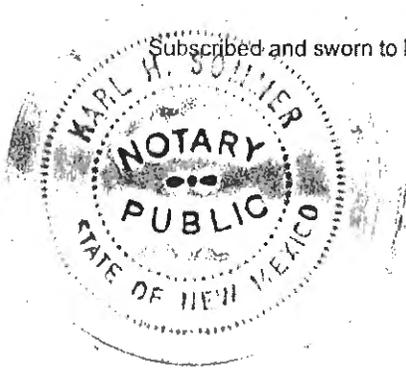
Signature

Susan M. Miller

Print Name

Print Name

Subscribed and sworn to before me this 22 day of May, 2015.



Karl H. Sommer

NOTARY PUBLIC

My commission expires:

3-11-19

ITEM # 15-0334

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

Case #H-15-042

**Address-355 East Palace Avenue**

**Owner/Applicant's Name- First National Bank of Santa Fe**

**Agent's Name- Martinez Architecture Studio**

THIS MATTER came before the Historic Districts Review Board ("Board") for hearing on April 28, 2015 upon the application ("Application") of **Martinez Architecture Studio**, agent for **First National Bank of Santa Fe** ("Applicant").

355 East Palace Avenue, known as the Francisca Hinojos House, is a single-family residence that was converted to office use in the late 20<sup>th</sup> century. It was constructed in the late 19<sup>th</sup> century in the Territorial style. The building was damaged by fire in February 2013 and substantial remnants of the building survive. The property contains two additional structures to the north of this structure: a casita and a garage. The casita, also known as 118 Martinez Street, was the kitchen for the Hinojos House in historic times. All three structures are listed as contributing to the Downtown & Eastside Historic District. The Hinojos House is a good example of the Americanization Period in Santa Fe's history, when we consciously imported eastern architectural styles in order to "look American". Subsequently, those efforts lead to the successful plea for statehood.

On April 10 and June 26, 2013, Historic Preservation Division staff granted administrative approvals to stockpile historic materials for reuse, shore up the damaged structure, and subsequently to fully restore the building by reconstructing the damaged portions. The restoration project was never initiated.

The Applicant proposes to demolish the fire-damaged structure. An Exception is requested to demolish a contributing structure (Section 14-5.2(D)(1)(a)).

The structure is historically important, plaqued by the Historic Santa Fe Foundation, and published in Old Santa Fe Today. The structure may be considered as an essential street section due to its importance to the Americanization Period and the few numbers of these houses that remain or have not be "Puebloized" in the eastside of this historic district. The Building Official states that the structure is unsafe.

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

FINDINGS OF FACT

1. The Board heard testimony from staff, Applicant, and other people interested in the Application.
2. Zoning staff determined that the Application meets underlying zoning standards.

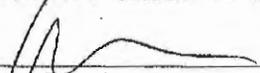
3. Staff recommends denial of the Exception request to demolish a contributing building because the Exception criteria have not been met and the demolition standards have not been met as the structure may be considered an essential street section. However, if the Board finds that the Exception criteria have been met to demolish the contributing building, then the Board shall determine if the structure represents an essential street section. Perhaps, the Board may consider a historic status review to potentially downgrade the structure due to loss of integrity.
4. The property is located in the Downtown and Eastside Historic District and the Project is subject to requirements of the following sections of the Santa Fe Land Development Code:
  - a. Section 14-3.14(G), Demolition of Historic Structures
  - b. Section 14-5.2(C), Regulation of Significant and Contributing Structures
  - c. Section 14-5.2(D) General Design Standards
  - d. Section 14-5.2(E), Downtown and Eastside Historic District
  - e. Section 14-5.2(C)(5)(c)(i-vi), Design Standards Exceptions
5. 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), 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.
6. 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.
7. Under Section 14-3.14(G), the general rule is that Board shall consider the historic importance of the structure, whether the structure is an essential part of the 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.
8. The structure has historic importance.
9. The structure is an essential part of the unique street section/block front because:
  - a. The structure anchors Palace Avenue;
  - b. How it sits in relation to the street and its relation to the street;
  - c. The structure is an American territorial style and was built during that period when there was experimentation with the new Santa Fe look;
  - d. The structure has unique character, bringing abode and other elements together with a pitched roof;
  - e. The structure has unique trim details;
  - f. The structure has an association with the St. Francis Cathedral and the construction was done by the French builders from Louisiana who came to Santa Fe to build the St. Francis Cathedral;
  - g. The retaining wall is made of stone left over from building a church with similar architectural treatment.
10. The structure is in reparable condition.
11. There is no plan for replacing it and for reestablishing the unique street section.
12. The information contained in the Application, and provided in testimony and evidence, establishes that all applicable requirements 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:

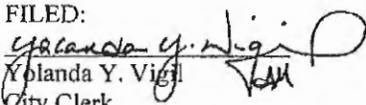
1. The Board has the authority to review and approve the Application.
2. The Board denied the Application because it did not meet any of the criteria for demolition.

IT IS SO ORDERED ON THIS 12<sup>th</sup> DAY OF MAY 2015, THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.

  
Sharon Woods  
Chair

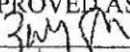
12 May 2015  
Date:

FILED:

  
Yblanda Y. Vigil  
City Clerk

5/13/15  
Date:

APPROVED AS TO FORM

  
Zachary Shandler  
Assistant City Attorney

5/12/15  
Date:

very good job. This work would definitely be an improvement to this neighborhood. The parapets are being raised and straightened and he thought it definitely needs some improvement.

Ms. Roach mentioned that there is STO on this house now.

#### Public Comment

Ms. Beninato (previously sworn) said she could understand the improvement of this house but she also believed the windows were being made smaller. She was unclear about that. But the slope on the roof is now gone and that really added character of this house. It is typical of vernacular and she was sorry Ms. Rios was not present to support vernacular style.

Present and sworn was Mr. Raymond Herrera, 379 Hillside, who also felt STO is inappropriate in the Historic District.

There were no other speakers from the public regarding this case.

Mr. Armijo added that they could put mesh on top of synthetic and actually go back to cementitious.

#### Action of the Board

Mr. Boniface noted there are no light fixtures proposed.

**Mr. Boniface moved to approve Case #H-15-041 at 442 Camino don Miguel with the following conditions:**

- 1. That the proposed portal on the south not be greater than 3' in depth;**
- 2. That the beam be no higher than 7' 6" above the floor; and,**
- 3. That since the code requires light fixtures, the lighting plans be brought to staff for approval.**

**Ms. Mather seconded the motion and asked for an amendment that there be no visible rooftop appurtenances. Mr. Boniface accepted the amendment as friendly and the motion passed by unanimous voice vote.**

- 5. Case #H-15-042. 355 East Palace Avenue. Downtown & Eastside Historic District. Martínez Architecture Studio, agents for First National Bank of Santa Fe, Trustee, proposes to demolish a contributing residential structure. An exception is requested to demolish the structure. ((Section 14-5.2(D)(1)(a)). (David Rasch).**

Mr. Rasch gave the staff report as follows:

## **BACKGROUND & SUMMARY:**

355 East Palace Avenue, known as the Francisca Hinojos House, is a single-family residence that was converted to office use in the late 20<sup>th</sup> century. It was constructed in the late 19<sup>th</sup> century in the Territorial style. The building was damaged by fire in Feb 13, 2013 and substantial remnants of the building survive. The property contains two additional structures to the north of this structure: a casita and a garage. The casita, also known as 118 Martínez Street, was the kitchen for the Hinojos House in historic times. All three structures are listed as contributing to the Downtown & Eastside Historic District. The Hinojos House is a good example of the Americanization Period in Santa Fe's history, when we consciously imported eastern architectural styles in order to "look American". Subsequently, those efforts lead to our successful plea for statehood.

On April 10 and June 26, 2013, Historic Preservation Division staff granted administrative approvals to stockpile historic materials for reuse, shore up the damaged structure, and subsequently to fully restore the building by reconstructing the damaged portions and excerpts of those approvals are attached to this report. The restoration project was never initiated.

Now, the applicant proposes to demolish the fire-damaged structure. An exception is requested to demolish a contributing structure (Section 14-5.2(D)(1)(a)) and the required exception criteria responses are at the end of this report.

The three demolition standards (provided below) have not been met. The structure is historically important, plaqued by the Historic Santa Fe Foundation, and published in Old Santa Fe Today. The structure may be considered as an essential street section due to its importance to the Americanization Period and the few numbers of these houses that remain or have not be "Puebloized" in the eastside of this historic district. The Building Official states that the structure is unsafe.

Mr. Rasch included the standards required for approval of a demolition, the minimum maintenance requirements, the regulation for Contributing Structures, General Design Standards, including windows door and other architectural features.

Mr. Rasch showed the floor plan, pictures of the property and drawings that had been prepared when the owner was proposing to restore the building. The Board saw it on the field trip and was surprised at what did survive.

## **STAFF RECOMMENDATION:**

Staff recommends denial of the exception request to demolish a contributing building because the exception criteria have not been met and the demolition standards have not been met as the structure may be considered an essential street section. However, if the Board finds that the exception criteria have been met to demolish the contributing building, then the Board shall determine if the structure represents an essential street section. Perhaps, the Board may consider a historic status review to potentially downgrade

the structure due to loss of integrity.

#### Questions to Staff

Chair Woods didn't understand that the Board has to provide a definition of essential street section.

Mr. Rasch said the Board needs to state what makes up that section. If the Board defines it that way, then the then the structure would have to meet those standards.

Mr. Powell asked which comes first.

Mr. Rasch referred to the packet and read the requirements for demolition. If the structure is an essential street section, the Board may not provide for demolition at this meeting because the proposal must address what was proposed to re-establish the essential street section after demolition.

Ms. Mather noticed shortly after the fire that there was a site clean-up and a stockpiling of historic materials for reuse. She asked if he knew what became of those materials.

Mr. Rasch didn't know.

Mr. Boniface asked, beside the extraordinarily unique architectural style of this building, what else was needed in that determination of historic importance.

Mr. Rasch said it is also published in *Old Santa Fe Today*. The casita is the original kitchen for the building. This building is somewhat reminiscent of the southeastern part of the country and of the French Quarter to have a separate casita for the kitchen. And it has other structural effects.

Mr. Armijo noted there are three buildings and only one is being considered for demolition.

Mr. Rasch agreed - just the fire damaged building.

#### Applicant's Presentation

Present and sworn was Mr. Richard Martínez, P. O. Box 925, Santa Fe.

Mr. Martínez put up his exhibits on the easel.

Mr. Martínez said this was the most significant structure on Palace. It has a pitched roof and adobe walls with wood trim. This house was destroyed by fire a little over two years ago and the owners tried to restore the house. They had a consultant prepare engineering drawings. It was very difficult to do because there was reports of asbestos and of lead-based paint and would have to meet current code aspects and

some parts were non-existent like no bond beam in the building. And they had to take care of that. Even though the owners have tried for two years to rebuild this building. It is not a restoration but a re-creation and is beyond their resources. They resorted to contractors who are very good but not the kind of architectural restorers that the Board might want to put their hands on this trim work. A lot of the wood was destroyed and a lot of adobe destroyed by the water to put out the fire.

So it is not possible to restore large parts of this building. There are significant remnants that are stockpiled but they are few and far between. It is like not all of the windows and doors were saved.

So there are some things staff have pointed out in the criteria and he had points to address those.

He stated that some of the parts of the building are beyond repair because those parts are either so severely damaged that they have to be taken down and rebuilt or are not code compliant or have lead based paints or are now non-existent like floors, doors, bond beams, foundations, etc.

In criterion #6, we say materials have to be replaced on some of the elements. Windows have to be replaced, all door and window trim, none of which survived the fire and no floors survived. Those exception criteria he believed they met.

In terms of standards for the historic demolition, on point A, the building was significant but is no longer. On point B, the building was part of the streetscape and contributed to it but now is a blight on the streetscape and he had a letter from a neighbor who would like to see it demolished. (The letter is attached to these minutes as Exhibit B).

The third point (C) is regarding the state of repair and structural stability of the building. You can see with the fire damage that it is extremely poor.

Chair Woods decided to first open this case for public comment and asked that all who support this project be sworn in.

#### Public Comment

Those who support the project were sworn in together and asked to state their name and address when they spoke.

Present and sworn was Ms. Jo Moya Creange, 120 Martinez Street, who said her home was adjacent to the property in question. There has been no work done on it in the last two and a half years since the fire. She believed that the structure is unsafe and she didn't have any objections to the demolition. It just isn't the way to live and if she were to put her home on the market, the value would decrease because of that house being next door. [Her statement that was emailed to Susan Miller is attached as Exhibit C].

Present and sworn was Ms. Susan Miller, 62 Lincoln Ave., Trust Officer at First National Bank of Santa

Fé which is the trustee of the property in question. Along with much of the Santa Fé community we were very saddened at the damage to the building as a result of the fire on February 7, 2013. At that time, there was hope that the building could be saved. Ultimately, for the Trustee, the cost of renovation and the historic requirements increasing that cost, is prohibitive. Unknown facts such as unanticipated cost overruns and unexpected change orders from discoveries of hidden defects make the project imprudent for the trustee to undertake. A Trustee has to, at all times, use the best of their ability and judgment to follow the terms of the trust document, to apply applicable law, and most importantly, the carefully considered interest of both the current beneficiaries and the remainder beneficiaries that come after. The Trustee must make the decision with impartiality toward the future, the present beneficiaries and the future beneficiaries. With much due diligence and consideration, the Trustee, by a vote of its Trust Committee has determined that their best option for the Trust is to sell the property. She wanted to explain to the Board that the difference between an individual or developer who is an owner and a trustee. They have all kinds of duties that prevent them from undertaking something like this.

There were no other speakers from the public supporting this case.

A handout from 347 Owners, LLC was presented by Staff. [A copy of the letter is attached to these minutes as Exhibit D].

Chair Woods asked those members of the public who were in opposition to be sworn in together and then take turns in speaking.

Present and sworn was Ms. Sallie Bingham, 517, 519, 515, 515½ Camino del Monte Sol, who said she lives six blocks from this building and passes by it frequently walking and "absolutely adore it. I can't bear the idea that it will be torn down. I understand the Trustee's position. It is perfectly understandable. But, I think, as the City of Santa Fé, we really have a vested interest in doing everything we can to actually rebuild this house. I understand it is not as simple as the experience of whoever undertakes it. But I think it is essential. And one thing I love about Santa Fe - I've been here 23 years - is the fact that we do preserve our important buildings. And this is certainly one of them."

Present and sworn was Mr. Victor Johnson, P.O. Box 1866, Santa Fe, who said he heard the presentation here by the applicant and the bank and he was confused because of the lack of facts. "I have heard opinions but not much on facts was present. Even when they went outside the purview of the ordinance and talked about cost. Not of those detailed costs were presented. And when - there is someplace in the application that I believe the architects says that the building is not sound. There is no structural engineer's report in here that presents facts to that effect. And even in Mike Purdy's letter, what he says is that 'due to the adobe walls being exposed to the weather for over two years, the concern is that the structure will soon collapse.' The walls could easily have been covered for two years. And the fact that they are still standing, I think, speaks to the stability of the building. So I can't see how demolition can be granted in this, based on these opinions and the lack of facts."

A copy of Mr. Mike Purdy's statement is attached to these minutes as Exhibit E.

Present and sworn was Mr. William Druc, PE, 430 Apodaca Hill Street, who said he was the professional engineer who was hired right after the fire. He said, "There are some things that we should really look at that happened with the fire. The wood part of the building was substantially destroyed in most of the building but there really wasn't that much damage to adobe walls except when the wood elements that were burned in the fire fell and then were pulled away from the adobe walls. And then, also, there is a large part of the building that was actually destroyed by water in the act of putting out the fire. There was water used and that damaged a lot of the walls."

"We did a report right after that happened. I was hired by the Trust and basically, we discovered that the building was in pretty good condition. There were deficiencies. These are deficiencies that are very common in old, adobe buildings and we have a lot of experience with repairing old adobe buildings such as the church up in Questa, and the Santa Domingo Trading Post. And so we were using state of the art technology in order to bring this building better than the way the building was before the fire. And I want to say to you that it is my opinion that at the last time I saw the building, that the adobe walls, which are very thick adobe walls, which in some places, are two feet thick, they were in very good condition at that time. Now I haven't seen the building except as I drive by it every day for probably like about a year and a half. But at least at that time, the building was in very good condition. This building was the scene of a crime - there was an arson there. And I hope there is not another crime here tonight by voting to demolish that building."

Present and sworn was Mr. Pen La Farge, 647 Old Santa Fé Trail, President of the Old Santa Fe Association. What he had to say revolves around "demolition by neglect." "This building, which is an important and historic building and, moreover, is not only important but is unique and looks like no other building down town, which is one of the reasons it is so important. It is also charming to the eye. It has been described by a neighbor earlier as being ready to be torn down. She felt that it should be torn down - that nothing was done to save it and it might as well go. This speaks precisely to the point of demolition by neglect. The First National Bank has had control of this building ever since the building burned down as the trust officers, Susan Miller, whom you heard from earlier, has done, nor has the bank, to my knowledge, done anything to preserve the building including, as was mentioned earlier, trying to protect the walls. Ms. Miller was contacted by one of our officers last Friday who wanted to help and said 'If you are interested in preserving the building, what can we do to preserve the building and that we have been interested in the building for three years.' Ms. Miller had the ball, the unmitigated gall, to ask why we were coming in at the twelfth hour to help save this building if we have demonstrated no interest before this."

"In fact, we have talked about this at our board meetings every month since this building burned down. One of our board members, who will be quoted in a moment to you by Barbara Harrelson, even worked in the building and has had his livelihood taken from him and is distraught by the situation.

"Moreover, in 2013, Ms. Miller was sent a letter by our then president, Tom Spray, in which he says that this irreplaceable piece of history should be preserved; that the documents for the complete restoration of this structure are in the process of being completed by the bank and for the bank. He wrote, 'We are offering whatever expertise and experience or organization and many years of experience can bring to this

effort. We have very qualified personnel in place for this project and we stand ready to help in any way possible. Please do not hesitate to contact me.' They have not contacted us and whenever they have been asked for information by the Field family, whose trust this lies in, by us, by our officers, by any one, they have refused to answer. So what they have done is allow this building to deteriorate and that is demolition by neglect. I think this is a disgrace. It is a really rotten way to treat our history and a bad way to treat one of our more beautiful and historic buildings. And it will be demonstrated in a moment or at least asserted in a moment that a substantial portion of this building still stands strong. The façade of this building is not falling down. The interior has been destroyed but the façade of this building can be and should be maintained, restored and put back to its original state to the degree that it is possible. And I ask you to do that."

Present and sworn was Mr. Randall Bell, 314 Garcia Street, who said, "I am concurring with Mr. La Farge. I am Vice President for the Old Santa Fe Association so I am also speaking for the Old Santa Fe Association. I also was happy to hear from Mr. Druc and his engineering expertise as well as from Vic Johnson. Those are both compelling. I urge the Board to follow the staff recommendation to deny this request that would destroy this truly unique gem of Santa Fe's history. In addition to the responses to its uniqueness, is that there is also a significant connection of the Hinojos family going back to the 18<sup>th</sup> century. And distinguished tenants have occupied it since then. It is also important to notice that this house is part of two streetscapes including Martínez Street. It is really an important block of that streetscape. I find the statement of the applicant that ten percent is still there to be, on its face, absurd. Anyone who looks at that property can see there is a substantial amount there. Mr. Purdy's letter of March 20<sup>th</sup> is very compelling. Here is City's staff commenting that the structure is actually stable and obviously needs restoration. I think there is also an issue of demolition by neglect in which we are quite disappointed. We have tried to get someone to push the applicant to do more than they have done. They have done a minimal amount of stabilization and Mr. Druc's comment that the walls should have been protected or maybe Vic Johnson's was to that effect. But nevertheless, despite the fact that there has been this neglect, the structure, itself, is currently restorable.

"I'd also like to comment that there has been a large sign up there for this past two years that was just recently removed stating that (and I don't recall the name) a restoration contractor was going to preserve and restore the building. The packet has a number of documents from the applicant indicating their intention. They got approval to clean up and save materials for reuse and restoration as submitted - 'restoration will be forthcoming at a later date.' Until this application was filed, nobody in the preservation community was aware that the intent was to actually demolish the structure. Nor have, in all the reaching out that we have done, nobody has offered to collaborate by showing these plans or indicating why it is that property restoration would be so expensive. There is nowhere in any conversation that indicated that one of the key financial deal breakers, in their assessment that supposedly there could no longer be a second story because the second story was rented out because there is some small component that doesn't meet code in terms of ceiling height."

"You'll be hearing a lot from one of our Board members, John Eddy, who was a preservation contractor to the effect that - his comment to me was that the ceiling height could be easily remedied on the interior and that wouldn't affect its historic status to have that done."

"The other thing is that, under the ordinance, the Board cannot issue a demolition permit without a plan showing what is actually to replace it and I don't believe there is any such plan before you.

"In turning to the criteria, I am generally pleased with staff's response showing that there are a number of criteria that are clearly not met. I would say that there are a few others.

"The first one - does not damage the streetscape - this is a catastrophe for the character of the streetscape. The fact that the building damaged and covered by fences, etc. is problematic. But it really should just be a temporary thing. That building adds more to that streetscape than almost any other building on Palace Avenue. And to use the fact that it is allowed to be degraded to say it would improve streetscape to remove it is outrageous, frankly. And I'm disappointed that staff would agree with that.

"As to the hardship, injury or welfare, the solution to that is restoration. Of course it is not presently safe to let people climb around it, but it's protected by fencing. Those are the main points. I would urge you to deny the demolition and go with the recommendation of staff."

Present and sworn was Ms. Barbara Harrelson, 924 Old Taos Highway, who asked if she could read some excerpts from John Eddy's letter. [Mr. Eddy's letter is attached to these minutes as Exhibit F.] She also submitted an email that corrected the date of the fire from December 2012 on page 3 of the packet to February 7, 2013 [attached as Exhibit G].

Chair Woods agreed.

Ms. Harrelson, reading from the letter, "I am a native of Santa Fe, and am lucky to have had extensive personal familiarity with this house over the years - though unlucky to have been among the tenants of the property at the time of the arson which occurred there in February, 2013.

"Despite two years' passage since the fire, which assuredly damaged the house, I believe that the party responsible for the maintenance of the property, which is among the assets of a family trust, has not exhibited good faith effort toward their earlier stated goal of restoration. I also believe, that the recent assertion by them, as evidence by this request to the city for demolition, that the building is beyond repair, is incorrect.

"As stated earlier, I was a tenant of the building, occupying various apartments over time, and knew the house from top to bottom, you might say. I was at the site of the fire early the next morning, along with the owners, horrified to witness the damage, and look into whether or not any of our belongings would be salvageable. I subsequently spent a good deal of time in the house during the salvage and cleanup efforts that followed.

"The applicant claims in their request that 90% of the property was destroyed in the fire. A simple review of the photographs submitted in the packet is proof that this is inaccurate. I would also state, as a professional experienced in historic adobe restoration, that this property is undeniably, **not** beyond repair

and could be restored to the standards of current building codes.

"My request of the board is that you deny the current demolition option, and that you require, in turn, a closer examination of the property and solicitation of advice from the myriad individual, businesses and organizations steeped in historic adobe conservation who practice in the Santa Fe area and beyond - including but not limited to Cornerstones, The Historic Santa Fe Foundation, Mac Watson Conserves, Victor Johnson, Architect, and Pat Taylor, adobe conservator of southern New Mexico.

"A determination by the board to pre-empt further demotion of this property will begin to redress the harm that was deliberately perpetrated - not only on the owners and tenants of 355 East Palace Avenue, but also on the citizens of Santa Fe, who are in danger of permanently losing not just an irreplaceable piece of the historic fabric of this city, but also a most cherished part of our cultural patrimony.

"Yours, with Due Respect, (John Eddy)."

Ms. Harrelson said, "I too, want to chime in. I, too, have a personal experience with Hinojos house because I worked in its offices for several years from 1995 to 1999. As others have pointed out, the history of this building is not just that of the 19<sup>th</sup> century. Just in my brief tenure, I have known some very distinguished parts of Santa Fe's community that have been housed in that building: the North American Institute, the Native American Prep School, several attorneys, and e William Field Design. So the history of that house was still going before the arson put it all on hold. And let's hope it has some more history ahead of it.

"This property has such significance that it cannot be measured in dollars and cents. The Field family, have been its owners since the 1940s, have made important contributions in this community, including the preservation of our arts and culture, specifically Spanish Colonial Arts and they have a record of stewardship of historic buildings in Santa Fe. I respectfully ask the Board to consider that the community needs an opportunity to show what this structure means to them and how they might be a part of finding solutions to restoring it.

"Since the news broke about this possible demolition, I have spoken to many individuals who said they wondered what was happening. They were under the impression that it was going to be restored because of that sign that was on the fence until recently. It had a company name, part of which was Restoration. So the news that demolition was now being proposed has created some widespread consternation. I asked that you urge the applicant to pursue all options and allow community involvement before the crown of the Hinojos house cannot be saved. We must save it."

Present and sworn was Mr. Raymond Herrera, 379 Hillside Avenue, who said "I'm a founding member of the Historic Hillside Neighborhood Association from 40 years ago approximately. And this house is part of our neighborhood and I was among the first ones to be there, I am one of the ones who reported the fire and contacted the owners who showed up. And we all sat there watching it burn. And it was just a horrifying night to see history go up in flames and not being able to do anything about it. I feel that the bank, being the holders of this property, were, like some other issues or places here in town that have been left to

deteriorate in order to tear them down - you all know which ones I am talking about - and it worried me that the same thing was happening here because nothing was done in two years since the fire. The walls could have been protected. There were a lot of things that could have been done which weren't. And I hold the bank responsible for that. I think everybody has said what we all feel about this house as part of Santa Fe. And I think, given the opportunity to check into it, there has to be someone, maybe David Rasch who has the money, to save this house."

Present and sworn was Mr. Ray Mann, P. O. Box 8820, Santa Fe, who said, "Over the last thirty years I've done a number of restorations in the downtown area. Three of them were in close proximity to the City and all three were condemned. We were able to restore these houses and it made a difference in the neighborhood in maintaining the fabric of the neighborhood. And nobody regrets that we took the time and effort in these properties which speak for themselves today. As far as financing we have a property that we did on Irvine and no bank would touch it. But we got in touch with the State Historic Board and, through the federal loan program, partnering with a bank, which they have, we were able to receive a low interest loan, well below prime, and we didn't pay any interest on that loan until the property was viable and rentable again. It had to be income property, not a residence. So the federal government is there and the hardest thing is to get a bank to partner with that program. And I'm surprised that someone from the state office isn't here right now to work with them on this project. I think there is about \$750,000 yearly in the fund but I can't really speak to that."

Ms. Beninato (previously sworn) said, "I agree with other speakers who have presented their position. I do believe it is demolition by neglect. Certainly, the walls should have been covered so they are not exposed. I am not certain about Mr. Purdy's letter where he said the walls are stable now but could become unstable because the walls aren't covered but they are stable now. As some of you know because I've come before the Board before, trying to get some action on a wall that sat there since 1934 while it is actually crumbling. Mr. Purdy didn't think that was structurally unsound. So I don't see how the possibility of a wall that has been exposed for only two years as opposed to 70 years could possibly be structurally unsound. I do believe the ordinance does require that you have a plan in place before you allow demolition and don't believe there is any plan.

"Now, I've heard from the bank that they intend to sell this. It's not like they are actually having to undergo the cost of the restoration renovation. They are going to sell it. And that is what Ms. Miller told us. So there will be someone else coming in who will, in fact, get a prime piece of vacant land and no restrictions on what is built there.

She said she didn't know if the Board cares but she heard it was haunted - another twist on the historic character.

Mr. Bell noted another precedent of a fire many years ago at SantaCafe, a historic building that was taken down to the adobe and today, remains a contributing structure.

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

### Questions to the Applicant

Ms. Mather asked about the reports attached to the application regarding lead based paint and asbestos. "From what I can tell from the reports, it seems that in order to follow federal guidelines for removal of hazardous waste that there is not much asbestos in the building, some in the plaster and when that gets removed it has to be wet and removed to a hazardous waste site. And the lead based paint would be in any building of this age. So to properly take care of the lead it would have to be taken to a site. But I'm not that it affects the structure in any other way than removal must be done carefully."

Mr. Martínez said the asbestos report affected the removal of that part and it was primarily the painted wood around the windows.

Chair Woods pointed out that it would have to be taken care of regardless whether you demolish it or restore it. So that is not an issue here.

Mr. Martínez said it is an issue only because the trim is not on the building. If it is not disturbed, it could be encased and keep it in place. But the trim with lead based paint has been removed from the building and would have to be dealt with if it restored.

Mr. Armijo asked what the "fire renovation" is about.

Mr. Martínez said that was the work done (drawings) by the owners and contractors and insurance adjusters to try to restore it if possible.

Mr. Armijo reminded him that he came and got approval to renovate this building. Page 19 had a statement of your intent to restore and you got administrative approval to restore it.

Mr. Martínez agreed. They tried very hard to restore it.

Mr. Armijo asked how they could say at one meeting that they could restore it and come back two years later and say it is not restorable.

Mr. Martínez said the restoration had to be a complete reconstruction and that is beyond the resources of the bank.

Mr. Armijo said the resources are not the purview of the Board if it is doable. The statement also claims that there are no proper tradesman available.

Mr. Martínez said he did not say that but the bank wanted to keep costs down by using tradespeople that he didn't feel could do the job.

Mr. Armijo noted that someone brought up the Santa Domingo Trading Post. He asked why they couldn't partner with Cornerstones who restored that place.

Mr. Rasch agreed and the Trading Post was in much worse condition.

Mr. Armijo added that there are other resources. "We restored the San Miguel chapel. That is the sort of thing we are dealing with here. I don't understand how you can get approval to restore it and then stand on the other side and say it can't be restored. The engineer who looked at it said can be restored. It is doable. It is expensive, no doubt, but it is doable."

Mr. Boniface was going to say the same thing. "It seems like you want to walk both sides of the street. I found that of interest too. Expanding on that, we got to walk through the structure today. It is amazing. The interior walls are still there. The outside looks worse. The two main adobe walls that run down the corridor are still standing and if someone had put a bond beam put on top, a temporary roof could have been started. So I'm having issues with the demolition presentation. I was going to bring up the asbestos and lead based paint. Ms. Miller said things came up and I think asbestos and lead paint were among those."

Ms. Mather asked staff on standards for demolition about making the owners protect the property so there is no further demolition by neglect. From the ordinance itself, as we sit here, we are not looking at dollars and cents in any preservation in the City. We don't consider as part of hardship the cost of doing that and she assumed the same to be true with restoration of a building. If the only reason is cost of doing with it has nothing to do with our ordinance.

Mr. Rasch agreed. We recognize that preservation is typically more expensive than not preserving. So we don't look at those costs as part of hardship. He read the code on demolition by neglect which was on page 4, minimum requirements included that all shall be preserved against decay and deterioration by the owner thereof or those who have legal custody of the property. There are 13 defects cited. Whether the City would cite the owner would be up to the Land Use Director.

Mr. Boniface asked how the Board could get the Governing Board or the Land Use Department to enforce this.

Mr. Powell noted that in the application it noted the interior for details. But Mr. Martinez didn't talk about the exterior. He asked if photographs were taken. Mr. Martinez agreed.

Mr. Martínez said he didn't leave out the exterior by design. He took photographs of every window and door.

Mr. Powell said it has the portal, the porch, the railing, so much is still preserved. He was quite taken by that. The bay windows are also there.

Chair Woods commented that Ms. Miller talked as a Trustee and she could relate as a trustee. But pointed out that the Board is the trustee for all historic buildings.

Ms. Mather noted in the demolition standards under b is the building as an essential portion of a unique street front. This building is the essential portion of the street. It anchors that street. There was nothing else there. It is American Territorial style. It was built during that period and experimenting with how the new Santa Fe would look. It has unique character bringing adobe and other elements together with pitched roof of up and coming materials and it is the Board's job to preserve that aspect of Santa Fé in all of its uniqueness. It is not only a unique street section but the crucial street section.

#### Action of the Board

**Ms. Mather moved in Case #H-15-042 at 355 East Palace Avenue, to deny the application because the application has not met any of the criteria for demolition. It is of historic importance. It is important to the streetscape of Palace Avenue. And it is in a repairable condition.**

She pointed out that there is a whole community who are willing to work.

**Mr. Boniface seconded the motion.**

**Mr. Armijo added that the application for registration on the State's Register of Cultural Properties, it says is significant because of its association with St. Francis Cathedral; construction was done by the French builders from Louisiana who came to Santa Fe for the purpose of erecting a Cathedral. The retaining wall in front of the house is made of stone left over from the building of a church similar in its architectural treatment.**

**Chair Woods added to the statement that it does not meet criteria that it cannot be demolished because there is no plan for replacing it and its status has not been changed. The trim details, where it sits in relation to the street and its relation to the street and the materials all contribute to being a unique street block section of the streetscape.**

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

Chair Woods added that this property will not continue with demolition by neglect.

#### **H. COMMUNICATIONS**

There were no communications.

#### **I. MATTERS FROM THE BOARD**

There were no matters from the Board.