

# City of Santa Fe, New Mexico

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*Javier M. Gonzales, Mayor*

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## Memorandum

To: Members of the Governing Body

From: Zachary Shandler, Assistant City Attorney *35*

Via: Kelley Brennan, City Attorney *KAB*

Re: Case #2014-91 & Case #2014-92 – Two Consolidated Appeals. Allen Jahner (Applicant Appellant) and Old Santa Fe Association (Organization Appellant) Both Appeal the September 9, 2014 Decision of the Historic Districts Review Board (HDRB) in Case #H-11-105 Approving the Application with Conditions at 237 & 239 E. DeVargas Street Located in the Downtown and Eastside Historic District

Date: November 7, 2014 for November 12, 2014 Meeting of the Governing Body

### I. THE APPEAL

On September 23, 2014, Mr. Allen Jahner (Applicant) and on September 24, 2014, the Old Santa Fe Association (OSFA) (collectively, the Appellants) filed Verified Appeal Petitions (collectively, the Petitions) appealing the September 9, 2014 Decision of the Historic Districts Review Board (HDRB or Board) in Case #H-11-105 Approving the Application with Conditions at 237 & 239 E. DeVargas Street Located in the Downtown and Eastside Historic District. Copies of the Petitions are attached as **Exhibits A** and **B** respectively.

### II. HISTORY OF THE CASE

237 and 239 East de Vargas Street are two historic buildings (collectively, the Buildings)

separated by a common wall on a lot west of Brothers Lane near the El Castillo Retirement Community. The Buildings are listed as contributing to the Downtown & Eastside Historic District. The owner has remodeled the Buildings to house the El Castillo Retirement Residence Memory Center (Memory Center). The Memory Center project has gone in front of the Board several times during its construction process and because contributing status can trigger more restrictive requirements, the Applicant had to request several “Exceptions” to the Historic Code. (The relevant portion of the minutes of the Board meetings on 9/27/11, 10/11/11, 11/8/11, 6/26/12, 1/14/14, 3/11/14, 7/8/14, 8/26/14 are attached in chronological order as **Exhibit C**). The Board has heard and granted Exceptions to allow the Applicant to: (a) exceed the 50% footprint on a contributing building; (b) exceed the maximum allowable wall height for certain walls; (c) build within 10 feet of a primary façade and (d) widen an opening on a primary façade. The Memory Center is currently operational and has occupants living at the residence on a temporary Certificate of Occupancy. Both appeals relate to the Board’s decision on the Applicant’s placement of three mechanical units on the roof of the Memory Center.

On June 26, 2012, the Board voted to approve several components of the construction process. One Board member added an amendment that if any brick was found in the roof parapet area that the brick coping had to be retained or replaced with in kind material or the Applicant had to return to the Board. (Board Minutes, 6/6/12, p. 24, lines 1-2, 12-13).

Another Board member added the following amendment to the motion: “no publicly visible rooftop appurtenances will be placed on this building.” (Board Minutes, 6/6/12, p. 25, line 17). After the Board approved the motion, the Applicant’s architect told the Board he would still be putting mechanical equipment on the roof. Applicant, however, did not appeal the Board’s decision.

Sometime after the June 26, 2012 meeting, the Applicant’s architect put 3 mechanical units without Board approval on the roof spread over an approximate 40 feet area on the southern portion of the roof. The units were placed approximately 90 feet back from the street. However, the units are publicly visible from E. DeVargas Street.

On January 14, 2014, the Board heard the Applicant’s request to paint the mechanical units in lieu of building a wall to screen them. The Applicant’s architect “wondered if screening would be more objectionable than just painting them. They were willing to screen them or paint them.” (Board Minutes, 1/14/14, p. 27, para. 11). The Board voted to postpone the matter and have the Applicant come back with designs for a screen wall.

On March 11, 2014, the Board heard the matter again, but voted to postpone the matter in order to have the Applicant come back with its mechanical engineer to explain why the units were placed on the roof in the first place and why they were not placed in some other non-publicly visible location in accordance with the Board’s June 26, 2012 decision.

On July 8, 2014, the Board heard the Applicant’s request for a height Exception to build a stucco wall to screen the units. The Board voted to postpone the matter because the Applicant had not brought a mechanical engineer to the hearing and had not provided certain schematic drawings.

On August 26, 2014, the Board, again, heard the Applicant's request for a height Exception to build a stucco wall to screen the units. The Applicant architect's proposal was to screen the mechanical units by constructing a 40'5" long stuccoed wall on the roof (and 4'11" wide on the east and west sides). The screen wall would be approximately 4'6" high for a total height of 15' 6" high from the ground. The maximum allowable height for a structure in this property is 13' 10" and so the Applicant made a request for an "Exception" to exceed the maximum allowable height. The Applicant also proposed to place a screen wall around a mechanical/hot box that had been placed on the ground next to the street without prior Board approval. At the public hearing:

The Applicant's architect presented a roof plan showing the three mechanical units and a set of skylights on the north side of the building. (A copy of the file submitted to the Board is attached as **Exhibit D**).

The Applicant's mechanical engineer was in attendance.

The Applicant's architect stated he had not appealed the June 26, 2012 decision because he had planned to eventually put up a stucco wall to screen the units and thus make them non-publicly visible. (Board Minutes 8/26/14, p. 39, para 7).

The Applicant's architect stated that there "are a host of examples of rooftop equipment that were rendered non visible by screening." (Board Minutes, 8/26/13, p. 39, para. 7).

The Applicant's mechanical engineer confirmed that the three units were LG Generation 4 units that needed very little ducting. (Board Minutes 8/26/14, p. 40, para. 12, 13, 15). It was a "ductless" system.

A member of the public "asked if the units were oriented north to south or east to west. He thought if they squeezed them together and oriented them the other way, it might work better and further shorten the width of the screen." (Board Minutes 8/26/14, p. 44, para. 6).

The Applicant's mechanical engineer stated that each unit only needed to be separated by at least 3 three from another unit. (Board Minutes 8/26/14, p. 40, para 6).

The Applicant's architect responded: "He would work with the owner and the engineer to bring them closer together." (Board Minutes, 8/26/14, p. 44, para. 9).

The Applicant's architect stated that solar collectors covered the roof, which they were not drawn on the roof plan, but they had been angled in a certain manner so they were not publicly visible. (Board Minutes, 8/26/14, p. 45, para. 5).

A Board member stated that "LG was very proud of their condensers ... [and] their remote capability." (Board Minutes, 8/26/14, p. 41, para. 1).

A Board member stated the condensers could be "as much as 220 meters or 656 feet of piping from the outdoor unit to the indoor unit and ... an installation could have as much

as 110 meters of 360' of vertical distance between the indoor unit and the outdoor unit" and still function effectively (Board Minutes, 8/26/14, p. 41, para. 1).

A Board member "favored moving the units to the north side of the building. They had solar collectors and skylights and he suggested that the applicant align them with the south face of the skylight there; put all three of them there to the east of the skylight and screen them." (Board Minutes, 8/26/14, p. 46, para. 2).

A Board member stated a screen wall on the north side of the roof "would be almost invisible." (Board Minutes, 8/26/14, p. 45, para.11).

A Board member stated he "thought the Board had bent over backwards and Mr. Duty had not reciprocated but did what he wished to do." (Board Minutes, 8/26/14, p. 46, para. 1).

After the public hearing, the Board voted to approve the Exception with the relevant conditions:

1. That the three rooftop units be located to the north side of the building between the skylights on the northeastern portion, east of the rectangular skylight;
2. That the units be placed as close as possible together not to exceed six feet side to side;
3. That the screen wall on the roof be stuccoed and as high as the units and enclosed on three sides so that there is no public visibility of the equipment.

On September 9, 2014, the Board approved Findings of Fact and Conclusions of Law embodying the Decision. (A copy of the Findings of Fact and Conclusions of Law is attached as **Exhibit E**). On September 23, 2014, the Applicant filed its appeal and on September 24, 2014, OSFA filed its appeal. (A copy of two Google Earth overheads, which were not presented at any of the hearings is attached as **Exhibit F1, F2**).

### III. BASIS OF APPEAL

#### A. Applicant's Issues on Appeal.

1. There was not substantial evidence to conclude the three units have to be moved to the north portion of the building.

#### B. OSFA's Issues on Appeal.

1. There was not substantial evidence to conclude that the proposed screen wall on the roof satisfies all of the "Exception" requirements under Section 14-5.2(C)(5)(c).
2. There was not substantial evidence to conclude that the screen wall on the roof would prevent damage to the streetscape.
3. There was not substantial evidence to conclude the screen wall on the roof strengthens the heterogeneous character of City.

4. There was not substantial evidence to conclude that there was a special circumstance with the project having a limited site area.
5. There was a lack of substantial evidence to conclude that there was a special circumstance with the project having a limited site area that was not the fault of the owner.
6. The Board failed to properly enter a Conclusion of Law on the request for an Exception.
7. The Board failed to properly enter a Conclusion of Law that a screen wall cannot block a mechanical unit from being publicly visible.
8. The Board failed to properly enter a Conclusion of Law on the brick parapet issue.

#### IV. RELIEF SOUGHT

Applicant asks the Governing Body to grant its appeal with its plan to cluster the three units together near their current location.

OSFA asks the Governing Body to grant its appeal and order a red-tag of the Buildings until the Land Use Code requirements are properly completed.

#### V. ISSUES RAISED BY THE APPEAL; ANALYSIS

##### A. Applicant's Issues.

1. *There was not substantial evidence to conclude the three units have to be moved to the north east corner of the building with a screen wall to be not publicly visible.*

Code § 14-5.2(D)(3)(b) states: “For contributing buildings solar collectors, clerestories, decks, or mechanical equipment if publicly visible shall not be added.”

Code § 14-12.1 states: “Publicly visible” means the “portion of the a structure visible from a public street, way or other area to which the public has legal access; and provided that to be publicly visible, a structure need not be adjacent to a public street or way or area to which the public has legal access.”

A request for an “Exception” must satisfy all applicable requirements plus six additional criteria found in SFCC 1987, § 14-5.2(C)(5)(c) in order to be approved.

The legal definition of “substantial evidence” does not mean the Board must find a certain percentage of the evidence that supports one side. It means that the Board must identify evidence that is particularly persuasive and is “such evidence as a reasonable mind might accept as adequate to support a conclusion. NM Human Services Dept. v. Garcia, 94 N.M. 175, 177 (1980).”

The record from the August 26, 2014 meeting provides several examples where the mechanical units are identified as a “ductless” system with a “remote” capacity. One Board member stated that the further back (i.e., in a northerly direction) the screen wall and the units were placed on

the roof, then they would likely be invisible from East DeVargas Street.

The record from the August 26, 2014 meeting provides examples of where Applicant's architect states that he is agreeable to moving the units to make them closer together.

Therefore, if the units can be moved and the ductless system provides even greater flexibility in location, then the units (from a design perspective) can be moved to north east corner of the roof.

***If the Governing Body finds that there was substantial evidence for the Board to conclude that the units could be moved to the north east corner, it should deny Applicant's claim.***

B. OFSA's Issues

1. *There was not substantial evidence to conclude that the proposed screen wall on the roof satisfies all of the "Exception" requirements under Section 14-5.2(C)(5)(c).*
2. *There was not substantial evidence to conclude that the screen wall on the roof would prevent damage to the streetscape.*
3. *There was not substantial evidence to conclude the screen wall on the roof strengthens the heterogeneous character of City.*
4. *There was not substantial evidence to conclude that there was a special circumstance with the project having a limited site area.*
5. *There was a lack of substantial evidence to conclude that there was a special circumstance with the project having a limited site area that was not the fault of the owner.*

Code § 14-5.2(D)(3)(b) states: "For contributing buildings solar collectors, clerestories, decks, or mechanical equipment if publicly visible shall not be added." This provision prohibits mechanical equipment from being publicly visible. It does not prohibit a stucco screen wall from being publicly visible.

The record from the August 26, 2014 meeting provides evidence that a stucco screen wall is an acceptable method to hide roof top mechanical units and mitigate the damage to the streetscape view and add to multi-cultural, heterogeneous architecture of the City. The record also provides evidence that the existing site was bounded by a variety of buildings and properties. The record from the October 11, 2011 meeting provides evidence that the Board discussed, and approved, a request to exceed the 50% footprint rule because the site was the only site abutting the El Castillo facility with suitable buildable area without wholesale removal of existing structures. The Board, however, did find that the project could have been better planned. The Board entered Finding #20, which stated: "The Exception meets the Section 14-5.2 (C) (5) (c) (v) criteria because the special circumstance was not a condition created by the Owner due to the long-standing existence of the limited site area. The Applicant, however, could have mitigated this issue to a greater extent if it had chosen design plans that did not cover such a large portion of the site area."

***If the Governing Body finds that there was substantial evidence for the Board to conclude that the Exception criteria had been met, it should deny OFSA's claim.***

6. *The Board failed to properly enter a Conclusion of Law on the request for an Exception.*

The Board did enter a Conclusion of Law on the request for an Exception. Conclusion of Law #2 states that based on the Findings of Fact, the “Board approved the Application and the Exception...” OSFA is incorrect when it states “[t]his conclusion is appealed as it is not in fact a conclusion of law, but rather a setting forth of the conditions for the Applicant.

***If the Governing Body finds that the Board did properly enter a Conclusion of Law, it should deny OFSA’s claim.***

7. *The Board failed to properly enter a Conclusion of Law that a screen wall cannot block a mechanical unit from being publicly visible.*

As stated above, the Code § 14-5.2(D)(3)(b) states: “For contributing buildings solar collectors, clerestories, decks, or mechanical equipment if publicly visible shall not be added.” This provision prohibits mechanical equipment from being publicly visible. It does not prohibit the Board from concluding that a stucco screen wall can be publicly visible.

***If the Governing Body finds that the Board did properly enter a Conclusion of Law, it should deny OFSA’s claim.***

8. *The Board failed to properly enter a Conclusion of Law on the brick parapet issue.*

The agenda for the August 26, 2014 meeting stated the Applicant “proposes to paint or screen roof-mounted mechanical equipment and to screen a hot box with a coyote fence and gate on a contributing commercial structure. An exception is requested to exceed the maximum height to construct screening to block public view of rooftop appurtenances.” The Board, under the Open Meetings Act, can discuss matters not on the agenda, but cannot take a vote on them. On August 26, 2014, there was discussion on the brick coping issue. Board staff stated that he “went with the applicant on a site visit and saw about three feet of coping and at that point, they had a misunderstanding. Mr. Duty thought Mr. Rasch had released him from that requirement as not being enough coping.” (Board Minutes, 8/26/14, p. 39, para. 1) “Mr. Rasch had mentioned to the Board that he believed the coping should be re-established and the Board never voted that it not be re-established but the Board seemed to set it aside for larger issue.” (Board Minutes, 8/26/14, p. 39, para. 1) A Board Member then turned the discussion to whether the structure should be allowed to maintain its historic status. (Board Minutes, 8/26/14, p. 39, para. 2). No vote was taken on the brick coping issue or the historic status issue.

***If the Governing Body finds that the Board did not have to enter a Conclusion of Law, it should deny OFSA’s claim.***

VI. CONCLUSION

A. Applicant's Appeal

- If the Governing Body concludes the Board's decision was supported by substantial evidence and the Board properly applied the requirements of Chapter 14, the Governing Body should deny the Applicant's appeal and affirm the Board's decision.
- If the Governing Body concludes the Board's decision lacked substantial evidence to support it, the Governing Body should vote either to (1) grant the appeal and approve the Project with the three units being clustered together (but not moving the north east portion of the roof); or (2) remand to the Board for further action in accordance with the direction of the Governing Body.

B. OSFA's Appeal

- If the Governing Body concludes the Board's decision was supported by substantial evidence and the Board properly applied the requirements of Chapter 14, the Governing Body should vote to deny the appeal and affirm the Board's decision.
- If the Governing Body concludes the Board's decision lacked substantial evidence to support it or the Board's misapplied the requirements of Chapter 14, the Governing Body should vote either to (1) grant the appeal and order Land Use staff to red-tag the building until the Applicant comes into compliance with all necessary requirements or (2) remand to the Board for further action in accordance with the direction of the Governing Body.



LUD Use Only

Time Filed: 2:30 PM

Fee paid: \$ 100.00

Receipt attached:

(date stamp)

RECEIVED

SEP 23 2014

LAND USE DEPARTMENT

Case # 2014-91

**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: JAHNER ALLEN J.  
Last First M.I.

Address: 250 E. ALAMEDA  
Street Address

SANTA FE NM 87501  
City State ZIP Code

Phone: (505) 988-2877 E-mail Address: ajahner@elcNM.com

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

Correspondence Directed to:  Appellant  Agent  Both

**Agent Authorization (if applicable)**

I/We: ALLEN J. JAHNER

authorize D. MICHAEL BUTY & JERRY WERTHEIM to act as my/our agent to execute this application.

Signed: [Signature] Date: 9-23-14

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

**Subject of Appeal**

Project Name: EL CASTILLO MEMORY CENTER

Applicant or Owner Name: EL CASTILLO RETIREMENT RESIDENCES, ALLEN JAHNER

Location of Subject Site: 237 & 239 E. DE VARGAS STREET

Case Number: H-11-105B Permit Number (if 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): APPLICANT AS PER 14-3.17(B)(1)

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:  
HDRB MEETING, AUG. 26, 2014  
FINDINGS APPROVED SEPT 9, 2014

Check here if you have attached a copy of the final action that is being appealed.

"A"

Description of Harm

Describe the harm that would result to you from the action appealed from (attach additional pages if necessary):

SEE ATTACHED DESCRIPTION OF HARM

Explain the Basis for Appeal

Please detail the basis for Appeal here (be specific):

SEE ATTACHED BASIS FOR APPEAL  
SEE ATTACHED JUNE 26, 2012 HDRB ACTION  
SEE ATTACHED AUG. 26, 2014 HDRB ACTION

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: [Signature] Date: 9-23-14  
Agent Signature: [Signature] Date: 9-23-14

State of New Mexico )  
) ss.  
County of Santa Fe )

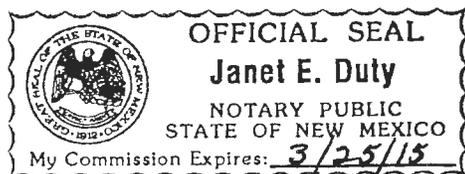
I/We ALLEN J. JAHNER, being first duly sworn, depose and say: I/We have read the foregoing appeal petition and know the contents thereof and that the same are true to my/our own knowledge.

Petitioner/s:

[Signature] \_\_\_\_\_  
Signature Signature

ALLEN J. JAHNER \_\_\_\_\_  
Print Name Print Name

Subscribed and sworn to before me this 23 day of September, 2014.



[Signature]  
NOTARY PUBLIC  
My commission expires:  
3/29/15

## DESCRIPTION OF HARM

The post occupancy adjustments to the design as variously discussed and proposed by the HDRB are inconsistent with the approvals granted by the HDRB, are inconsistent with the building permit issued, and would require the wholesale movement of mechanical equipment, structural redesign to support such a move, relocation of roof top solar collectors, and substantial “down time” in the heating and cooling zones, all at great cost to the appellant.

Such a move of the mechanical equipment would impose great financial harm to the appellant. The costs for such a modification would be in excess of \$40,000. In addition, the loss of heating and cooling while such a change is undertaken would cause great discomfort and harm to the residents of the Memory Center.

In addition, the inconsistent treatment of this issue by the HDRB has already caused substantial harm in the numerous postponements and debates in contravention to the approvals originally received. These postponements and debates have cost the owner in excess of \$8,000 in professional time and delay.

## BASIS FOR APPEAL

The Memory Center at the El Castillo Retirement Residences was completed in December of 2013 and occupied in January of 2014. The Memory Center is an important addition to the El Castillo Retirement Residences, providing housing and care for Alzheimer's and dementia patients. The facility cost 2.5 million dollars to build and is a premier facility of its kind. The Memory Center completed the full complement of life services offered at El Castillo. It has been full since its opening in January.

At the completion of the project, the roof top mechanical equipment had not been screened. Repeated requests and applications to the HDRB for approval of the screening proposed, resulted in an extended series of postponements while the HDRB attempted to have the mechanical equipment removed and relocated, in contradiction to the approvals and building permit granted. In its final action, the HDRB required relocation of the mechanical equipment on the roof top to a different location. The El Castillo agrees to one suggestion by the HDRB to place the mechanical equipment in closer proximity but cannot comply with another suggestion by the HDRB to move all units in a wholesale fashion to another location on the building.

Specifically, the basis for appeal is as follows:

- 1) At the approval granted to the project by the HDRB (HDRB meeting, June 26, 2012, Case #H-11-105B, 237 and 239 E. de Vargas Street) during the motion, a friendly amendment was added which would require that no visible rooftop appurtenances will be placed on the building. The vote was taken and it was unanimously approved. The amendment was added without any acceptance or input from the applicant. No discussion of roof top equipment had occurred during the discussion of the case. After the vote was taken, the applicant attempted to clear the issue. The chair responded that it couldn't be discussed during a motion, but allowed the applicant to speak after the vote. The applicant made it perfectly clear that the roof top mechanical equipment would in fact be on the roof of the new construction to the back of the contributing structure. There was no concern on the applicant's part after making this clarification, because the motion had contained the requirement that no VISIBLE equipment should be on the roof. The applicant left the meeting with the clear understanding that screening would be required around the new equipment, which would render the equipment not visible to the public. This is standard procedure in the historic districts and quite consistent with regular approvals of buildings in the historic districts.

It is the position of the appellant that the HDRB erred in specifically not allowing a response from the applicant nor allowing the applicant to accept the conditions placed on the approval. This is in violation of standard procedure in hearings on City boards and is also not characteristic of HDRB actions on other cases which continues to this day.

In spite of this irregularity, the applicant clarified the issue to the board, was

thanked by the chair, and proceeded with the project. It was clear to the applicant that screening would be required, but the mechanical equipment would be located on the roof as proposed. The applicant submitted drawings for a building permit which specifically included roof top equipment located just as the applicant had stated to the HDRB. The permit was approved by all departments, including historical, and construction was completed.

- 2) The HDRB, in its failure to approve screening for the mechanical equipment in subsequent meetings, did not follow the approval granted by the HDRB at the June 26, 2012 approval.

During construction, and after the roof top mechanical had been installed, the applicant requested and received a site visit by historical staff to discuss the desired method of screening. At that meeting, no mention of moving or relocating the mechanical equipment occurred. The only discussion which occurred pertained to screening methods, materials, and location. It was clear at that meeting that screening would need to be a stucco surround.

When the applicant proposed a stucco surround for the screening, and applied to the HDRB for approval, the HDRB began a lengthy attempt to require the applicant to move the mechanical equipment to a ground location (in direct contradiction to the approvals for screened equipment, and in direct contradiction to the building permit granted). The applicant pointed out that this was not possible because of the constraints of the site and the health and welfare of the residents. The HDRB demanded that the applicant cause a mechanical engineer to appear and testify as to the truth of the restrictions on relocation of the mechanical equipment. This testimony was provided which supported the fact that no relocation on the ground was feasible. The applicant consistently asserted that the owner had no plan or desire to relocate the equipment to the ground, screening was all that was required, screening was consistent with the approval and the permit, and that screening should be allowed. The HDRB postponed action on this application for screening two times.

- 3) In its final action, the HDRB required design changes after completion which were not consistent with the approvals granted by the HDRB and which were not consistent with the building permit granted by the City of Santa Fe.

In the HDRB's final action, approval for screening was granted but with conditions. The HDRB relented in its attempts to have the mechanical equipment relocated to the ground, but began lengthy discussions as to how the mechanical equipment could be relocated on the roof in order to reduce the screening required. One such proposal by the chair was indeed sensible. That suggestion was to move one of the units closer to the other two so as to "cluster" the units and provide a reduction in the screening requirement. This suggestion is sensible, and though it will require some

expenditure on behalf of the owner, is agreeable and positive. The HDRB granted some leeway to the staff to finalize the details of such a move. However other members of the HDRB proposed in the motion (again without input from the applicant), that all three units be relocated to the rear of the building. This proposal was contained in the approval. In addition, the HDRB stated that this case should not come back to them, and that the applicant should work it out with staff.

During discussion of the motion the applicant attempted to state that the move to the rear of the building may conflict with the solar collector system installed, but no further discussion was allowed. Nevertheless, the applicant had some confidence that a final solution could be worked out with staff. In fact in the final motion, a condition was added which read that “if the applicant cannot comply with the conditions of this motion, that the application would come back to staff and staff would determine if it needed to come back to the Board.” The applicant understood the motion to give staff responsibility for final design results on screening.

Movement of one of the units to “cluster” the equipment is feasible and was proposed to historical staff at a subsequent site meeting. The Owner is agreeable to this solution. At the site meeting, historical staff agreed that the move of one unit was a good improvement, but was not sure that he had the authority to accept that solution in lieu of movement of all of the units to the rear. The applicant pointed out that such a move could not be made without disturbing the solar collectors. There is not sufficient room to allow the standard placement of the units in the rear. Other arrangements of the units would require that structural modifications may have to be made to the building.

The applicant finds that in light of the historical staff’s lack of authority to reach closure on this matter, and the HDRB’s specific reference to the fact that the case should not come back before the board, there is no other option other than to appeal to the Governing Body for relief in this matter.

The Owner remains agreeable to a “clustering” of the units. This would specifically allow a substantial reduction of screening. While this constitutes some substantial costs and some “down time” in one of the heating and cooling zones, it is nevertheless a reasonable action to take.

The appellant seeks approval of this appeal, including the compromise offered, in order to find relief from the inconsistent actions of the HDRB. It is the belief of the appellant that approvals from the HDRB should be consistent and reliable, and there should be beneficial reliance on the building permit as issued.

# JUNE 26, 2012 HDRB APPROVAL

Mr. Acton: The idea of trying to preserve the brick coping I think is going to create more problems. I just want everyone to be aware. If you look at the photograph, that brick coping was very close to the top of that roof.

Ms. Mather: Yes.

Mr. Acton: If they do any mechanical work on that roof it's going to need to be boxed in. If they have any insulation on that roof, that brick coping is going to plane out with the top of the exterior of the roof. That brick coping is so low; I'm concerned that you're inheriting a number of problems down the road. So, it crept into the discussion but if you look at the photograph Mike, I think you might want to evaluate that and it might necessitate coming back before the board if you discover and you find that it just can't work for those reasons I mentioned to go with a stucco parapet.

Chair Woods: But that is not what the motion is.

Mr. Acton: I guess I'm suggesting a friendly amendment, I think.

Ms. Mather: I don't see that as an amendment. If there is a problem - If they discover brick coping and they can't replace it in-kind or repair it then they'll need to come back to the Board.

Chair Woods: C, do you have something?

Ms. Rios: I'd like another friendly amendment - no publicly visible rooftop appurtenances will be placed on this building.

Ms. Mather: Thank you.

Chair Woods: Anyone else? All in favor?

All members: Aye.

Chair Woods: Opposed? [none]

Mr. Duty: Well...



Chair Woods: We can't discuss in a motion. The motion has been made. Do you have a question?

Mr. Duty: Yes.

Chair Woods: Okay.

Mr. Duty: A clarification. We may need to look at the minutes to refresh my memory. If I remember correctly, the primary façade of the porch was one half of it. Right? Not the entire porch. I think your drawing is in error. Not that it matters a lot. But it is just a clarification. And we will then proceed with our project and preserve the porch, as I understand it. And the brick concern, I can't testify to what we will find until I find it. I'm not uncomfortable with coming back to the Board, but whatever it is - whatever works, I will point out this. It is quite high. The existing ceiling in there is about 8' 6" off the floor. The parapet you are looking at is a good 12' roughly. So even with preservation, it will be.... We'll have some height there. We do not plan on putting any mechanical equipment on that roof. It'll be on the new roof in the back.

Ms. Mather: Right. And the motion was then to either replace it in kind if it is too damaged to repair.

Mr. Duty: I understand. I just wanted to make it clear that the height issue is probably not going to be a problem.

Chair Woods: Michael, thank you very much.

Mr. Duty: Thank you.

This is the end of the verbatim transcription.

4. **Case #H-12-042A. 566 Camino del Monte Sol.** Downtown & Eastside Historic District. Architectural Alliance, Inc., agent for Lane Seliger, owner, proposes an historic status review for this non-statused building. (David Rasch).

Mr. Rasch presented the staff report for this case as follows:

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

566 Camino del Monte Sol, known as the Willard Nash House, is a single-family residence that was constructed by 1928 in the Spanish-Pueblo Revival style. The residence is listed as significant to the Downtown & Eastside Historic District. A free-standing studio was constructed at an unknown historic date to the west of the residence. The studio has no historic status designation.

The studio retains a north-facing large window (i.e. studio window) which may be the only elevation without alterations. Post 1962 changes include the removal of a porch or entry on the west, a large

principle. It has been flagrant and it has happened. Her suggestion was to really tell the applicant where he could put the units on the roof where the public wouldn't see them.

Mr. Boniface said he had been on the Board about one year and 9 months and when he read these dates from September, 2011, he agreed this has just gone on and on. He felt like he was overwhelmed with it. He thought the Board had bent over backwards and Mr. Duty had not reciprocated but did what he wished to do. Once he brought up the LG compressors and heard Mr. Duty say he couldn't do it that was wrong.

He favored moving the units to the north side of the building. They had solar collectors and skylights and he suggested that the applicant align them with the south face of the skylight there; put all three of them there to the east of the skylight and screen them. That wall that was part of the building and was extremely tall. He would move it there.

Ms. Mather said her concern was much more global for this building. The Board has granted any number of exceptions and evidently each of those allowed the building to maintain its status but she didn't believe that. The original building has been engulfed by every available inch of the building and she could not vote for any further exceptions on this building. The contributing building was in peril of losing its status. The Board cannot vote for anything that imperils its status. It was no longer visible. He may have served his client very well and the memory center patients very well but not the rest of the city.

She frankly didn't know what to do. It was not really there anymore.

Chair Woods asked if she didn't think it had historic status any more. Ms. Mather agreed.

Chair Woods said it was either already a done deal or this was not going to kill it. This wouldn't be the fatal blow.

**The motion failed to pass on a 2-3 voice vote with Mr. Katz, Ms. Mather and Mr. Boniface voting against.**

**Mr. Boniface moved in Case #H-11-105 at 237 & 239 East de Vargas Street to approve it, including from the previous motion the condition that the hot box be screened to look like a gate entrance with stucco sides and a coyote gate, relocating the three rooftop units to the north side of the building and have them be located between the skylights on the northeastern portion east of the rectangular skylight, that the units be placed as close as possible together not to exceed six feet side to side, that the screen wall be as high as the units and enclosed on three sides and granting an exception for that height so the applicant has met the exception. Ms. Mather seconded the motion.**

Chair Woods asked that the screen wall be stuccoed. She asked that the motion include saying "so that there is no public visibility of the equipment."

Mr. Boniface accepted the amendment as friendly to the maker of the motion.

Mr. Katz asked that it also say if the applicant couldn't comply with those conditions, he would come back again.

Mr. Boniface agreed to that amendment but say that the applicant would come back to staff because he didn't want to see him again at the Board.

Mr. Katz requested an amendment that the granting of a height exception was contingent on moving the units to this location.

Mr. Boniface agreed and added that the applicant cannot place the units in that specific location that he takes the application back to staff. Then it would be up to Mr. Rasch whether to bring it back to the Board if he didn't feel he could accept it.

Mr. Rasch agreed.

So the motion as amended is:

**Mr. Boniface moved in Case #H-11-105 at 237 & 239 East de Vargas Street to approve with the following conditions:**

1. That the hot box be screened to look like a gate entrance with stucco sides and a coyote gate;
  2. That the three rooftop units be relocated to the north side of the building between the skylights on the northeastern portion, east of the rectangular skylight;
  3. That the units be placed as close as possible together not to exceed six feet side to side;
  4. That the screen wall be stuccoed and as high as the units and enclosed on three sides so that there is no public visibility of the equipment;
  5. That granting an exception for that height is contingent on moving the units to the specified location;
  6. That if the applicant cannot comply with the conditions of this motion, that the application would come back to the staff and staff would determine if it needed to come back to the Board.
- Ms. Mather seconded the motion.**

**The motion passed by majority (4-1) voice vote with all voting in favor except Mr. Armijo, who voted against.**

Mr. Duty said he would not come back. He said he was in favor of what the Board approved and he would either comply or if not, he would appeal the case.

## **H. COMMUNICATIONS**

Mr. Rasch said the Board policy clearly says there would be no changes after the agenda was set. But recently he has had people asking to use City equipment (lap top and projector) and he cannot do that any

City of Santa Fe  
200 Lincoln Ave.  
Santa Fe, NM 87504  
505-955-4333

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Payer Name: MIKE DUTY

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Number : 15443

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\*\*\*\*\* DUPLICATE #001 \*\*\*\*\*

09/23/2014 14:30 LorraineL  
Thank You ~



LUD Use Only  
 Time Filed: 10:59 AM  
 Fee paid: \$100.00  
 Receipt attached:

(date stamp)  
**RECEIVED**  
 SEP 24 2014  
 LAND USE DEPARTMENT

**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: ALD SANTA FE ASSOCIATION  
 Address: Last P.O. Box 1055 First  M.I.   
 Street Address SANTA FE, NM 87504 Suite/Unit #   
 City SANTA FE State NM ZIP Code 87504  
 Phone: (505) 955-1724 E-mail Address: SANTAFE BRAD@YAHOO.COM  
 Additional Appellant Names: BRAD PERKINS  
 Correspondence Directed to:  Appellant  Agent  Both

**Agent Authorization (if applicable)**

I/We: \_\_\_\_\_  
 authorize \_\_\_\_\_ to act as my/our agent to execute this application.  
 Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
 Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**Subject of Appeal**

Project Name: EL CASTILLO MEMORY CENTER - DS VARGAS ST.  
 Applicant or Owner Name: MIKE DUTY  
 Location of Subject Site: DS VARGAS ST.  
 Case Number: H-14-105 Permit Number (if 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):

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:  
FINDINGS # 15, 16, 18, 19, 20 BRICK PARAPET ISSUE  
CONCLUSIONS OF LAW # 2 & 4

Check here if you have attached a copy of the final action that is being appealed.

"B"



ADDENDUM TO OSFA APPEAL FROM THE HDRB DECISION –CASE #H-14-105

The Old Santa Fe Association appeals the Findings of Fact and Conclusions of Law in the above-noted case, specifically:

**1. Finding No. 15 is appealed.** All criteria for the exception granted have not been met: See individual criteria addressed below.

**2. Finding No. 16 is appealed.** The HDRB concludes that “the streetscape is not damaged”. This is conclusory and not supported by evidence, said finding is arbitrary and capricious. The streetscape has been harmed seriously by the Applicant in that a low 18<sup>th</sup> century farmhouse has been obscured by a wall which hides it, which was supposed to have an opening which allowed the public to see it and the applicant failed deliberately to follow such condition, and further constructed a huge “hot box” in front of the wall, which could have been placed elsewhere, and which the Board has now compounded the visual negative effect by allowing more structure to allegedly “screen” the hot box. And the added rooftop appurtenances which exceed the allowable height further damage the streetscape.

**3. Finding No. 18 is appealed.** Overwhelming an important historic structure, which was a key part of an ancient streetscape, by an overly intensive commercial use does not “strengthen the heterogeneous character of the City”. It in fact destroys the character of it. This finding is unsupported by the evidence and is arbitrary and capricious. The intention of the Ordinance is for the preservation of historic resources, not the obscuring and destruction thereof.

**4. Finding No. 19 is appealed.** This finding is contrary to the intention of the ordinance, is unsupported by the evidence and is arbitrary and capricious. A limited site is not a special circumstance; it applies in most cases: The Applicant’s job is to reasonable build within the limits of the site. Financial goals of the Applicant cannot be justified to trump the interest that the City and public have in the preservation of important historic resources. Were that the policy, we would lose most of what is historic in Santa Fe.

**Finding No. 20 is appealed.** “Are Due to special conditions and circumstances which are not the result of the applicant” This finding is clearly in error. The applicant himself in his letter to the HDRB of June 11, 2014 states: “The design is the result of the actions of the applicant.” He then proceeded to argue that the tight building site “dictated” the location of the roof top appurtenances, despite the specific decision of the HDRB that they not be placed on the roof. His doing so in the face of the decision is egregious and the Board should have held him to the un-appealed permit approval as restricted. The HDRB in this finding conceded that “The applicant, however, could have mitigated this issue to a greater extent if it had chosen design plans that did not cover such a large portion of the site area.” Financial concerns should not trump the public’s interest in the enforcement of the ordinance.

**Conclusions of Law No. 2.** This conclusion is appealed as it is not in fact a conclusion of law, but rather a setting forth of the conditions for the Applicant.

**Conclusions of Law No. 4.** This conclusion is appealed because it is not supported by fact or law. It pretends that because there is screening, the appurtenances are not publically visible. They are in fact visible structures and appurtenances exceeding the allowable height, and visible though not seeing the mechanics of them.

**Brick Parapet Issue:** The Board failed to make any findings or conclusions concerning the unresolved issue of the brick parapet, which was discussed at length and commented on by staff and members of the public.

In sum: The original approved application required that the Applicant, in the event that examination of the historic structure revealed that there was a brick parapet under the current stucco, that Applicant would be required to restore the brick parapet. Said decision was not appealed by the Applicant.

In later testimony, Applicant's agent/architect, Mr. Duty attempted to minimize the amount of brick found, though there was no quantum of brick limiting the Board's requirement. Staff member, David Rasch confirmed in his testimony that the brick parapet existed.

The Board's action in failing to address the deliberate refusal of the Applicant to follow the un-appealed requirement to restore the brick parapet is contrary to law and to the permit which was approved contingent upon the condition of restoration of the brick parapet, and City Staff should be required to red-tag the project until the requirements of the permit are properly completed.

City of Santa Fe  
200 Lincoln Ave.  
Santa Fe, NM 87504  
505-955-4333

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09/24/2014 11:01 LeonaS  
Thank You ~



# Agenda

CITY CLERK'S OFFICE

DATE 8.7.14 TIME 4:50pm

SERVED BY John McCully

RECEIVED BY Carmelina Spears

## HISTORIC DISTRICTS REVIEW BOARD FIELD TRIP

TUESDAY, August 26, 2014 at 12:00 NOON

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

## HISTORIC DISTRICTS REVIEW BOARD HEARING

TUESDAY, August 26, 2014 at 5:30 P.M.

CITY COUNCIL CHAMBERS

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES: August 12, 2014
- E. FINDINGS OF FACT & CONCLUSIONS OF LAW

Case #H-12-103	421 Apodaca Hill	Case #H-14-067	14 Montoya Circle
Case #H-13-100	603 Garcia Street	Case #H-14-068	525 1/2 Palace Avenue
Case #H-14-059	331 Sanchez Street	Case #H-14-069	1005 East Alameda Street
Case #H-14-061	241 Delgado Street	Case #H-14-070	644 Canyon Road #4
Case #H-14-062	918-F Acequia Madre	Case #H-14-060	1212 1/2 Canyon Road
Case #H-14-064	522 Johnson Lane	Case #H-14-063	1150 Camino Cacto
Case #H-14-065	200 West de Vargas Street	Case #H-14-066	418 & 422 Abeyta Street

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

1. Case #H-14-032. 929 Canyon Road. Downtown & Eastside Historic District. Caliente Properties, agent for Dwight & Louise Gonzales, owners, proposes to construct a 3,306 sq. ft. single-family residence to a height of 16'6" where the maximum allowable height is 17' on a vacant lot. (David Rasch).
2. Case #H-14-048. 436 W. San Francisco Street. Westside-Guadalupe Historic District. Tim Curry/Design Solutions, agent for Rick Hardin, owner, proposes to remodel the courtyard of a significant commercial property including the construction of an 10' high pergola with a fireplace and a banco and altering and constructing yardwalls and fences. (David Rasch).
3. Case #H-11-105. 237 & 239 East de Vargas Street. Downtown & Eastside Historic District. Duty & Germanas Architects, agent for El Castillo Retirement Residence, owner, proposes to paint or screen roof-mounted mechanical equipment and to screen a hot box with a coyote fence and gate on a contributing commercial structure. An exception is requested to exceed the maximum allowable height to construct screening to block public view of rooftop appurtenances (Section 14-5.2(D)(9)). (David Rasch).

"C"

room be deleted. Mr. Katz accepted the amended condition as friendly and the motion passed by majority voice vote with all voting in favor except Mr. Armijo who voted against.

3. **Case #H-11-105. 237 & 239 East de Vargas Street.** Downtown & Eastside Historic District. Duty & Germanas Architects, agent for El Castillo Retirement Residence, owner, proposes to paint or screen roof-mounted mechanical equipment and to screen a hot box with a coyote fence and gate on a contributing commercial structure. An exception is requested to exceed the maximum allowable height to construct screening to block public view of rooftop appurtenances (Section 14-5.2(D)(9)). (David Rasch).

Mr. Rasch gave the staff report as follows:

### **BACKGROUND & SUMMARY:**

237 and 239 East de Vargas Street are two historic structures that are separated by a common wall on one lot west of Brothers Lane. 237 was constructed in a vernacular manner before 1912 in an "L" shaped floorplan. 239 was constructed in approximately 1930 on the south end of the small leg of the "L" on 237 in a vernacular manner. The buildings are listed as contributing to the Downtown & Eastside Historic District and elevations 1-9 of 15 are designated as primary. Minutes of previous hearings to remodel the property from September 27, 2011, October 11, 2011, November 8, 2011, June 26, 2012, January 14, 2014, March 11, 2014, and July 8, 2014 are attached.

On July 8, 2014, the HDRB postponed action pending submittal of more complete proposal drawings and additional testimony from a mechanical engineer. Now, the applicant proposes to make the following final amendments regarding the roof-mounted mechanical equipment and the hot box.

1. A large hot box was installed in the front planter without HDRB or Land Use staff approval. The hot box will be screened with coyote fencing at approximately 5' 6" high with irregular latilla tops.
2. At the end of the hearing on June 26, 2012, the applicant stated that there will be mechanical equipment placed on the roof of the newly constructed addition behind the contributing structure at 237 after a friendly amendment was made that there shall be no visible rooftop appurtenances. That Board action was the final action and the applicant did not appeal that decision. Three roof-mounted condensers are visible from the public right-of-way on the addition.

The equipment will be screened from public view with stuccoed walls that will be 15' 6" high. The maximum allowable height for this property is 13' 10". An exception is requested to exceed the maximum

allowable height (Section 14-5.2(D)(9)).

#### EXCEPTION TO EXCEED MAXIMUM ALLOWABLE HEIGHT

(i) Do not damage the character of the streetscape

The streetscape is not damaged by this screen. The project has already enhanced the streetscape by removing the mechanical equipment which existed on the contributing structure. (Refer to Photo #1) The screening is set back 19 feet from the courtyard façade and 92 feet from the street. In addition, the new trees, as they mature, will substantially mask the screening.

Staff response: Staff agrees with this statement.

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

The rooftop is the only location for the condensers which allows good HVAC design, allows the approved building to be built as designed and approved, and prevents injury to the public welfare by not allowing a ground mount application. The only location on the ground which would technically work would be in the courtyard which could be injurious to the residents.

Staff response: Staff does not agree with this statement.

(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

This is perhaps the strongest characteristic of the design. This is an adaptive reuse of a contributing building into a unique residential option for people who suffer from memory loss. The design provides a strongly needed adjunct to the total residential opportunity for all the residents of El Castillo. Prior to the occupancy of this facility, residents who needed this kind of care had to move to other institutional facilities out of the downtown and away from other family members. All aspects of this design, including the placement of the rooftop condensers, were carefully orchestrated to allow the maximum residential occupancy for memory care in the downtown. The screening removes the last vestige of mechanical equipment visible from the street.

Staff response: Staff does not agree with this statement.

(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

The conditions which are peculiar to this building and this design are that there is no place on the ground to mount the condensers safely. This site is fully utilized in achieving the design result. The only location possible for the condensers would have been in the courtyard where a hazard would exist for the residents, and which was therefore not included in the design as presented and approved. This site is surrounded by

structures which are much taller than the memory center, including the El Castillo (3 stories), and PERA building (3 stories). Only on the west is there a building the same height (lower than the calculated height allowable), the design was uniquely unable to extend parapet heights which would have screened the equipment. This is a requirement imposed on the design by the height ordinance which has clearly not been imposed on other buildings within the streetscape. The screening at the height required provides concealment of the equipment without impacting the existing contributing building height.

Staff response: Staff does not agree with this statement.

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

The design is a result of the actions of the applicant. However, there are special conditions and circumstances which affect this property which are not the result of the actions of the applicant. One such circumstance is the extreme limited site area in which to achieve the program for assisted living, and another limitation is the aforementioned height restriction uniquely applicable to this building. In addition, and in order to respect the existing building, the entire area in front of the primary façade was required to be left un-built on in order to not obscure the view of the façade. This is a great deal of land to sacrifice in achieving the design goal. The historical ordinance and the wishes of the HDRB required the new construction to be totally in the rear of the building. While this is a proper idea, it caused the extremely tight design response to the site conditions. The location of the equipment on the new roof, as proposed, was dictated by the site restrictions.

Staff response: Staff does not agree 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)

This is an adaptive reuse of an historic building. It has long been residential (the home of former Mayor Valdez), and only in recent years utilized as a restaurant. The restaurant was without adequate parking, in disrepair, contained various violations of the historic ordinance (roof top equipment, non-approved sloped roof, unapproved window modification, and unapproved roofing material). This project not only avoids a negative impact with respect to the purpose of Section-5.2(A) 91), but, in fact, enhances the purpose as listed. The design does serve to continue the existence and beneficial use of this historic building through a thoughtful adaptive reuse. The project continues the construction of buildings in the historic style. Finally the general harmony of style, form, color, height, proportion, texture and material is rigorously retained. The provisions of Subsection 14-5.2(A)(1) are strongly met in this design.

Staff response: Staff does not agree with this statement.

#### **STAFF RECOMMENDATION:**

Staff recommends approval for coyote fence screening of the hot box and recommends denial of the exception request to exceed the maximum allowable height to screen the roof-mounted mechanical

equipment finding that the exception criteria have not been met.

### Questions to Staff

Chair Woods asked why the criteria responses for the exception had not been met.

Mr. Rasch believed the criteria responses didn't provide the needed response to the questions. E.g. on #4 - the screening of the height required provides concealment of the equipment without impacting the existing contributing building height. The Board allowed the pergola to be built in the courtyard so he just thought that the equipment could be put in the courtyard also. So he just felt the criteria weren't met. However, the applicant could testify more to the Board about it. Each of the six criteria needed to be met.

Ms. Mather recalled that on this property the Board granted an exception to exceed the 50% rule for the building and at that time, the Board had no knowledge that the applicant would be putting the mechanical equipment on the roof.

Mr. Rasch said it was accepted as not publicly visible equipment. The Applicant said there would be roof equipment (after the vote was taken) but at that hearing the Board didn't open up the case again. That was a flaw at that hearing.

Ms. Mather pointed out that it was subsequent to granting the 50% rule so had the Board known there was not room on the ground for the equipment they might not have granted the 50% exception. The information came to the Board after the fact so it made their rulings unfortunate.

Mr. Rasch agreed and said that staff has learned a great deal from this case and now were aware of more questions that need answers before an application gets to the Board.

Ms. Mather referred to page 49 in the packet at the bottom regarding #4, yard walls, that at that time, the owner proposed "a wall that will feature two foot high planter in front of the wall, two windows with grills and shutters and steps and jogs in the wall to break up the massing and to conform to the wall and fence guidelines." So she wondered at what point that proposed detail disappeared. Now that wall has no walls, no grills. This was proposed by the applicant.

Mr. Rasch recalled that after all the design and the work at the property progressed was when the hot box issue hit. That was also a major learning curve for staff in this case. At that point when the Water Company required that hot box to be there where it now is, it was right in front of where those shutters were supposed to be. So he remembered the applicant coming to the Board at that first hearing after the work had been completed and the Board did allow those windows and shutters to be deleted from this proposal.

Ms. Mather thanked him for the information.

Ms. Mather referred to page 75 regarding the brick coping requirement, that was very clear in her

motion that if any brick coping was and could not be replaced in kind or repaired, the applicant needed to come back to the Board. She asked if that was ever done.

Mr. Rasch said it wasn't done. He went with the applicant on a site visit and saw about three feet of coping and at that point, they had a misunderstanding. Mr. Duty thought Mr. Rasch had released him from that requirement as not being enough coping. But Mr. Rasch thought it meant Mr. Duty would do the coping since they found evidence of coping there. Mr. Rasch had mentioned to the Board that he believed the coping should be re-established and the Board never voted that it not be re-established but the Board seemed to set it aside for larger issues.

Ms. Mather asked, given these changes and given the stuccoed screen wall that the Applicant was proposing, if this structure would be allowed to maintain its historic status.

Mr. Rasch said that was up to the Board. What he learned from the City Attorney was that if the Board granted exceptions, the status was preserved.

Chair Woods responded that such an interpretation didn't make any sense. She didn't want to take away the applicant's responsibility to present accurate elevations and to build what had been approved by this Board. That was the bottom line.

#### Applicant's Presentation

Present and sworn was Mr. Mike Duty, 404 Kiva Court, who said that Mr. Rasch summed it up when he said we have learned something from this case. The Board has worked diligently with us from the beginning and allowed something that has been of great benefit to Santa Fé. It was much needed and he was sincerely sorry for the miscommunication that took place. All along he believed he was working in conformance. It was true there was no conversation about the rooftop until time to vote and the Board stated unequivocally that no equipment should be visible. That was why he reacted, not because he felt that he was in violation but that he would be in conformance with screening to achieve non-visibility. So he spoke out in a desire for clarity and said that the equipment was on the back portion. If the Board had granted him the opportunity to bring that up during the discussion on the motion, they would have avoided some of this. But he wasn't allowed to speak and it didn't happen so his only response was to react after the vote.

Chair Woods said he had the right to appeal.

Mr. Duty disagreed and said he didn't need to appeal because he was in conformance with the Board's action. He had agreed to screen the equipment. That was very similar to other cases the Board had approved and of which he had pictures. There are a host of examples of rooftop equipment that were rendered non visible by screening. That included the building where the meeting was now. So he didn't think there was anything to appeal.

Chair Woods said he exceeded the height of the building.

Mr. Duty explained that at that moment he didn't know the height but knew he had an obligation to screen it. He didn't think it was a problem.

Last time, it was requested that he provide the exact dimensions on screening and he complied. He was asking for screening like others. He brought Mr. Robin Henderson, the contractor at Mechanical Concepts, to answer the Board's questions.

Present and sworn was Mr. Robin Henderson, 2921 Second Street, NW, Albuquerque, who stood for questions.

#### Questions to the Applicant

Mr. Katz asked what clearance was required for these units on the sides.

Mr. Henderson said in front a 36" clearance was required for electrical service and 36" for air flow on the back and preferred 36" for service and cleaning on the two ends.

Mr. Katz concluded it needed 3' all around.

Mr. Henderson agreed.

Mr. Katz asked about where it stood - on the ground or on a bracket off the wall or anything like that.

Mr. Henderson said they needed to be above the snow load so they wouldn't have snow sitting in the bottom of the unit. That was usually about 8" to 10" here in Santa Fé.

Mr. Boniface asked if these units were for heating and cooling or just cooling.

Mr. Henderson said they were for both heating and cooling and they needed very little ducting. It was referred to as a ductless system.

Mr. Boniface asked if the manufacturer was LG.

Mr. Henderson agreed.

Mr. Boniface understood the units were Generation 4.

Mr. Henderson thought so.

Mr. Boniface said the reason he asked was that he used these very same units recently in a

commercial project. He knew that LG was very proud of their condensers talked about their remote capability - as much as 220 meters or 656 feet of piping from the outdoor unit to the indoor unit and that an installation could have as much as 110 meters or 360' of vertical distance between the indoor unit and the outdoor unit. So that equipment seemed to have a lot of flexibility and he wondered if they could be located in the notches on the north side of this lot because it would have 3' feet around and would take care of two and the triangular space on the northeast side of the building that could take care of the third unit. It seemed like that would be a solution.

Mr. Henderson thought the footage sounded correct. If that would be enough, they could use piping in them but there was not enough room for servicing the units in those areas he just mentioned. And they couldn't get in there to service them except with a ladder on the side of the building and stepping it down.

Mr. Boniface thought on the back it looked like there was plenty of clearance.

Mr. Duty said it was about a foot clearance between the building and the property line.

Mr. Boniface thought he was looking at the setback. He pointed out that there were two dashed lines there.

Mr. Duty asked Mr. Rasch to show them on the survey.

He said the first dotted line was the property line and there was about nine feet laterally in the notches and about 4'x6' deep right outside the windows of the living units. So there was no physical access behind the building in that one foot dimension. And there was a coyote fence. He didn't know what the second dotted line was but the one closest to the building was the property line as shown in their survey they showed in the building permit.

The north-south dimension from the window to the property line was about 5.5' and the units were 4.5' so they would not fit north to south and the dimension left to right was about 9' and the units were about 2.5' wide with a three foot clearance on each side would possibly just fit laterally. But not north to south and there was no access. And the triangle was not nearly big enough for a unit and clearances required. It was not open property in back. There were walls on all sides or coyote fencing so there was no access back there so it was not big enough as he had testified before.

Mr. Henderson said with the two notches on the top, it would be more like a tunnel or a shaft and the units wouldn't get any air flow there to keep them operating.

Chair Woods said they wouldn't build the building one foot from the property line. She didn't think that would meet code.

Mr. Duty explained that there was no setback required in this district. Sometimes it was close to 2' and it was very close to the back property line and the west property line.

Mr. Rasch pointed out on the roof plan that there was only 1' to 1.5' clearance between the screen wall and the units as shown on it.

Mr. Boniface agreed and Mr. Duty just testified they needed 3' on all sides.

Mr. Duty showed on the plan that the dark line was where the screening would be place. He said maybe he should have brought pictures. They were working now on that roof with that set back and would continue to properly work with the screen wall but that cannot be said at the notches to the rear.

Mr. Katz asked why they would not work at the rear. He asked if they could be hung off the roof above the window just as it was in their drawing.

Mr. Duty said there were windows there and the lateral dimension was still not sufficient.

Mr. Katz thought that made no sense.

Mr. Henderson said off the parapet, that wall was only about 1.5' tall and the units were on a stand 12" high.

Mr. Katz said once again he was asking the Board to make a decision and providing a drawing that shows no reason why it couldn't be put in there with clearance in those notches.

Mr. Duty was not sure they could even fit there. And that was only for two of them and no place for a third one.

Mr. Katz said the Board could find a place for it. He asked if the drawing was incorrect.

Mr. Duty said the drawing was correct, as far as he could tell. The dimension drawing was about 9.5' wide and 4.5' deep. The unit was 4.5' and required 3' of clearance on the front and the back so that was almost 10.5' and we only have 5.5'. Turning it sideways would have the same problem because that would require 8.5' and we have only 5.5'. It wouldn't fit.

Mr. Katz countered that his screening wall was closer than three feet.

Mr. Duty said that was true and that part might be inaccurate. He had not gone on the roof to get the exact dimension off the wall. There was one side for service and three sides for air flow. The front leading edge was not as critical as the sides. That leading edge of the intake curves around so they could probably encroach a little on the end so there was not enough to put them into the notches.

Mr. Rasch said the dimension of the notches were 4.5' x 9.5' exactly.

Mr. Katz asked what the dotted line that was close to the building represented.

Mr. Duty said it was a property line and an old coyote fence on the neighboring property.

Mr. Henderson said if they were in the notches, they would not be able to find a maintenance person who would serve those. They wouldn't be able to put an extension ladder up where the coyote fence was.

Mr. Armijo asked Mr. Henderson if Mr. Duty asked him about putting them on the ground.

Mr. Henderson agreed. He was out there with Mr. Duty and another man 3-4 times trying to figure out if there was any other place to put them.

Mr. Armijo asked if they could put them in the courtyard under those canales where they had lots of room.

Mr. Henderson said physically they could but then they couldn't use the courtyard for anything else.

Mr. Armijo said it had already been said that they work with a one-foot set back away from the wall and nobody would be tripping over them.

Chair Woods said she would not want them in front of that historic façade.

Mr. Armijo said they could be screened right there.  
Chair Woods asked how close to each other these units could be put.

Mr. Henderson asked if she meant end to end.

Chair Woods clarified that the screen wall went all the way across and she asked if they could be closer together.

Mr. Duty thought that was possible. They could possibly put them closer than six feet apart. Then the screening would be shorter and he didn't have any problem looking into that. Perhaps it would be reduced in that case.

Mr. Rasch said currently the units were 13' between two of them and 16' between the other two.

Chair Woods said it was not ideal but if there was a way to mitigate something that was so huge.

Mr. Katz asked what was on the west elevation.

Mr. Rasch said that was the return of the screen wall.

### Public Comment

Chair Woods asked for public comment and then the Board would go back to looking at this.

Present and sworn was Mr. Brad Perkins, 3 Camino Pequeño, who said, in view of what he had seen, it seemed that the easiest way was for the Board to find that the units could not be on the roof. The applicant would then find a way to do it since he had to have the units. If you let him have them on the roof he will not give up on that.

In his sense of logic, he understood that the first drawings the Board approved did not show anything on the roof. He asked if that was correct. Mr. Boniface agreed.

Mr. Perkins said this architect was licensed in the State of New Mexico and had been in Santa Fé for many years. He knows what he must do according to code. The code clearly says there should not be anything on the roof and that was the case with the first drawings and it was his problem to solve, not the Board's.

Present and sworn was Mr. John Eddy, said he empathized with the Board and the architect. Probably it was more difficult that it should have been.

He asked if the units were oriented north to south or east to west. He thought if they squeezed them together and oriented them the other way, it might work better and further shorten the width of the screen.

His opinion was that this project has come to represent a train wreck for historic Santa Fé. What happened here was to take a most important significant building on east DeVargas Street - a beautiful property that we have enjoyed for many years; one that was maintained by a family for generations and a subsequent owner respected it in a great way and this was a completely inappropriate adaptive use of a historic building.

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

#### Questions to the Applicant (continued)

Mr. Duty said they wanted to screen the hot box with coyote fence and screen the HVAC equipment with stucco screening. He would work with the owner and the engineer to bring them closer together. At the time, they would also look at anything to be gained by lowering the screen as much as six inches and maybe screen them without an exception. They are 90' back from the street. They are not like this one [he showed a picture] that was approved recently by the Board.

He appreciated the Board's efforts on this project. It has been good for El Castillo. He thought it was a great adaptive reuse and Luis Valdez who grew up in this house thinks it was great too.

He said he would be glad to report back to the Board about lowering, bringing them closer to each other and try to do it without an exception. His owner was opposed to moving them to the ground and he

would not agree to put them in the courtyard. The Alzheimer people can't function with those units out there. But he would work with the Board in any other way and space them better to reduce the screening. He was firmly convinced the screening was allowed.

Mr. Katz said concerning the hot box that a coyote fence "screams of screening." He asked that it be made to look more like an entry way.

Mr. Duty said there was no room for footings there and didn't want to do that. They wanted to screen it with coyote fencing.

Mr. Rasch said there was no talk about how far back it could be.

#### Action of the Board

Mr. Katz moved to postpone Case #H-11-105 at 237 & 239 East de Vargas Street for a new design with compact arrangement of the rooftop units to look at a possible different location. The motion died for lack of a second.

Mr. Duty pointed out that the roof was covered with solar collectors so he asked the Board to keep that in mind. The collectors were not publicly visible.

Mr. Armijo liked the recommendation of Mr. Perkins. The Board just needed to make a decision and stand by it.

**Mr. Armijo moved to approve Case #H-11-105 at 237 & 239 East de Vargas Street with the condition that the HVAC units be lowered and let the applicant figure out where to put them on the ground, and with the condition that the hot box be screened to look like a gate entrance with stucco sides and a coyote gate. Ms. Mather seconded the motion.**

Chair Woods asked that each board member speak to the motion.

**Mr. Katz said he would support the motion and make a finding that the exceptions to the order to not allow visible rooftop equipment and the only way was to screen it and the criteria for a height exception have not been met.**

Regarding the exception criteria, Mr. Katz didn't think it was a self-inflicted wound and they had maximized the absolute square footage of the lot so it was the result of actions of the Applicant and certainly not the least negative impact.

Chair Woods disagreed with both of them. This has gone on and on. The idea that if we entertain a motion to move them within 3 to 6 feet of the north parapet a screen wall would be almost invisible. She acknowledged that it was not ideal. But the fight would just keep going and going. Yes, we could stand on

principle. It has been flagrant and it has happened. Her suggestion was to really tell the applicant where he could put the units on the roof where the public wouldn't see them.

Mr. Boniface said he had been on the Board about one year and 9 months and when he read these dates from September, 2011, he agreed this has just gone on and on. He felt like he was overwhelmed with it. He thought the Board had bent over backwards and Mr. Duty had not reciprocated but did what he wished to do. Once he brought up the LG compressors and heard Mr. Duty say he couldn't do it that was wrong.

He favored moving the units to the north side of the building. They had solar collectors and skylights and he suggested that the applicant align them with the south face of the skylight there; put all three of them there to the east of the skylight and screen them. That wall that was part of the building and was extremely tall. He would move it there.

Ms. Mather said her concern was much more global for this building. The Board has granted any number of exceptions and evidently each of those allowed the building to maintain its status but she didn't believe that. The original building has been engulfed by every available inch of the building and she could not vote for any further exceptions on this building. The contributing building was in peril of losing its status. The Board cannot vote for anything that imperils its status. It was no longer visible. He may have served his client very well and the memory center patients very well but not the rest of the city.

She frankly didn't know what to do. It was not really there anymore.

Chair Woods asked if she didn't think it had historic status any more. Ms. Mather agreed.

Chair Woods said it was either already a done deal or this was not going to kill it. This wouldn't be the fatal blow.

**The motion failed to pass on a 2-3 voice vote with Mr. Katz, Ms. Mather and Mr. Boniface voting against.**

**Mr. Boniface moved in Case #H-11-105 at 237 & 239 East de Vargas Street to approve it, including from the previous motion the condition that the hot box be screened to look like a gate entrance with stucco sides and a coyote gate, relocating the three rooftop units to the north side of the building and have them be located between the skylights on the northeastern portion east of the rectangular skylight, that the units be placed as close as possible together not to exceed six feet side to side, that the screen wall be as high as the units and enclosed on three sides and granting an exception for that height so the applicant has met the exception. Ms. Mather seconded the motion.**

Chair Woods asked that the screen wall be stuccoed. She asked that the motion include saying "so that there is no public visibility of the equipment."

Mr. Boniface accepted the amendment as friendly to the maker of the motion.

Mr. Katz asked that it also say if the applicant couldn't comply with those conditions, he would come back again.

Mr. Boniface agreed to that amendment but say that the applicant would come back to staff because he didn't want to see him again at the Board.

Mr. Katz requested an amendment that the granting of a height exception was contingent on moving the units to this location.

Mr. Boniface agreed and added that the applicant cannot place the units in that specific location that he takes the application back to staff. Then it would be up to Mr. Rasch whether to bring it back to the Board if he didn't feel he could accept it.

Mr. Rasch agreed.

So the motion as amended is:

**Mr. Boniface moved in Case #H-11-105 at 237 & 239 East de Vargas Street to approve with the following conditions:**

- 1. That the hot box be screened to look like a gate entrance with stucco sides and a coyote gate;**
  - 2. That the three rooftop units be relocated to the north side of the building between the skylights on the northeastern portion, east of the rectangular skylight;**
  - 3. That the units be placed as close as possible together not to exceed six feet side to side;**
  - 4. That the screen wall be stuccoed and as high as the units and enclosed on three sides so that there is no public visibility of the equipment;**
  - 5. That granting an exception for that height is contingent on moving the units to the specified location;**
  - 6. That if the applicant cannot comply with the conditions of this motion, that the application would come back to the staff and staff would determine if it needed to come back to the Board.**
- Ms. Mather seconded the motion.**

**The motion passed by majority (4-1) voice vote with all voting in favor except Mr. Armijo, who voted against.**

Mr. Duty said he would not come back. He said he was in favor of what the Board approved and he would either comply or if not, he would appeal the case.

## **H. COMMUNICATIONS**

Mr. Rasch said the Board policy clearly says there would be no changes after the agenda was set. But recently he has had people asking to use City equipment (lap top and projector) and he cannot do that any



Agenda

DATE 7/2/14 TIME 9:47

SERVED BY [Signature]

RECEIVED BY [Signature]

HISTORIC DISTRICTS REVIEW BOARD FIELD TRIP

TUESDAY, July 8, 2014 at 12:00 NOON

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

HISTORIC DISTRICTS REVIEW BOARD HEARING

TUESDAY, July 8, 2014 at 5:30 P.M.

CITY COUNCIL CHAMBERS

(AMENDED)

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES: June 24, 2014
- E. FINDINGS OF FACT & CONCLUSIONS OF LAW

Case #H-13-085	100 N. St. Francis Drive	Case #H-13-072	123 E. Buena Vista Street
Case #H-14-045	125 W. Water Street	Case #H-14-046	712 Gildersleeve Street

F. BUSINESS FROM THE FLOOR

G. ACTION ITEMS

1. Case #H-09-005. 211 Old Santa Fe Trail. Downtown & Eastside Historic District. Architectural Alliance, agent, Loretto Associates LLC, proposes to amend a previous approval to remodel a non-contributing commercial structure. (David Rasch).
2. Case #H-13-056. 797 Camino del Monte Sol. Downtown & Eastside Historic District. Christopher Purvis, agent for Ken and Yvonne Kallen, owners, proposes to amend a previous approval to install two vehicle gates by altering the design on a non-contributing residential property. (David Rasch).
3. Case #H-14-032. 929 Canyon Road. Downtown & Eastside Historic District. Anelino Moya, Caliente Properties, agent for Dwight & Louisa Gonzales, owners, proposes to construct a 3,306 sq. ft. single family residential structure to a height of 16'6" where the maximum allowable height is 17' on a vacant lot. (David Rasch).
4. Case #H-13-095. 321, 325, 329 W. San Francisco Street. Downtown & Eastside Historic District. Lloyd & Associates Architects, agent for Columbus Capital dba 1640 Hospital Dr., LLC., proposes to demolish non-contributing commercial structures and to construct approximately 11,000 sq. ft. to a height of 27' 4" on a sloping site where the maximum allowable height is 20' 4". (David Rasch).
5. Case #H-11-105. 237 & 239 East de Vargas Street. Downtown & Eastside Historic District. Duty & Germanas Architects, agent for El Castillo Retirement Residence, owner, proposes to paint or screen roof-mounted mechanical equipment and to screen a hot box with a coyote fence and gate on a contributing commercial structure. An exception is requested to have publicly-visible rooftop appurtenances (Section 14-5.2(D)(3)(b)) or to exceed the maximum allowable height to construct screening to block public view of rooftop appurtenances (Section 14-5.2(D)(9)). (David Rasch).

17' on a vacant lot. (David Rasch)

This case was postponed under Approval of the Agenda.

4. **Case #H-13-095. 321, 325, 329 W. San Francisco Street.** Downtown & Eastside Historic District. Lloyd & Associates Architects, agent for Columbus Capital dba 1640 Hospital Dr., LLC. proposes to demolish non-contributing commercial structures and to construct approximately 11,000 sq. ft. to a height of 27' 4" on a sloping site where the maximum allowable height is 20' 4". (David Rasch)

This case was postponed under Approval of the Agenda.

5. **Case #H-11-105. 237 & 239 East de Vargas Street.** Downtown & Eastside Historic District. Duty & Germanas Architects, agent for El Castillo Retirement Residence, owner, proposes to paint or screen roof-mounted mechanical equipment and to screen a hot box with a coyote fence and gate on a contributing commercial structure. An exception is requested to have publicly-visible rooftop appurtenances (Section 14-5.2(D)(3)(b)) or to exceed the maximum allowable height to construct screening to block public view of rooftop appurtenances (Section 14-5.2(D)(9)). (David Rasch)

Mr. Rasch gave the staff report as follows:

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

237 and 239 East de Vargas Street are two historic structures that are separated by a common wall on one lot west of Brothers Lane. 237 was constructed in a vernacular manner before 1912 in an "L" shaped floorplan. 239 was constructed in approximately 1930 on the south end of the small leg of the "L" on 237 in a vernacular manner. The buildings are listed as contributing to the Downtown & Eastside Historic District and elevations 1-9 of 15 are designated as primary. Minutes of previous hearings to remodel the property from September 27, 2011, October 11, 2011, November 8, 2011, June 26, 2012, January 14, 2014, and March 11, 2014 are attached.

The applicant proposes to make the following final amendments regarding the roof-mounted mechanical equipment and the hot box.

1. A large hot box was installed in the front planter without HDRB or Land Use staff approval.

Two options are presented to screen the hot box.

- a. The hot box will be screened with coyote fencing at approximately 5' 6" high with irregular latilla tops.

- b. The hot box will be screened with coyote fencing at approximately 5' 6" high with irregular latilla tops with stucco-covered end panels.
- 2. At the end of the hearing on June 26, 2012, the applicant stated that there will be mechanical equipment placed on the roof of the newly constructed addition behind the contributing structure at 237 after a friendly amendment was made that there shall be no visible rooftop appurtenances. That Board action was the final action and the applicant did not appeal that decision. Three roof-mounted condensers are visible from the public right-of-way on the addition.

Two options are presented to minimize the impact of the publicly-visible equipment.

- a. The equipment will be painted to match the stucco color. An exception is requested to retain the public visibility of the mechanical units in violation of The Board's final action.
- b. In option b, the equipment will be screened from public view with stuccoed walls that will be 16' high. The maximum allowable height for this property is 13' 10". An exception is requested to exceed the maximum allowable height.

(i) Do not damage the character of the district

It does not damage the character of the district. The new equipment has a net result of being less obtrusive than the old unit due to the absence of ducting and painting it to match the stucco color of the building reduces its visual impact on the streetscape. In addition, when the trees are mature, the units will be naturally screened.

Staff response: Staff agrees with this statement.

(ii) Are required to prevent a hardship to the applicant or an injury to the public welfare

It is required to prevent a hardship to the applicant as relocation would cost approximately \$50,000 in additional Owner funds and the units have been installed specifically to prevent injury to the residents and to the public welfare. In addition, the units have been installed as permitted by the City.

Staff response: Staff does not agree with this statement.

(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

It does strengthen the heterogeneous character of the City by reducing its visual impact (through painting) to the greatest extent feasible while providing a vital adaptive reuse of the building. This design specifically

allows continued residency in the historic area for persons with memory issues, providing a unique opportunity to avoid a more institutional facility and to remain close to other family members.

Staff response: Staff agrees with this statement.

b. The equipment will be screened from public view with stuccoed walls that will be 16' high. The maximum allowable height for this property is 13' 10". An exception is requested to exceed the maximum allowable height (Section 14-5.2(D)(9)).

(I) Do not damage the character of the streetscape

The streetscape is not damaged by this screen. The project has already enhanced the streetscape by removing the mechanical equipment which existed on the contributing structure. (Refer to Photo #1) The screening is set back 19 feet from the courtyard façade and 92 feet from the street. In addition, the new trees, as they mature, will substantially mask the screening.

Staff response: Staff agrees with this statement.

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

The rooftop is the only location for the condensers which allows good HVAC design, allows the approved building to be built as designed and approved, and prevents injury to the public welfare by not allowing a ground mount application. The only location on the ground which would technically work would be in the courtyard which could be injurious to the residents.

Staff response: Staff does not agree with this statement.

(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

This is perhaps the strongest characteristic of the design. This is an adaptive reuse of a contributing building into a unique residential option for people who suffer from memory loss. The design provides a strongly needed adjunct to the total residential opportunity for all the residents of El Castillo. Prior to the occupancy of this facility, residents who needed this kind of care had to move to other institutional facilities out of the downtown and away from other family members. All aspects of this design, including the placement of the rooftop condensers, were carefully orchestrated to allow the maximum residential occupancy for memory care in the downtown. The screening removes the last vestige of mechanical equipment visible from the street.

Staff response: Staff does not agree with this statement.

(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

The conditions which are peculiar to this building and this design are that there is no place on the ground to mount the condensers safely. This site is fully utilized in achieving the design result. The only location possible for the condensers would have been in the courtyard where a hazard would exist for the residents, and which was therefore not included in the design as presented and approved. This site is surrounded by structures which are much taller than the memory center, including the El Castillo (3 stories), and PERA building (3 stories). Only on the west is there a building the same height (lower than the calculated height allowable), the design was uniquely unable to extend parapet heights which would have screened the equipment. This is a requirement imposed on the design by the height ordinance which has clearly not been imposed on other buildings within the streetscape. The screening at the height required provides concealment of the equipment without impacting the existing contributing building height.

Staff response: Staff does not agree with this statement.

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

The design is a result of the actions of the applicant. However, there are special conditions and circumstances which affect this property which are not the result of the actions of the applicant. One such circumstance is the extreme limited site area in which to achieve the program for assisted living, and another limitation is the aforementioned height restriction uniquely applicable to this building. In addition, and in order to respect the existing building, the entire area in front of the primary façade was required to be left un-built on in order to not obscure the view of the façade. This is a great deal of land to sacrifice in achieving the design goal. The historical ordinance and the wishes of the HDRB required the new construction to be totally in the rear of the building. While this is a proper idea, it caused the extremely tight design response to the site conditions. The location of the equipment on the new roof, as proposed, was dictated by the site restrictions.

Staff response: Staff does not agree 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)

This is an adaptive reuse of an historic building. It has long been residential (the home of former Mayor Valdez), and only in recent years utilized as a restaurant. The restaurant was without adequate parking, in disrepair, contained various violations of the historic ordinance (roof top equipment, non approved sloped roof, unapproved window modification, and unapproved roofing material). This project not only avoids a

negative impact with respect to the purpose of Section-5.2(A)91), but, in fact, enhances the purpose as listed. The design does serve to continue the existence and beneficial use of this historic building through a thoughtful adaptive reuse. The project continues the construction of buildings in the historic style. Finally the general harmony of style, form, color, height, proportion, texture and material is rigorously retained. The provisions of Subsection 14-5.2(A)(1) are strongly met in this design.

Staff response: Staff does not agree with this statement.

### **STAFF RECOMMENDATION:**

Staff recommends either option (a) or (b) for screening the hot box and staff defers to the Board regarding two exception options for minimizing the visual effect of the roof-mounted mechanical equipment finding that the exception criteria for both options (a) and (b) have not been met.

### **Questions to Staff**

Chair Woods asked him to read the part of his staff report he didn't read aloud.

Mr. Rasch read it as follows:

In the applicant's present request there are some misstatements. One, the "Historical {sic} Preservation staff" did not grant a conditional CO; that conditional CO was granted by the Land Use Department with the City Building Official. Two, the permit construction documents did not show the roof-mounted mechanical equipment on the proposed elevations. If the equipment was shown on the elevations, then the Historic Preservation Division's permit reviewer would have denied the permit, since the Board Action letter attached to the permit clearly stated that there shall be no publicly-visible rooftop equipment. Three, Mr. Rasch has always maintained that the mechanical equipment could possibly be placed on the ground and that the rear of the building should be examined as the appropriate location. In fact, the HDRB required that the mechanical engineer appear at an HDRB hearing to discuss the possibilities and that has not occurred yet.

Chair Woods asked if when Mr. Moquino reviewed the work done, whether he also reviewed the mechanical drawings of that project.

Mr. Rasch clarified that staff only reviewed floor plans and elevations.

Ms. Mather remembered there was a concern about the brick parapet and asked if that was just dropped from the Board's consideration.

Mr. Rasch agreed it appeared that way. At a previous hearing it was a concern and it was Ms. Mather's motion that brought it to the fore. The Board's motion stated that if brick coping was found on the original building, it should be retained and/or reestablished.

Mr. Rasch related that he and Mr. Duty did a site visit and looked a little piece of brick coping that was present from that original building but that was where their understandings differed on what happened next. Mr. Rasch understood that Mr. Rasch was going to reestablish the coping but Mr. Duty was under the impression that it was not enough [coping] to be reestablished. In subsequent hearings, he brought it up to the Board and they had not gone down that road. This Board has not followed up with that issue at this point. It seemed to have become a non-issue at this point.

Chair Woods didn't believe it was a non-issue. The Board did follow up and Mr. Duty made a statement that there wasn't brick. The Board asked Mr. Rasch who said yes there was brick but there wasn't enough brick and the Board was profoundly disappointed. But at that point it was too late and that's what the Board recognized. So she didn't think it was a non-issue. It was a non-issue only because it was too late to be dealt with.

Mr. Katz asked about the term, "building" as it referred to Valdez House. They were making an addition on that house. They were also making an addition on building next door across the parking lot. He asked if the Valdez House and the addition to it considered as just one building.

Mr. Rasch agreed. He considered that an addition to a Contributing building and those standards were what the Board followed for that addition.

### Applicant's Presentation

Present and sworn was Mr. Michael Duty, 404 Kiva Court, Suite E, who asked if his letter would be in the record officially or if he needed to read it into the record.

Mr. Rasch asked which letter he was referring to.

Mr. Duty said it was the letter he wrote to the Board on this submission.

Mr. Rasch said it was.

Mr. Duty said he wanted to summarize a few things. "I did state in the letter that the conditional C/O had been granted from the Historical Preservation Staff. If that was in error, I had no way of knowing. We had conditional C/O approval from the City and it had involved discussions with the historical staff. And, as a matter of fact, at the time we came back before, we had already been open for two months and we had people in the building under that conditional C/O."

"I want to be specific about a few things because, unfortunately, while I think the Board has worked really diligently with us on this project, there has been some miscommunication that I think we have all participated in, including myself. The approval of the project included a last minute amendment, as you know. And that last minute amendment prior to the vote included the statement that no publicly visible rooftop appurtenances will be placed on this building."

"Two things - publicly visible, by my understanding by the code, screened mechanical equipment is not publicly visible. So at that point, I had no reason to take exception to that addition - or not addition but to that amendment to the motion.

"Secondly, I knew that this rooftop equipment which was going to be, in my mind, not publicly visible through screening, was going to be on the new addition and not the contributing building.

I might digress here and ask a question. Is the addition now contributing?

Chair Woods said no.

Mr. Rasch confirmed, Madam Chair said it was not until it was 50 years old.

Chair Woods added, "And at that time it might or might not be.

Mr. Duty said, "May or may not be. So that this point we ..."

Mr. Katz said, "I'm puzzled by that. The building is contributing. The primary façade remains the south façade, I believe and maybe a little bit of the east façade of the older part of the building. But I think the entire building is contributing with an addition on a contributing building."

Mr. Rasch said, "Correct. It is a contributing building, but we have a nonhistoric addition on the rear."

Chair Woods said, "So the building is ... Since it is one building, the building is contributing."

Mr. Duty asked, "So the answer is that it is not or it is?"

Chair Woods said, "The building is contributing."

Mr. Duty said, "Okay. So the entire addition is now contributing. That is the finding of this Board?"

Mr. Katz said, "The building is contributing. It was contributing. It has not been ..."

Mr. Duty said, "I mean the addition is contributing."

Mr. Katz said, "The addition is part of the building. Yes."

Mr. Duty said, "Okay. I just want to clarify that. I just... My point was, at the time this motion was made, it was my understanding that I was in conformance with the code because I was putting mechanical equipment on the addition and not the contributing building and in any event, it was going to be screened. So I had no reason to object. But nevertheless, I went and took a step of making it perfectly clear that there would be rooftop equipment on the building to the rear. There was no response from the Board so I didn't think of that. I assumed my assumption about it being on the addition and the fact that it was going to be screened and therefore not publicly visible was in order. And I proceeded accordingly."

Chair Woods asked, "Can we respond to that?"

Mr. Duty replied, "Are you asking me? I'd really rather make my presentation, if you don't mind."

Chair Woods said, "Go ahead."

Mr. Duty said, "Because that is the essence of this miscommunication. And I, of course, submitted the excerpts of the minutes and we all know what they said."

"I proceeded to do my construction documents. And it's true what David Rasch says that there was no elevations showing rooftop equipment. Typically, we don't on construction drawings. And I think it's probably time we did because of this issue. I made a suggestion to that fact in front of this Board and was told that it is a requirement. I reviewed it and it is not a requirement of the application. I think it should be made a requirement of the application that rooftop equipment be shown and screening, at the time we come in. It is difficult because sometimes it is preliminary, as you know. But if architects make an effort - are specifically required to make an effort to show that equipment, it would save a lot of time and energy."

"And I think - I reviewed this with David Rasch - There is some reference to having all aspects of the proposal shown but there is no specific that mentioned mechanical, and I made a further suggestion that I think it would that would be a good idea. It isn't just for this case. It is just something for the future."

I received a building permit and from my perspective, we built accordingly. I was always aware that we would have to screen the equipment. I was never trying to shirk that responsibility. In fact, I met with Mr. Rasch on the site and we talked about screening methods. We talked about brick screening. We talked about stucco screening and how to handle it. We also talked about painting them. That was the first time it occurred to me that these units - they are 90' back from the public street and it occurred to me that there could be an argument that painting these, much as you have approved in other cases, might be a reasonable approach, rather than screening them. It was not an intent to not screen them. It just something that myself and other people I've talked to felt like it would be a good idea so I proposed that to the Board. And, that is basically where we are tonight."

I will say on the rooftop equipment, it is not movable to the ground. A lot of misinterpretation has been placed on this. I am not testifying that it is technically impossible to put mechanical equipment on the ground. We all know that to be the case. We have it all over Santa Fé. There was no physical space on this site to put the mechanical equipment with the setbacks required for the air and all that existing, except in the courtyard. And the courtyard is an outdoor space for Alzheimer's patients. We do not and cannot allow the Alzheimer's people to be out there with mechanical equipment. All other spaces on this site are fully utilized and we do not plan on or believe we should be required to move them to the ground because there is no space, it is a danger to public welfare, and we believe we were permitted properly, based on our understanding.

Now, I've put together two exceptions - one is if you think it is a good idea to paint it. And I've answered those criteria. And the other is if you think it is a good idea to screen it, which we are happy to do. And I answered those criteria because technically, the screening violates the height by about a foot. So that's where we are with the screening of the mechanical equipment.

I found that this screening of mechanical equipment has been adopted in the City of Santa Fé by this Board on other projects with height exceptions to do that. I've also found there are other places approved by this Board with mechanical equipment that has been approved to be painted. In some cases even with a prior approval existing and it has still been granted by this Board. Insofar as I have, we went to this Board several times and I think we worked very closely together and I think you were very helpful overall on this project. In fact, I think your efforts to a large extent, allowed it to exist. It is a very significant adaptive reuse. It is no longer a restaurant. There is no longer a courtyard for people to drink tea under the trees. That's true. But it is now an adaptive reuse that requires what we have designed and you have approved as far as walls and the streetscape. And it goes without saying. And I appreciate the Board's effort to approve this project and help us do it.

It has been portrayed in the press and other places that I've come back to this Board many times to try to get out of something. It is not true. I've come back to the Board many times to share the details of this project as they have emerged as I understood the progress and as I understood what you required. So my trips to the Board, to my way of thinking are working relationship. There is no attempt to do incremental approvals or to get out of anything. There never has been.

So the two exceptions, either one, we are happy to live with on the screening of the rooftop equipment and we do not intend to relocate it to the ground because of the reasons I've stated.

The hot box, as you know, the hot box happened to us as well as to you, as well as to the public. We were instructed by the City of Santa Fé to put it there and that was the only place we could put it. And when I mentioned that we have the location of the hot box that we had planned originally was not nearly where they had suggested. They didn't care. They told us the H Board had no authority and that's where they were putting it if we wanted water. It was that simple. We installed it and we had to have water. We put it in. We put the box, however, we painted it. It is unfortunate. I don't think it's probably as objectionable as one

might think. We are happy to screen it. The coyote screening that was suggested by this Board, I think is a good idea. We are happy to do that. Coyote screening with stucco end panels is another thing we could consider and we can do. Personally, I believe that coyote screening all the way around makes the most sense to us. There is quite a bit of coyote screening in this area. And there will be coyote screening on the neighboring project. That requires no exceptions, I think just your approval. And we are happy to screen that as we have presented in the drawings.

I might say briefly, as evidence of our understanding of mechanical – and to a certain extent, maybe it doesn't matter. But this building had a lot of mechanical on it. The contributing, existing Valdez House was replete with mechanical on the roof. I assume it was done without your approval, although I was told that you had made approvals. I don't know. At any rate, as I said before, our understanding on the contributing building, we removed every bit of that equipment. And we didn't relocate anything on there. We went away from an air system to the absolute minimum impact in terms of mechanical equipment. And that was an all-electric system with condensers only on the outside – only three condensers. This was the minimum thing we could do and have an operational, effective HVAC system that was controllable by the individuals in this facility as is required by design for this type of facility.

So we did, from the beginning, we minimized mechanical and I thought we were following the wishes of this Board from the beginning and I had no reason to believe it was any different after visiting with Mr. Rasch in the field.

We showed you pictures. You have a long agenda. I won't waste much time on it. Some would say I've cheated a little bit by showing you pictures of trees because we are not supposed to show trees to disguise what we are doing and that is not my intent to do that. But it is my intent to represent reality and that is reality. The trees are already growing quite substantial and these are accurate depictions of what would happen. And it may play a role in your consideration. The trees will provide screening to the mechanical equipment whether it is screened or painted. So I suppose it is irrelevant as to which one you choose. Or which one may be chosen.

I've shown some other examples of other cases in your packet. These are matters of record and I would expect that this kind of consideration would be extended to all applicants. And I think I would stand for questions.

#### Questions to the Applicant

Chair Woods said in the March 11, 2014 hearing, the Board very specifically asked that you bring your mechanical engineer here. In fact, we asked twice so that we could ask questions to better understand the mechanical equipment. Did you bring him this evening?

Mr. Duty said, "No.

Chair Woods said, "You had said in those minutes that you would be happy to bring him in."

Mr. Duty said, "I submitted a letter from the mechanical in my earlier submittal, talking about the requirements but I have not brought a mechanical engineer here. My testimony is the architect of record and the one that is legally liable is binding in this project. Those units will not fit on the ground anywhere and operate except in the courtyard, as I have testified. The mechanical engineer will tell you that they can work on the ground but they need certain clearances."

Chair Woods said, "Mr. Duty, this Board has requested that you bring a mechanical engineer so we can ask him questions. So your testimony is that you refuse to bring your mechanical engineer."

Mr. Duty said, "No I don't refuse. I suppose if that's the fundamental requirement, I will. But I suggest to you, you put your questions to me and let me answer them. Because I am the overriding legal authority and the architect of record on this project and I can answer your questions. If that is unsatisfactory, I will produce a mechanical engineer that to answer your questions in the same fashion. There is no attempt to disguise anything here."

Chair Woods said, "So you will bring a mechanical engineer if the Board so wishes and that we requested twice before?"

Mr. Duty said, "Yes Ma'am."

Mr. Armijo said, "The Board has asked, Mike, as far as bringing this mechanical engineer. I'm a builder and yes, ultimately I am responsible for everything that goes on in the project. But there is a reason we have subcontractors, and that is to get their [??] - To get the best advice that they are giving and then we decide which route to go. We have asked you to bring a mechanical engineer to see what they are saying so we can get the best advice from them and see which way we go. And if we can't receive that, I'm not sure why we keep hearing this case over and over. If you refuse to bring a mechanical engineer, I, myself, refuse to listen to anything else. Because the way I see it, there is no reason you can't place those condensers on the ground. There is room for them. There is no safety factor involved that I know about. But there again, that's for us to question an engineer. So I'm not sure why we are listening to this if you are not showing up with what we're requesting so we can come up with the best decision based on the advice of your engineer."

Chair Woods asked if there were any other questions of Mr. Duty.

#### Public Comment

Present and sworn was Mr. Randall Bell, 314 Garcia Street, who said he agreed with Mr. Armijo. It was probably frustrating for the Board and the public to see this case cycling back and cycling back and all we see in the overall view is a significant erosion of this property which had been once a very historic property.

I was looking for a quote from the Chair which in one of the meetings - page 35 of the March 11, 2012 minutes and page 83 of this packet where the Chair indicates that looking at this project, said "cumulatively it is heartbreaking." And I share that. And frankly, there really is no excuse. Mr. Duty is not right out of architecture school. He has done endless numbers of projects. The pretense that the requirement that the plan show all the features of a project somehow doesn't include significant things on top of it that greatly increased the height and the notion that somehow, it doesn't count if it's screened or if it's not screened. It is a part of the structure. The rooftop appurtenances are constantly addressed by the Board. It's the reason Member Rios made it a very specific point of adding language indicating that there would be no rooftop appurtenances to the original motion. This Board passed that.

The fact that Mr. Duty, after the fact, said 'Oh well, I may do something else.' is of no legal consequence. If he had an issue with the decision of the Board, he had a right to appeal it. And he failed to do that.

Mr. Bell read from the Board action on page 55 of this present thing which said, 'There shall be no publicly visible rooftop equipment.' That is not ambiguous.

Above that, it says, 'If a brick coping is found, then it shall be retained. Or if it is beyond repair, then the staff shall approve replacement in kind where necessary and with the same pattern.' So that is not ambiguous. It is a well-considered action of the Board. There obviously was brick there. Mr. Duty would like to pretend it wasn't there because he didn't want to do what that action required. And yet he did not appeal that. My contention is, to cite Mr. Rasch's sort of implication that it was no longer an issue now, it actually is an issue and should be addressed by this Board tonight."

"And here we are tonight where, there was a motion that was pending at the last meeting and then somehow the matter got postponed with the idea that it would give Mr. Duty an opportunity to show what screening might look like. I think that Mr. Duty's impression is that that was his pass to then not be stuck with the original decisions but that he would get to just screen and everything would be fine. I strongly, both myself as a former Board member, if this Board doesn't draw the line with somebody who repeatedly disingenuously pretending like they are not incrementally changing the goal posts on these things but, in fact, they are. It is just going to keep acting. The Board has to stick by its decisions. That's my main point.

All of these issues were completely anticipatable by Mr. Duty and to pretend like it was just miscommunication is inaccurate and inappropriate. I think the communication of the Board has been very clear and very direct with him. So I would strongly urge this Board to stand by its decisions. And I would urge that the Board take action to require the addressing of the brick parapet. I would urge that the Board require that the hot box be removed from where it is. If that has to be worked out with the City Water Department, or whatever, so be it. Maybe it can be buried. Maybe it can be placed behind the wall. And as for the rooftop appurtenances, I think they need to come off. I mean there was not an appealed decision. He is stuck with that decision. They can be placed on the ground. If he was overdeveloping a very limited

lot, then maybe he should think about not overdeveloping a very limited lot that involves a significant historic property.”

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

Chair Woods had a couple of questions for staff. To Mr. Shandler, she said, “At the March 11 meeting, the motion - this is March ... Ms. Rios made the motion.

Mr. Rasch said that was on April 26<sup>th</sup>.

Chair Woods said there was no April 26<sup>th</sup> here. There is a June 26<sup>th</sup>.

Mr. Rasch said “June 26<sup>th</sup>.

Chair Woods said, “The motion stated there was to be no rooftop equipment on the building. So that being said, Zach, if an applicant in any way after the Board makes and passes a motion and says they are going to do something else or they need to do something else, does that in any way nullify the motion - the Board’s motion that has been passed that there is to be no rooftop equipment?”

Mr. Shandler said, “After conferring with staff, I guess it is my understanding, when an applicant does something beyond what is authorized, the applicant must come back to the Board and seek an applicable exception to match up with that action. I haven’t had a chance to talk with staff if that exception is denied, what the ramifications are. But I think that is ...”

Chair Woods said, “The motion stated that no publicly visible rooftop equipment will be placed on this building. No matter what happened afterwards that Mr. Duty stated, our motion stood.”

Mr. Shandler said, “Yes, Madam Chair. Your motion, that should have been memorialized in an order, is...

Chair Woods said, “That was approved in the Findings of Fact and then Mr. Duty, if he disagreed with the motion, he had the right to appeal this motion to the Governing Body.”

Mr. Shandler said that was correct.

Chair Woods said, “So ignorance of the law, basically meaning that a motion has passed and is not enough to say it is okay to do something other than what the Board stated clearly in the motion.

Mr. Shandler said, “Madam Chair, I think you are on good legal grounds in terms of what the protocol is that you just mentioned. I guess the counter argument would be that the minutes do have this, maybe extraordinary commentary after a motion, from an applicant. And perhaps the Governing Body would say,

let's provide some weight to that and they would have to weigh the two things. So...

Chair Woods said, "and the Governing Body would they provide is an attitude to appeal that decision if the applicant did not agree with our motion."

Mr. Shandler said, "Correct."

Chair Woods said, "David, in Mr. Duty's letter on page 96, he talked about during construction, you went and discussed methodology for screening this equipment that we never approved. Could you tell us what happened?"

Mr. Rasch said, "Madam Chair, I do not have an accurate memory of that site visit. But I know how I usually act at site visits so I'm sure I said, 'Okay, what are we going to do? You know, what are the options? And I'm quite certain that I did say ground mounting should be an option to look at.'"

Chair Woods said okay. She noted that Mr. Enfield was in the audience and Mr. Lloyd who in the sixteen years she had served on the Board had seen many cases with. "In virtually all cases with the exception of this if there is to be, whether it is solar panels or roof mounted equipment, that this is clearly shown on an elevation because it's part of the structure. And is that, because Mr. Duty is basically stating that all of a sudden this is news. We don't require that mechanical..."

Mr. Duty interrupted and said, "Madam Chair that is not what I am stating."

Chair Woods said, "Excuse me."

Mr. Duty said, "I would like to speak from my words, please."

Chair Woods said, "You can speak when I'm done."

Mr. Duty said, "Good."

Chair Woods said, "Thank you. I have always come under the assumption that mechanical equipment - anything that is on an elevation, be shown by the applicant on the elevations. Is that not our practice?"

Mr. Rasch said, "Yes, Madam Chair. And when staff does the pre-hearing meetings with the applicants, we talk about that. We mention it because the code is very clear about rooftop appurtenances. So we tend to get into it. As you can imagine, as I have worked with applicants over the 11 years with hundreds of cases every year, every application is different, people are different. How we talk about cases is different. But yes, your statement is true. There are other applicants who always show that information."

Mr. Boniface said, "You have two options for screening the hot box. Option B is to screen with coyote fencing and with stucco colored end panels. I don't seem to have in my application a floor plan for that nor elevations that would show the side panels. Am I missing something or is that just not provided."

Mr. Duty said something away from the microphone.

Mr. Boniface said he did not see a site plan that showed stuccoed side walls.

Mr. Duty said, "The site plan showing the location of the hot box - and there it is [projected]. There are no detailed drawings. There is a photograph of the coyote fencing from the front, which is what we actually prefer to do. And it would surround the entire facility. If you need a drawing of the same coyote from the side, we can give it to you or if you want the stucco end panels, it would be a brown stucco end panel."

Mr. Boniface said, "Yes. We would like that. We can only rule what is presented to us and you've only shown a plan that shows coyote, very, very close to the hot box. So I would ask you to resubmit that and have it dimensioned in plan - show both of your options in plan as well as elevation. I'm just saying that because if anybody does make a motion to accept it, I will be voting against that because we just don't have all of your information."

Chair Woods asked, "Is this - in this application tonight, the first time the Board has seen the elevation of the rooftop equipment and the screening? Has it ever been shown to us before, perhaps the applicant can answer that - when the very first time you and this Board have seen this mechanical equipment?"

Mr. Duty said, "The last time we came, we submitted it."

Mr. Rasch asked if that was in January of this year."

Chair Woods said no.

Mr. Duty said, "I believe so."

Chair Woods said, "No. The last time you came was March 11, 2014 - was the last time."

Mr. Rasch said, "We saw it then."

Chair Woods said, so that was the very first time we saw an elevation of rooftop equipment for screening.

Mr. Rasch said correct.

Mr. Duty said that is correct.

Ms. Mather said, "I just have a comment. In reviewing this motion that, in fact, I made and Mr. Rios amended, I was very clear about the brick coping. If you look on page 76, I was being questioned by Mr. Acton was trying to make an amendment and I didn't allow his amendment. And I stated that if they discover brick coping and can't replace it in kind or repair it, then they will need to come back to the Board. So that was my response to that amendment by Mr. Acton."

Mr. Katz commented in response to a number of answers to the requirement for the waiver. It was that there was not enough room - just not enough room. "I just don't find that acceptable. The building did not have to be so big on this tight site to make there be no room. That was a choice that was made. And my other comment is, and it is a little bit like Ed was saying before about wanting to have drawings. If you don't put the stuff in the drawings, it doesn't exist as far as we are concerned. And I take exception to your sort of expectation that we would just approve it. Of course we were going to have rooftop equipment. And of course we were going to screen it. You've been here often enough and you know how often Ms. Rios makes an amendment to the motions that any of us make to say no rooftop that is publicly visible = no visible rooftop equipment. So this is not a surprise to you. And with that, I would move to..."

Chair Woods said, "I think we have a little more discussion and questions before we make a motion."

Mr. Duty said "I hope I get a chance to respond."

Chair Woods said, "Yes. I am giving you that chance right now."

Mr. Duty said, "Good. Reading from the code: 'Rooftop mechanical, electrical and telephone equipment and other obtrusive structures shall be architecturally screened with opaque materials by raising the parapet, boxing in the equipment, or other appropriate means.' This is from the code.

Mr. Katz asked, "Was it shown on your drawings?"

Mr. Rasch asked, "Can you cite the code?"

Mr. Duty said, "It is 14- hold on. My point is..."

Chair Woods said, "State the code, please."

Mr. Duty said, "I am, Madam Chairman. Would you please allow me to?"

Chair Woods said, "Yes, I would love you to do that."

Mr. Duty said, "It is Section 14-5.2 district standards, item B.

Mr. Rasch asked "Which District?"

Mr. Duty said, "Okay. E - Downtown and Eastside District. My purpose in citing this is, it has been pointed out and made perfectly clear that I am an architect with a lot of experience, and I am. And I've had a lot of experience with this code. And I can read it. And my expectation for no publicly visible mechanical equipment includes screening. When that motion was made, it has been quoted tonight on a couple of occasions that the motion was 'no visible rooftop equipment.' No, excuse me, 'no rooftop equipment should be on there. That was not the motion. The motion was 'no publicly visible rooftop equipment.' I had no reason to appeal it to the City Council - or to anybody else, for that matter. Because I knew that the code allowed rooftop equipment to be screened. I went ahead and made the effort to make it clear that there would be rooftop equipment on the new building. I was distinguishing whether it was on the contributing building or the new addition. That's why my distinction was. I had no reason to appeal the decision because in my belief what you were proposing and what I was proposing to do was in response to the code and permitted by the code.

So I wasn't trying off escape; I wasn't trying to make it what the rules - I was reading them and I knew them.

The ... Debating this is in a way silly but it has become important to me that you understand that my viewpoint of what happened that night - how it was assessed, and the fact that we proceeded, in my view, according to that approval. I didn't try to get away from it. I knew there could be no publicly visible rooftop equipment. I knew there could be no rooftop equipment on a contributing building. We had no rooftop equipment on the contributing building and the rooftop equipment that we were putting on was on the new building and it was going to be screened and therefore, not publicly visible. So I don't think that my comments were to try to change your ordinance or to try to get out from underneath what you had approved. I felt we were in concert.

And when I met with Mr. Rasch on the site, he didn't approve anything. But he did come there and we discussed openly screening methodologies. Nothing surprised me at that moment that we were discussing screening methodologies because I had always planned to do that.

Mr. Katz asked, "Did you feel, though, that you could have put a rooftop appurtenance that far that was 20' high and then screened it without coming back to the Board to get approval for such screening?"

Mr. Duty said, "That's an unanswerable question. It's ... No I didn't think I could put a rooftop equipment that was 20' high. I felt like we had to screen our rooftop equipment. All of my experience with rooftop equipment for the last 35 years, it has been anywhere from 2½ to 4½' high or whatever. So I knew that it was of that height. We were taking a pitched roof down. I could have brought the parapet up in front to screen it. But in my view, that was not per code. Screening was what was per code. I was following the code in my view.

And I guess you don't believe there was no spot on this site to put this mechanical equipment. And if it comes down to having an engineer, I'll be here with that. I can tell you this. The owner has no intention of moving equipment and spending \$50,000 putting in a crane and upsetting the entire operation of the center and relocating this equipment into the courtyard where it will fit. It is a danger. And I don't know of another place on this site where it will fit. If you look at the site plan... [Do you have your pointer?]

I might say very quickly, the fact this site is heavily utilized is not disallowed by code. All of these spaces around the lot are insufficient in size for any mechanical equipment and having its adequate breathing room and that sort of thing. [He went through each one on the site with the pointer.] This is hardscape access area. These spaces are insufficient. This is PNM transformers. These are trash compactors. This is all parking. This is the courtyard. There is where the site space is. We don't want to put it in there. This space over here is under easement and is not allowed. There is actually a lawsuit on that because this neighbor has the rights to this space. There is where the hot box is. This is all fully landscaped and planted or hardscaped. These units require about six foot by eight foot clear around them for sufficient breathing, basically.

It is true that we could have redesigned the building or we could have designed the building and maybe given up a room and found a place to put the mechanical but I had no reason to do that because that the screening was as per code. I believed I was in concert with your approval. And I did everything I could to make it clear what we were doing. And these mechanical equipment are not 20' high. They are the same height as the 9 or 10 units that are lined up on 517 Garcia - not Garcia - I gave you pictures of that - Cerrillos. The nine or ten where you gave a height exception of 12 to 15 feet on a building that was historical and was in fact, had plenty of room to put them on the ground, I think. I'm not the architect.

But this Board approved that. And they are the same units and they are lined up for public view. And there is a picture of it in your packet. Now ours are not nearly that obtrusive. This is a full 90' from here to the public street. They're visible. They won't be when we screen them.

Chair Woods asked Mr. Katz if he had any further questions.

Mr. Katz said yes and added, "You are asking for an exception for height to do the screening."

Mr. Duty said, "Yes, sir. Because David Rasch suggested when we met on the site, and I think David remembered this. I don't want to misquote you. He said, if you screen them, you may require a height exception. And we did research and looked at all the information and we think it is about one foot and change that would be required for the screening, if it went to the full height. I might say that we had full solar collectors on this building, by the way. They weren't in the packet when we approved - when we came to this Board. I think the Board has to acknowledge and learn and we all have to learn how to work together. But when we come here with schematic drawings and we go out into the field, things happen. I can tell you something with respect to the bricks.

We found out when we went in there and did the demolition on that building that the Valdez House in this area was structurally unsound. This wall right here was listing in almost eight degrees. Our engineer came in and they said the only way to stabilize this building and to preserve it and to build – we had presented to you, was put a concrete bond beam around the top of it – a tension, compression ring, if you will. There was not much brick but there was brick and David saw it. But this thing went all the way around it. And you know, the words Mr. Acton on this Board, interestingly enough, came to be true. He stated that night, and he was ... he wanted to make an amendment but it was denied. He stated very clearly the problems of trying to preserve this brick that might be encountered. We did encounter those problems. His words were a little bit prophetic. At any rate, my approach was to go with David Rasch, showing the limited amount of brick, showing what we had to do for the bond beam. And I think we made the right decision. If I erred in not coming back to the Board at that point, I apologize. But at that point in the construction, we would be looking at a two-month delay.

And I would suggest to you that the staff of this City needs authority to deal with these things as they come up. Shutting this project down for two months would be an onerous on any owner in order to come back to the Board, submit the drawing, show the pictures, and do things. And I say two months - it might be a month and a half, but it was a horrible delay. And so we worked through the staff. And that's how we approached this very real problem. We could not preserve the brick. It was insufficient. It was in bad shape. And we had to put a bond beam underneath it.

So in the end, what we built was exactly what this board approved in drawings that you are very clear that you want. The drawings that we presented to you did not have brick. It was me that suggested it might be worth saving the brick. I caused his fiasco because I had some pictures of the brick that was, in fact, not historical. Or we had no evidence that the brick was historical. The building, historically, was not brick. We showed you pictures of that. But somewhere prior to 1984, some brick was added. And I suggested to this Board that we might be able to save it if it were worth saving. And you're right. You acted on that and you suggested that I do that and we looked at it and we tried and it didn't work because of all the reasons we ran into. And we didn't take the additional month and a half or two months to come back before this Board to go over this detail. These are real issues in this community.

Chair Woods asked if the Board could continue to ask him questions.

Mr. Duty said, "Yes, but I'd like to finish, if you don't mind. There is a couple of other things I want to address.

"On the hot box, I would be happy to bring you details of what an end panel would look like. I would suggest to you that, for the purposes of tonight, we would actually prefer to do coyote all the way around and if you are happy with that, I would like to see that approved. If you are not, I'll bring you details of an end panel. But I do thing an end panel is not such a good idea. The only reason I mentioned it in passing was because at one point there was some talk about, from this board, about stucco walls on the side. And there's no room for footings or anything. I mean there is room but we have underground mechanical and

we have landscaping so I suggested, that if you really feel that way, we could put in panels. If it is impossible to visualize for the purpose of approval, fine. We'll give you some drawings of an end panel."

Mr. Boniface said, "Backing up to when you were speaking about how you could not put the compressors on the ground. That was a long time ago. What about the two – I'll call them notches on the rear part of the property? I think you would have room to put them there.

Mr. Duty said, "Not really. These notches you are talking about right there - each one of those notches is sufficient maybe to house one.

Mr. Boniface asked, "Why is that?"

Mr. Duty said "because of their size. And what it would require - also these go all the way down to the ground. Those are egress windows required by code. If we put them on the ground it would interfere with the egress window and it doesn't have enough room for all three of them to fit back there when we actually looked at that.

Mr. Boniface said, "when you say the size - I'm looking at your site plan. It looks like you could put a couple of them in each one of those notches."

Mr. Duty said, "Well, we looked at it and I'm telling you we can put one."

Mr. Boniface said, "I consider you could put three."

Mr. Duty said, "Well, if you look at the size of those three units, you could put all three of them in a lot of spots. But what you don't know and I suppose it's my fault for not bringing a mechanical engineer here and I apologize for that. And if that is what it boils down to, we can. But as a professional, I will tell you, those units each require on one side four foot of clearance and on two ends a couple of feet of clearance and on the other end about two feet of clearance. So when you put the clear space around each one of those units for breathing and for access, you come up with about a 5' x 8' rectangle.

Mr. Boniface said, "Previously, you said six by 8 but 5x8 is fine. That would lead me to believe that your proposal for screening these units is incorrect. Because you are showing that the screening is virtually a couple of inches to the sides both compressors. So in fact, your screening would be much larger than you are proposing to us. Because you need six to eight feet.

Well, it might be a little bit tight. This was a...

Mr. Boniface said, "It's not a little tight. It's..."

Mr. Duty said, "Let me respond please.

Mr. Boniface said "... it's a lot more than that."

Mr. Duty said, I think if we looked at...

Chair Woods said, "Michael, let him finish his question and you can respond."

Mr. Duty said, "Oh, I'm sorry. I thought you finished."

Mr. Boniface said, "You said you needed six to eight feet. You said you needed four feet on one side. These screens you are proposing are right up against there."

Mr. Duty said, "This drawing was requested that we submitted today and I wasn't in the office when it was submitted and there was a line drawn around here to diagrammatically show where it went. You are correct. The units, however, are one sided. So like for instance, this unit - there would have to be at least two feet on the ends. You are correct. There would have to be about two feet on the ends, longer than is shown. But I think it is shown accurately on the elevation."

Mr. Boniface said, "Well, I come back to an earlier statement which is - we can only rule on the drawings and if they are not accurately presented to us, we cannot rule on them."

Mr. Duty said, "Can we look at the elevations and see if they're accurate?"

Mr. Boniface said, "I'm done."

Ms. Mather said, "I have a comment, Madam Chair. We can go around and around about the details."

Mr. Duty said, "Yeah, but this is accurate, by the way."

Mr. Mather said, "My husband used to carry around a note that said 'In about 80% of the cases, men do not hear what women say.' I made the motion and Cecilia Rios made the amendment. And I feel tonight that you are not hearing what people are saying to you. And you are acting like a bully. That's my opinion. What I would like to say to my fellow members here is that we can go around and around about this case. But this building is gone, as far as I am concerned. It really should be coming to the Board for a downgrade of status. Because it is, no matter how many screens we put around it, the original contributing or significant structure that we were hoping to save or to reuse is gone. It doesn't seem to exist to me, visually or otherwise."

Mr. Duty talks about adaptive reuse. I think this is a case of renovation as the ultimate destruction of a building and I think we should just face up to it and move on."

Chair Woods said, "I have a couple of comments here. One is that this is the first time that we are seeing ... You are claiming that you knew after the motion was made on June 26, 2012, that you would be screening. This is June 26, 2012. We are now at July 8<sup>th</sup> 2014 and this is the first time that we are seeing a drawing of the screening, the first time.

Mr. Duty said, "It was March of this year.

Chair Woods said, "Mr. Duty, you have come before this board on this project on the following dates: Sept. 27, 2011, Oct. 11, 2011, Nov 8, 2011, June 26, 2012, March 11, 2014, and now July 8, 2014.

- The board granted you the following exceptions:
- Exceed the 50% footprint on a contributing building
- Exceed the maximum allowable wall height
- Build within 10' of a primary façade
- Widen and opening on a primary façade

These are the motions that were made and passed by the Board and ignored by you:

- 11/8/11 - You presented shutters on the wall paralleling DeVargas Street to mitigate how monolithic the wall appeared and you even stated in your testimony that the shutters would stay open most of the time. The wall was built without shutters. And you never came back to the Board asking permission to remove the shutters.
- 6/26/12 - The motion made and passed by the board stated that if any brick coping is found, the brick be restored or replaced in kind. Mr. Duty, you stated brick was not found and then corrected your statement after staff testified brick was found and shown to staff at a site meeting. You did not restore or replace the brick coping.
- 6/26/14 - The motion was made and passed stating no visible rooftop equipment on the building. You did not appeal this motion, but mounted visible rooftop equipment on the building without coming back to the Board. And it is two years later that we see a drawing.
- 3/11/14 - A hot box was installed on East DeVargas without first coming before the Board. The Board also requested twice that you bring your mechanical engineer so that the Board could clearly understand what happened with the mechanical on this building, which we've done many times before with different architects. And be able to ask the engineer questions directly about the roof mounted HVAC units. We were never shown the elevation of the hot box, although when the City Water gentleman came to us, he stated it could easily have been put inside the wall in the courtyard; there were other ways to do it; and that you knew from the beginning of the project that this was going to happen. This was not a surprise. And he stated that.

Mr. Duty said, "I'd like to know who stated that."

Chair Woods said, "This is what the City Water gentleman stated when he came to speak to us. So I think it is just a good idea of what... of just how much this was on this project and I thought it was important for the record that this be shown. So with that, is there anything you wish to add because we are ready to make a motion?"

Mr. Duty said, "Yes, very briefly. You are correct. This Board has been very good to work with on this project. We did come back many times. We had a scheme where we had buildings in the courtyard - not buildings but additions in the courtyard. So we followed the directions of this Board throughout. And we've worked together. And it has resulted in this project - the approvals of this project. And I think our problems came down to these one or two issues. Three issues if you count the hot box. There is no one from the Water Company that ever made clear to me that it could be in the courtyard. In fact, the law - the bare written requirement is thirty feet. And I wouldn't put this in the courtyard. And when they relocated the hot box, the walls were already built. They, in fact, made us notch out this wall right here, which I did. And there was no provision by them to attend to the courtyard. And my owner would not have allowed that anyway because that is very important space for the people that reside in the memory center. It would be completely out of line. As I say, we would be happy to screen it.

I will point out one final thing. Just to underline on thing - not that I'm arguing with you or Ms. Mather, that I don't hear you. I do hear you Ms. Mather and I also want to be heard in like fashion. At the June 26th meeting, you suggested it was two years. And it was. But it was almost a year before we even started construction. We got this approval on June 26th but we really didn't start construction on this building until early in 2013. It was about seven or eight months. So that was part of the delay. You saw these rooftop equipment pretty quickly after they got installed and pretty quickly after we met with Mr. Rasch. So there was no delay of two years intentionally. That's what it takes to build some of these projects. So that was a fact there.

In the case of the rooftop equipment, I want to underline one other thing. And that is that Mr. Acton himself just before the motion, said if they do any mechanical work on that roof, it is going to need to be boxed in. So during this discussion that we were having and I was listening to, there was open acknowledgment of the need for screening. And when the motion came down to say no publicly visible, it didn't alarm me. I spoke up because I wanted to make it clear that it was on the new addition. So I felt I was being consistent all along. I do take the responsibility for the fact that we have had, and it is a communication issue, I believe. Because I'm the one who is in a possible to ferret these things out all along. But you have to recognize that the process of construction, sometimes we can't just all go home for two months while we wait for the board to look at something. Maybe a better process will come along. Sometimes we have to wait. But I will always show mechanical equipment.

Chair Woods said, "It was your responsibility to come back regarding the screening, not the Board's. I'd like to entertain a motion."

Mr. Katz said, "First, a comment, I find you not a believable person. You say there is no place to put it on the ground and then you showing these alcoves in the back and say you couldn't put all three in one of them; you could only put one in one of them. Well, two alcoves and that takes care of two of them. And there's the northernmost point that has plenty of room around it. So there's plenty of space to do it.

I do think we need to talk to your engineer.

#### Action of the Board

**Mr. Katz moved to postpone in order that the Board could have the mechanical engineer here and can have schematic drawings the Board was asking for. Mr. Boniface seconded the motion.**

Mr. Armijo said whenever these cases come, we've always asked for them to be last on the agenda, not the first. Isn't that the case?

Mr. Rasch asked if that was because of work done without approval.

Mr. Armijo agreed.

Mr. Rasch said okay.

Mr. Armijo said that is supposed to be that way so that the public doesn't have to endure what we have to endure.

Mr. Rasch said, "Sorry, you're right. What I had on this agenda, I put it on as last of the old business that needed exceptions."

Ms. Mather commented, "I really feel that in this particular case, unfortunately, that this is death by a thousand cuts on this particular building and I think at some point, this Board needs to address that situation.

**Mr. Boniface asked to make a friendly amendment that when Mr. Duty returns with his drawings, that they be accurately dimensioned both in plan and elevation. If he, for some reason, came back with screening, he would like to see the dimensions both in plan and elevation.**

"Just to clarify for yourself, you're showing one dimension over to the side of the building, which is 15' 6". I don't know how tall the screening is. So I would like you to put dimension on the screening. I would also like to see the side elevations of the screening as well any side elevations and dimensions for screening around the hot box. That's kind of a long winded friendly amendment."

Chair Woods asked, "So you would like that on the hot box and on the screening?"

Mr. Boniface agreed.

**Mr. Katz agreed the amendment was friendly and the motion passed by unanimous voice vote.**

- 6. Case #H-14-027. 653 Don Gaspar Avenue.** Don Gaspar Area Historic District. Mercedes Marchand, applicant/owner, requests primary elevation designation for two contributing residential structures. (David Rasch)

Mr. Rasch gave the staff report as follows:

**BACKGROUND & SUMMARY:**

653 Don Gaspar Avenue is a single-family residential structure that was constructed before 1928 in the Bungalow style. The building has a cross-gable roof to the west and south at the east end with original wood windows and doors. A free-standing one-car garage shares the north lotline with the neighboring garage at the rear of the residence with a single-gable roof. A shed and porch is attached to the east of the garage that continues the roof line with a shed roof to the east. Comparison of existing conditions with aerial photographs from 1958 and 1966 appear to show no changes to the buildings.

**STAFF RECOMMENDATION:**

Staff recommends designation of the west and south elevations of the residence and the west and south elevations of the garage/shed as primary elevations, in compliance with Section 14-5.2(C) Regulation of Contributing Structures.

Mr. Rasch showed several photographs of the building.

**Questions to Staff**

Mr. Boniface referred to the west elevation of garage and asked Mr. Rasch why he was recommending it be considered primary. He asked if the doors were of historic significance.

Mr. Rasch said in his opinion, if the garage was listed as contributing, it had to have primary elevations. Since the primary function was to house a garage, the opening for it should be a primary elevation. The opening was the defining feature.

Mr. Boniface asked if it would be possible for them to keep the opening and replace with windows and doors.



# Agenda

CITY CLERK'S OFFICE

DATE 3.5.14

TIME 10:00

SERVED BY *Carmelle Vrij*

RECEIVED BY *Carmelone Speers*

## HISTORIC DISTRICTS REVIEW BOARD FIELD TRIP

TUESDAY, March 11, 2014 at 12:00 NOON

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

## HISTORIC DISTRICTS REVIEW BOARD HEARING

TUESDAY, March 11, 2014 at 5:30 P.M.

CITY HALL COUNCIL CHAMBERS

A M E N D E D

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES: February 25, 2014
- E. FINDINGS OF FACT & CONCLUSIONS OF LAW

Case #H-12-061A	846 Old Santa Fe Trail	Case #H-14-012	225	Johnson Street
Case #H-14-008	213 E. Santa Fe Avenue	Case #H-13-060	1219	Cerro Gordo Road
Case #H-14-010	447 Cerrillos Road	Case #H-13-020	523	Canyon Road
Case #H-14-011	1677 Cerro Gordo Road	Case #H-08-042	1317B	Cerro Gordo Road

## F. ACTION ITEMS

1. Case #H-11-082. 716 Gomez Street. Don Gaspar Area Historic District. Annalisa Ariatii & Scott Isard. Agent/owners, request a preliminary review to add approximately 860 sq. ft. to a significant residential structure. (David Rasch).
2. Case #H-13-036. 60 E. San Francisco. Downtown & Eastside Historic District. Duty & Germanas Architects, agent for Santa Fe Dining, owners, proposes to expand an existing portal on a non-contributing commercial property as remanded by the Governing Body on July 31, 2013. (David Rasch).
3. Case #H-08-096. 1150 Canyon Road. Downtown & Eastside Historic District. Architectural Alliance Inc., agent for Manderfield LLC, owners, proposes to amend a previous approval to remodel a contributing property by altering and constructing yardwalls and constructing three garages and a carport. A height exception is requested to exceed the maximum allowable yardwall height of 5'4" (Section 14-5.2(D)(9)). (David Rasch).
4. Case #H-12-068. 825 El Caminito. Downtown & Eastside Historic District. Monica Montoya, agent for Cal & Donna Sugg, owners, proposes to increase the height of a street-facing yardwall at a contributing residential property above the maximum allowable height of 5'5". A height exception is requested (Section 14-5.2(D)(9)). (David Rasch).

5. Case #H-11-105. 237 & 239 DeVargas Street. Downtown & Eastside Historic District. Duty & Germanas Architects, agent for El Castillo Retirement Residence, owners, proposes to construct a 300 sq. ft. trash enclosure at 7' high with brown-painted metal gates, screen a hot box with a coyote fence and gate, and paint roof-mounted mechanical equipment an earth-tone color. (David Rasch).
6. Case #H-14-013. 109 Calle la Pena. Downtown & Eastside Historic District. Strell Design, agent for Gary L. Kaplan, owner, proposes to remodel a non-contributing residential structure, including a height increase above the existing 17'8" on a sloping site. (David Rasch).

**G. COMMUNICATIONS**

**H. MATTERS FROM THE BOARD**

**I. 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 for more information regarding cases on this agenda.

Mr. Boniface moved to approve the application for Case #H-12-068 at 825 El Caminito, finding that the applicant met the exception to exceed the maximum height for the yard wall by 5". Ms. Walker seconded the motion and it passed by majority (4-1) voice vote with all voting in favor except for Ms. Rios who voted against and Chair Woods voting in the affirmative.

6. **Case #H-14-013 - 100 Calle la Peña.** Downtown & Eastside Historic district. Strell Design, agent for Gary L. Kaplan, owner, proposes to remodel a non-contributing residential structure, including a height increase from 17' 8" to 21' on a sloping site where the maximum allowable height is 17' 4". (David Rasch)

Mr. Rash said the Applicant was not present.

Ms. Walker moved to table Case #H-14-013 to the end of the meeting in the event the applicant arrived before adjournment. Mr. Armijo seconded the motion and it passed by unanimous voice vote.

5. **Case #H-11-105 - 237 & 239 DeVargas Street.** Downtown & Eastside Historic district. Duty & Germanas Architects, agent for El Castillo retirement Residence, owners, proposes to construct a 300 sq. ft. trash enclosure at 7' high with brown-painted metal gates, screen a hot box with a coyote fence and gate, and paint roof-mounted mechanical equipment an earth-tone color. (David Rasch)

Mr. Rasch gave the staff report as follows:

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

237 and 239 East de Vargas Street are two historic structures that are separated by a common wall on one lot west of Brothers Lane. 237 was constructed in a vernacular manner before 1912 in an "L" shaped floorplan. A pitched roof was added at an unknown date and the previous parapets had brick coping. 239 was constructed in approximately 1930 on the south end of the small leg of the "L" on 237 in a vernacular manner. The buildings are listed as contributing to the Downtown & Eastside Historic District and elevations 1-9 of 15 are designated as primary. Minutes of previous hearings to remodel the property from September 27, 2011, October 11, 2011, November 8, 2011, June 26, 2012, and January 14, 2014 are attached.

On January 14, 2014, the HDRB conditionally approved amendments to the previous approvals

including the deletion of the front yardwall windows and shutters, but asked the following three items to return to the Board for review.

Now, the applicant proposes to make the following final amendments.

1. At the end of the hearing on June 26, the applicant stated that there will be mechanical equipment placed on the roof of the newly constructed addition behind the contributing structure at 237 after a friendly amendment was made that there shall be no visible rooftop appurtenances. Three roof-mounted condensers are visible from the public right-of-way on the addition. The applicant proposes to paint the equipment to match the stucco color, since there is no place on the ground to accommodate them.

The applicant provides mock-ups of individual stuccoed or brick screen walls as illustration against those two options. The screening masses appear to be approximately 15' 6" to 16' tall and an exception would be required to construct the screens because the maximum allowable height for this property is 13' 10".

Another potential option is to reestablish a brick coping on the front and/or rear parapet and possibly the west parapet of 237 to mostly hide the equipment and paint the remaining several portions to match the brick or the stucco color.

2. The large hot box that was installed in the front planter will be screened with a 5' 4½" coyote fence with irregular top latillas.
3. A 300 square foot trash enclosure will be constructed on the east area to replace a previously approved smaller trash enclosure that was located on the El Castillo property to the east. The enclosure will be 7' high with stuccoed walls on three sides and brown painted metal bi-leaf gates.

#### **STAFF RECOMMENDATION:**

Staff defers to the Board regarding the roof-mounted mechanical equipment and otherwise recommends approval of this application which complies with Section 14-5.2(C) Regulation of Contributing Structures, (D) General Design Standards, and (E) Downtown & Eastside Historic District.

#### **Questions to Staff**

Mr. Boniface asked, if this was approved with conditions that were not met, how the applicant could get a Certificate of Occupancy. Mr. Rasch said it was a conditional C.O. with the understanding that the final

H-Board action would be met. And that was a decision of administration.

Chair Woods said that allows for occupancy in the building.

Mr. Rasch agreed but was not sure they were occupying it yet. A conditional C/O would allow people to start occupying it but the condition was that the final HDRB action was met.

Ms. Walker asked if this hearing tonight was final.

Mr. Rasch agreed, if it was approved.

Chair Woods said the decision could again be appealed to the Governing Body.

Mr. Rasch agreed and believed it was the final request that this Board would see for the project.

Chair Woods asked what happened from the last meeting over the disagreement and what happened with the brick coping. She looked at the June 26 HDRB minutes, page 22, it said, "Mr. Duty says 1989 photographs is what it said in my packet. Yes. Yeah, you can see that there was a brick coping that we assume is still under there. We don't know that because we haven't done any destructive testing but we still assume it is under there and we would like to clean it up and retain it if is there. And you can see how thick that roof is on top of the brick coping and flashed it with stucco." And then in that same meeting of June 26<sup>th</sup>, Ms. Mather's motion stated, "I move to approve the return of the roof to a flat roof with the condition that if any brick is found that the parapet detail be retained." And then there was quite a bit of discussion about staff going out there and checking on the brick with the applicant.

Mr. Duty stated in the last meeting that you went out there and no brick was found. And that's why that coping was not put on. She asked Mr. Rasch if he could tell the Board from his point of view what happened.

Mr. Rasch said he didn't recall the date but he did go do a site inspection. They were looking at several issues. They were looking at the need for bond beams on this older adobe and other issues. And they went into the building and it was an L shape. What was at the L shape that he was pointed to to look at and he did see some coping there.

Chair Woods asked who pointed him there.

Mr. Rasch said it was Mr. Duty. So he did see a remnant of coping.

Chair Woods understood that at that time, and although Mr. Duty stated in the last meeting that there was no coping, Mr. Rasch was telling the Board that he saw coping. She asked if he left that meeting assuming that the coping was either going to be established or restored as per the motion.

Mr. Rasch agreed.

Ms. Rios said on page 73 of the packet she had indicated that the height of the roof would remain at its existing height. So she asked if they eventually removed that roof and rebuilt it.

Mr. Rasch agreed. They removed the pitched roof. And because it was pitched, the walls were at various heights. The south elevation had a higher wall than the north elevation because the pitch went from high on south to low on north. So when they took the pitch off, they added height to that north elevation to match. But they kept that height. And you could see in the photo he took today that the original historic building parapet height was actually lower than the parapet height on the east mass.

Chair Woods asked if part of that was because of the coping.

Mr. Rasch said it was possible but he just didn't know because he wasn't there when they took that roof off. He just saw that tiny little part of it at the end of the L shape.

Chair Woods asked how many courses of brick he remembered there approximately.

Mr. Rasch replied that it was hard to say. He recalled it was anywhere from three to five courses. The section he saw was very small. It was probably a foot and a half.

Ms. Rios, in reference to the exposed rooftop equipment/appurtenances that were up there now, the applicant indicated at a previous meeting that they had to do that because there was no place else to put them on the ground. She asked when this type of thing occurs if Mr. Rasch went to inspect that or did the inspector look to make sure that in fact this could not have been placed on the ground.

Mr. Rasch said that was an interesting question. He shared how the inspections worked and perhaps this administration wanted more overlap between inspectors. But the historic inspector was truly not qualified to determine if there was any space for mechanical equipment. He was actually looking at what this Board approved design-wise when he does an inspection. It is true that a mechanical inspector he wasn't qualified to say whether they were educated enough to do that but perhaps they could. However, it was not their charge. Their charge was to approve the mechanical equipment but not its design and location. That overlap was lacking.

Ms. Rios said the minutes indicated that there was to be no rooftop appurtenances. Mr. Rasch agreed and the historic inspector could do that. He could determine that the approval was for no publicly visible rooftop equipment and that was how that issue came to his attention because it was installed publicly visible. That was why the Board was now having this hearing. But whether the historic inspector could decide there was another location was not appropriate for the historic inspector.

Chair Woods asked if Mr. Duty ever came to Mr. Rasch to request permission to put those rooftop appurtenances there.

Mr. Rasch said he didn't but he did meet with the solar panel collector installer and he believed there were solar panels on that roof and they were not visible. When he went up on that roof, they used the mock up of the solar panel and adjusted its angle until it wasn't visible from a public way. So that part he knew about, but not the mechanical equipment.

Ms. Walker asked him in his experience when a builder or architect came to him with a vision or plan of what they wanted to do, if it was unusual from them to not anticipate in advance the use of equipment like that.

Mr. Rasch thought that was a good question and he thought every designer was different. Through his ten years' experience with this Board, he was learning what he needed to ask at the site visit more and more every year. He now realized he needed to ask about equipment every time, no matter what. He didn't realize that years ago but would just rely on what the applicant was telling him they were proposing. But some people think all the way to the end. Others - it is more of a preliminary design when they come to us. It is not equal.

Ms. Walker reasoned that when the question was stated by Ms. Rios that there be no rooftop appurtenances, whether that triggered for him that he needed x, y, and z.

Mr. Rasch said that was this hearing back in April, 2012. Ms. Rios made the friendly amendment that there shall be no publicly visible rooftop equipment. And the Chair, after the motion was made, allowed the applicant to make a statement. And he said he would have equipment up there. And Mr. Rasch thought he intended to mean not on the historic building but on the addition. At that point neither the applicant nor the Board nor the staff asked if it would be visible. They didn't go further because it was already inappropriate responses after the motion.

Chair Woods didn't think it went any further because the motion stated clearly that that there would be no visible rooftop appurtenances. If he wanted to state he would put it on there, that didn't change the motion at all.

Ms. Rios asked a question in reference to the present status of this building. The building was now contributing. If that wall in front was not there she asked if Mr. Rasch felt the building had results damaged and no longer contributing or if he felt that the footprint of the building still remained - the historic footprint.

Mr. Rasch first read from minutes, "We'll have some height there. We do not plan on putting any mechanical equipment on that roof." He thought that referred to the historic roof. Then it went on to say, "It'll be on the new roof in the back."

Chair Woods said, going back to that, she believed when he said "no visible rooftop appurtenances, she asked if he was saying that for all roofs or for one particular or both. Ms. Rios said it was for all roofs.

Mr. Rasch said regarding the question, that it was always real difficult to determine on any given project when too much historic integrity is lost or nonhistoric alterations overwhelm the historic integrity. That is always a very difficult decision. And he had to think about what a contributing building was defined as. It was at least 50 years old and had enough integrity that the historic character was retained. In the past, this Board has looked very strongly at historic material, historic windows and over the years this Board has looked more strongly at either overwhelming additions. In this case, the applicant has retained all of the historic windows that were required to be retained. And the addition is what the Board looks at. It is not very visible. So in his opinion, this still met the definition of a contributing building.

Ms. Walker asked about the part of the definition that talked about contributing to the streetscape and that sort of thing. Because with that wall you can't see a thing.

Mr. Rasch agreed and it was a hard thing to answer in front of the Board right now but when this Board grants an approval or more so, an exception to exceed height on a yard wall, once the Board grants that exception, that exception makes it okay. So the Board didn't degrade the status of the building by granting an exception or the Board wouldn't have granted the exception.

Chair Woods said, looking at it cumulatively, and it is heartbreaking.

### Applicant's Presentation

Mr. Duty (previously sworn) said in summary that there were three issues. There might be more. First he pointed out that the building was drawn, permitted and built the way that it was drawn and permitted. The wall was proposed to this Board and the wall was debated and the wall was granted an exception and the wall was approved. "It bothers me that you don't like it. And I can understand that to some extent because of the fact that it used to be an open courtyard. But, in fact, all along the street there is a walled enclosure. And this was discussed at length with this Board. And I also think you were very helpful in this

project all the way through, as I have stated many times. As far as the rooftop equipment is concerned in terms of history, it is basically true in my opinion. There was a friendly amendment. I think this Board, in my opinion, owes a debt of service to an applicant when you make a friendly amendment to inquire as to whether that applicant accepts - understands in the first place and accepts that amendment. It was for that very reason that courtesy was not extended to me. But I spoke up, and the chair allowed me to speak. And I made it perfectly clear that there would be rooftop appurtenances on the building because I knew there would be. What we did on rooftop appurtenances, of course, on the old building, there was a massive amount of rooftop equipment on the historic portion of the building. And it had been done without approval from the H board. We need to avoid that situation and we did debate many different kinds of solutions. But we went to an all-electric building so that we would have nothing except three condensers. So we would avoid all air handling equipment on the roof. We avoided that and we took off all the old air handling equipment and I have pictures if you want to see them. But you can ask if you want to see them. We took them off. So we were very sensitive to this issue. And the reason I spoke up was because I knew we were going to have rooftop appurtenances. I knew they were going to be on the new portion of the building and I accepted that we would probably have to screen them. - tan or something acceptable to the Board. It was never my intention to do otherwise. As far as the brick coping or the brick is concerned, I think there is a little misunderstanding. I want to reiterate - the building was designed without brick coping; it was presented without brick coping; it was approved without brick coping and it was permitted without brick coping. However, during my presentation to you, I made note of - I think there were 84 or maybe 89 photographs in which there was some brick. It was unclear whether the brick was historical. We didn't have any evidence that the brick was historical. We had evidence that this building was, in fact, built without a brick coping. I made a pledge to the Board that night as I listened to the debate. You only read part of the debate, madam Chairman. There was some debate and some of the other members thought preserving the brick was inappropriate. At any rate, we made our approval - our presentation and I got that permit without brick. But I felt I had a debt of gratitude - not a debt of gratitude - a debt of service to the staff and to the Board to bring to Mr. Rasch's attention. We did find some brick in one corner of the building. I don't believe I stated as Madam Chair suggested that we found no brick. Because that is categorically false. I didn't make that statement.

I think I may have made a statement that we found no brick that was useable or in good condition and certainly in any extensive amount. We found some brick in the corner, I showed it to David. As he suggested, I pointed it out and I instructed David that we were going to finish it out as designed without exposing the brick coping. We did not take brick coping off in order to make the wall lower. We built it back to the height of the original wall underneath the pitched roof. As you may recall, we took off the pitched roof. This was also a nonhistorical item that was added to the building - as far as I now, without any approval from this Board. And we petitioned you to allow us to remove and you did. And that was part of our permit and that was built the way we permitted it.

There were two things that happened to change this whole thing is the hot box which happened to us as well as happened to you as well as happened to the community. We were instructed and that was it. The water company would not give us water unless we put that in place. I testified about this before. It's there. We had to put it in there. The city required it in there and we are happy to screen it with coyote fencing which was actually a suggestion from this Board. We are happy to do that.

The other thing is the trash enclosure. Again, the city required it to be moved from where previously it had been approved. We agreed and relocated it would work with the whole complex. I suspect you don't have any problem with that but that is speculation on my part. So we came back tonight to show the screening around the trash enclosure.

As far as the rooftop appurtenances are concerned, I think we have a responsibility to screen them. And in that regard, I did ask Mr. Rasch to come to the site when they were first up there or right after they were up there. It didn't have anything to do with the solar panels. And I said, 'What do you think is the best way to screen them. This came up before. We talked about a stucco wall around them. We talked about a stucco wall with a brick coping. We talked about bringing up the front wall or one of the front walls. I left the meeting with the consensus - not with the consensus but with the sense that, in the first place, Mr. Rasch stated they would probably constitute a height exception requirement. And so that is what I figure that was what we were going to have to do. But I also left the meeting with the sense that the screening options that we talked about left a little to be desired. Mr. Rasch can speak to his opinion. But in my opinion it left a little to be desired. We used terms like three smoke stacks on the Titanic and things of that nature. Drawing in my mind more attention to the condensers than was necessary. I talked with the contractors and we can do a screening but it would have to be about two feet around. So all of a sudden, the screen gets to be six foot square - rather large. So I did drawings, photographs, renderings - whatever you want to call them - and gave them to you guys to look at. I also did a drawing showing what it is going to be like when the trees mature and what it would be like when they painted them. And it is simply my opinion that - I am not going to stand up here and be a champion of rooftop equipment. In this particular case, I think I was consistent with the Board and as clear as I could possibly be with the Board with totally accurate drawings; made every effort to work with staff and came back to this Board many times. And at this point, in my opinion, the best thing to do is to paint them, and they would disappear much more so than if we put a big surround around them. And that is the reason why I petitioned in this particular application to do just that. And I did not ask for a height exception in order to put a screen around them and that is my proposal and that is my history.

Chair Woods said, "Mr. Duty, if you were so diligent in your presentation to the Board, why didn't you draw them on the elevation that you presented and show them to us prior to them being built?"

Mr. Duty said, "That's a very good question. And I am going to digress a second and say that I'll

answer that. But I'll also say this. If you would like to prevent this problem in the future, you should require just that. You should require rooftop equipment to be shown and rooftop screening to be shown. That would be a worthy addition to your packet.

Chair Woods asked Mr. Rasch if the application required that - that any rooftop that is visible be shown on drawings.

Mr. Rasch said he agreed if they told them they were putting them there.

Mr. Duty said he didn't think he had ever put them on drawings he had presented to the H Board. He suggested it was the practice not to do them - not because architects were trying to mislead the Board but there was a sequence. The applicants frequently came to the Board with schematic drawings. When he was doing this project, there were questions in his mind whether this was even be approvable - long before we were debating HVAC equipment. The board suggested modifications to the design which he entertained and brought back to the Board in a spirit of cooperation. It wasn't until the second or third meeting that they really had a sense that this was going to be approved. And that was way before schematics were done. He would welcome a clear requirement for architects to include these in the drawings. There are rooftop appurtenances which can never be avoided -- exhaust fans or chimneys. The Board needed to be specific and architects needed to be specific and he would welcome that requirement.

Chair Woods said she was requiring that right now - that henceforth he show it because every other architect shows it.

Mr. Duty said "Good. I'll be glad to and I will be glad to look at those other submissions for guidance.

Chair Woods said the Board had also requested that his HVAC guy come to this meeting so the Board could talk with him about sizes and other possible locations. And that was in the last meeting minutes when the Board made that request.

Mr. Duty said he did not comply with that request. He said he talked with the mechanical people and submitted the letter to the Board. He pointed out that fact that they couldn't move the stuff to the ground. He had taken pictures and talked with staff but did not leave here with the understanding that was a requirement. The Board also talked about having him bring City Water people here and he attempted to do that but they didn't come with him.

Chair Woods said they did come.

Mr. Duty said he was not invited to that meeting so the Board visited with him which he applauded. He

apologized if he misunderstood but didn't bring a mechanical engineer with him. But he said he knew what the engineer would tell the Board.

Mr. Armijo said he had made that request because many times he did place ground units vs. rooftop units and as far as performance he never noticed any difference. Mr. Armijo added that Mr. Duty has stated that placing them on the ground had created unsightly results. He thought the engineer could explain to the Board why the units had to be on the roof.

Mr. Rasch said the board action letter he sent after the hearing said, "This is to certify that the Historic Districts Review Board at their hearing on January 14<sup>th</sup> 2014 was to postpone the request pending submittal of designs that screen the roof mounted condensers with stucco and or brick; a screened hot box with stuccoed walls and a coyote fence gate, with testimony at a future hearing from the mechanical engineer and the water division city staff."

Cahir Woods asked if that letter was sent to Mr. Duty. Mr. Rasch agreed.

Mr. Duty said he got that letter and focused on water city staff and apologize about the mechanical engineer.

He said Mr. Armijo is correct and Chair Woods interrupted him.

Mr. Duty asked if he was allowed to respond.

Chair Woods said yes but said the request was to talk to the mechanical engineer.

Mr. Duty said he had put them on the ground many times. They do work - it is possible from charts and graphs to do that. You can put them on a pad. We've also have had problems when there is not sufficient clearance or when there is dirt or dust. The filters need to be cleaned. Right down the street from this building is a building called the Santa Fe Properties building which I designed and received approval from the Board. We put all the mechanical equipment on the ground and a surround. We've had massive problems with that because of the high head resistance and not enough ventilation. So it is not trouble-free to put them on the ground. Secondly, in downtown Santa Fe, land is at a premium. It is not about making money; it is about making use of property. What we had here was an opportunity to put an Alzheimer's unit downtown and was a great opportunity and we are pleased with the results. But we had to get eleven units in there and all the things that went with it. It took up every square foot. And there was not a reasonable portion to sensibly locate mechanical on the ground and at that time I had instructed this Board that it would be on the roof. So I felt like I was dealing with the situation which I needed to screen and that is why I'm here.

Chair Woods said, "Mr. Duty you don't instruct the Board; we instruct you. And let's make that very clear."

Chair Woods asked Ms. Brennan when the Board passes a motion with an amendment and the applicant makes a statement after the vote, if it would change that motion.

Ms. Brennan said it would not change. And if the applicant didn't appeal it, the motion would stand.

Chair Woods asked if when an amendment is proposed to a motion, if the Board needed to ask the applicant if it was accepted.

Ms. Brennan said the Board could ask an applicant if it was acceptable but if it was not acceptable, the applicant could appeal the condition.

Mr. Duty said he customarily did get asked by this Board and the Planning Commission if he accepted the condition. And I answered and it got cleared up. That didn't happen here.

Chair Woods said that was never done here during a motion. She had chaired the Board for 15 years and that never happens during a motion. It could happen during the hearing. And in 90% of the motions, the rooftop amendment would be made. It is the motion and happens in almost every motion - no visible rooftop appurtenances. And if you have them, you need to draw them and show them.

#### Questions to the Applicant

Ms. Rios thought the 300 square foot trash enclosure seemed rather large. She asked if it was on the east side and how far back from the street

Mr. Duty agreed they were large and they were the City requirements for an enclosure.

Mr. Rasch said it was very visible and was right at the front of the property.

Ms. Rios asked if that was the only place it could go.

Mr. Duty agreed.

Ms. Rios asked how he planned to screen it.

Mr. Duty said as it was drawn with walls and gates.

Ms. Rios asked what the height of the wall was.

Mr. Rasch said it is 5'10" with three sides stuccoed and the front had bi-leaf gates. .

Ms. Rios asked how much of the condensers on the roof was showing and what the height was.

Ms. Rios said the Board did allow the wall because this was to be an Alzheimer's Unit. That was why she voted for the wall. But it was really difficult to see this building hidden behind the wall.

Mr. Duty thought it went up 15' feet to the top. He thought about 3 feet was showing.

### Public Comment

**Ms. Mary Malloy, E. DeVargas**, was sworn. She said she had watched every bit of construction at this site for a year now. She was concerned about the water coming off of the roof and with the canales and a cistern was put in to collect some of the water. She was disappointed that not all the water was being collected to go for watering plants and trees. They had to put in a drainage pipe because the water was coming over into the back of her house. They put a pre-fab thing at the bottom of it and Mr. Duty and she had a conversation in the driveway but he did not mention that it was behind her house. They put in gravel and in the last storm, when water came off the new building and her house, it had no place to dissipate and was starting to come under her house. Her contractor insisted that she come to let the Board know there was a potential problem. She loved the rain but not if it was going to come in her house.

Chair Woods asked her if the drainage between the buildings changed.

Ms. Malloy said it had changed because there was no building there before so it was not a problem. They made an effort to keep it on the property but the new building was built up to the property line. The gravel raised the true bottom up where the house was. She said she spoke with Mr. Rasch who encouraged her to come to the meeting.

Mr. Armijo said she would have to talk with grading and drainage because it was not the purview of the HDRB.

Chair Woods referred her to speak with Mr. O'Reilly about how to get this problem taken care of.

**Mr. Brad Perkin** (previously sworn) said he was "blown away by your patience." He couldn't believe someone would think he should have another apple. For background, this was a very historic house,

included in the first publication of Old Santa Fe today and had a John Gaw Meem plaque. He only lived in flat roofed houses twice. Most were on the ground, and there was no reason it shouldn't be there now. He suggested it would be more energy efficient to put the HVAC on the ground. He told the Board long story and then asked the Board to look at the ordinance. Heat exchangers had to have sufficient surface for exchange between coolant and environmental air. He was not an HVAC engineer but would do what he could do to research it. He suggested about the dumpster to sit them and see what we could do. They needed so many cubic feet of space per population.

**Mr. Raymond Herrera** said this was a nightmare because of all of the changes and approving it would be a bad precedent for the future. He went along because it was for El Castillo and the Alzheimer's Unit. He didn't like for Mr. Duty to come here, knowing the procedure, and tell the Board what to do. If the Board approved this, nothing would be left worth saving. He had lost the character of both buildings and just looks like anything else downtown. He should be penalized for the actions he's taken. Mr. Herrera said he had Santa Fe at heart and this was ridiculous.

**Ms. Stephanie Beninato** urged the Board to put Mr. Rasch under oath when he is testifying. The Board asked him a lot of questions. And the same for Mr. Duty. He actually testified hearsay by telling the Board what Mr. Rasch said when Mr. Rasch was present. The Board bent over backwards to allow El Castillo to expand and the building looks "like crap" and the PERA building looks a lot better than El Castillo on DeVargas Street. The board bent over backward to allow this Alzheimer's patients in it. She reminded the Board that Mr. Duty was also the architect for affordable housing on Alameda Street and did basically what he did there changing the design around and after the fact said there was nothing they could do. Architects could usually offer choices in what could be done. This was a pattern. Part of problem was lack of coordination between Historic and Land Use. The Board could put on conditions and Land use totally ignore them. There needs to be a more consistent overlap, and land use staff made to realize they have to enforce these conditions. It was outrageous that Mr. Duty would come here and tell the board that a friendly amendment that was part of a motion was not something that he needed to pay attention to or follow. He has been an architect her for a long time and before the Board many times and should know that any condition approved by the Board was a condition he needed to follow. And if he didn't like it, he had 15 days to appeal it. She urged the Board to postpone until the HVAC person actually got here to answer questions of the Board. She also asked the Board to require the HVAC units to be repositioned so they were not visible. Painting makes them somewhat less noticeable but they are still up there and noticeable. The character of that building has totally been lost. It just merges into the larger El Castillo building. There should at least have been a different color of stucco to distinguish it from the other additions. For the trash enclosure, 5' 10" was better than 7'. Regarding the big hot boxes the City was requiring, they were horrendous and she urged the board to go to City to the Council to figure out some way to avoid placement on street so visibly. She thought the city could require an easement to put them behind the wall Even if enclosed, it was still quite visible. Mr. Duty's statement that everyone on DeVargas had a wall was not

true. There are at least four residential units toward paseo that don't have walls.

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

Chair Woods asked Mr. Duty if he had anything to add.

Mr. Duty said he did and spoke away from the microphone or with it off and his comments were not audible on the record.

Chair Woods said she had a question about the hot box. The board looked at it today. She asked if the access was the center door. The wall could come around and the gate could be much smaller. She thought the Board had said not to do the whole thing in coyote but having masonry on the sides which come around and have a much smaller gate that could be opened to access that door.

Mr. Duty's response was not audible.

Mr. Armijo asked what the silver or chrome box further up the street was.

Mr. Rasch said that was the new hot box at El Castillo.

Mr. Armijo asked if that was part of this approval.

Mr. Duty gave a response that was not audible.

Mr. Armijo asked if that was approved. There appeared to be no response.

Mr. Armijo said he had lots of concerns with one thing after another that kept popping up that Mr. Duty didn't know about. To not know about a hot box or to not know about air conditioning - these were situations that as an architect and builder, needed to plan for. He was concerned that people were not being responsive to this Board initially and it was not a good precedent at all.

Chair Woods asked him not to interrupt his statement.

Mr. Armijo said he was the rookie here but what he had seen surprised him with how flexible the Board was with everyone, including Mr. Duty. But yet, before we address any problem, the Board drives by and sees a future problem. That was a concern to him that there was no ending to this. He just had big concerns. That box, if looked at initially, could have been placed behind that large wall there and the board would not have to talk about it now. Those roof top units could have been set on the ground and the Board

wouldn't be talking about them now. There were options available to Mr. Duty before it happened and he had disregarded what the Board recommended and proceeded with things that didn't meet the ordinance. It wasn't fair to keep covering up things that Mr. Duty kept putting out there and he should have known should be brought up to this Board before they happened. So he had big concerns about any approvals by the Board at this point.

Mr. Duty said something about water but it was inaudible.

Mr. Armijo then asked Mr. Duty, if it was all true, and the board had requested to speak to the professionals that were making these recommendations, why Mr. Duty would not have had them here for him to back up what he was talking about.

Mr. Duty made more inaudible comments.

Chair Woods was confused because according to Mr. Duty, the hot box was always on our drawings.

Mr. Rasch said he could not testify if it was or not now but did say that now our application states on it that you must indicate everything that you are doing on the exterior of the property and things that were not itemized would automatically be not approved. That is the new application.

Chair Woods said she would like to see the elevation that showed the hot box, "because I'm pretty astute at catching these things and, unless it was hidden as would have been nice to do, then I may not have seen it. But anything anywhere near the front of the building, I have no recollection of ever seeing.

Mr. Duty made another inaudible statement.

Chair Woods asked, "Where was it shown to us? Was it ever shown when you came before us?"

Mr. Duty didn't know and made another inaudible comment.

Chair Woods said the Board needed to see it.

#### Action of the Board

Mr. Armijo moved in Case #H-11-105, to approve the proposed trash enclosure at 5' 10" high and to deny the screening of the hot box and deny the coyote fence gate and also deny the screening of the rooftop unit. Ms. Walker seconded the motion for purposes of discussion.

Ms. Walker said the canales on the premises that they would be moved somewhere else. She asked if

that was correct.

Mr. Boniface said the applicant would need to come back at a later date and show us exactly where the rooftop units will be moved, and the Board was not allowing the applicant to keep the rooftop units where they are. He asked if that was correct.

Mr. Rios said he indicated denial of screening of the hot box and asked if that was correct.

Mr. Armijo said that was correct. His concern was why the applicant didn't bring these professionals before the board to indicate that the unit could not be buried to start with.

Chair Woods said they did come to the Board and talked about it. As I understood said they could be buried but it was very expensive to do. The hot box up for discussion and at this point the board needs to be made aware of these things which obviously they ignore because they just put one down the street. She also assumed that it could also have been buried at a much greater expense.

Ms. Walker did not recall any other application including a hot box in the application.

Mr. Armijo said the board had never recommended coyote fence as a guard so if it was something shown on the garbage bins...

Chair Woods thought Mr. Katz had talked about the possibility of screening the hot box as one possibility. We talked about walls. We talked about several different things and asked the applicant to come back with other ideas; he didn't come back with the walls but with a coyote fence.

Ms. Rios said further clarification on Mr. Armijo's motion concerning the hot box: "so you are indicating that what Mr. Duty brought this evening in reference to the coyote fencing - screening is denied but does that give the applicant the option to come back before the Board to present something else? So should this be a postponement in reference to it?"

Mr. Armijo said that would be fine with him.

Chair Woods cautioned that they already had a motion and a second on the floor. She asked if there was any further comment.

Mr. Rasch said it could be amended or rescinded.

Ms. Brennan thought they could amend it under the circumstances, to postpone as opposed to a denial

on those issues.

**Mr. Armijo moved to postpone Case #H-11-105 to March 25, 2014. Ms. Rios seconded the motion.**

Chair Woods asked what they were asking the applicant to do.

Mr. Armijo said that was to have the applicant show the Board a different way to hide their hot box with side walls and something similar to what was going on with the trash bin but removing the roof top units. He didn't see how that could be disguised. He wasn't sure if the Board preferred a coyote gate or a metal gate.

**The motion was approved unanimously on a voice vote.**

6. **Case #H-14-013 - 100 Calle la Peña.** Downtown & Eastside Historic district. Strell Design, agent for Gary L. Kaplan, owner, proposes to remodel a non-contributing residential structure, including a height increase from 17' 8" to 21' on a sloping site where the maximum allowable height is 17' 4". (David Rasch)

The applicant for Calle La Peña was still not present.

**Ms. Rios moved to postponed Case #H-14-013 to March 25, 2014. Ms. Walker seconded the motion and it passed by unanimous voice vote.**

## **G. COMMUNICATIONS**

There were no communications.

## **H. MATTERS FROM THE BOARD**

Chair Woods asked if the Board could specify what had to be brought to us, so this didn't happen anymore. Deal with things such as hot box be shown to us, light fixtures, etc so this didn't happen again.

Mr. O'Reilly came forward to address it but also failed to turn on the microphone so his comment was not audible. He then turned it on.

Chair asked if they could require that anything that was visible must be shown in the application.



# Agenda

DATE 12/24/13 TIME 10:05 AM  
SERVED BY Camille Taylor  
RECEIVED BY JD

## HISTORIC DISTRICTS REVIEW BOARD FIELD TRIP

TUESDAY, January 14, 201<sup>4</sup> at 12:00 NOON

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

## HISTORIC DISTRICTS REVIEW BOARD HEARING

TUESDAY, January 14, 2014 at 5:30 P.M.

CITY COUNCIL CHAMBERS

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES: December 10, 2013
- E. FINDINGS OF FACT & CONCLUSIONS OF LAW

Case #H-13-076A	DeFouri Street Bridge	Case #H-13-105	354 Hillside Avenue
Case #H-13-082B	304 Camino Cerrito	Case #H-13-106	552 Agua Fria Street
Case #H-13-066	537 Hillside Avenue	Case #H-12-107	103 E. Water Street
Case #H-13-104	302 Camino Cerrito		

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

1. Case #H-05-172. 540 E. Palace Avenue, Unit C. Aaron Bohrer, agent for Meem Santa Fe, LP, owners, proposes to amend a previous approval to construct a 2,624 sq. ft. residential structure to 20'6" high with alterations to footprint, massing, doors, and windows and to remodel the yardwall on the south property line to install a pedestrian gate and relocate another pedestrian gate. (David Rasch).
2. Case #H-08-096. 1150 Canyon Road. Downtown & Eastside Historic District. Architectural Alliance Inc., agent for Santa Fe Public Schools, owners, proposes to remodel the existing contributing structure by repairing or replacing historic materials, restoring historic features, constructing 850 sq. ft. of portals, yardwalls, and gates and constructing a 3,637 sq. ft. single-family residence to the maximum allowable height of 20'. Three exceptions are requested to remove historic materials (Section 14-5.2(D)(1)(a)), placing an addition on a primary elevation (Section 14- 5.2(D)(2)(d)), and to replace traditional stucco with elastomeric stucco (Section 14-5.2(D)(5)(b)). (David Rasch).
3. Case #H-11-105B. 237 & 239 E. de Vargas Street. Downtown & Eastside Historic District. El Castillo Retirement Residence, agent for Duty & Germanas Architects, owners, proposes to amend a previous approval to remodel a contributing property including the installation of publicly-visible rooftop mechanical equipment that will be painted to match the stucco color, remove openings and shutters in front yardwall, and construct a 144 sq. ft. trash enclosure with stuccoed walls and brown painted steel gates. (David Rasch).

**Ms. Rios requested a condition:**

5. **That there be no visible rooftop appurtenances.**

**Ms. Mather agreed and added a condition:**

6. **That the exterior lighting details come back to the Board.**

Mr. Armijo asked for an amendment that the windows come back to the Board. Ms. Mather said she had that included already.

Chair Woods asked if that meant the residence would actually be below the height of the school.

Ms. Mather said it meant not higher than the school height.

Mr. Armijo recommended topography of elevations and maybe story poles for finished height.

Mr. Katz understood the school was a certain height above grade so it could be higher from the lower elevation.

Mr. Boniface understood the casita could not exceed the actual height of the school.

Ms. Mather asked for reconsideration of the style of both east-facing doors.

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

3. **Case #H-11-105B. 237 & 239 E. de Vargas Street.** Downtown & Eastside Historic District. El Castillo Retirement Residence, agent for Duty & Germanas Architects, owners, proposes to amend a previous approval to remodel a contributing property including the installation of publicly-visible rooftop mechanical equipment that will be painted to match the stucco color, remove openings and shutters in front yardwall, and construct a 144 sq. ft. trash enclosure with stuccoed walls and brown painted steel gates. (David Rasch).

Mr. Rasch gave the staff report as follows:

**BACKGROUND & SUMMARY:**

237 and 239 East de Vargas Street are two historic structures that are separated by a common wall on

one lot west of Brothers Lane. 237 was constructed in a vernacular manner before 1912 in an "L" shaped floor plan. A pitched roof was added at an unknown date and the previous parapets had brick coping. 239 was constructed in approximately 1930 on the south end of the small leg of the "L" on 237 in a vernacular manner. The buildings are listed as contributing to the Downtown & Eastside Historic District and elevations 1-9 of 15 are designated as primary.

In the fall of 2011, this Board conditionally approved remodeling with additions to the building and the construction of a front yardwall with a height exception. In the summer of 2012, the project was amended with the inclusion of an exception to widen a door opening on a primary elevation on 239 and to restore the flat roof and parapets of 237. Minutes of the hearings from September 27, 2011, October 11, 2011, November 8, 2011, and June 26, 2012 are attached.

Now, the applicant proposes to make the following final amendments.

1. At the end of the hearing on June 26, the applicant stated that there will be mechanical equipment placed on the roof of the newly constructed addition behind the contributing structure at 237 after a friendly amendment was made regarding no visible rooftop appurtenances. Three roof-mounted condensers are visible from the public right-of-way on the addition. The applicant proposes that the equipment could be painted or screened, since there is no place on the ground to accommodate them. Another potential option is to construct a brick coping on the front and/or rear parapet and possibly the west parapet of 237 to mostly hide the equipment and paint the remaining several inches to match the brick or the stucco color.
2. The front yardwalls were approved with two windows with shutters and they were not constructed. One member of the Board's reasoning (October 11) was to provide the public with visual access to the original contributing historic structure, not to meet the intent of the 1999 wall and fence guidelines.
3. A dumpster enclosure that was previously approved on the adjacent lot to the east for 250 East Alameda Street, aka El Castillo, had to be moved. The 144 square foot enclosure will have 7' 2" high stuccoed walls on three sides and brown-painted steel gates at 5' 10" high. It is proposed at the east side of this lot where parking was shown previously. The dumpster placement does not affect the required parking by zoning standards.

#### **STAFF RECOMMENDATION:**

Staff defers to the Board regarding the roof-mounted mechanical equipment and otherwise recommends approval of this application which complies with Section 14-5.2(C) Regulation of Contributing Structures, (D) General Design Standards, and (E) Downtown & Eastside Historic District.

## Questions to Staff

Ms. Rios said the Board on the site visit saw a very large hot box and asked what the Board's purview was over that.

Mr. Rasch deferred to other staff.

Mr. O'Reilly didn't believe a hot box was a structure. Backflow prevention devices could be put underground in vaults but cost about ten times as much as putting them above ground. Covers could be designed as landscaping or rocks for water main connections but this one would be too large for that. They could be painted.

Chair Woods was concerned that this had not come before the Board.

Mr. Katz suggested that if it so expensive to put it underground then they should put it on the other side of the wall so it wouldn't be visible when someone drove by there. It was just put there and was inappropriate to have it there.

Mr. O'Reilly agreed they didn't have to be put right there. But he didn't believe in the past this Board had considered other utilities.

Chair Woods said there was a precedent that the Board didn't have jurisdiction over it.

Mr. O'Reilly clarified that he hadn't said the Board didn't have some jurisdiction over the location but didn't know that the Board could require that it be placed underground.

Ms. Walker mentioned another situation they had on Old Santa Fé Trail

Mr. Rasch said those were the water valves.

Ms. Mather asked a concern about the original motion.

Chair Woods explained recalled that after the motion was made and voted on, the applicant clarified that he was going to have rooftop appurtenances. She assumed that in no way changed the motion.

Ms. Brennan agreed. If there were no rooftop appurtenances and that was part of the motion and that was what was voted on, that would be the Board's decision. The applicant's understanding of it didn't seem

to be the motion.

Ms. Mather couldn't find her original motion but recalled it said if on the original building a discovery of brick coping there that it would be either be repaired or replaced in kind. She didn't see any coping there, yet Mr. Rasch reported that they discovered the coping.

Mr. Rasch agreed. He did see some coping. It was on the June 26 hearing where Chair Woods asked for a motion. It was on page 71 of the packet.

Ms. Mather asked then why it wasn't part of what the Board was looking at.

Mr. Rasch said the application didn't address it and it wasn't what the applicant requested today.

Chair Woods said if the Board made a motion and it wasn't followed, she wanted to know what they could do at this point.

Mr. Rasch said the coping was not put on the permit set and the City approved the permit set.

Chair Woods asked Ms. Brennan what the Board could do about it. The permit didn't parallel the Board's motion. She wanted to know what happened in that circumstance.

Ms. Brennan said the Board approved what they approved. What happened were external circumstances.

Chair Woods reasoned that the Board could still say this was what they approved when it comes back.

### Applicant's Presentation

Present and sworn was Mr. Michael Duty, 404 Kiva Court. He said this Board was very helpful and there were lots of pieces and he came back 4-5 times and unfortunate things that happened to them. They did not find brick all along that parapet. They found about three or four feet of it along the corner. His recollection was that he made a commitment if they found the coping but they didn't find it to any significant extent. And what they did see was very deteriorated and he thought their response was consistent. So they didn't find it; they shared that with Mr. Rasch and they proceeded.

The hot box happened to them just as it happened to the Board or the city. The City didn't permit us to relocate it. There was a water line it had to go over and the Water Department dictated the location and

actually required the applicant to cut a block out of the wall to make it easier for the meter reader. They wouldn't approve it without an 8" cut. He said all they could do was repaint it and do landscaping and they could also put coyote fencing around it but the water company forced it on them. The water people often didn't notify the owner until after time to get that on the agenda. Some of them happened very quickly. So he informed Mr. Rasch in a letter to bring it to the Board's attention.

The two other items- one was regarding what was said at the end of the motion - no rooftop appurtenances. When things were brought up at the end of motion without the applicant being able to respond, it was difficult. But he was glad the Board didn't approve any other onerous things.

There were no rooftop appurtenances on the historic building. They took off all of the mechanical equipment on the historic building. But there were two condensers at the back that were visible and he brought it to the Board's attention at that time. He tried to insert himself into the motion to explain that there were already rooftop appurtenances on it and wasn't allowed to.

The building has been completed and they had some open houses and this was the final matter.

The only other item was the trash enclosure and in the meantime, the City required them to move it to this location that they had already approved. So he offered to build an enclosure around it. Then the City required two dumpsters. So he had a revised drawing to hand out [attached as Exhibit8]. It was 20 feet wide to accommodate two dumpsters. They had to give up some parking spaces to do it.

### Public Comment

There were no speakers from the public regarding this case.

### Questions to the Applicant

Mr. Boniface asked if it was possible to relocate the wall in front of the hot box.

Mr. Duty said that was not allowed because the water company would not have access to it and they didn't want to cut a hole in that wall. That would be an issue with the residents. He said they did have gates right now but they were kept locked. A gate would mean workmen would have to come in and they were adamant this was the only way to access it.

Chair Woods asked if the box was owned by the City.

Mr. O'Reilly said the owners' responsibility started at the main and worked back into the property. He was not aware that the City needed that box but it was the Water Department. They were metal boxes. There were other things that could be done. Coyote materials could be affixed to the box itself. A fence could be put around it.

Chair Woods asked if at the next meeting the water company could address the Board about it.

Mr. O'Reilly said it had been a long-term requirement that the water department provide these things. People have asked for alternatives for about 20 years. The water company said it was needed for backflow prevention. Before he worked for the city, he was able to conceal these things.

Mr. Duty clarified that the City was not the one who told him. It was the water company.

Mr. O'Reilly clarified that the City owned the water utility. So there was no difference.

Ms. Walker couldn't believe there was nothing to be done about the condensers. She asked if they could work on their side.

Mr. Duty said they wouldn't work with them on their side. They looked at every place to put them but there was no other place to put them.

Mr. Armijo thought they could be set up on the ground.

Mr. Duty agreed if there was room but here there was not.

Chair Woods recalled that Mr. Acton made it clear that it needed to be boxed in or screened so they were not publicly visible.

Mr. Duty said that was why he was here tonight. They had a discussion in the field and he fully understood that. But he wondered if screening would be more objectionable than just painting them. They were willing to screen them or paint them.

Ms. Mather asked if he could provide drawings for screening them as well as screening the hot box. Overall, she was looking at elevations of existing and the proposed. They went from a charming building to a blank façade with big equipment in front of it and no details visible at all. It has been transformed into institutionalized building. That's not what the Board was hoping to get. It looked like there were different levels.

Mr. Duty said everything they built was to the approved specifications. There just happened to be a hot box in front. They had plantings there that when more mature would be as they presented the project except for the hot box. They had to have water and there was no other choice.

Ms. Mather asked if they could build walls on either side of the hot box and put a gate in front.

Mr. Duty said he would check with the water company about it.

Ms. Walker said they had two big planters. She asked if they could put the condensers in them.

Mr. Duty explained that they would have to have a setback. That would take it from the frying pan into the fire. He agreed that on the roof you could see it. But they went to every effort to minimize the visibility. The historic roof was covered with ductwork and other large things and they went to a system where they could take all of that off. There had to be a setback around the condensers to allow them to work. They wouldn't get monkeyed with and they wouldn't get dirt on them and bushes wouldn't get in the way in the proposed location.

They were consistent with the Board's approval.

Ms. Rios asked what he was proposing for screening.

Mr. Duty said they proposed a stucco screen.

Mr. Rasch said, said "This is the compromise for not restoring the brick coping I observed. Put a brick screen up there."

Chair Woods thought that would look odd.

Mr. Rasch said he went to the site and saw brick coping on the original building. He did not see entire coping. He thought they were going to restore the brick coping. They had a discussion and he expected to see it.

#### Public Comment

There were no speakers from the public regarding this case.

#### Action of the Board

Mr. Katz moved to postpone Case #H-11-105B and have the applicant come back with designs for screening the hot box and the condensers and clarification from the City water department on what was happening and to know from the engineer what could be done about it. Ms. Rios seconded the motion.

Ms. Mather asked for a friendly amendment for a permanent enclosure around the hot box for walls on either side and a gate in front if possible. Mr. Katz accepted it as friendly and the motion passed by unanimous voice vote.

Mr. Duty asked if the Board was not going to take action on the dumpsters so he couldn't build that.

Mr. Rasch said it had not gone to Zoning to see if they could remove that parking space.

Mr. Duty said that was not true. He had submitted it to Zoning and also to Mr. Murphey at Mr. Rasch's request because he was out of town.

Mr. Rasch said he had not seen this drawing until tonight.

Mr. Duty said it was not the drawing but the Zoning approval of the parking spaces.

Mr. Rasch understood and said he needed the drawing.

Mr. O'Reilly said for any change of parking on site the City staff had to make some ruling he had not seen anything in the packet in writing and didn't know what John Murphey may have said to the applicant verbally.

Mr. Duty said for the record that he submitted it to Dan Esquibel who signed the approval and it was submitted on time.

4. **Case #H-12-053. 540 E. Alameda.** Downtown & Eastside Historic District. Christopher Purvis, agent for 540 E. Alameda LLC et.al. owners, proposes to convert a non-contributing garage to a guest house. An exception is requested to place a window at less than 3' to a corner (Section 14-5.2(E)(2)(b)). (David Rasch).

Mr. Rasch gave the staff report as follows:

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



# Agenda

CITY CLERK'S OFFICE

DATE 6/20/12 TIME 9:25

PREPARED BY Christelle V...

FILED BY J. J. ...

## HISTORIC DISTRICTS REVIEW BOARD FIELD TRIP

TUESDAY, June 26., 2012 at 12:00 NOON

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

## HISTORIC DISTRICTS REVIEW BOARD HEARING

TUESDAY, June 26, 2012 at 5:30 P.M.

CITY COUNCIL CHAMBERS

### A M E N D E D

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES: June 12, 2012
- E. COMMUNICATIONS
- F. FINDINGS OF FACT & CONCLUSIONS OF LAW

Case #H-11-090	616 Garcia Street	Case #H-12-041	629 & 629 ½ Webber St.
Case #H-11-092	611 Garcia Street	Case #H-12-043	427 W. Water Street
Case #H-11-111	940A E. Palace Avenue	Case #H-12-044A	639 E. Palace Avenue
Case #H-11-142	608 Miller Street	Case #H-12-044B	639 E. Palace Avenue
Case #H-12-008	520 Johnson Lane	Case #H-12-05	1557 Upper Canyon Rd.
Case #H-12-012	524 Camino del Monte Sol	Case #H-12-046	725 Acequia Madre
Case #H-12-017A	402, 406, 410 & 414 Don Gaspar Ave. and 128 & 130 S. Capitol Street	Case #H-12-047	238 Rodriguez Street
Case #H-08-141	811 W. Alameda St. & 104 Camino del Campo	Case #H-12-025A	659 Garcia Street
		Case #H-12-095	228 E. Palace Avenue

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

1. Case #H-12-054. Paseo de Peralta @ Cross of the Martyrs. Downtown & Eastside Historic District. City of Santa Fe, Public Works Dept., agent/owner, proposes to install a sidewalk and construct a retaining wall on the north side, up to 6' in height where the maximum allowable height is 4'6". A height exception is requested (Section 14-5.2 (D)(9)). (David Rasch).
2. Case #H-11-095. 124 E. Marcy Street. Downtown & Eastside Historic District. Barbara Felix, agent for Davis Select Advisors, owners, proposes to amend a previous approval to replace 13 roof-mounted mechanical units with 6 units and construct screen walls on a non-contributing commercial building. A height exception has already been approved. (David Rasch).
3. Case #H-11-105B. 237 & 239 E. de Vargas Street. Downtown & Eastside Historic District. El Castillo Retirement Residence, agent for Duty & Germanas Architects, owners, proposes to amend a previous approval to remodel a contributing property including reassessing the primary elevations, altering a shed roof to a flat roof, revising the floor plan, replacing a door with a window on a primary elevation, and requesting an exception to widen a door on a primary elevation (Section 14-5.2(D)(5)(a)(i)). (David Rasch).

for Davis Select Advisors, owners, proposes to amend a previous approval to replace 13 roof-mounted mechanical units with 6 units and construct screen walls on a non-contributing commercial building. A height exception has already been approved. (David Rasch).

This case was postponed to July 10, 2012 under Approval of Agenda.

3. **Case #H-11-105B, 237 & 239 E. de Vargas Street.** Downtown & Eastside Historic District. El Castillo Retirement Residence, agent for Duty & Germanas Architects, owners, proposes to amend a previous approval to remodel a contributing property including reassessing the primary elevations, altering a shed roof to a flat roof, revising the floor plan, replacing a door with a window on a primary elevation, and requesting an exception to widen a door on a primary elevation (Section 14-5.2(D)(5)(a)(I)). (David Rasch).

Mr. Rasch presented the staff report for this case as follows:

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

237 and 239 East de Vargas Street are two historic structures that are separated by a common wall on one lot west of Brothers Lane. A free-standing part adobe/part wood frame garage/storage room is located at the east side of the property. The buildings are located in the Downtown & Eastside Historic District.

237 was constructed in a vernacular manner before 1912 in an "L" shaped floor plan. A pitched roof was added at an unknown date and roofing material covers over the parapet that may have brick coping.

239 was constructed in approximately 1930 on the south end of the small leg of the "L" on 237 in a vernacular manner. Character defining elements exist on the south, west, and east elevations

237 and 239 are listed as contributing and the following elevations are primary as shown on the attached floor plan, 1-9 of 15.

In the fall of 2011, the HDRB conditionally approved remodeling with additions to the building and the construction of a front yardwall with a height exception. Now, the applicant proposes to amend the previous approval to remodel the property with the following items.

1. The infilled porch on the east elevation has primary elevation number 9. The applicant has provided evidence that the porch was substantially altered in non-historic times and requests that elevation 9 be removed from the primary elevations.

If the Board accepts this evidence, then an exception is not required to alter this elevation with an addition, as proposed.

2. The principal entrance to 239, on primary elevation 6, does not meet ADA standards and will be widened. An exception is requested to widen an opening dimension on a primary elevation (Section 14-5.2(D)(5)(a)(ii)) and the exception criteria responses are at the end of this report.

3. The door to 237, on primary elevation 1, will be removed and replaced with a window. An exception is not required because the opening is not being narrowed, widened, or heightened.
4. The non-historic pitched roof on 237 will be removed and replaced with a flat roof. The parapet height will remain as on the south elevation. If brick coping is found it will be retained.
5. Alterations to the proposed new construction include more setbacks than previously approved as a result of more detailed study of interior spaces. The footprint is enlarging slightly; the Board has already granted an exception to exceed 50% of the historic footprint.

#### EXCEPTION TO WIDEN AN OPENING DIMENSION ON A PRIMARY ELEVATION

i. Do not damage the character of the district.

The widening of this door will not widen the existing adobe opening beyond its present width and will be done in general conformance with the predominant details throughout the rest of the building. The door itself is not historical. The result of this detail will not damage the character of the district, or for that matter, the historical status of the façade.

Staff response: Staff agrees with this response.

ii. Are required to prevent a hardship to the applicant or an injury to the public welfare.

This is precisely why it is necessary to provide a wider door. ADA requirements are for public access for the handicapped. Providing just such a door will prevent any hardship or such injury to the public welfare.

Staff response: Staff agrees with this response that there is no alternative ADA-compliant entry with this floor plan.

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.

The design provides code conformance which would be required by any improvements or re-use of the structure. This project actually ensures that residential use can be re-established in this historic structure.

Staff response: Staff agrees with this response.

#### **STAFF RECOMMENDATION:**

Staff recommends approval of the exception request to widen an opening in a primary elevation (Section 14-5.2(D)(5)(a)9i)). Otherwise, this application complies with Section 14-5.2(C) Regulation of Contributing Structures, (D) General Design Standards, and (E) Downtown & Eastside Historic District.

At the request of the City Attorney, Mr. Geno Zamora, this portion of the meeting minutes are transcribed verbatim.

Chair Woods: Cecilia?

Ms. Rios: David, both of these buildings are designated as contributing.

Mr. Rasch: Yes.

Ms. Rios: Are these buildings plaqued and if so, by whom?

Mr. Rasch: The Historic Santa Fé has a plaque on that structure.

Ms. Rios: On both of them or one of them?

Mr. Rasch: I believe it relates to both. There is only one plaque.

Ms. Rios: Okay. Thank you.

Chair Woods: And what has happened with the Historic Santa Fé Foundation?

Mr. Rasch: I don't know. I've heard they are looking at that status.

Ms. Walker: Thinking about removing that designation?

Mr. Rasch: Yes I think so.

Ms. Walker: Because of the changes that ...

Mr. Rasch: The actions of this Board.

Chair Woods: The actions of this Board meaning because we approved so many changes to this building and now more are being requested?

Mr. Rasch: Yes.

Chair Woods: Could the applicant come forward please and be sworn?

Ms. Mather: I have one more question.

Chair Woods: Go ahead Christine.

Ms. Mather: On number three where they would like to remove the door and replace it with a window - is that an historic door? Do they need an exception for removal of historic material?

Mr. Rasch: I think it is an historic door but we need to confirm that with the applicant.

Ms. Mather: Okay.

Ms. Rios: And one more quick question - under number one, you indicate that the porch was essentially altered in non-historic times. Do you have a date for that?

Mr. Rasch: The applicant does submit a photograph that is in your packet and I think it is from the mid 80's.

Mr. Murphey: What page?

Ms. Mather: Is it on page 20?

Mr. Rasch: Twenty - yes. It mentions 1989. In 1989 there was substantial change but the applicant is saying that it was substantial change to take away the primary elevation status of this. And that's that glassed-in porch on the east.

Chair Woods: There is an old photo shown there. Oh, it is [freelexing?] that.

Mr. Rasch: Yeah.

Chair Woods: The big difference is that windows were replaced? Or maybe that windows were replaced instead of screens?

Mr. Rasch: And the openings were narrowed a little. You notice originally that corner had maybe a three inch of wood and now it has a seven or eight inch piece of wood.

Chair Woods: Okay. Thank you. Anyone else? Michael could you come forward to be sworn in?

Mr. Boaz: Michael, please state your name and address for the record.

Mr. Duty: Michael Duty, 404 Kiva Court.

Mr. Boaz: Under penalty of perjury do you swear or affirm that the testimony you are about to give is the truth, the whole truth and nothing but the truth?

Mr. Duty: Yes, I do.

Madam Chair, members of the Board, thank you for hearing us on this. You've been very helpful on this project, as you probably remember. And so as we've proceeded to study the structure and we've proceeded to finalize schematic design and design development for the drawings on this, we've come across this list of four items that we wanted to bring to your attention. And I don't know if in order of importance.

The first thing I guess I'll talk about is the shed. The shed roof was built, as far as we know, in the eighties. It was certainly redone in 1989. The photographs that we showed you showed how the eaves had been ... had they had rebuilt the eaves of the roof and rebuilt the framing of the roof. And it's a foam roof and if so... And we talked to Mayor Valdez who had lived in the house and he confirmed that that shed roof had been added in the past because, as you well know, the roof leaked. And that was a common solution for that. Our photographs of the original building are, of course, a flat roof. And so we felt like that it was a sensible thing, since we are kind of doing a pseudo-preservation here in some respects, at least of the portion that is significant – not significant but primary façades. We felt like it would be sensible to return that portion back to the original status and go with the flat roof as it was originally built. The photographs – the best photographs we have – and David, my pages are not numbers but we have a...

Chair Woods: I guess page 15.

Mr. Rasch: It is 15.

Mr. Duty: 1989 photographs is what it says in my packet. Yeah. You can see that there was a brick coping that we assume is still under there. We don't know that because we haven't done any destructive testing but we assume the brick coping is still under there and we would like to clean it up and retain it if it's there. And you can see how they put roofing on top of

the brick coping and flashed it in with stucco and with... No, that's not it. Do you have it?

Mr. Rasch: I don't have that. It's in the packet.

Mr. Duty: Well, okay. It's this one [holding up a photograph].

Mr. Rasch: Unhuh.

Mr. Duty: So that's one thing we are requesting is to just take that shed roof off. It is actually on the back portion and wraps around a little bit on the L shape. And that was added in 1989 or just prior to 1989 because in 1989 they did a refurbishment on the house in order to sell it or put it on the market. And that's when a lot of this work was done. That request is just function of researching the history of the house.

The second item is on the enclosed porch on the east elevation. When we came before you in the beginning, that particular porch was not recommended by staff to be a primary façade. The Board added that, in my recollection, the Board added half of it to be a primary façade, if I remember correctly. David showed it on your drawing as the entire thing. Mayor Valdez indicated to me that it had rebuilt, redone; they had put in screens and windows; reframed it and added the stucco wall. So these are some of the photographs that he supplied to me back from the 1989 period. And indeed it is easy to see how there has been some modifications to that. Our motive for asking this particular item is not entirely driven by concern over historicity of porch. In the planning of the project there was a piece of program that was fundamentally important to the operation of the memory center. And that was to have a family room. And so we actually want to build a room in that location there as shown on your plans. And the proper way to do it as far as the programming and design would be to build it essentially where that porch is. So that's why we are making a request that this be declassified as a primary elevation because primarily,

of the modifications that have been made to it over time

The third issue is the front door. This has been the front door in our original presentation and still is. The front door is new, clearly. I mean the opening is not new. The opening has been there clearly for some time. But the opening has been modified it appears. The original opening was a bit wider. And so this particular door is not wide enough to meet handicap requirements. So what we would like to do, since we don't have any other really great options and because this is the primary entry, what we'd like to do is widen it. Now we know that requires; this requires an exception, I think. Right?

Mr. Rasch: Yeah.

Mr. Duty: We know that requires an exception. The only thing I would testify to in our favor there is the adobe opening is wide enough and they have framed in over time. And I don't have an exact time on this. But they clearly framed in the jambs out of new wood and the door, itself, is new. So we would like to get it wider - up to three feet wide so that we would have handicap access.

Mr. Rasch: The photograph isn't that clear. The only way you can see that - this additional fill with wood beyond the adobe opening.

Mr. Duty: We are rather open about what we will do with the door itself. It obviously needs to be replaced and it is not historic. As a matter of fact, we have different photographs of different doors in there. This door is a very recent door. I think we would replace it in kind for lack of a better reason. But in a width that would allow handicap access.

Mr. Duty: The fourth issue is the... and this is not critical but in that particular door ... in that opening - that... Let me look at my photographs. That opening has of course been there for some time. The door itself... What we want to do is preserve it as a window without widening it or

without raising its height. And, according to the photographs I have, the door in that location was not a nine-light. We have photographs from 1989 in which it is a single lite door. And I think you will see that in your packet. We have... the door that used to be there was at more historical and probably was indeed historical in 1989. It had three or four lower panels horizontal and it had an upper single light window.

Mr. Rasch: It is page 16.

Mr. Duty: Page 16. Okay. And you will see it. And this door is much more recent. But the opening does not appear to have been changed. So what we would like to do is to preserve the opening and put in a divided light window in the place... or a single light, I guess we could go back to the original. But something in that particular location. We are showing a nine light which is what we are asking for. A nine light window without increasing the height and filling in beneath. And those are the four items we are asking for.

Chair Woods: Are there any questions?

Ms. Walker: What is width of existing entry door?

Mr. Duty: I believe it is 2' 8".

Ms. Walker: And what is required for ADA?

Mr. Duty: We use three foot. Two foot ten is technically required but that is two foot ten clear with the door open. But we are asking for a 3' door and that is typical for ADA. And we can get the three foot door in the opening - the existing adobe opening with proper framing also without disturbing the opening.

Ms. Walker: And is there any chance you could use that door? It is an attractive door. And you could pick up a ... You said it was two point eight - pick up an inch or two on each side - and just widen the wooden part of the door and keep it.

Mr. Duty: Well, that's possible. We could add onto the stiles of the door if it would be structurally sound to do so. It is as such not historical then I guess the debate would be is that the best thing to do or is it better to get a new door that matches? We could go either way.

Chair Woods: Anyone else? Yes C.

Ms. Rios: I have a question of David. David, on the enclosed porch, elevation # 9, the Board designated that as historic. The applicant is wanting us to downgrade that elevation. But that was not advertised as such.

Mr. Rasch: Yeah.

Ms. Rios: So

Mr. Rasch: Typically we do need to talk about status review in ... on a caption. But I don't think it is that important to talk about designation of primary elevations because it is part of the remodel in this case.

Mr. Duty: We are not asking to change its status, I don't think. Well, maybe we are. We are asking to change it from primary to non-primary. Because the discussion at the time we came before you before was to add that little piece of the porch as primary which came a little bit as a surprise but it wasn't a problem at the time. It's come about as an issue because we'd like to build a family center in that area and so that's why we are asking for... I guess there are two questions. Number one, can it be considered non-primary since it's been modified so much? And number two, is it okay to build what we want to build in that location?

Mr. Rasch: Typically we haven't posted primary elevation designations. The only time we list a primary elevation in the caption for publication is when we are altering them. But in practice, we haven't said we are designating primaries in a caption.

Ms. Rios: Mr. Duty indicated that only a portion of that elevation or that porch area was designated

as historic and part of it wasn't?

Mr. Rasch: I'm not familiar with that and my drawing did show the entire elevation nine as primary.

Ms. Rios: Okay. And I have a question for Mr. Duty. What is the square footage this evening that you are requesting to add to the building?

Mr. Duty: Do you mean the...

Mr. Rasch: The additional from the previous case.

Mr. Duty: We can look at the drawing. Well I can read it here. The area of new construction is 4400 square feet. Is that...

Chair Woods: No. I think she is asking... That is the total of what you have added is 4,400.

Mr. Duty: Yes Ma'am.

Ms. Rios: How much are requesting this evening?

Chair Woods: How much of that 4,400 is what you are requesting tonight by adding onto that area where the porch is?

Mr. Duty: No, everything we are requesting tonight is within the 4400 square feet. 4413 square feet is the area of the new construction. That what our plan shows tonight.

Mr. Rasch: But what is the difference between the previous approval and this?

Mr. Duty: It is something in the neighborhood of 200 square feet. That's my recollection. I don't think I have it in front of me.

Chair Woods: Christine?

Ms. Mather: Yes, I have a question for David. We are not tonight moving on an approval of the addition. We would just be deciding whether this elevation nine is primary or not. We don't have any drawings of this.

Mr. Rasch: You do have drawings.

Ms. Mather: We have elevations?

Mr. Rasch: Yes we do. If elevation 9 is primary, we are going to need an exception and it will also need to be postponed. If you do agree that it is not primary, then the addition can be part of your action.

Ms. Mather: Okay. I didn't get that part.

Chair Woods: Anyone else? Is there anyone from the public who wishes to speak concerning this project?

[There were no speakers from the public regarding this case.]

Chair Woods: Mr. Duty, I have several concerns. I believe this Board has really worked with you to make this building a reality. I think.... I am concerned we are threatening its status by all the changes and how we are engulfing this building in additions and rumor has it the Santa Fé Historic Foundation is going to de-plaque it because of what we have approved. So the ordinance is very clear that we cannot lose the status of a building. And I feel you keep coming back and you want more and you want more. And if you had brought it all to us in the beginning, I doubt you would have gotten it. So I am concerned. I am very concerned. I think you have worked hard and you've tried to respond to your clients' needs. But I think we are starting to lose it.

When you talk about restoring the historical roof, are you restoring it to the same height?

Mr. Duty: Same roof; same height.

Chair Woods: Same height.

Mr. Duty: The vigas are still there.

Chair Woods: Okay. Well that's good. I think that is a good thing. As far as this porch - I think whether we declassified it or not.... not to classify. If we change the primary elevation I still think it is a

mass and even if it wasn't a primary elevation, you would be significantly changing a mass on that part of the building. So I really don't care whether we change the primary elevation or not. I don't think we can keep adding mass and engulfing this historic structure. I don't think it was changed significantly enough that it can just be taken down and something much larger built there. This is my opinion. Let's see...

Mr. Duty: David, do you have the drawings from the last approval? Because I think we had a structure in front of them at the last approval. You are correct that we have increased it. That's the reason that I remembered.

Chair Woods: Yes, that. But now go to where you want to go.

Mr. Duty: Well, yeah. But...

Chair Woods: No. It was on the last one you did.

Ms. Walker: It was on the screen a second ago.

Mr. Duty: Yes. Go back.

Chair Woods: Okay. That's where it was. Keep going. Go back. Now look at it.

Mr. Duty: I agree with you.

Chair Woods: Point out where that little porch was. Okay.

Mr. Rasch: The width of the porch that faces the street is that. And then it goes back to...

Chair Woods: Right. And now go to what is being requested.

Mr. Rasch: And then it more than doubles the width and there is another step back to that point.

Chair Woods: And what I think we all tried to work with Michael was keeping these additions as far away from the historic massing and in the back. And when you look at that - can you go again to what is the last approval? In this - I think that is significant. And I understand the need people have but now I think we are really beginning to threaten the status of this building.

Mr. Duty: David, could you go back or go forward - I don't know, backward or forward? There was another one there that... keep going. The other way. Keep going. You were there. Slow down. There. This is an interim suggestion where we had - if you will notice the family conference room preserves a little corner of that porch. And that was something that was also considered. The reason... and that will work. The reason we went ahead and asked... it seemed like if we were asking for the removal of a primary façade, or at least classification of a primary façade then it would be the whole façade. This wall will work for us if it seems of interest to keep some indication of where the porch had been although it's been altered. By the way, I am not aware of any plaquing or any action by SHPO. You surprised me on that.

Chair Woods: Historic Santa Fé Foundation - not SHPO.

Mr. Rasch: It is on the building as a historic building.

Mr. Duty: And you have information that they are considering changing that?

Mr. Rasch: I've been told they are considering it.

Mr. Duty: Well I'm not aware of any of this. At any rate I guess I don't have anything to add to that.

Chair Woods: So I'm confused. Is this another proposal or is this wasn't something that...

Mr. Duty: This is an identical proposal with the exception of the family conference room shape.

Chair Woods: We have not approved this.

Mr. Duty: No, you have not approved it.

Chair Woods: Anyone else?

Mr. Acton: Well, I'm actually curious. You have a function in here called a quiet room at the end of that other wing. Programmatically, could that become... double up as a family conference room?

Mr. Duty: Programmatically, it cannot. The Family Conference Room, if you'll notice, is behind doors. The Family Conference Room is a space where people can visit with their family member without intrusion or involvement with ... without intruding on or being intruded upon by the activities in the rest of the center. And there is a place for residents there to gather as they will. It is not a functional space in the sense of like the family conference room is.

Chair Woods: How big was the original building before you did this? How many square feet?

Mr. Duty: The original building - we are listing the area on new renovation as almost 2700 square feet and that is a little smaller than the original building but that is approximately what the original building was - 2,700 square feet.

Chair Woods: So the original building was 2,700 square feet and you are adding an additional 4400.

Mr. Duty: Yes. In this proposal that is correct, Madam Chair.

Chair Woods: Okay. Or it was 4,200. So that's...

Mr. Duty: How much is too much?

Chair Woods: Well, I think... Because the rule says 50% more which would be a thousand square feet.

Mr. Duty: Oh, I understand that.

Chair Woods: So I think the Board is really stretched to say all right. We see what you are trying to do. We have to try to maintain this building and now you are asking for more. That is the question. Because we are... it is changing. You know, how that building turns the corner with this little mass on the end. I don't care if they change the windows or not. That is a mass and now the mass reads much differently.

Chair Woods: Anyone else?

Ms. Mather: I just wanted to say I agree that all of sudden, that whole façade then gets bumped out and hooks up with the new addition instead of the new addition being pushed back from it. So it

changes the entire feel of that entire side although most of this is pretty much hidden because of the large wall. I'm sure that was probably part of concerns of the Historic Santa Fé Foundation was the visual impact of the large wall. Anyway.

Chair Woods: Yes?

Mr. Acton: Yeah, I'm looking at the previously approved floor plan and the proposed floor plan. And I'm seeing how resident room 11 does, in fact, project further south from the existing corner of the building and would get into, as it is shown on the proposed floor plan, the portal structure. So there is a bit of mission creep that we are dealing with here. And the support for the project really was based upon your respect for the existing primary façades. You do see that façade as you are walking up and down east de Vargas. And given that you are looking across the new parking lot at it, I'm of the belief that it remains very important to this building.

Chair Woods: Do we have a motion?

Ms. Mather: Yeah. I'll go ahead. Regarding Case H 11-105B I move to approve the exception request to widen an opening in a primary elevation in order to have an ADA compliant doorway and I moved to replace in kind that door that is being removed and to remove the door to 237 which is also a primary elevation - to remove it and replace it with a 9 lite window. As part of the approval I would deny the request to change the primary elevation #9 from primary to non-primary and therefore it would require that an exception come before this Board in order to give any approval for enclosing or removing or doing whatever to this small porch. And I cite on page 4 the exception criteria have been met on the two items on primary elevation #1 and the principal entrance at 239.

Mr. Rios: The roof?

Ms. Mather: Oh. Yes. I move to approve the return of the roof to a flat roof with the condition that if any brick is found that the parapet detail be retained.

Mr. Acton: I have a...

Chair Woods: No. We need a second before we discuss. Is there a second?

Mr. Acton: Yes.

Chair Woods: Okay. Thank you. Now we can have discussion. Rad?

Mr. Acton: Okay, Madam Chair. In the photograph it looks like the brick coping, if there is any up there on top of that parapet, is going to be seriously deteriorated so there may be a threshold where it can't be preserved. So the way the motion is phrased, if there is just any brick, it has to be preserved. There is going to have to be some kind of call there so how much is enough to warrant preserving - the coping. So we might need to rephrase that.

Ms. Mather: Okay. If you discover in your investigations that there is brick coping you will either need to replace in kind or preserve what is currently there.

Chair Woods: Is there any other discussion? Yes Cecilia.

Ms. Rios: That the height of roof will remain at the existing.

Ms. Mather: Thank you.

Chair Woods: David, did you have a question?

Mr. Rasch: I suggest that the staff meet with the applicant to decide which bricks should be replaced in kind.

Ms. Mather: And work with staff on the retention of the brick.

Ms. Rios: Do we need to mention anything about the existing brick pattern as well. I would indicate that the...

Ms. Mather: I thought that meant in-kind - replacement in-kind.

Mr. Acton: The idea of trying to preserve the brick coping I think is going to create more problems. I just want everyone to be aware. If you look at the photograph, that brick coping was very close to the top of that roof.

Ms. Mather: Yes.

Mr. Acton: If they do any mechanical work on that roof it's going to need to be boxed in. If they have any insulation on that roof, that brick coping is going to plane out with the top of the exterior of the roof. That brick coping is so low; I'm concerned that you're inheriting a number of problems down the road. So, it's crept into the discussion but if you look at the photograph Mike, I think you might want to evaluate that and it might necessitate coming back before the board if you discover and you find that it just can't work for those reasons I mentioned to go with a stucco parapet.

Chair Woods: But that is not what the motion is.

Mr. Acton: I guess I'm suggesting a friendly amendment, I think.

Ms. Mather: I don't see that as an amendment. If there is a problem - If they discover brick coping and they can't replace it in-kind or repair it then they'll need to come back to the Board.

Chair Woods: C, do you have something?

Ms. Rios: I'd like another friendly amendment - no publicly visible rooftop appurtenances will be placed on this building.

Ms. Mather: Thank you.

Chair Woods: Anyone else? All in favor?

All members: Aye.

Chair Woods: Opposed? [none]

Mr. Duty: Well....

Chair Woods: We can't discuss in a motion. The motion has been made. Do you have a question?

Mr. Duty: Yes.

Chair Woods: Okay.

Mr. Duty: A clarification. We may need to look at the minutes to refresh my memory. If I remember correctly, the primary façade of the porch was one half of it. Right? Not the entire porch. I think your drawing is in error. Not that it matters a lot. But it is just a clarification. And we will then proceed with our project and preserve the porch, as I understand it. And the brick concern, I can't testify to what we will find until I find it. I'm not uncomfortable with coming back to the Board, but whatever it is - whatever works, I will point out this. It is quite high. The existing ceiling in there is about 8' 6" off the floor. The parapet you are looking at is a good 12' roughly. So even with preservation, it will be.... We'll have some height there. We do not plan on putting any mechanical equipment on that roof. It'll be on the new roof in the back.

Ms. Mather: Right. And the motion was then to either replace it in kind if it is too damaged to repair.

Mr. Duty: I understand. I just wanted to make it clear that the height issue is probably not going to be a problem.

Chair Woods: Michael, thank you very much.

Mr. Duty: Thank you.

This is the end of the verbatim transcription.

4. **Case #H-12-042A, 566 Camino del Monte Sol.** Downtown & Eastside Historic District. Architectural Alliance, Inc., agent for Lane Seliger, owner, proposes an historic status review for this non-statused building. (David Rasch).

Mr. Rasch presented the staff report for this case as follows:

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

566 Camino del Monte Sol, known as the Willard Nash House, is a single-family residence that was constructed by 1928 in the Spanish-Pueblo Revival style. The residence is listed as significant to the Downtown & Eastside Historic District. A free-standing studio was constructed at an unknown historic date to the west of the residence. The studio has no historic status designation.

The studio retains a north-facing large window (i.e. studio window) which may be the only elevation without alterations. Post 1962 changes include the removal of a porch or entry on the west, a large



# Agenda

DATE 11/2/11 TIME 2:05 PM

SERVED BY [Signature]

RECEIVED BY [Signature]

**\* AMENDED\***

## HISTORIC DESIGN REVIEW BOARD FIELD TRIP

**TUESDAY, NOVEMBER 8, 2011– 12:00 NOON ON-SITE**

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

## HISTORIC DESIGN REVIEW BOARD MEETING

**TUESDAY, NOVEMBER 8, 2011– 5:30 P.M.**

### CITY COUNCIL CHAMBERS

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES: October 11, 2011
- E. FINDING OF FACTS & CONCLUSIONS OF LAW

Case #H-10-012	Santa Fe River Parkway	Case #H-11-100	102 Montoya Circle
Case #H-11-104	1170 Camino San Acacio	Case #H-11-106	514 Johnson Lane
Case #H-11-105A237 & 239 E. DeVargas Street		Case #H-10-117	62 Lincoln Avenue
Case #H-11-014	208A Gonzales Road	Case #H-11-107	312 Lomita Street
Case #H-11-094A	1228 Cerro Gordo Road	Case #H-11-108	100 N. St. Francis Drive
Case #H-11-111A	940 E. Palace Avenue	Case #H-11-110	441 Cerrillos Road
Case #H-11-112A	215 E. Palace Avenue		

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

1. Case #H-10-033. 801 Griffin Street. St. Catherine's Industrial Indian School (outside of historic districts). John Polk, agent for NM Consolidated Constructions Services LLC, proposes to relocate three landmarks: Building #9 Montoya House; Building #10 Chavez House; and Building #11 Abeyta House.
2. Case #H-09-050. 949 Santander Lane. Downtown & Eastside Historic District. Will McDonald, agent for Carrie and Eric Rowland, proposes to amend a previous approval to remodel a non-contributing residence by removing a coyote fence, altering yardwalls and steps, and installing security light fixtures.

3. Case #H-11-037. 311 Berger Street. Don Gaspar Area Historic District. Richard Martinez, agent for John and Emily Edwards, proposes to amend a previous approval to construct a 1,772 square foot residence by adding a 829 square foot addition to a height of 13'6" where the maximum allowable height is 14'10".
4. Case #H-11-113. 105 Rim Road. Downtown & Eastside Historic District. Robert Frank, agent for Davin Quinn and Carolyn Stoklosa, proposes to remodel a non-contributing residence by converting a garage door to sliding glass doors, constructing a yardwall and gate, and constructing a 576 square foot garage to a height of 13'3".
5. Case#H-11-109. 509 Plaza Balentine. Downtown & Eastside Historic District. John Caverly, agent for Grace Hopwood, proposes to construct a free-standing 283 sq. ft. studio to 11' high where the maximum allowable height is 13'-11" on a contributing property.
6. Case#H-11-105B. 237 & 239 E. De Vargas Street. Downtown & Eastside Historic District. Duty & Germanas Architects, agent for El Castillo Retirement Residences, propose to construct a 7' high yard wall where the maximum allowable height is 5'-6", a 432 square foot free-standing shade structure, and make other exterior alterations on a contributing property. A height exception is requested (Section 14-5.2 (D)(9)).
7. Case#H-11-115A. 9 and 9½ Montoya Circle. Downtown & Eastside Historic District. Peter Wirth, agent for the estate of Leandro Montoya, Jr., requests an historic status review for a contributing and a noncontributing residence.
8. Case#H-11-116A. 1331 Cerro Gordo Road. Downtown & Eastside Historic District. David Lovro, agent for Eva Schwartz, requests an historic status review of this contributing residence.
9. Case#H-11-116B. 1331 Cerro Gordo Road. Downtown & Eastside Historic District. David Lovro, agent for Eva Schwartz, proposes to construct an entry portal, a yard wall with a 9'high outdoor cabinet, and install a rusted steel vehicular gate.
10. Case#H-11-117. 621 Old Santa Fe Trail. Downtown & Eastside Historic District. Wayne Lloyd, agent for David Lamb, requests an historic status review of this contributing property with designation of primary elevations.
11. Case#H-11-118A. 409 Hillside. Downtown & Eastside Historic District. Cindy Urban, agent for Glenn and Patricia Polenz, requests an historic status review of this non-stated casita.
12. Case#H-11-118B. 409 Hillside. Downtown & Eastside Historic District. Cindy Urban, agent for Glenn and Patricia Polenz, proposes to remodel the casita with a 250 square foot addition to a height of 14' where the maximum allowable height is 14' 11".
13. Case#H-11-119. 411 San Antonio Street. Downtown & Eastside Historic District. Scott Wong, agent for Lewis Kaufman and Anna Davis, proposes to remodel a non-contributing residence by constructing approximately 558 square feet of additions with an increase in height from 13'6" to 14'6" where the maximum allowable height is 16'3" and to construct 4' high yardwalls and gates.
14. Case#H-11-120. 804 Apodaca Hill. Downtown & Eastside Historic District. JenkinsGavin Design and Development, agents for Andrew and Amanda Armishaw, propose to remodel a non-contributing residential property with a spiral staircase accessing a 420 square foot roof deck on the residence and enclosing a 200 square foot portal and constructing a 46 square foot portal on the casita.
15. Case#H-11-121. 840 Don Cubero Avenue. Don Gaspar Area Historic District. Jan Wisniewski, agent and owner, proposes to remodel a non-contributing garage and carport by replacing the vehicle door, enclosing the carport, and increasing the height from approximately 8' to 10' where the maximum allowable height is 16'4".

Present and sworn was Mr. John Caverty who said the existing residence was tiny. The owner needed a place to work. It was a simple design and the setback met the requirement.

There were no speakers from the public regarding this case.

Ms. Rios asked if he would use true divided lites. Mr. Caverty agreed.

Ms. Rios asked if there would be any rooftop appurtenances.

Mr. Caverty said the only thing would be a solar tube that would not be visible.

**Ms. Rios moved to approve Case #H 11-109 per staff recommendations. Ms. Mather seconded the motion and it passed by unanimous voice vote.**

6. **Case #H-11-105B.** 237 - 239 E. De Vargas Street. Downtown & Eastside Historic District. Duty & Germanas Architects, agent for El Castillo Retirement Residences, propose to construct a 7' high yard wall where the maximum allowable height is 5' 6", a 432 square foot free-standing shade structure and make other exterior alterations on a contributing property. A height exception is requested (Section 14-5.2 (D)(9)).

Mr. Rasch presented the staff report for this case as follows:

**BACKGROUND & SUMMARY:**

237 & 239 East de Vargas Street is a contributing structure in the Downtown & Eastside Historic District with the primary elevations designated as 1-9.

The owner proposes to remodel the property with the following four items.

1. The concrete covering over the historic well will be removed and replaced with a concrete seal at grade with a commemorative plaque.
2. A 432 square foot free-standing shade structure will be constructed in the front courtyard over the area of the historic well. The structure will be 10 feet or less in height where the maximum allowable height is 13' 11" and a roof pitch is not allowed.
3. The white picket fence will be removed and a wooden gate will be installed in the west opening of the front porch. The gate is designed with a rosette in the arch area.
4. Yardwalls will be constructed to 7' high along the front of the property where the maximum allowable height is 5' 6". The wall will feature a 2' high planter in front of the wall, two windows with grilles and shutters, and steps and jogs in the wall break up the massing and to conform to the Wall and Fence Guidelines. A height exception is required (Section 14-5.2(D)9)) and the required criteria responses

are at the end of this report.

## EXCEPTION TO EXCEED THE MAXIMUM ALLOWABLE WALL HEIGHT

### **i. Do not damage the character of the streetscape.**

The proposed wall construction is in keeping with other solid walls along the street. The only reason the calculated height allowed is lower than what we propose is that a 2-3' wood picket fence has to be included in the height calculations. The other solid walls are in keeping with what we propose.

Staff response: Staff is not in agreement with this statement. Only three of the 32 measurements are above 7' high and only two other measurements are at or above 80" high.

### **ii. Prevent a hardship to the applicant or an injury to the public welfare.**

The wall height requested is precisely to prevent the clientele from escaping or injuring themselves. Without a wall of sufficient height, the courtyard would be unusable to the memory center and in that regard would impose a serious hardship by not allowing the construction of the project.

Staff response: Staff is in agreement with this statement, although staff is unaware of the necessary height required to avoid climbing over the wall.

### **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:**

The provision of the proposed wall is what allows this property to be used for the residents of the memory center. The character of the City is improved by allowing this design option and by allowing the improvement of the long standing mission of the El Castillo Retirement Center.

Staff response: Staff is in agreement with this statement.

### **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:**

The adaptive reuse of this property as a memory center is a very unique use, with unique requirements such as this wall height. The adaptive reuse of the building requires that the courtyard area be preserved, thereby dictating that the courtyard is the only space suitable for the outdoor function required, and therefore the necessity of the wall height.

Staff response: Staff is in agreement with this statement.

### **v. Are due to special conditions and circumstances which are not a result of the actions of the applicant.**

The special conditions and circumstances in this case are a necessary part of achieving the adaptive reuse of this property. The owner has done nothing to cause this condition; it is simply a result of the needs of the residents of the center.

Staff response: Staff is in agreement with this statement.

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

This wall exception will allow the adaptive reuse of this property in a manner which is positive to the surrounding historic area, and the wall proposed is in character with other solid walls along the streetscape. It can be argued that this proposal is not merely the "least negative", but in fact quite positive relative to the impact to streetscape by

providing walls which are common along the street and by allowing the continuous, improved use of the courtyard.

Staff response: Staff is in agreement with this statement, with the addition of the windows to allow viewing of the courtyard.

**STAFF RECOMMENDATION:**

Staff defers to the Board whether the height exception request has been met which appears to be lacking in the first responses. Otherwise, this application complies with Section 14-5.2(D) General Design Standards and (E) Downtown & Eastside Historic District.

Ms. Rios asked Mr. Rasch why he thought the first response was lacking.

Mr. Rasch said the applicant said it was in keeping with the streetscape but utilized a calculation without the picket fence included. But the height calculation didn't exclude the picket fence.

Ms. Walker said if there were 32 measurements and only five were above 7' it seemed it would harm the streetscape.

Mr. Rasch agreed. The height calculation was an average.

Dr. Kantner asked then if it was his opinion that it would damage the streetscape despite that.

Mr. Rasch agreed there were other high walls so that character did exist. It was up to the Board to determine if it blocked the front façade too much.

Present and sworn was Mr. Mike Duty, 404 Kiva Court, who said the Board's guidance had been valuable. They were able to break up the wall more and introduced a planter in front. Mr. Rasch gave a true statement. The picket fence was non-historic and if removed wouldn't enter in to the calculation and if removed the wall would be within the average. In terms of linear footage there was a lot that were high but no matter how long they were they were just one wall. The El Castillo wall was higher and quite long as was the Boyle House. He believed the wall height was very much in keeping with the neighborhood and streetscape and lower than many of them. Their need for it was security and privacy.

He showed a color version of the drawing with the Board.

There were no speakers from the public regarding this case.

Ms. Walker noted that the openings in the wall showed shutters to the sides. She asked what the dimension of the openings were and if they planned to close those shutters.

Mr. Duty gave the size and said the shutters wouldn't be closed.

Mr. Acton thought the plan was well done. His concern was with the trees in the courtyard. He asked if they would have to remove one for the trellis. He also thought there was another tree on the west side that

wasn't there any more in the plan.

Mr. Duty said the three were the major trees and all were being preserved.

Mr. Acton thought if the pergola was turned 90 degrees, it might fit between the row of trees and would be wonderful shade there.

Mr. Duty pointed out that there were two trunks on one of the trees. He didn't know that there was a problem with turning the shade structure but they felt an E-W access would be better for shade.

Chair Woods thanked him and appreciated his cooperation. She didn't have a problem with the wall but did with the shade structure. She didn't understand why they needed it with the shade of the trees there. She suggested not having it.

Mr. Duty said it was their intent from the beginning to have it. The trees were deciduous but they would be out there a lot in the winter.

Chair Woods agreed and figured they would want to sit in the sun.

Mr. Duty explained that the shade structure defined a central orientation for the people. There was paving all around the shade structure and it would give a sense of place where they would walk. He didn't think it infringed on any historic part so he was reluctant to give up on it.

Chair Woods commented that there were two beautiful fruit trees in the back that would have to be destroyed. She wondered if he might make them available to a landscaper.

Mr. Duty was glad to pledge that.

Ms. Rios asked if he was willing to do away with the shade structure.

Mr. Duty said he was not because it was important for the program.

Ms. Rios said they were trying to see some of the historic building. The shade structure seemed long and imposing to her.

Mr. Duty said it could be shorter or longer. He thought it was 10x16. The entire courtyard was in a state of disrepair and resurfacing would have to be done. Originally it was closer to the wall but putting it over the wall seemed to be better. It was ten feet from the historic building. He felt strongly about having it and it anchored the entire courtyard. It was cognitive for the people to relate to.

Ms. Rios asked if it was ten feet high.

Mr. Duty said it was a little less.

Ms. Rios asked about the depth of the planters.

Mr. Duty said it was 10-12 feet from the street to the higher wall and there were two planters.

Mr. Acton thought an 8' shade structure would work better.

Mr. Duty said they could do it with 9'4". It could be lowered and still be successful but he would not want the beam lower than 7'6". It would provide more shading.

Mr. Acton added that it would also conflict less with the trees and turning it to N-S would allow more view of the historic structure.

Mr. Duty said that was an acceptable solution and it might fit into the trees easier.

Ms. Walker agreed that turning it would be better.

**Mr. Acton moved to approve Case #H 11-105B with conditions that the trellis be reduced to a maximum overall height of 9' and rotated to a N-S orientation to fit with existing trees. Ms. Walker seconded the motion with the addition that the exceptions have been met. The motion passed by unanimous voice vote.**

7. **Case #H-11-115A.** 9 and 9½ Montoya Circle. Downtown & Eastside Historic District. Peter Wirth, agent for the estate of Leandro Montoya, Jr., requests an historic status review for a contributing and a non-contributing residence.

Mr. Murphey presented the staff report for this case as follows:

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

#9 Montoya Circle is a modest L-plan, one-story, flat-roofed, stucco-clad residence built post-1945. Situated behind this building is another dwelling, #9 ½ Montoya Circle. The second dwelling is a multi-era, modified L-plan building composed of a mixture of historic and non-historic materials and additions.

The applicant, based on perceived changes to the exterior of #9 Montoya Circle, proposes downgrading it from contributing to non-contributing status. The applicant equally seeks to reaffirm the non-contributing status of #9 ½.

1) #9 Montoya Circle is a simple, vernacular dwelling, at one time similar and harmonious with much of the housing stock in the immediate area. The core of the original house is a rectangular building made of stucco-faced CMU; a flat roof extending beyond the eaves, shelters the dwelling. The house displays a mixture of windows, including aluminum sliding units and a double, four-light casement. Given its relatively recent date of construction, it is unclear which windows are original.

Using various New Mexico Department of Transportation aerials, the applicant attempted to trace the building's evolution, interpreting that a car-sized structure originally sat on the site of the current dwelling in 1958. By 1966, an approximately 300 square-foot rectangular structure stood on the site. Using a 1969



# Agenda

DATE 10/3/11 TIME 4:20pm

SERVED BY *Carmelle Vigil*

RECEIVED BY *[Signature]*

**"NEW LOCATION"**

**HISTORIC DESIGN REVIEW BOARD FIELD TRIP**

**TUESDAY, October 11, 2011 – 12:00 NOON**

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

**HISTORIC DESIGN REVIEW BOARD HEARING**

**TUESDAY, October 11, 2011 – 5:30 PM**

**SANTA FE COMMUNITY CONVENTION CENTER  
201 WEST MARCY STREET  
LAMY ROOM (1<sup>ST</sup> FLOOR)**

**A M E N D E D**

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES: September 27, 2011
- E. FINDING OF FACTS & CONCLUSIONS OF LAW

Case #H-10-085 100 Sandoval Street  
 Case #H-11-100 102 Montoya Circle  
 Case #H-11-104 1170 San Acacio

Case #H-11-105A 237 & 239 E. De Vargas St.  
 Case #H-11-106 214 Johnson Lane

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

1. Case #H-10-012. Santa Fe River Parkway. Downtown & Eastside Historic District. Kenneth Francis, agent for City of Santa Fe, owner, proposes to redesign the Skate Park including pathways, furniture, and lighting. (David Rasch).
2. Case #H-10-117. 62 Lincoln Avenue. Downtown & Eastside Historic District. Lloyd & Associate Architects, agent for Jennifer Lind, owner, proposes to amend a previous approval for finish colors on a contributing commercial building. (David Rasch).
3. Case #H-11-014. 208A Gonzales Road. Downtown & Eastside Historic District. Christopher Purvis, agent for Mark and Nurit Walsky, owners, proposes to amend a previous approval to remodel a non-contributing residential property. (David Rasch).
4. Case #H-11-105B. 237 & 239 E. De Vargas Street. Downtown & Eastside Historic District. Duty & Germanas Architects, agent for El Castillo Retirement Residences, owner, proposes to demolish a free-standing garage and to construct additions on a contributing structure with two exceptions to exceed the maximum allowable height for a yardwall (Section 14-5.2 (D)(9)) and to exceed the 50% footprint rule and with an addition at less than 10' back from a primary elevation (Section 14-5.2 (D)(2)(d)). (David Rasch).

5. Case #H-11-094A. 1228 Cerro Gordo. Downtown & Eastside Historic District. Margaret Denney & Ken Payson, agents/owners, requests an historic status review of a contributing residential building. (David Rasch).
6. Case #H-11-107. 312 Lomita. Don Gaspar Area Historic District. Caryn Spain, agent/owner, proposes to construct a storage addition on an existing yardwall on a non-contributing residential property. (David Rasch).
7. Case #H-11-108. 100 N. St. Francis Drive. Westside-Guadalupe Historic District. Pat Joseph, agent for Tom McCollan, owner, proposes to remodel a non-contributing commercial building. (David Rasch).
8. Case #H-11-109. 509 Plaza Balentine. Downtown & Eastside Historic District. John Caverly, agent for Grace Hopwood, owner, proposes to construct a free-standing 276 sq. ft. studio to 11' high where the maximum allowable height is 13'11" on a contributing residential property. (David Rasch).
9. Case #H-11-110. 441 Cerrillos Road. Downtown & Eastside Historic District. Anthony & Dianne Medina agents/owners, proposes to remodel a non-contributing commercial building. (David Rasch).
10. Case #H-11-111A. 940 E. Palace. Downtown & Eastside Historic District. Kenneth Francis, agent for Nancy Mammel owner, requests an historic status review of a contributing residential/commercial building. (David Rasch).
11. Case #H-11-112A. 215 E. Palace Avenue. Downtown & Eastside Historic District. Gayla Bechtol, agent for Barry Ellsworth, owner, requests an historic status review of a non-contributing commercial building. (David Rasch).

**K. MATTERS FROM THE BOARD**

**L. ADJOURNMENT**

For more information regarding cases on this agenda, please call the Historic Preservation Division at 955-6605. Persons with disabilities in need of accommodations or an interpreter for the hearing impaired, contact the City Clerk's office at 955-6520, five (5) working days prior to hearing date. If you wish to attend the October 11, 2011 Historic Design Review Board Field Trip, please notify the Historic Preservation Division by 9:00 on Tuesday, October 11, 2011.

Mr. Acton asked if the top of the roof wouldn't be visible - just the flashing. He asked what color that would be.

Mr. Purvis said it would be stained to match the wood - a brown stain.

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

**Mr. Katz moved to approve Case #H-11-014 per staff recommendations. Ms. Mather seconded the motion and it passed by unanimous voice vote.**

4. **Case #H-11-105B.** 237 & 239 E. De Vargas Street. Downtown & Eastside Historic District. Duty & Germanas Architects, agent for El Castillo Retirement Residences, owner, propose to demolish a free-standing garage and to construct additions on a contributing structure with two exceptions to exceed the maximum allowable height for a yardwall (Section 14-5.2 (D)(9)) and to exceed the 50% footprint rule and with an addition at less than 10' back from a primary elevation (Section 14-5.2 (D)(2)(d)). (David Rasch)

Mr. Rasch presented the staff report for this case as follows:

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

237 & 239 East de Vargas Street was a contributing structure in the Downtown & Eastside Historic District with the primary elevations designated as 1-9.

The owner proposes to remodel the property with the following four items.

1. The free-standing garage will be demolished for required parking. Historic Preservation staff finds that the building has lost historic integrity and the City building official finds that the building has no foundation, although it was stable, and there were several code violations. Demolition standards have been met according to Section 14-3.14(C) and (G) for code citations see below.
2. An eleven-room addition will be constructed on the rear and sides of 237 with the addition not set back more than 10' from primary elevation #1. The addition will match or be lower than existing adjacent height and finishes will match existing character. Two exceptions are requested to add more than 50% of the historic footprint (Section 1-5.2(D)(2)(c)) and to construct an addition at less than 10' back from a primary elevation (Section 14-5.2(D)(2)(d)) and the required criteria responses are at the end of this report.
3. A 258 square foot free-standing ramada will be constructed in the front courtyard. No elevations were submitted for the design and the height, where the maximum allowable height was 13' 11" and a roof pitch was not allowed.

4. Yardwalls will be constructed to 7' high along the front of the property where the maximum allowable height was 5' 6". The wall will feature three windows with grilles and shutters and steps and jogs to conform to the Wall and Fence Guidelines. A height exception was required (Section 14-5.2(D)(9)) and the required criteria responses are at the end of this report.

If the Memory Center was deemed to be a residential use by zoning standards, then the maximum allowable zoning height was 6' and a Board of Adjustment variance was required to exceed 6'. If the Center was deemed to be a commercial use, then the maximum allowable zoning height was 8' and an underlying zoning variance was not required. An exception was requested to exceed the maximum allowable height (Section 14-5.2(D)(9)) and the required exception criteria are at the end of this report.

#### **14-3.14 DEMOLITION OF HISTORIC OR LANDMARK STRUCTURE**

##### **(C) Staff Review and Report**

Before granting approval or denial to a demolition request, City staff shall provide the following information on the structure under consideration.

- (1) A report on the historic or architectural significance of the structure;
- (2) A report from the City Building Inspector on the state of repair and structural stability of the structure;
- (3) If the structure was more than 75 years old, and the entire project of which demolition was a part requires an archaeological clearance permit, a report from City staff for the Archaeological Review Committee on whether the demolition would damage possible archaeological artifacts; and
- (4) Other information as requested by the Board or Governing Body.

##### **(G) Standards**

- (1) In determining whether a request for demolition in an historic district should be approved or denied, the Board shall consider the following:
  - (a) Whether the structure was of historical importance;
  - (b) Whether the structure for which demolition was requested was an essential part of a unique street section or block front and whether this street section or block front will be reestablished by a proposed structure; and
  - (c) The state of repair and structural stability of the structure under consideration.

EXCEPTION  
TO EXCEED THE 50% FOOTPRINT RULE AND  
TO CONSTRUCT AN ADDITION AT LESS THAN 10' FROM A PRIMARY ELEVATION

##### ***i. Do not damage the character of the streetscape;***

The proposed reconstruction will not damage the character of the streetscape. It will, in fact, improve the streetscape by adding more building mass to what has become a reduced amount of building frontage. A new garden wall will

replace an open accessible parking space.

Staff response: Staff was in agreement with this statement as an infill for adaptive reuse.

***ii. Prevent a hardship to the applicant or an injury to the public welfare;***

The hardship to the applicant in not granting the exception was a reduction in El Castillo's ability to serve its constituents with a full range of required services. The memory center was needed to complete a full range of services to the residents of El Castillo. It will serve persons with impaired memory and cognitive functions. Currently El Castillo lacks proper facilities to provide memory services. El Castillo has studied two adjacent properties for this expansion. Both properties are occupied and unsuitable for this expansion. This property was the only property abutting El Castillo which offers the possibility of renovation and addition into a memory center. Without this new facility, El Castillo will not be able to offer the residents the services they require.

Staff response: Staff was in agreement with this statement.

***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;***

The new units will be replacing a commercial use with a unique but sorely needed housing type and thereby the overall amount of residential use in this Historic District. It should be noted that El Castillo was the largest residential center in downtown Santa Fé and the impact of its presence on the city was significant both on the economy and on the lifestyle of Santa Fé.

Staff response: Staff was in agreement with this statement.

***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;***

This site was the only site abutting El Castillo with suitable buildable area for the memory center without wholesale removal of existing structures. A renovation and addition as proposed was the only way to make this unique lot serve as the new memory center and not require extensive demolition. The majority of the open space on the lot was behind and to the west of the existing main contributing building. This allows much of the new construction to be located to the rear, but some portion of the new residential rooms will have to be located in front of a portion of the existing building.

Staff response: Staff was in agreement with this statement.

***v. Are due to special conditions and circumstances which are not a result of the actions of the applicant;***

The existing condition of the property was the result of all former owners and to a large degree of the 1960s era Urban Renewal which decimated the south side of this historic street. The applicant has played no role in the condition of this property and the exceptions required are strictly a result of the application of the ordinances on this property. In fact the actions of the applicant by submitting this design are extremely sensitive to the intent of the historical ordinances.

Staff response: Staff was in agreement with this statement.

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

This addition and remodel will help with the continued existence and preservation of these historical buildings and will

be built in general harmony as to style, form, color, height, proportion, texture and material between of the surround historic buildings. This design provides the least negative impact for this expansion by the careful placing of the new masses and how connections are made to the existing building.

Staff response: Staff was in agreement with this statement.

## EXCEPTION TO EXCEED THE MAXIMUM ALLOWABLE WALL HEIGHT

### **i. Do not damage the character of the streetscape.**

The proposed wall construction was in keeping with other solid walls along the street. The only reason the calculated height allowed was lower than what we propose was that a 2-3' wood picket fence has to be included in the height calculations. The other solid walls are in keeping with what we propose.

Staff response: Staff was not in agreement with this statement. Only three of the 32 measurements are above 7' high and only two other measurements are at or above 80" high.

### **ii. Prevent a hardship to the applicant or an injury to the public welfare.**

The wall height requested was precisely to prevent the clientele from escaping or injuring themselves. Without a wall of sufficient height, the courtyard would be unusable to the memory center and in that regard would impose a serious hardship by not allowing the construction of the project.

Staff response: Staff was in agreement with this statement, although staff was unaware of the necessary height required to avoid climbing over the wall.

### **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:**

The provision of the proposed wall was what allows this property to be used for the residents of the memory center. The character of the City was improved by allowing this design option and by allowing the improvement of the long standing mission of the El Castillo Retirement Center.

Staff response: Staff was in agreement with this statement.

### **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:**

The adaptive reuse of this property as a memory center was a very unique use, with unique requirements such as this wall height. The adaptive reuse of the building requires that the courtyard area be preserved, thereby dictating that the courtyard was the only space suitable for the outdoor function required, and therefore the necessity of the wall height.

Staff response: Staff was in agreement with this statement.

### **v. Are due to special conditions and circumstances which are not a result of the actions of the applicant.**

The special conditions and circumstances in this case are a necessary part of achieving the adaptive reuse of this property. The owner has done nothing to cause this condition; it was simply a result of the needs of the residents of the center.

Staff response: Staff was in agreement with this statement.

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

This wall exception will allow the adaptive reuse of this property in a manner which was positive to the surrounding historic area, and the wall proposed was in character with other solid walls along the streetscape. It can be argued that this proposal was not merely the "least negative", but in fact quite positive relative to the impact to streetscape by providing walls which are common along the street and by allowing the continuous, improved use of the courtyard.

Staff response: Staff was in agreement with this statement, with the addition of the windows to allow viewing of the courtyard.

**STAFF RECOMMENDATION:**

Staff recommends approval of the two exception requests to construct more than 50% of the historic footprint and to place an addition at less than 10' back from a primary elevation and defers to the Board whether the height exception request has been met which appears to be lacking in the first response. Otherwise, this application complies with Section 14-3.14, Demolition of Historic Structures, 14-5.2(D) General Design Standards, and (E) Downtown & Eastside Historic District, as long as the ramada does not exceed the allowable height with a flat roof.

Mr. Rasch explained that a variance was not needed for the 7' wall height but only an exception from the HDRB. Staff could administratively approve the ramada.

Vice Chair Rios asked if the modifications would be likely to impede the status. Mr. Rasch said no.

Present and sworn was Mr. Michael Duty, 404 Kiva Court who said this was an excellent example of where the Board made substantial improvements in the project. They managed to squeeze in all the construction in the rear and keep all of the facade in front free from it. What the Board saw represented reasonable protection of the building and it was functional and economic.

They could set the wall back about 20' and not require an exception but they didn't want to do that.

The walls along De Vargas included a little picket fence. It was built 15 years ago. Ms. Sigstedt had said originally it was a barbed wire fence and she built the picket fence. He wanted to tear it down. It was not historical. But it was included in the height calculation. The others were rather tall. He had photos of them. The first one to the west was about 7' tall. At El Castillo all were over 7'. There were walls almost all the way to the Hunter property that were tall so this wall height wasn't out of character.

They wanted about a 10' setback for landscaping. The wall would be 7' to 7' 6" and would have some holes in the upper parts of the wall. There was some concern about people escaping through them but 7' allowed plenty of security.

He shared a colored elevation to show what it would look like and showed the existing facade.

In summary he said that was why they proposed the wall that way.

He said it would be nice to have a gazebo in front but a pitched roof was not allowed so they put in a ramada with a flat roof.

There was a well on the property. The well was historical - having been there a very long time. About 15 years ago the wooden structure collapsed and the workman fixed it by putting in brick and concrete and it now looked like a sarcophagus. The well was about 30' deep and had not been used recently. Right now it was dangerous. They had nothing in the proposal to deal with it. It would probably have to be covered over. It was potentially possible to use for irrigation but they didn't know about water rights. It would not be impacted on this proposal and they could bring it back later.

Vice Chair Rios thanked Mr. Duty for addressing the Board's suggestions. She asked if the ramada would have a solid roof.

Mr. Duty agreed. It was for shade and would be about 9½ feet high.

Mr. Acton asked if that was on the docket for approval.

Mr. Rasch agreed but they provided no elevation.

Mr. Duty said the detail had not been submitted so they could bring it back or have Mr. Rasch approve it. He explained that they didn't want to have that approved until they dealt with the well. The location was still pending and they would abide by the restrictions imposed.

Vice Chair Rios asked if the rooms were about 300' square feet. Mr. Duty agreed.

Vice Chair Rios said they should do something so the well could be identified.

Ms. Walker felt they did a good job on the rooms. Her only remaining concern was with that south facing facade. Even though they preserved it, the little peep holes wouldn't do. If they had a fully fenestrated top it would be beautiful.

Mr. Duty noted she made that comment last time and it would be good except they had a climbing problem. It would create a situation and hard to see how they could prevent residents from climbing out. He didn't have a problem making the openings of reasonable size. On the back side they would have to glaze them with Lexan. A wrought iron top would make it difficult to manage the residents.

Ms. Walker thought people would feel they were peeping. She asked why they couldn't put glass behind the wrought iron.

Mr. Duty supposed they could but thought it would look unsightly because it would have to have mullions and a frame.

We also heard last time that they could allow people to see in yet keeping control of the patients.

Ms. Mather said as she had looked at the floor plan she didn't see any access to the back rooms.

Mr. Duty said there was another drawing that he submitted with that. In the interior of the existing building all of the proposed restrooms in the lobby would be removed (main room). The new plan would adjust them.

Ms. Mather asked Mr. Rasch if when he did the wall height calculations for the street he took in all the walls whether historic or not.

Mr. Rasch agreed. They were to be the average of existing walls and fences. They were shown on page 17. He read off all of the heights on both sides and said the average was 6'6".

Ms. Mather asked if parts of the wall were going to be 7' 6" high.

Mr. Duty said no but a little section on the drawing popped up. They could live with no part of the wall above 7'.

Ms. Mather wished they had information on what would be an appropriate height for people with this disease.

Mr. Duty said Mr. Jahner did have that information.

Present and sworn was Mr. Al Jahner, CEO of El Castillo, who said when he and Mr. Duty looked at the wall. He made calls to a colleague in Michigan and they came up with a minimum of 6' 6" that would give reasonable height that residents could not get over. It was a very serious problem. Families needed to know their loved one was secure.

Mr. Katz asked if they were talking about Alzheimer patients in that statement.

Mr. Jahner agreed. He clarified that mental problems didn't translate to physical impairment.

Mr. Acton complimented Mr. Duty on the changes. He looked forward to seeing him do the same magic with this wall. The massing of the wall didn't relate to the pergola or the forms on the primary facade nor alignment of the wall in relation to the trees. And with the pergola he could create a composition that would be more harmonious. And the height could vary. The pergola could be seen from the street.

At the entry portal it looked like a passage to the courtyard. That gate would be a little visible to the street so the design was important. He asked how a person would do the raking of leaves, etc. whether a utility gate to the street would be practical. Also looking from the south might need additional consideration. He would like to see the wall relate to trees and pergola with additional modulation that would be like that of the building - front to back and up to down. Perhaps changing the material with half stuccos and half

coyote fence would relate to the vernacular of the street.

He didn't have a problem with changing its aesthetic appearance or including a picket fence on the wall - just to mix that up. Right now it was very massive and pedestrian unfriendly. The windows were very small. By scaling back from the street and lowering it to 6' 6" would allow greater visibility of the facade. He had raised the bar with what he did on the building portion.

Vice Chair Rios asked if they were proposing to leave the picket fence on this rendering.

Mr. Duty said in their current proposal they did not address the picket fence and he originally thought they would leave it. In trying to treat landscape there, they decided to remove the picket fence with the Board's approval. Some of it was rotten and some was poorly maintained. It might have been disapproved when it was constructed. It wasn't part of this application.

Dr. Kantner asked regarding materials if they were matching the existing stucco.

Mr. Duty thought the wall should be slightly different.

Vice Chair Rios said the Board would ask him to distinguish it in some way from the historic building.

Mr. Rasch countered that in this district one color was required except under portals. Texture might be used. It was a difficult standard.

Mr. Duty said they didn't have objections to making it different color or texture.

Dr. Kantner asked if the addition was the same as the existing height.

Mr. Duty said it would be lower.

Mr. Rasch said they would need an exception to have two different colors in this district.

Vice Chair Rios asked the other board members to address the wall.

Dr. Kantner was fine with it as proposed as long as it was no higher than 7'. He could see the necessity for it.

Mr. Katz was also more or less okay with it as proposed but liked Mr. Acton's proposal.

Ms. Walker felt the primary facade should be visible so she would like to see a different design.

Ms. Mather agreed with Dr. Kantner that it was fine as proposed.

Vice Chair Rios thought it would be beautiful with wrought iron fencing

Mr. Acton said the reason he thought they should postpone the wall was that the pergola would impose an impact on the wall and needed to line up with trees. It looked like the pergola got tucked in there.

### **Public Comment**

Present and sworn was Ms. Carolyn Sigstedt who thought Mr. Acton's suggestions were good but not so radical - it could have some indentations in the wall and not be straight - giving it form and making it warm. She thought El Castillo made that mistake with their wall.

She said got depressed when getting ready to visit her mother who had dementia but was happier when she was there. There were privacy issues with this condition. It was good to have the building open to the public but also important to create private spaces where the residents could sit and not be on display - so it was private and public.

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

Ms. Mather moved to approve Case #H-11-105 per staff recommendations and citing that the exception criteria had been met. Dr. Kantner seconded the motion.

Ms. Walker thought it should be without the wall included.

Ms. Mather thought it was appropriate for this use.

The motion failed on a vote of 2-3.

**Mr. Katz moved in Case #H-11-105B to approve per staff recommendations for footprint and the ten foot setback exceptions but to postpone the proposed wall for further consideration. Ms. Walker seconded the motion and it passed by unanimous voice vote.**

- 5. Case #H-11-094A.** 1228 Cerro Gordo. Downtown & Eastside Historic District. Margaret Denney & Mr. Francis Payson, agents/owners, request an historic status review of a contributing residential building. (David Rasch)

Mr. Rasch presented the staff report for this case as follows:

### **BACKGROUND & SUMMARY:**

1228 Cerro Gordo Road was a single-family residence that was constructed before 1933 in a simplified Bungalow style. The building was listed as contributing to the Downtown & Eastside Historic District. The applicant requests an historic status review in order to understand the preservation and remodeling standards which may apply to the property.



# Agenda

CITY CLERK'S OFFICE

DATE 9/22/11 TIME 11:30am

SERVED BY Camille Vipe

RECEIVED BY Tina Dominguez

**"NEW LOCATION"**

**HISTORIC DESIGN REVIEW BOARD FIELD TRIP**

**TUESDAY, September 27, 2011 – 12:00 NOON**

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

**HISTORIC DESIGN REVIEW BOARD HEARING**

**TUESDAY, September 27, 2011 – 5:30 PM**

**SANTA FE COMMUNITY CONVENTION CENTER**

**201 WEST MARCY STREET**

**DE VARGAS ROOM (1<sup>ST</sup> FLOOR)**

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES: September 13, 2011
- E. FINDING OF FACTS & CONCLUSIONS OF LAW

Case #H-06-057	617 W. Alameda	Case #H-11-096	328 Camino Cerrito
Case #H-10-104	826 B Canyon Road	Case #H-11-097	533 Agua Fria
Case #H-10-117	62 Lincoln Avenue	Case #H-11-103	451 Arroyo Tenorio
Case #H-11-085	100 Sandoval Street	Case #H-11-099	873 E. Palace Avenue
Case #H-11-086	434 Camino del Monte Sol	Case #H-11-093	116 Calle La Pena
Case #H-11-092	611 Garcia Street	Case #H-11-095	124 E. Marcy Street

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

1. Case #H-10-012. Santa Fe River Parkway. Downtown & Eastside Historic District. Kenneth Francis, agent for City of Santa Fe, owner, proposes to redesign the Skate Park including pathways, furniture, and lighting. (David Rasch).
2. Case #H-10-033. St. Catherine's Industrial Indian School. Landmark (outside of historic districts). John Polk, agent for NM Consolidated Constructions Services LLC, owners, proposes to move three landmarks: Building #9 Montoya House; Building #10 Chavez House; and Building #11 Abeyta House. (David Rasch).
3. Case #H-11-081. 460 Camino de las Animas. Downtown & Eastside Historic District. Spears Architects, agent for Theodora Portago, owner, proposes a redesign for a gate on a contributing residential property. (David Rasch).

4. Case #H-11-085. 100 Sandoval Street. Downtown & Eastside Historic District. Remington Hotel, agent for Ashford Santa Fe LP, owners proposes to remodel a non-contributing commercial structure. (David Rasch).
5. Case #H-11-100. 102 Montoya Circle. Downtown & Eastside Historic District. Robert Willis, agent for Evelyn & Steve Blum, owners, proposes to replace windows and doors, restucco, and re-roof a non-contributing residence. (David Rasch).
6. Case #H-11-104. 1170 San Acacio. Downtown & Eastside Historic District. Feather & Gill Architects, agents for Chris Cla, owner proposes to remodel a non-contributing residence including the construction of a 77 sq. ft. two-story stairway, changing a second-story room to a portal, replacing windows, restuccoing, relocating a previously approved entry gate, and other minor landscaping changes. (David Rasch).
7. Case #H-11-105A. 237 & 239 E. DeVargas Street. Downtown & Eastside Historic District. Duty & Germanas Architects, agent for El Castillo Retirement Residences, owner requests an historic status review and designation of primary elevations for these contributing structures. (David Rasch).
8. Case #H-11-105B. 237 & 239 E. De Vargas Street. Downtown & Eastside Historic District. Duty & Germanas Architects, agent for El Castillo Retirement Residences, owner proposes to demolish a free-standing garage and to construct additions on a contributing structure with two exceptions to place an addition on a primary elevation (Section 14-5.2 (D)(2)(c)) and to exceed the 50% footprint rule (Section 14-5.2 (D)(2)(d)). (David Rasch).
9. Case #H-11-106. 514 Johnson Lane. Downtown & Eastside Historic District. Richard Martinez, agent for Cole Martelli, owners proposes to increase the height of a yard wall from 4'3" to 5'7" where the maximum allowable height is 5'3" to install a pedestrian gate, relocate a window, and restucco. A height exception is requested (Section 14-5.2 (D)(9)). (David Rasch).

**K. MATTERS FROM THE BOARD**

**L. ADJOURNMENT**

For more information regarding cases on this agenda, please call the Historic Preservation Division at 955-6605. Persons with disabilities in need of accommodations or an interpreter for the hearing impaired, contact the City Clerk's office at 955-6520, five (5) working days prior to hearing date. If you wish to attend the September 27, 2011 Historic Design Review Board Field Trip, please notify the Historic Preservation Division by 9:00 on Tuesday, September 27, 2011.

Mr. Featheringill said he could add 12" on both sides on the first floor.

There were no speakers from the public regarding this case.

Chair Woods asked him to clarify the change.

Mr. Featheringill said the bottom floor would come out 12" on both north and east and would thereby make the second floor stepped in by 12". He explained how he would do it to avoid interference with the historic window.

Mr. Featheringill agreed.

Chair Woods summarized that there was no 3' rule problem and a 12" set back would be added to the stairwell by pushing out the first floor by 12" and the height of the parapet would be reduced as much as he could.

Mr. Featheringill explained that the parapet height was limited by the existing roof but he would do what he could to lower it there.

**Ms. Walker moved to approve Case #H 11-104 per staff recommendations with the conditions that the windows would all be at least 3 feet from a corner, the parapet there would be reduced as much as possible to allow the roof still to drain and that the first floor at the stairwell would project 12" beyond the second floor facade on north and east sides. Ms. Mather seconded the motion and it passed by unanimous voice vote.**

7. **Case #H-11-105A, 237 & 239 E. DeVargas Street.** Downtown & Eastside Historic District. Duty & Germanas Architects, agent for El Castillo Retirement Residences, owner requests an historic status review and designation of primary elevations for these contributing structures. (David Rasch).

Mr. Rasch presented the staff report for this case as follows:

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

237 and 239 East DeVargas Street are two historic structures that are separated by a common wall on one lot west of Brothers Lane. A free-standing part adobe/part wood frame garage/storage room is located at the east side of the property. The buildings are listed as contributing to the Downtown & Eastside Historic District.

237 was constructed in a vernacular manner before 1912 in an "L" shaped floorplan. Roofing material covers over the parapet and what may be brick coping. The south and west inside the "L" elevations (1 and 2 on the attached floorplan map) may be considered as primary.

239 was constructed in approximately 1930 on the south end of the small leg of the "L" on 237 in a

vernacular manner. Character defining elements exist on the south, west, and east elevations (3-8 on the attached floorplan map) which may be considered as primary.

The free-standing adobe garage appears to have been significantly altered in non-historic times by removing historic windows and doors and possibly the construction of a frame addition to the east which represents a non-historic massing change. The applicant requests an historic status review for a potential downgrade to non-contributing historic status.

He explained that he numbered the 14 facades, beginning with the south facing facade at the courtyard and going counter clockwise around the building.

### **STAFF RECOMMENDATION:**

Staff recommends that elevations 1-8 shall be designated as primary and that the free-standing garage shall be downgraded from contributing to non-contributing due to loss of historic materials and possibly non-historic massing changes as complying with Section 14-5.2(C) Regulation of Contributing Structures in the Historic Districts.

Ms. Mather asked Mr. Rasch why he chose to designate #8 as primary.

Mr. Rasch said it had this good historic one-over-one window. It was the only façade with an historic different window.

Dr. Kantner asked about elevation #9.

Mr. Rasch didn't see much detail although it was the only screened-in porch on the building.

Present and sworn was Mr. Michael Duty, 404 Kiva who didn't have anything to add. The applicants had developed in the next case a plan based on these recommendations. He agreed with the recommendations.

There were no speakers from the public regarding this case.

**Ms. Rios moved to approve Case #H 11-105A per staff recommendation, designating 1-9 as primary elevations and designating the shed as non-contributing. Mr. Acton seconded the motion and it passed by unanimous voice vote.**

8. **Case #H-11-105B. 237 & 239 E. De Vargas Street.** Downtown & Eastside Historic District. Duty & Germanas Architects, agent for El Castillo Retirement Residences, owner proposes to demolish a free-standing garage and to construct additions on a contributing structure with two exceptions to place an addition on a primary elevation (Section 14-5.2 (D)(2)(c)) and to exceed the 50% footprint rule (Section 14-5.2 (D)(2)(d)). (David Rasch).

Mr. Rasch presented the staff report for this case as follows:

## **BACKGROUND & SUMMARY:**

237 & 239 East DeVargas Street is a contributing structure in the Downtown & Eastside Historic District with the primary elevations 1-9 designated with the previous case.

The owner proposes to remodel the property with the following five items.

1. The free-standing garage will be demolished for required parking. Historic Preservation staff finds that the building had lost historic integrity and the City building official finds that the building had no foundation, although it is stable, and there are several code violations. Demolition standards have been met according to Section 14-3.14(C) and (G) for code citations see below.
2. A seven-room addition will be constructed on the rear and side of 237 with the addition set back more than 10' from primary elevation #1. The addition will match or be lower than existing adjacent height and finishes will match existing character. An exception is requested to add more than 50% of the historic footprint (Section 1-5.2(D)(2)(c)) and the required criteria responses are at the end of this report.
3. A three-room addition will be constructed in front of and attached to primary elevation #1. The addition will attach to the primary elevation through an existing door opening and its main mass will be set off from the primary elevation with a narrow corridor. It will match or be lower than existing adjacent height and finishes will match existing character. An exception is requested to place an addition on a primary elevation (Section 14-5.2(D)(2)(d)) and the required criteria responses are at the end of this report.
4. Other alterations include the construction of a new door opening on elevation #14, small additions on elevation #13, increasing the mechanical room to fill in elevations #11 and part of #10, and altering the windows on the east screen porch at elevation #9.
5. Yardwalls will be constructed to 6' high between the two additions and between the front addition and the front of primary elevation #7.

### **14-3.14 DEMOLITION OF HISTORIC OR LANDMARK STRUCTURE**

#### **(C) Staff Review and Report**

Before granting approval or denial to a demolition request, City staff shall provide the following information on the structure under consideration.

- (1) A report on the historic or architectural significance of the structure;
- (2) A report from the City Building Inspector on the state of repair and structural stability of the structure;
- (3) If the structure is more than 75 years old, and the entire project of which demolition is a part requires an archaeological clearance permit, a report from City staff for the Archaeological Review Committee on whether the demolition would damage possible archaeological artifacts; and

(4) Other information as requested by the Board or Governing Body.

(G) **Standards**

- (1) In determining whether a request for demolition in an historic district should be approved or denied, the Board shall consider the following:
- (a) Whether the structure is of historical importance;
  - (b) Whether the structure for which demolition is requested is an essential part of a unique street section or block front and whether this street section or block front will be reestablished by a proposed structure; and
  - (c) The state of repair and structural stability of the structure under consideration.

EXCEPTION TO EXCEED THE 50% FOOTPRINT RULE AND  
TO CONSTRUCT AN ADDITION ON A PRIMARY ELEVATION

***i. Do not damage the character of the streetscape;***

The proposed reconstruction will not damage the character of the streetscape. It will, in fact, improve the streetscape by adding more building mass to what had become a reduced amount of building frontage. A new garden wall will replace an open accessible parking space.

Staff response: Staff is in agreement with this statement as an infill for adaptive reuse.

***ii. Prevent a hardship to the applicant or an injury to the public welfare;***

The hardship to the applicant in not granting the exception is a reduction in El Castillo's ability to serve its constituents with a full range of required services. The memory center is needed to complete a full range of services to the residents of El Castillo. It will serve persons with impaired memory and cognitive functions. Currently El Castillo lacks proper facilities to provide memory services. El Castillo had studied two adjacent properties for this expansion. Both properties are occupied and unsuitable for this expansion. This property is the only property abutting El Castillo which offers the possibility of renovation and addition into a memory center. Without this new facility, El Castillo will not be able to offer the residents the services they require.

Staff response: Staff is in agreement with this statement.

***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;***

The new units will be replacing a commercial use with a unique but sorely needed housing type and thereby the overall amount of residential use in this Historic District. It should be noted that El Castillo is the largest residential center in downtown Santa Fé and the impact of its presence on the city is significant both on the economy and on the lifestyle of Santa Fé.

Staff response: Staff is in agreement with this statement.

***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;***

This site is the only site abutting El Castillo with suitable buildable area for the memory center without wholesale removal of existing structures. A renovation and addition as proposed is the only way to make this unique lot serve as the new memory center and not require extensive demolition. The majority of the open space on the lot is behind and to the west of the existing main contributing building. This allows much of the new construction to be located to the rear, but some portion of the new residential rooms will have to be located in front of a portion of the existing building.

Staff response: Staff is in agreement with this statement.

***v. Are due to special conditions and circumstances which are not a result of the actions of the applicant;***

The existing condition of the property is the result of all former owners and to a large degree of the 1960s era Urban Renewal which decimated the south side of this historic street. The applicant had played no role in the condition of this property and the exceptions required are strictly a result of the application of the ordinances on this property. In fact the actions of the applicant by submitting this design are extremely sensitive to the intent of the historical ordinances.

Staff response: Staff is in agreement with this statement.

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

This addition and remodel will help with the continued existence and preservation of these historical buildings and will be built in general harmony as to style, form, color, height, proportion, texture and material between of the surround historic buildings. This design provides the least negative impact for this expansion by the careful placing of the new masses and how connections are made to the existing building.

Staff response: Staff is in agreement with this statement.

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**STAFF RECOMMENDATION:**

Staff recommends the two exception requests to construct more than 50% of the historic footprint and to place an addition on a primary elevation. Otherwise, this application complies with Section 14-3.14, Demolition of Historic Structures, 14-5.2(D) General Design Standards, and (E) Downtown & Eastside Historic District.

Mr. Rasch explained the alteration of elevation #9 did not have an appropriate exception.

Ms. Walker pointed out that with the construction blocking #1 it would appear to jeopardize the contributing status.

Mr. Rasch said with the attorney not present, he would do his best to interpret the code. In Section 14-

5.2 (D) and read from the code which said a contributing structure should be preserved and if any proposed alteration would cause the structure to lose its contributing status "the application shall be denied.". Since the applicant had requested an exception to place more than 50% of the footprint on the building and to have one of the additions on a primary elevation, he believed if the Board approve the exceptions, it did not downgrade the status.

Ms. Walker thought it would downgrade it.

Mr. Katz had a real problem with blocking the whole view of the south façade. He asked if it would be possible to switch the parking instead so it wouldn't block that primary elevation.

Present and previously sworn was Mr. Michael Duty who said it was very rare that they came asking for exceptions. He tried to find solutions without asking for exceptions.

El Castillo was a life-care facility and in that regard they needed to offer lots of services. The only one they couldn't offer at present was for Alzheimer and dementia cases. They looked at all other possible properties and in all cases the owner felt the impact on the historic character was too severe. When this property became available, they thought it might be problematic. Knowing that they would probably ask for exceptions he tried to stay with the intent of the ordinance.

This back portion did step back 14' and was subservient to the roofline and one could easily visualize the nature and extent of the original building. The structure in front was only connected in one location. This was all open courtyard here. They were really building in front with a visual connection. Ten rooms were needed and these ten would be sufficient for El Castillo.

Regarding the porch, they didn't have a problem leaving it as a porch.

The residents in this facility would be suffering from dementia so circulation was very important and should be unimpeded by other issues.

The historic part would be an open space for a lounge. The access would be controlled and the residents wouldn't be allowed to wander through the southeast part. They would make each room memorable through color and furniture.

They looked at putting the facility on the southeast but it would be very far removed from the rest of the residents. So that location would be very problematic.

The parking was important and they felt it was less impactful there.

The residents also needed access to controlled outdoor spaces. He identified the three open spaces as all the "world" to the residents.

It was with great reluctance that he asked for exceptions but felt that here it was for the greater good. It did help DeVargas a little and the neighbors supported it.

He thought it would be easy to discern the historic part of the building.

Ms. Walker asked if he had considered if they could put the residents above the rear rooms.

Mr. Duty explained that two-stories didn't work for an Alzheimer patient and besides, he would have to ask for a height exception. Alzheimer facilities were much different. Elevators were very confusing and wasn't usually done with them.

Mr. Acton asked if he had looked at the NE courtyard and some of the existing adobe structure that was a common area. They would only lose one room that way and then they would have trees in the open space.

Mr. Duty calculated that a single room would take one third of that open space so they would have much less common space which was where the residents spent their day.

Chair Woods said this was hard for the Board because this would seriously impact the status of this building. If that one corner was used as a room, it would leave only two and if Mr. Duty pushed them up against the building they could have a larger courtyard and she thought they would be fine with the circulation.

With the two rooms pushed as far to the west as possible rather than more in the middle as it was proposed. It was unfortunately on the most historic part of the building.

Mr. Duty thought that it would work and was surprised to hear her say that. He felt it was less impactful to just have a connection and didn't have a problem with that. The one issue was that the neighbor to the west, Mary Malloy had an easement for parking and he didn't remember how deep it was. He thought he could make it work if they could preserve that easement.

He was excited to hear that suggestion if that had more benefit under the historic ordinance. For operation and design they had no problem with it.

Mr. Katz pointed to an object on the east façade in the middle, and said he couldn't tell what it was.

Mr. Duty said it was a room for storage and mechanical.

Mr. Katz said he could see that being two residents' rooms there.

Mr. Duty didn't oppose it. He thought this was interesting because he thought his design was being less impactful. He would be glad to explore it. If he could get three rooms there and leave the courtyard open he would do it.

Ms. Rios didn't think he should put resident rooms where the main room was. She asked how big those rooms were.

Mr. Duty said they were around 300+ sq. ft.

Ms. Rios asked how close the first room was to the street.

Mr. Duty said it was 10 feet.

Ms. Rios asked Mr. Duty to describe the connector.

Mr. Duty said he had done one before for the McCune Foundation and did it with all glass finish like a greenhouse. That could be done here but he didn't like a glass roof because of heat gain. They could have a lot of glass there. If they did have rooms out in front they had to have a connection. He just was not sure how they could have 10 rooms.

### **Public Comment.**

Present and sworn was Ms. Carolyn Sigstedt, 628½ Camino de la Luz who was shocked that they could do this. She won the 2006 preservation award for preserving this building. When she saw this design, she invited Deborah Shapiro to lunch to talk about it and they analyzed this proposal. She knew this building really well because she did it inch by inch with love and integrity so that it would last forever.

Out front was the PERA parking lot. The wind blew there and every morning she had to clean out the garbage from the foot traffic on DeVargas. She liked that it was a walking street. But the wind often blows to the north and filled up the property. So where El Castillo had put the parking was the perfect place for the parking. She always wanted to work with El Castillo to upgrade Brothers Trail, particularly for at night. She cleaned up the garbage there also, all the time.

The back of the shed was a target for graffiti. She never would have thought to put the three rooms in the courtyard. Everyone told her to make it a parking lot. So to protect this property from the filth was great.

She said in Rome you could only see historic buildings through a keyhole. By doing this, you could help Molly. She said Molly sued her for adverse possession of parking when she bought this property. Molly hated her for many years but now they were good friends.

Giving her a private easement there made her very happy. And the opening in the design was the "keyhole" to this significant property. And it made a protected area that could be kept clean. It was historically appropriate to do this.

The northeast corner was a huge area. The storage area she had converted from what had been just another screened in porch. It was just like a shed. You would have to raise the roof quite a bit to use it for residents.

Then at the screened in porch at the kitchen, she put in a serious electric panel - to cut off that window in her opinion would not be appropriate. She tried to hide it with trees.

Present and sworn was Mr. Pen La Farge, 647 Old Santa Fé Trail. He had been somewhat less hesitant to oppose this before Ms. Sigstedt spoke. He respected her opinion and she certainly knew this

property and had done a fine job to preserve it but he was still in doubt about the proposed use for this space. The logic behind their intent was irrefutable but he was not sure it was good for this property.

In his lifetime there was a desire by developers to fill in every open space in Santa Fé that was allowable. So the City had less and less a feel of openness and more one like New York - cramped without psychological space. Therefore, especially the three units in front struck him as unfortunate.

Also the historic character and the streetscape of the neighborhood would be lost to the open space and the charming patio in front of this house. It would affect the look and feel of the neighborhood.

DeVargas Street, especially the north side, still had a historic feel. The south side had been by the PERA parking lot. The historic was being lost bit by bit. The more the integrity of this neighborhood was affected, the more some day there would be nothing left that was historic. So he would be inclined to deny at least the front three rooms.

Present and sworn was Mr. Al Jahner, CEO of El Castillo who commented to the previous presenter that he thought they had maintained the north of DeVargas Street on their property very well. What they proposed on this property would be equally historic also or at least fit in.

He said ideally and economically, 15 units were the minimum. But they were proposing 10. If he had left the large open space they would have its use for only half of a year. The rest of the year the residents wouldn't be able to use that outdoor space. They were looking for circulation. They had minimal interior circulation now.

They had to provide spaces that people felt comfortable in and the families feel comfortable having their loved one in those spaces.

Present and sworn was Ms. Helen Snock who was a resident at El Castillo and currently president of the resident association. All the residents felt this would be a wonderful place for El Castillo residents. It was an excellent location for their residents to live in and an excellent plan because it had a secure space for a garden, private and shared spaces and in close proximity to the existing El Castillo Health Center. So the residents thought this was a wonderful plan.

Present and sworn was Mr. Tim Maxwell, 16 Overlook, President of Old Santa Fé Association (OSFA) and speaking on their behalf. He thanked the Board for maintaining certain façades as primary and they had no objection to the demolition of the garage. He appreciated what Mr. Duty was trying to accomplish. But the OSFA Board's objection was the loss of that #1 primary façade by placing the three units in front of it on DeVargas Street. That façade was important. The street was a checkerboard of open space, house, and open space. This plan wreaked havoc with that arrangement.

Also the exception talked about the south side being destroyed in the 1960's by the state government. But there was nothing on that south side for most of the years. The cemetery was there so there really was not any streetscape there on the south side of DeVargas. So OSFA challenged that response for the exception.

OSFA appreciated everything that El Castillo was trying to do but just didn't feel this was the right plan.

Ms. Sigstedt said she thought many people didn't remember what it looked like before she purchased this property. The front area wasn't a patio. It was a parking lot and there were just cars there. The other thing to remember was that El Castillo had to make historic buildings economically feasible or the structures would just be skeletons and would just crumble.

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

Ms. Mather had a question about the glass corridor connecting the 3 rooms and if there was some reason why it wouldn't just connect into the courtyard.

Mr. Duty said all of the comments were sensitive. He wanted to do it sensitively. He could flip flop and make the connection on the west and preserve the whole façade. Perhaps he could get one in the NE corner. That was also palatable. They wanted to utilize as much of the space as possible. So they could have the serious open space there. If that was the direction the Board would like him to go, that would be okay.

They could also preserve as much open space as possible. But having it L shaped was preferable to keep them from getting out with the wall in front.

Ms. Mather asked then if having no connection on the front of the façade could be done.

Mr. Duty agreed - not even connecting to the façade but to the west.

Mr. Acton asked if they had to have six parking spaces.

Mr. Duty agreed. He didn't put parking in front because it would violate the zoning ordinance.

Chair Woods asked if he would like to come back. She asked what worked for them. Mr. Duty said that would work. He would like as much feedback from the Board as possible. But he had done that before and come back to present to a whole new group.

Chair Woods asked members to comment

Dr. Kantner would prefer to see fewer units in the plaza area and perhaps moving one to the back.

Mr. Katz felt getting the whole façade #1 back was preferable. He didn't think the application exception responses to adding on to the primary elevation had been met. He thought moving those three rooms to the east and rear parts were preferred.

Ms. Walker said preserving the streetscape was also part of the Board's job. The six foot wall might be needed to prevent escaping but she thought a four foot wall and iron work in keeping with the building would be superior.

Ms. Rios would like them to try not to locate any of the new building in front of the historic façade. She also agreed with Ms. Walker on the wall.

Ms. Walker said most people couldn't even see the façade unless they were a basketball player.

Mr. Duty agreed to look at that.

Mr. Acton agreed with preserving #1 entirely. He felt there were options for relocating those three rooms so he agreed with Mr. Katz and Ms. Walker.

Ms. Mather was hopeful that El Castillo could acquire this property and that the Board could work with them. She wanted façade #1 preserved even though the public couldn't see it from the street. She had no problem with the three units.

Mr. Rasch said if the applicant came back with flipping of that portion, it still needed the exceptions because it was proud of elevation one.

**Ms. Rios moved to postpone Case #H-11-105B to the next available meeting to give the applicant an opportunity for the Board to consider other options. Ms. Walker seconded the motion and it passed by unanimous voice vote.**

9. **Case #H-11-106. 514 Johnson Lane.** Downtown & Eastside Historic District. Richard Martínez, agent for Cole Martelli, owners proposes to increase the height of a yard wall from 4'3" to 5'7" where the maximum allowable height is 5'3" to install a pedestrian gate, relocate a window, and restucco. A height exception is requested (Section 14-5.2 (D)(9)). (David Rasch).

Mr. Rasch presented the staff report for this case as follows:

**BACKGROUND & SUMMARY:**

514 Johnson Lane is a single-family residence that was constructed in the 1950s in the Spanish-Pueblo Revival style. The building was remodeled in the 1990s after a fire. It is listed as non-contributing to the Downtown & Eastside Historic District.

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

1. The front yardwall height will be increased from 4'3" to 5' 7" where the maximum allowable height is 5' 3". A height exception is requested (Section 14-5.2(D)(9)) and the required criteria responses are at the end of this report. The wall height will be increased in height to the same amount for a small length on the north side of the front gate.
2. A wooden pedestrian gate will be installed at the south side of the portal between the residence and the yardwall which is in proportion with the proposed wall height.

# City of Santa Fe, New Mexico

# memo

DATE: August 26, 2014  
TO: Historic Districts Review Board Members  
FROM: David Rasch, Supervising Planner in Historic Preservation 

CASE # H-11-105B

ADDRESS: 237 & 239 East de Vargas Street  
Historic Status: Contributing  
Historic District: Downtown & Eastside

### REFERENCE ATTACHMENTS (Sequentially):

#### CITY SUBMITTALS

- Case Synopsis
- District Standards & Yard wall & fence standards.
- Historic Inventory Form
- Zoning Review Sheet
- Other: bldg. ht. color

#### APPLICANT SUBMITTALS

- Proposal Letter
- Vicinity Map
- Site Plan/Floor Plan
- Elevations
- Photographs
- Other: exception responses

### STAFF RECOMMENDATION:

Staff recommends approval for coyote fence screening of the hot box and recommends denial of the exception request to exceed the maximum allowable height to screen the roof-mounted mechanical equipment finding that the exception criteria have not been met.

"D"

Project description: Duty & Germanas Architects, agent for El Castillo Retirement Residence, owner, proposes to paint or screen roof-mounted mechanical equipment and to screen a hot box with a coyote fence and gate on a contributing commercial structure. An exception is requested to exceed the maximum allowable height to construct screening to block public view of rooftop appurtenances (Section 14-5.2(D)(9)).

Case number: H-11-105  
Project Type: HDRB

**PROJECT LOCATION (S):** 237 & 239 East de Vargas Street

**PROJECT NAMES:**

OW – El Castillo Retirement Residences  
Santa Fe, NM 87501

250 East Alameda Street  
505-988-8882

AP – Duty and Germanas Architects  
Santa Fe, NM 87505

404 Kiva Court, Suite G  
505-989-8882

**PROJECT DATA:**

HISTORIC DISTRICT  
HISTORIC BUILDING STATUS  
PUBLICLY VISIBLE FACADE-EAST  
PUBLICLY VISIBLE FACADE-NORTH  
PUBLICLY VISIBLE FACADE-SOUTH  
PUBLICLY VISIBLE FACADE-WEST  
HISTORIC DISTRICT INVENTORY NUMBER  
YEAR OF CONSTRUCTION  
PROJECT TYPE (NEW, ADD, ETC.)  
USE, EXISTING  
USE, PROPOSE  
HISTORIC BUILDING NAME

Downtown & Eastside  
Contributing  
Yes  
No  
Yes  
No  
H1574  
Pre1912  
Remodel  
Commercial  
Commercial  
NA

## **BACKGROUND & SUMMARY:**

237 and 239 East de Vargas Street are two historic structures that are separated by a common wall on one lot west of Brothers Lane. 237 was constructed in a vernacular manner before 1912 in an "L" shaped floorplan. 239 was constructed in approximately 1930 on the south end of the small leg of the "L" on 237 in a vernacular manner. The buildings are listed as contributing to the Downtown & Eastside Historic District and elevations 1-9 of 15 are designated as primary. Minutes of previous hearings to remodel the property from September 27, 2011, October 11, 2011, November 8, 2011, June 26, 2012, January 14, 2014, March 11, 2014, and July 8, 2014 are attached.

On July 8, 2014, the HDRB postponed action pending submittal of more complete proposal drawings and additional testimony from a mechanical engineer. Now, the applicant proposes to make the following final amendments regarding the roof-mounted mechanical equipment and the hot box.

1. A large hot box was installed in the front planter without HDRB or Land Use staff approval. The hot box will be screened with coyote fencing at approximately 5' 6" high with irregular latilla tops.

2. At the end of the hearing on June 26, 2012, the applicant stated that there will be mechanical equipment placed on the roof of the newly constructed addition behind the contributing structure at 237 after a friendly amendment was made that there shall be no visible rooftop appurtenances. That Board action was the final action and the applicant did not appeal that decision. Three roof-mounted condensers are visible from the public right-of-way on the addition.

The equipment will be screened from public view with stuccoed walls that will be 15' 6" high. The maximum allowable height for this property is 13' 10". An exception is requested to exceed the maximum allowable height (Section 14-5.2(D)(9)).

### **EXCEPTION TO EXCEED MAXIMUM ALLOWABLE HEIGHT**

(i) Do not damage the character of the streetscape

The streetscape is not damaged by this screen. The project has already enhanced the streetscape by removing the mechanical equipment which existed on the contributing structure. (Refer to Photo #1) The screening is set back 19 feet from the courtyard façade and 92 feet from the street. In addition, the new trees, as they mature, will substantially mask the screening.

Staff response: Staff agrees with this statement.

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

The rooftop is the only location for the condensers which allows good HVAC design, allows the approved building to be built as designed and approved, and prevents injury to the public welfare

by not allowing a ground mount application. The only location on the ground which would technically work would be in the courtyard which could be injurious to the residents.

Staff response: Staff does not agree with this statement.

(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

This is perhaps the strongest characteristic of the design. This is an adaptive reuse of a contributing building into a unique residential option for people who suffer from memory loss. The design provides a strongly needed adjunct to the total residential opportunity for all the residents of El Castillo. Prior to the occupancy of this facility, residents who needed this kind of care had to move to other institutional facilities out of the downtown and away from other family members. All aspects of this design, including the placement of the rooftop condensers, were carefully orchestrated to allow the maximum residential occupancy for memory care in the downtown. The screening removes the last vestige of mechanical equipment visible from the street.

Staff response: Staff does not agree with this statement.

(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

The conditions which are peculiar to this building and this design are that there is no place on the ground to mount the condensers safely. This site is fully utilized in achieving the design result. The only location possible for the condensers would have been in the courtyard where a hazard would exist for the residents, and which was therefore not included in the design as presented and approved. This site is surrounded by structures which are much taller than the memory center, including the El Castillo (3 stories), and PERA building (3 stories). Only on the west is there a building the same height (lower than the calculated height allowable), the design was uniquely unable to extend parapet heights which would have screened the equipment. This is a requirement imposed on the design by the height ordinance which has clearly not been imposed on other buildings within the streetscape. The screening at the height required provides concealment of the equipment without impacting the existing contributing building height.

Staff response: Staff does not agree with this statement.

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

The design is a result of the actions of the applicant. However, there are special conditions and circumstances which affect this property which are not the result of the actions of the applicant.

One such circumstance is the extreme limited site area in which to achieve the program for assisted living, and another limitation is the aforementioned height restriction uniquely applicable to this building. In addition, and in order to respect the existing building, the entire area in front of the primary facade was required to be left un-built on in order to not obscure the view of the façade. This is a great deal of land to sacrifice in achieving the design goal. The historical ordinance and the wishes of the HDRB required the new construction to be totally in the rear of the building. While this is a proper idea, it caused the extremely tight design response to the site conditions. The location of the equipment on the new roof, as proposed, was dictated by the site restrictions.

Staff response: Staff does not agree 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)

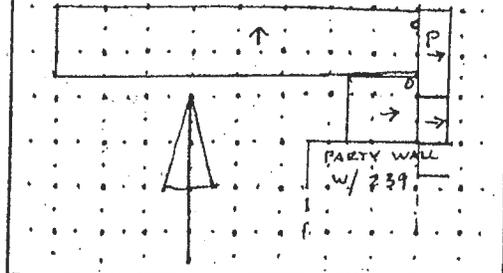
This is an adaptive reuse of an historic building. It has long been residential (the home of former Mayor Valdez), and only in recent years utilized as a restaurant. The restaurant was without adequate parking, in disrepair, contained various violations of the historic ordinance (roof top equipment, non approved sloped roof, unapproved window modification, and unapproved roofing material). This project not only avoids a negative impact with respect to the purpose of Section-5.2(A)91, but, in fact, enhances the purpose as listed. The design does serve to continue the existence and beneficial use of this historic building through a thoughtful adaptive reuse. The project continues the construction of buildings in the historic style. Finally the general harmony of style, form, color, height, proportion, texture and material is rigorously retained. The provisions of Subsection 14-5.2(A)(1) are strongly met in this design.

Staff response: Staff does not agree with this statement.

NEW MEXICO HISTORIC BUILDING INVENTOR. FORM

H1574

building threatened? yes	surveyed date 3/5/85 by HMW	county SANTA FE	ID no. 051610620
field map SFHD # 4	number 620	UTM reference easting zone 12 13	northing
location description 237 E. DE VARGAS		city/town SANTA FE	
building name		legal description tnsp N S range E W sec 1/4 1/4	
film roll by HMW no. SFHD 13	negative nos. 26	loc. of neg. HPB	plan shape



date of construction  
 PLE 1865 estimate \_\_\_\_\_ actual  
 source  
 HIST. PHOTOS.

use  
 present  residential  
 other \_\_\_\_\_  
 historic  residential  
 other \_\_\_\_\_

condition  
 \_\_\_\_\_ excellent  good  
 \_\_\_\_\_ fair \_\_\_\_\_ deteriorating

degree of remodeling  
 minor \_\_\_\_\_ moderate \_\_\_\_\_ major  
 describe:

surroundings  
 RESIDENTIAL / GOV'T  
 relationship to surroundings  
 \_\_\_\_\_ similar  not similar

district potential  
 \_\_\_\_\_ yes \_\_\_\_\_ no

significance  
 eligible \_\_\_\_\_ of \_\_\_\_\_ none  
 if eligible, interest  
 why? AGE, STYLE  
 PRIMARY

associated buildings? \_\_\_\_\_ yes  
 what type?

if inventoried, list ID nos.

see back? \_\_\_\_\_ yes



PLYG SPAN. COL. /	FOUNDATION MATERIAL CONC. COVING UNK. (STONE?) LIPS.
	wall material/surface ADobe / STUCCO

architectural features:  
 MOD. SHED RE OVER OILIO VIGA/DIRT RE ; COMPO REING PAPER LAPS  
 OVER ORIG BRK COPING (DENTIC.). TEXTURED STUCCO FINISH.  
 FRONT: 3 SGL-LEAF WD PANEL DOORS W/ SGL-LIGHTS ; 1 2/2 D.H.  
 WD WDW , 1 8/8 D.H. WD , 1 1/1 D.H. WD. WDW , ALL W/  
 PLAIN WD SURROUND.  
 REAR: 1 2/2 D.H. WD WDW , 1 8-LIGHT BATH HOPPER , 1  
 4/4 D.H. WD IN KITCHEN.

comments W END: 2/2 D.H. 1/2 OBSURED BY A.C. UNIT.  
 E END: SCREENED WD PORCH.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

NEW MEXICO HISTORIC BUILDING INVENTORY - SANTA FE RESURVEY 1993

ADDRESS: 237 EAST De VARGAS STREET  
 PREV. 144 EAST De VARGAS STREET  
 (1902 SANBORN MAP)

ID NUMBER: 051610620

BUILDING NAME:

SANTA FE ID NUMBER: H 1574

UTM REFERENCE EASTING NORTHING  
 ZONE 12 13

LEGAL DESCRIPTION:

TNSP 17 (N) S RANGE 9 (E) W SEC 24 SE 1/4 SW 1/4

IDENTIFICATION

FIELD MAP Santa Fe Historic Structures Survey, 1983-85/1992

DATE OF CONSTRUCTION:  
 ESTIMATE <sup>PAE</sup> 1912 ACTUAL  
 SOURCE(S) KINGS MAP  
 BLOCK 52

ARCHITECTURAL STYLE:  
 SPANISH PUEBLO

USE:

HISTORIC: residential

OTHER

PRESENT: residential

OTHER

PHOTO



#2 SOUTH ELEVATION

BUILDING DATA

SURROUNDINGS: RESIDENTIAL  
 / COMMERCIAL  
 GOVERNMENT

RELATIONSHIP TO HISTORIC SURROUNDINGS:

SIMILAR  NOT SIMILAR

ASSOCIATED BUILDINGS ON SITE:

YES  NO

WHAT TYPE? COMMON WALL WITH 239  
 E. De VARGAS

IF INVENTORIED, LIST ID NUMBER(S)

DEGREE OF REMODELING:

MINOR  MODERATE

MAJOR

EXPLAIN: NDAE VISIBLE

OVERALL CONDITION:

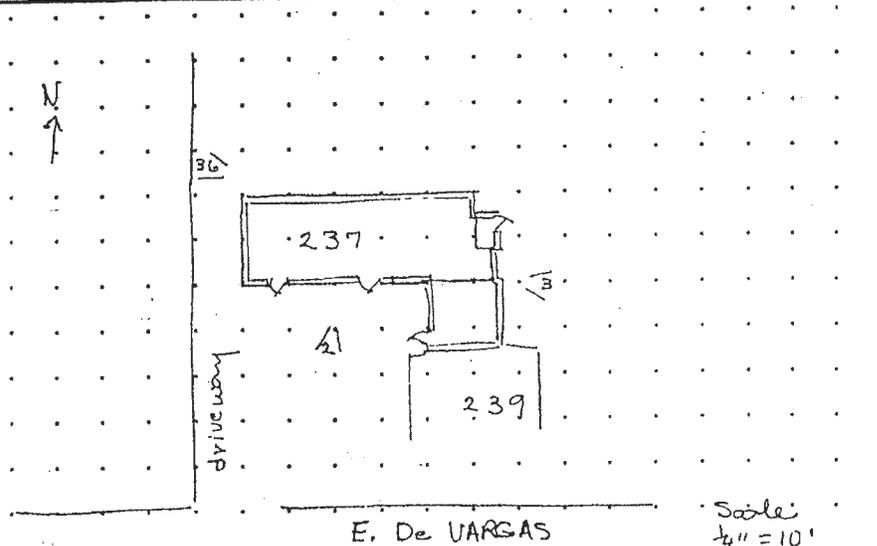
EXCELLENT  GOOD

FAIR  DETERIORATED

BUILDING THREATENED?

YES  NO

SITE PLAN



SIGNIFICANCE

LISTED ON NATIONAL REGISTER OF HISTORIC PLACES?

YES  NO  ELIGIBLE

CONTRIBUTING  NON-CONTRIBUTING

LISTED ON STATE REGISTER OF CULTURAL PROPERTIES?

YES  NO  ELIGIBLE

LOCAL DESIGNATION: CORE HISTORIC DISTRICT

SIGNIFICANT  CONTRIBUTING  NON-CONTRIBUTING

LOCAL LANDMARK  YES  NO

SURVEYED 7/8/93 BY AC

NEGATIVES WITH NMHPD ROLL # 1 NEG # 36 TO 2 2-3

ARCHITECTURAL FEATURES: STYLE, MATERIALS, AND CONDITION

ROOFS & DRAINS	SHED ROOF DRAINS TO REAR. HEAVY FLASHING AT ROOF LINE SOUTH SIDE.
BUILDING WALLS	BEIGE STUCCO
FOUNDATIONS	NOT VISIBLE
DOORS	ONE GLASS LITE, OVER WOOD PANEL. SCREEN DOOR ON EAST PORCH. AQUA TRIM.
WINDOWS	DHW 1/2 WEST & SOUTH, 1/8 DHW EAST END OF SOUTH WALL, AQUA TRIM.
PORCHES OR PORTALES	SCREENED PORCH EAST SIDE, WOOD SIDING.
BALCONIES	
COURTYARDS	
FENCES/WALLS	
ARCH. DETAILS	HOUSE DOES NOT APPEAR TO HAVE BEEN CHANGED. FRONT ATTACHED HOUSE ON SANBORN MAP 1930, #239.
OTHER	#239 A FORMER RESIDENCE NOW USED AS A BUSINESS. 237 SET BACK 50 FT.

COMMENTS THE FOOTPRINT OF THIS HOUSE HAS NOT CHANGED SINCE 1902. THIS SIMPLE HOUSE IS TYPICAL OF SANTA FE'S EARLY CONSTRUCTION. MANUEL VALDEZ LISTED AS OWNER ON KING'S MAP 1912. FRONT HOUSE ADDED CIRCA 1930. 1902 SANBORN MAP LISTS ADDRESS AS 144.

ADDITIONAL PHOTOGRAPHS



#36 NW CORNER



#3 EAST PORCH



# Preliminary Zoning Review Worksheet

City of Santa Fe Land Use Department

<b>To Be Completed By Applicant:</b>		Site Address:	
Date Submitted: 12-16-13		250 E ALAMEDA 239 DE VARGAS	
Property Owner of Record: EL CASTILLO RETIREMENT CENTER		Proposed Construction Description:	
Applicant/Agent Name: D. MICHAEL DUTY		NEW DUMPSTER ENCLOSURE PARKING	
Contact Person Phone Number: (505) 989-8882		TOTAL ROOF AREA: NA	
Zoning District: B2D		Lot Coverage: NA % <input type="checkbox"/> Open Space Required: _____	
Overlay: <input type="checkbox"/> Escarpment <input type="checkbox"/> Flood Zone* <input type="checkbox"/> Other: _____		Setbacks: Proposed Front: NA Minimum: _____ 2 <sup>nd</sup> Front? _____ Proposed Rear: _____ Minimum: _____ Proposed Sides: L _____ R _____ Minimum: _____	
Submittals Reviewed with PZR: <input type="checkbox"/> Legal Lot of Record <input type="checkbox"/> Development Plan <input checked="" type="checkbox"/> Building Plans <input checked="" type="checkbox"/> Existing Site Plan <input checked="" type="checkbox"/> Proposed Site Plan <input type="checkbox"/> Elevations		Height: Proposed: NA Maximum Height: _____ or <input type="checkbox"/> Regulated by Historic Districts Ordinance <input type="checkbox"/> Regulated by Escarpment District	
Supplemental Zoning Submittals Required for Building Permit: <input type="checkbox"/> Zero Lot Line Affidavit		Parking Spaces: + 3 FROM EL Proposed: 3 Accessible: 1 CASTILLO Minimum: 6	
Access and Visibility: <input type="checkbox"/> Arterial or Collector** <input type="checkbox"/> Visibility Triangle Required		Bicycle Parking**: NA Proposed: _____ Minimum: _____ ** Commercial Requirement	
Use of Structure: <input type="checkbox"/> Residential <input checked="" type="checkbox"/> Commercial Type of Use: MEMORY CENTER			
Terrain: <input type="checkbox"/> 30% slopes _____			

\* Requires an additional review conducted by Technical Review Division.  
\*\* Requires an additional review conducted by the Traffic Engineering Division.

THIS REVIEW DOES NOT GRANT ZONING APPROVAL FOR BUILDING PERMIT. FINAL ZONING REVIEW WILL BE PERFORMED AT THE TIME OF BUILDING PERMIT APPLICATION.

D. MICHAEL DUTY [  OWNER  APPLICANT  AGENT ]  
PRINT NAME

hereby certifies that the information provided for preliminary zoning review is accurate and will not be modified without consulting Land Use Department staff prior to submittal for Historic Districts Review Board review.

[Signature] 12-20-13  
SIGNATURE DATE

**To Be Completed By City Staff:**

**Additional Agency Review if Applicable:**

Escarpment Approval by \_\_\_\_\_ Date: 1/1/\_\_\_\_

Flood Plain Approval by \_\_\_\_\_ Date: 1/1/\_\_\_\_

Traffic Engineering Approval by \_\_\_\_\_ Date: 1/1/\_\_\_\_

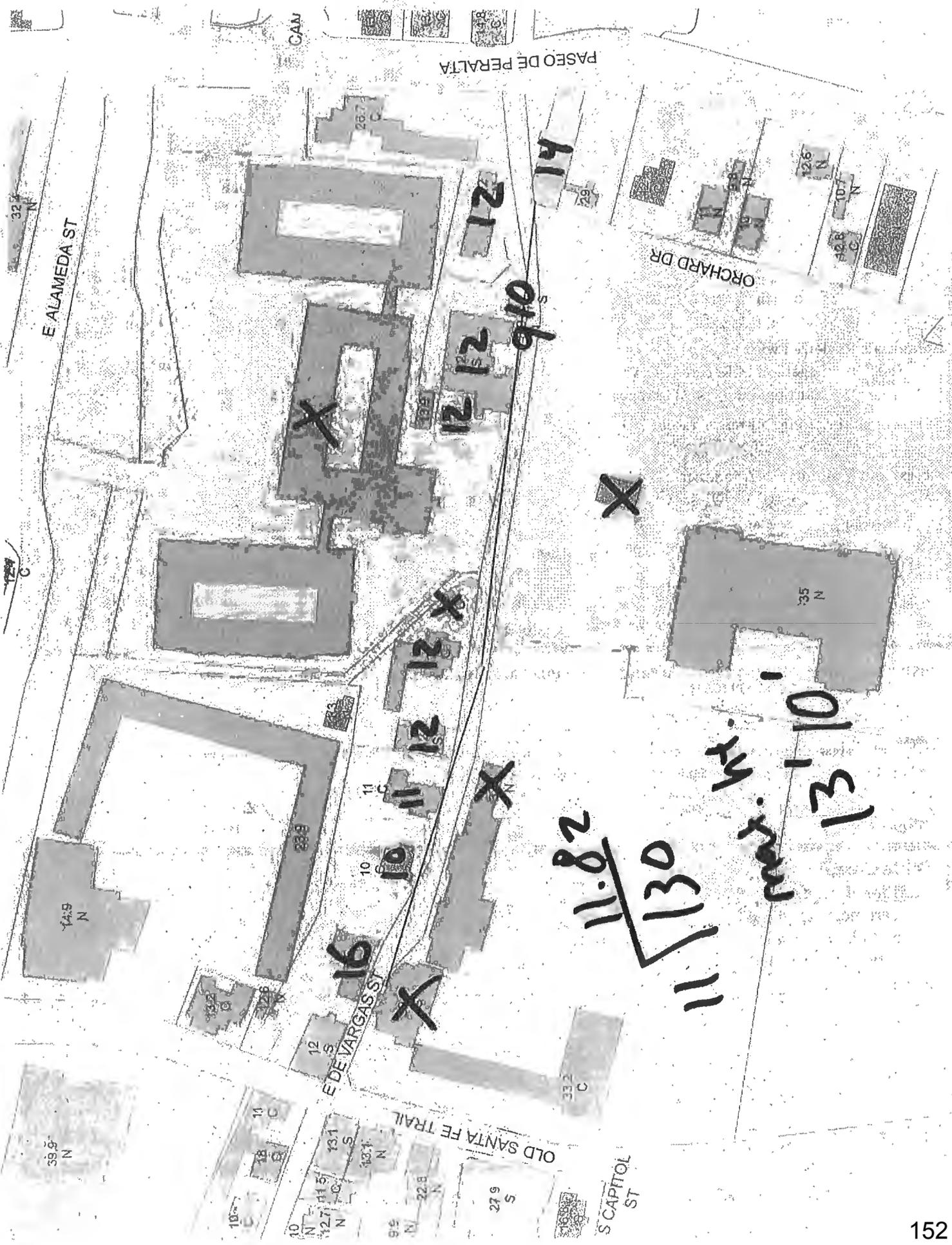
Notes: \_\_\_\_\_

**Zoning Approval:**

Preliminary Approval  with conditions  Rejected

Comments/Conditions: Parking analysis provided. No further parking study required.

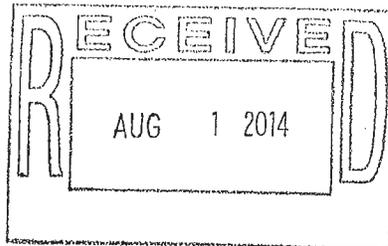
REVIEWER: [Signature] DATE: 12/20/13



Handwritten notes:  
 $11 \overline{) 82}$   
 $11 \overline{) 130}$   
rem. 10

# Duty & Germanas Architects

July 31, 2014



David Rasch  
Historic Districts Review Board  
City of Santa Fe  
200 Lincoln Avenue  
Santa Fe, New Mexico

Re: El Castillo Memory Center  
237 & 239 DeVargas Street

Dear Mr. Rasch:

At our recent hearing on this case, the HDRB postponed decision and requested additional detail. The detail requested was actual dimensions on the mechanical equipment screen and clarification of the proposal to screen the "hot-box" required by the City. In addition, the HDRB reiterated the request for us to have in attendance the mechanical contractor.

We are asking for a height exception for the required screening of the roof top equipment as shown on the enclosed drawings. The criteria for the exception were addressed in my letter to you on June 11, 2014. We feel the screening is required as per the HDRB approval of the project. To put it simply, the board voted to approve the project with "no visible rooftop equipment". Screening will meet that requirement, just as it has on various other approved projects in the historical districts. My response to the board after the vote was merely to clarify that there would be mechanical equipment on the new portion. I knew that screening would be required, and that is what we are attempting to do. There have been repeated questions as to the possibility of locating the equipment elsewhere. We have explained why that is not possible, or advisable and is not what was approved. We will have our mechanical contractor available to answer any questions relative to those facts.

The "hot box", as required by the City, will be screened also. We are proposing to screen the hot box with coyote fencing as shown on the enclosed drawings. We are no longer proposing to apply end panels as screening. We feel that would be out of character with everything. Coyote fencing is the best in our opinion.

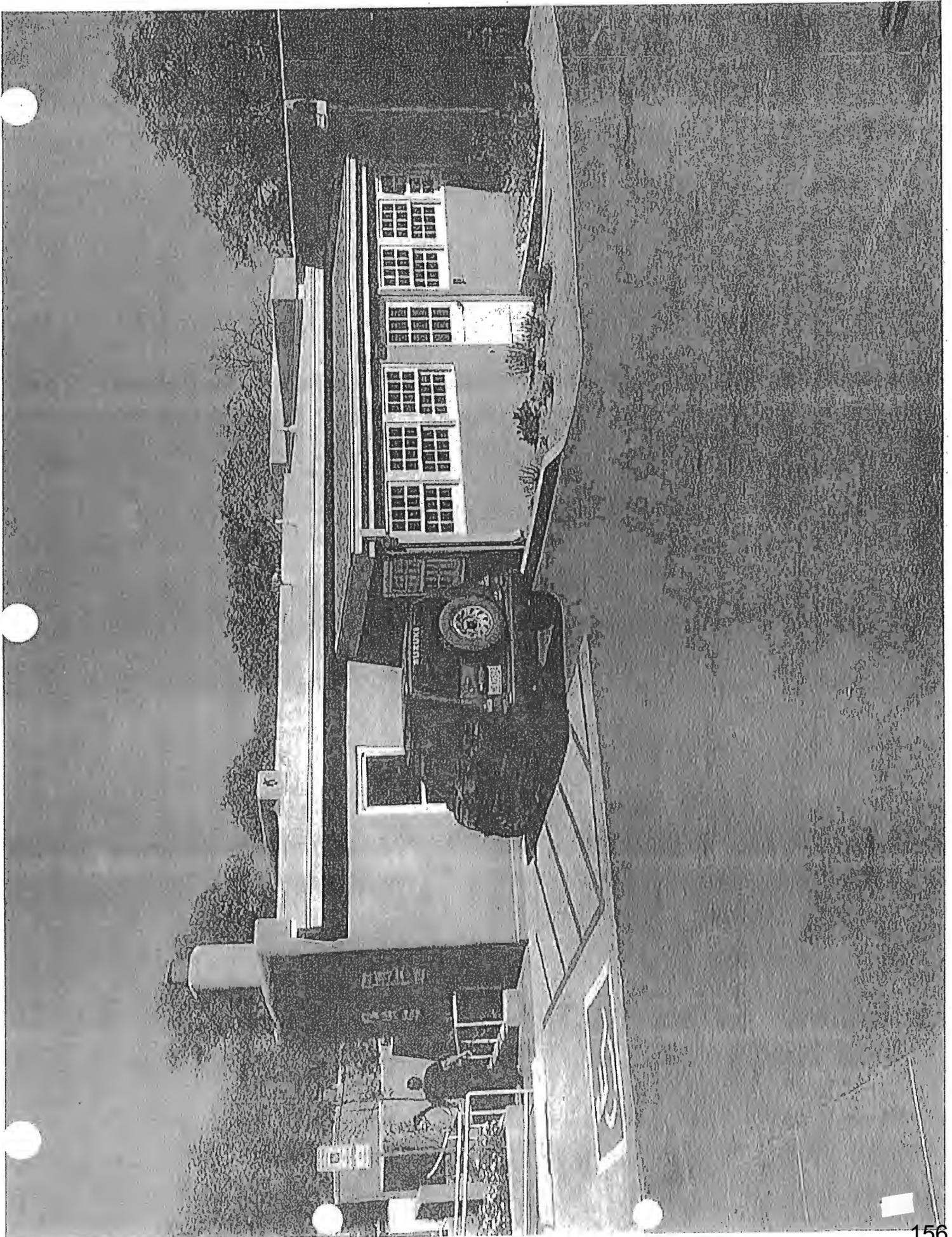
Thank you for your continued efforts on this project.

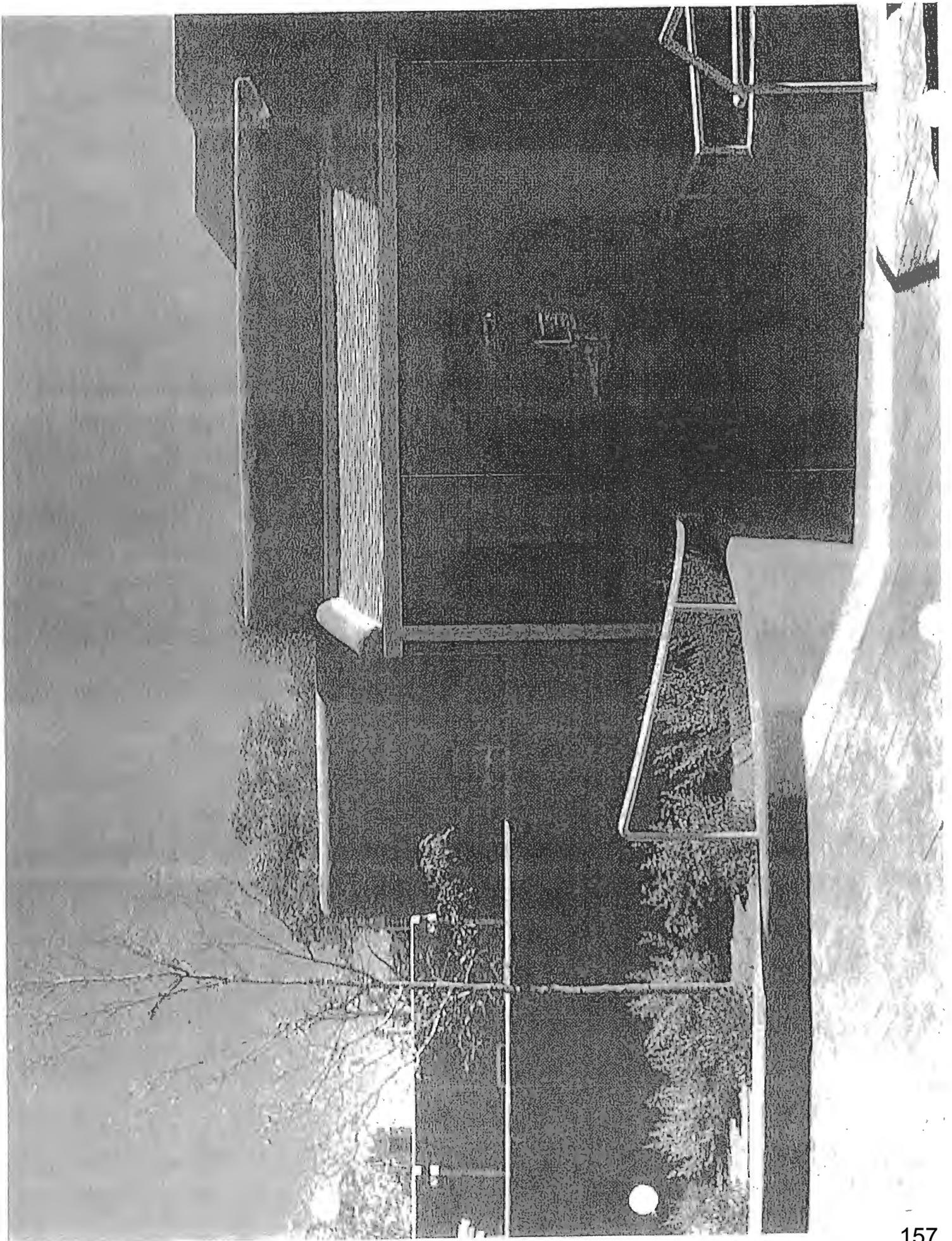
Sincerely,

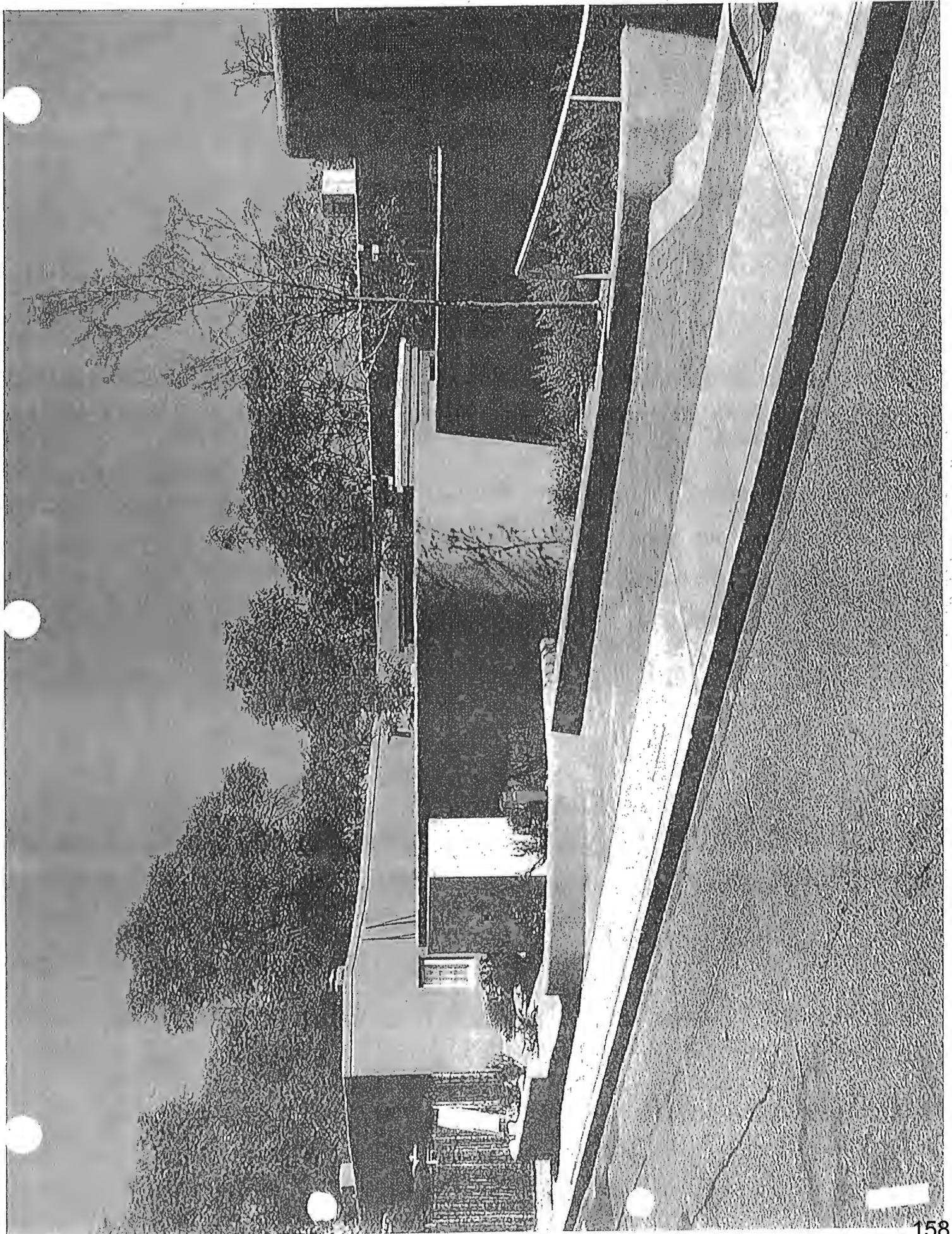
O. Michael Duty

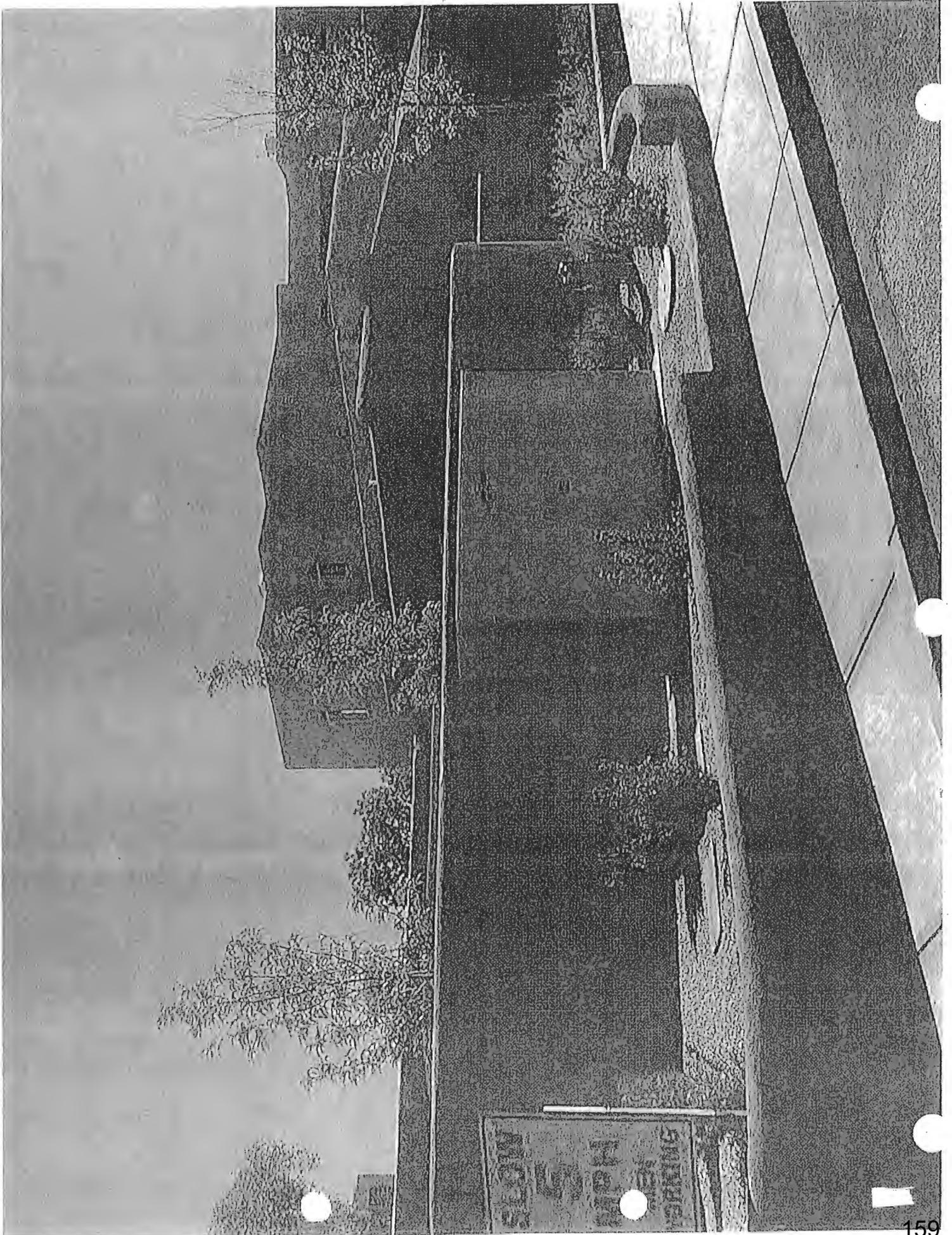
















City of Santa Fe  
Historic Districts Review Board  
Findings of Fact and Conclusions of Law

**Case #H-11-105**

**Address-237 & 239 East de Vargas Street**

**Owner/Applicant's Name-El Castillo Retirement Residence**

**Agent's Name-Duty & Germanas Architects**

THIS MATTER came before the Historic Districts Review Board (Board) for hearing on August 26, 2014 upon the application (Application) of Duty & Germanas Architects, as agent for El Castillo Retirement Residence, owner.

237 and 239 East de Vargas Street ("EDVS") are two historic structures that are separated by a common wall on one lot west of Brothers Lane. 237 EDVS was constructed in a vernacular manner before 1912 in an "L" shaped floorplan. 239 EDVS was constructed in approximately 1930 on the south end of the small leg of the "L" on 237 EDVS in a vernacular manner. The buildings are listed as contributing to the Downtown & Eastside Historic District and elevations 1-9 of 15 are designated as primary.

On July 8, 2014, the Board postponed action pending submittal of more complete proposal drawings and additional testimony from a mechanical engineer.

The Applicant proposes to make the following final amendments regarding the roof-mounted mechanical equipment and the hot box:

(1) A large hot box was installed in the front planter without Board or Land Use staff approval. Applicant proposes to screen the hot box with coyote fencing at approximately 5' 6" high with irregular latilla tops.

(2) In the motion on June 26, 2012, approving the addition to the contributing building at 237, the Board ruled that there shall be no visible rooftop appurtenances. The applicant then stated that there would be mechanical equipment placed on the roof of the newly constructed addition to the contributing structure but did not say whether that equipment would be visible. The Board action was the final action and the Applicant did not appeal that decision. As subsequently constructed, the three roof-mounted condensers are notably visible from the public right-of-way. Applicant now proposes to screen the equipment from public view with stuccoed walls that will be 15' 6" high. The maximum allowable height for this property is 13' 10". Thus an Exception is now requested to exceed the maximum allowable height (Section 14-5.2(D)(9)).

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

FINDINGS OF FACT

"E"

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. Board Staff recommends approval for coyote fence screening of the hot box and recommends denial of the Exception request to exceed the maximum allowable height to screen the roof-mounted mechanical equipment finding that the exception criteria have not been met.
4. The property is located in the Downtown & Eastside Historic District and the project is subject to requirements of the following sections of the Santa Fe Land Development Code:
  - a. Section 14-5.2(C) Regulation of Contributing Structures
  - b. Section 14-5.2(D)(9) General Design Standards
  - c. Section 14-5.2(C)(5)(b), (C)(5)(c) General Design Exceptions
  - d. Section 14-5.2(E), Downtown & Eastside Historic District
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 14-15.2(D)(9)(c)(ii), the general rule is: "the board shall limit the height of structures as set forth in this section."
8. Based a substantial, undisputed evidence concerning on the necessary distance needed between the three condensers and other locational requirements, the Board finds that the three units as currently located on the roof of the addition to the contributing building are much further apart and closer to the street than necessary, making any screening wall substantially longer and more prominent than necessary.
9. The Applicant stated at the hearing that each unit needed a 36" clearance for electrical service and airflow on the back and 36" for service and cleaning on the two ends.
10. The Applicant's proposed screen wall as shown on his drawings, however, did not provide the required 36" clearance for the unit, and thus would have to be even longer than shown on his drawings.
11. The Applicant at the hearing stated the units can be brought closer together.
12. The Applicant's proposed location of the screen wall on the middle of the roof would damage the streetscape because the units would still be prominently publicly visible from East de Vargas Street and Paseo de Peralta.
13. A change to the location of the units to the north side and closer together would provide the least negative impact for this project because the screening wall, while higher than the height limit, would be substantially shorter and much less prominent while still ensuring that the units are not publicly visible.
14. As proposed by the applicant, the proposed Exception does not meet the Section 14-5.2(C)(5)(c)(vi) criterion because the proposed long screening wall does not provide the least negative impact due to its length and its closeness to the street.

15. If the units are moved closer together and to north side of the roof, all criteria for the Exception are met.
16. The Exception meets the Section 14-5.2(C)(5)(c)(i) criterion because streetscape is not damaged.
17. The Exception meets the Section 14-5.2(C)(5)(c)(ii) criterion because the project prevents a hardship to the Applicant and prevents an injury to the public welfare because the Applicant asserted the only location on the ground which would technically work would be in the courtyard which could be injurious to the residents and limit their outdoor recreation space.
18. The Exception meets the Section 14-5.2(C)(5)(c)(iii) criterion because the project strengthens the unique heterogeneous character of the City as the design provides a facility that is an adjunct to the residential opportunity at El Castillo.
19. The Exception meets the Section 14-5.2(C)(5)(c)(iv) criterion because there is a special circumstance due to the limited site area.
20. The Exception meets the Section 14-5.2(C)(5)(c)(v) criterion because the special circumstance was not a condition created by the Owner due to the long-standing existence of the limited site area. The Applicant, however, could have mitigated this issue to a greater extent if it had chosen design plans that did not cover such a large portion of the site area.
21. The Exception meets the Section 14-5.2(C)(5)(c)(vi) criterion because moving the units closer together and to the north side of the roof provides the least negative impact for this project with a shorter screening wall less visible from the street.
22. Having a coyote fence screen the hot box on three sides in its prominent location in front of the wall close to the street clearly denotes that a large piece of equipment is being screened.
23. A change to having the hot box screened to look like a gate entrance to the courtyard with stucco sides and a coyote fence gate providing access to the hot box would cause the least negative impact because it would minimize the appearance of the presence of large screening of electrical or hotbox equipment.
24. The information contained in the Application, and provided in testimony and evidence, establishes that with the proposed modifications, all applicable requirements 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 and Exception with the conditions: (1) the hot box shall be screened to look like a gate entrance with stucco sides and a coyote fence gate; (2) the three rooftop units shall be relocated to the north side of the building between the skylights on the northeastern portion, east of the rectangular skylight; (3) the units shall be placed as close as possible together so not to exceed six feet side to

- side; (4) the screen wall shall be stuccoed and as high as the units and enclosed on three sides so there is no publicly visibility of the equipment.
3. The granting of the Exception is contingent on moving the units to the specified location.
  4. If the Applicant cannot comply with the conditions of the motion, the application shall come back to staff and staff will determine if the application needs to come back to the Board.

**IT IS SO ORDERED ON THIS \_\_\_\_ DAY OF SEPTEMBER 2014, THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.**

\_\_\_\_\_  
Sharon Woods  
Chair

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

FILED

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

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

APPROVED AS TO FORM

\_\_\_\_\_  
Zachary Shandler  
Assistant City Attorney

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



Google earth



"F1"



Google earth



"F<sub>2</sub>"