

City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909

www.santafenm.gov

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Memorandum

To: Members of the Governing Body

From: Zachary Shandler, Assistant City Attorney *38*

Via: Kelley Brennan, City Attorney *KAB*

Re: Case #2015-80. Appeal by Palacio Azul, Ltd. From July 28, 2015 Decision of the Historic District Review Board regarding Partial Grant and Partial Denial of Construction at Applicant's property at 535 East Alameda Located in the Downtown and Eastside Historic District (Zachary Shandler, Assistant City Attorney).

Date: October 8, 2014 for October 14, 2015 Meeting of the Governing Body

I. THE APPEAL

On August 13, 2015, Palacio Azul, Ltd. (Applicant) filed a Verified Appeal Petition (the Petition) appealing the July 28, 2015 Decision of the Historic Districts Review Board (HDRB or Board) in Case #H-15-172, Partially Approving and Partially Denying the Application with Conditions at 535 East Alameda Located in the Downtown and Eastside Historic District. A Copy of the Petition is attached as **Exhibit A**.

II. HISTORY OF THE CASE

535 East Alameda is a tract of land between Palace Avenue and East Alameda. There is an existing historic building in the central part of the land, known as the Ashley Pond House (Pond House), designed by John Gaw Meem. The Pond House is listed as a contributing structure to the Downtown and Eastside Historic District. The Applicant has appeared in front of the Board

multiple times and received permission to build several new residential units, garages and walls on the land.

This appeal centers on Residential Unit 7 and its relationship to the Pond House. The Applicant previously received permission to build a one-bedroom unit on Alameda Street. Currently, a person walking down Alameda Street has a view of the Pond House behind Unit 7. The view is of one of the Pond House's primary facades. (A Photograph is attached as **Exhibit B1**). Currently, a person walking down Palace Avenue also has a view of the Pond House. (A Photograph is attached as **Exhibit C1**). The view is of one of the Pond House's non-primary facades. The Board, in April 2015, granted permission for the Applicant to build a 6-foot trellis wire fence with vegetation on Palace Avenue behind a 3 foot stuccoed yardwall. The trellis fence will be lower than the existing chain link fence.

On July 14, 2015, the Applicant submitted a variety of requests to the Board regarding several units on the property. (Meeting Packet is attached as **Exhibit D**)(Copy of the Minutes is attached as **Exhibit E**). A number of these requests related to Unit 7, including requests to (1) build a 574 square foot addition (second bedroom) onto the western part of Unit 7; (2) add portals on the north and southwest portions of Unit 7; (3) build a coyote fence in front of Unit 7 (due to natural grade, the coyote fence is actually much taller than the sidewalk); and (4) build a see-through car port on the west side of the addition.

If the Unit 7 requests were approved and built as applied for, the view of the Pond House from Alameda Street would be blocked (A Drawing is attached as **Exhibit B2**.) A person walking down Palace Avenue, however, would likely have a view of the Pond House through the wire trellis fence and vegetation. (A Drawing is attached as **Exhibit C2**.)

The Board approved the Applicant's Application, except:

The Board did not approve the Application for the items in Unit 7 blocking public visibility of the contributing structure:

- a. bedroom addition;*
- b. southwest portal;*
- c. coyote fencing*

On July 28, 2015, 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 F**). On August 13, 2015, Palacio Azul, Ltd. filed its Verified Appeal Petition.

III. BASIS OF APPEAL

A. Applicant's Issues on Appeal.

1. The Board's decision was arbitrary and capricious and not supported by substantial evidence and contrary to law, particularly City Code Section 14-5.2(D)(1)(b).

IV. RELIEF SOUGHT

Applicant asks the Governing Body to reverse the Board's decision and allow Applicant to construct the bedroom addition, southwest portal and coyote fence at Unit 7.

V. ISSUES RAISED BY THE APPEAL; ANALYSIS

A. The Board's Rationale.

The Board's decision was based on the proposition that the changes to Unit 7 would block a citizen on East Alameda from viewing the primary façade of a contributing structure (the Pond House) to the Downtown and Eastside Historic District. The Board made these findings:

8. *The main historic building, known as the Ashley Pond House, was designed by John Gaw Meem and constructed in the Territorial Revival style by 1930.*
9. *That residence and the attached guest house are listed as a contributing structure in the Downtown & Eastside Historic District, with the south facade and southern portion of the west facade having been designated as primary prior to any construction on the project.*
10. *The construction of bedroom addition, southwest portal and coyote fencing for Unit 7 will mask the primary facades of the Pond House from view from East Alameda Street.*
11. *Public visibility is an important part of Historic Districts Ordinance; many of the design standards are applicable only if the facade in question is publicly visible.*
12. *The desirability of maintaining public visibility of primary facades of contributing buildings must be balanced with the right of the owner to develop his property.*
13. *The three large homes sited on the eastern portion of the original lot, now each with a large two car garage, and the smaller home on the western side partially blocking the primary facades of the contributing Pond house have allowed the applicant significant and dense development rights on the property.*
14. *Balanced with that development, the elimination of the bedroom extension, the southwest portal and the coyote fence in Unit 7 to prevent the completely blocking of the primary facades of the contributing Pond house is reasonable.*

The Board argued, particularly in Findings #11 and #12, in favor of "the desirability of maintaining public visibility of primary facades." This is an argument for protecting a citizen's view (a/k/a, a "view corridor") of a contributing structure. One could argue that support for this proposition is found in the "General Purpose" provisions of the Historic Code. This section reads: "In order to promote the economic, cultural, and general welfare of the people of the city and to ensure the harmonious, orderly and efficient growth and development of the city, it is deemed essential by the governing body that the qualities relating to the history of Santa Fe, and a harmonious outward appearance, which preserve property values and attract tourists and residents alike, be preserved..." City Code, Section 14-5.2(A)(1) (emphasis added). One could also make the policy argument that residents do not want to live in a walled city; residents do not want to live where contributing buildings are concealed from public view. The City Charter in broad terms states: "We therefore declare that the multi-cultural heritage and neighborhoods of Santa Fe are essential to the people of this community and that public officials shall at all times exercise their powers with sensitivity to and respect for that cultural and neighborhood heritage."

City Charter, Section 2.04. We note, however, that purpose and intent clauses are generally applied in interpreting other sections of the applicable code, as they do not establish specific design standards and requirements, e.g., the height regulation.

The Board's decision was also based on the proposition that changes to Unit 7 could impact the historic status of the Pond House. According to City Code, Section 14-12.1, a change to historic status usually results when a structure, itself, is physically altered, or when it loses its historic integrity. Section 14-12.1 is the definition section where terms such as "contributing structure", "non-contributing structure", "significant structure" and "landmark" are defined in a manner which suggests that status relates to the physical integrity of the building itself. The Board made these findings:

7. *Under Section 14-5.2(D)(1)(b), if a "proposed alteration or new construction will cause an adjacent structure to lose its significant, contributing, or landmark status, the application may be denied."*

...

15. *Because the proposed additions to Unit 7 of the bedroom, attached southwest portal and coyote fence would block the primary façades of the contributing Pond House from public visibility they would likely cause the Pond House to lose its contributing status.*

B. Contrary Case Law.

On the other hand, there is no express language in the Historic Code that gives the Board the power to guarantee a citizen the right to view certain properties. In fact, in 2000, the First Judicial District Court rejected the above-stated propositions. In Teme v. City of Santa Fe, a property owner challenged the Board's denial of his request to build a 43-foot retail/office building next to the historic Loretto Chapel. (Court decision is attached as **Exhibit G**). The Board's decision (which was adopted by the Council) denied the proposal based on "the potential impact of the proposed building on the Loretto Chapel" and because "the proposed building would impair the view of the St. Francis Cathedral from Old Santa Fe Trail." Court Finding of Fact #12.

The Court, after reviewing the record, noted: "At no time did Teme propose to physically alter the Loretto Chapel or in any other way physically modify the structure, and at no time was the status of the Chapel as a contributing or significant structure proposed to be altered or removed." Court Finding of Fact #14. The Court also noted: "the City Code does not allow the Historic Design Review Board to regulate 'view corridor'...." Court Finding of Fact #18. The Court's Conclusions of Law stated:

"Neither the Board nor the Council has the power or authority under Santa Fe City Code as adopted to preserve 'view corridors'.... Court Conclusion of Law #3a.

"There was no evidence that the historic status of the Loretto Chapel itself would be altered or changed under Teme's application, and the Board's and the Council's denial of the application on the basis that the Chapel's status or the

Chapel itself would be altered or changed was arbitrary, capricious and unlawful.” Court Conclusion of Law #3d.

While the case went up on appeal to the Court of Appeals, this aspect of the decision was not overturned and remains valid law. This means that the Court found there are no statutory grounds for the proposition of a “view corridor” in City Code. It means the Court found that constructing something next to a historic building does not necessarily mean the historic building will lose its historic status under City Code Section 14-5.2(D)(1)(b).

Finally, one could argue that if the Application is granted as submitted, the view from Alameda of a primary façade of the Pond House will be blocked, but citizens of Santa Fe will still have a view from Palace Avenue (albeit of a non-primary façade) of the Pond House. We note that the Application does not provide for any modifications to the Pond House itself.

VI. CONCLUSION

- If the Governing Body concludes the Board’s decision is inconsistent with the Teme decision, the Governing Body should reverse the Board’s decision and grant the Applicant’s Appeal and enter Findings of Fact/Conclusions of Law consistent with this motion.
 - Motion: *I move to reverse the Board’s decision and grant the Applicant’s Appeal and to direct staff to prepare Findings of Fact/Conclusions of Law consistent with this motion.*
- If the Governing Body concludes the Teme decision does not apply to the facts in this case and the Board’s decision was based on facts in the record, the Governing Body should affirm the Board’s decision and deny the Applicant’s Appeal and adopt the Board’s Findings of Fact as its own.
 - Motion: *I move to affirm the Board’s decision and deny the Applicant’s Appeal and adopt the Board’s Findings of Fact/Conclusions of Law as our own.*



LUD Use Only

Time Filed: 3:57 PM

Fee paid: \$100.00

Receipt attached:

(date stamp)

AUG 13 2015

**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: PALACIO AZUL, LTD
Last First M.I.

Address: 428 SANOUVAL NO. 200
Street Address

SANTA FE N.M. 87501
City State ZIP Code

Phone: () E-mail Address: caro@zydeco66.com

Additional Appellant Names: _____

Correspondence Directed to: Appellant Agent Both

Agent Authorization (if applicable)

I/We: PALACIO AZUL, LTD

authorize SOMMER KAWES ASSOCIATES, LP to act as my/our agent to execute this application.

Signed: _____ Date: _____

Signed: [Signature] Date: 8/13/15

Subject of Appeal

Project Name: PALACIO AZUL

Applicant or Owner Name: PALACIO AZUL, LTD

Location of Subject Site: 535 E. ALAMEDA

Case Number: H-15-172, H-07-102 Permit Number (if applicable): _____

Final Action Appealed: H-15-035

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

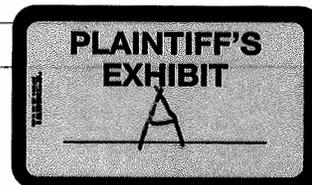
Basis of Standing (see Section 14-3.17(B) SFCC 2001):

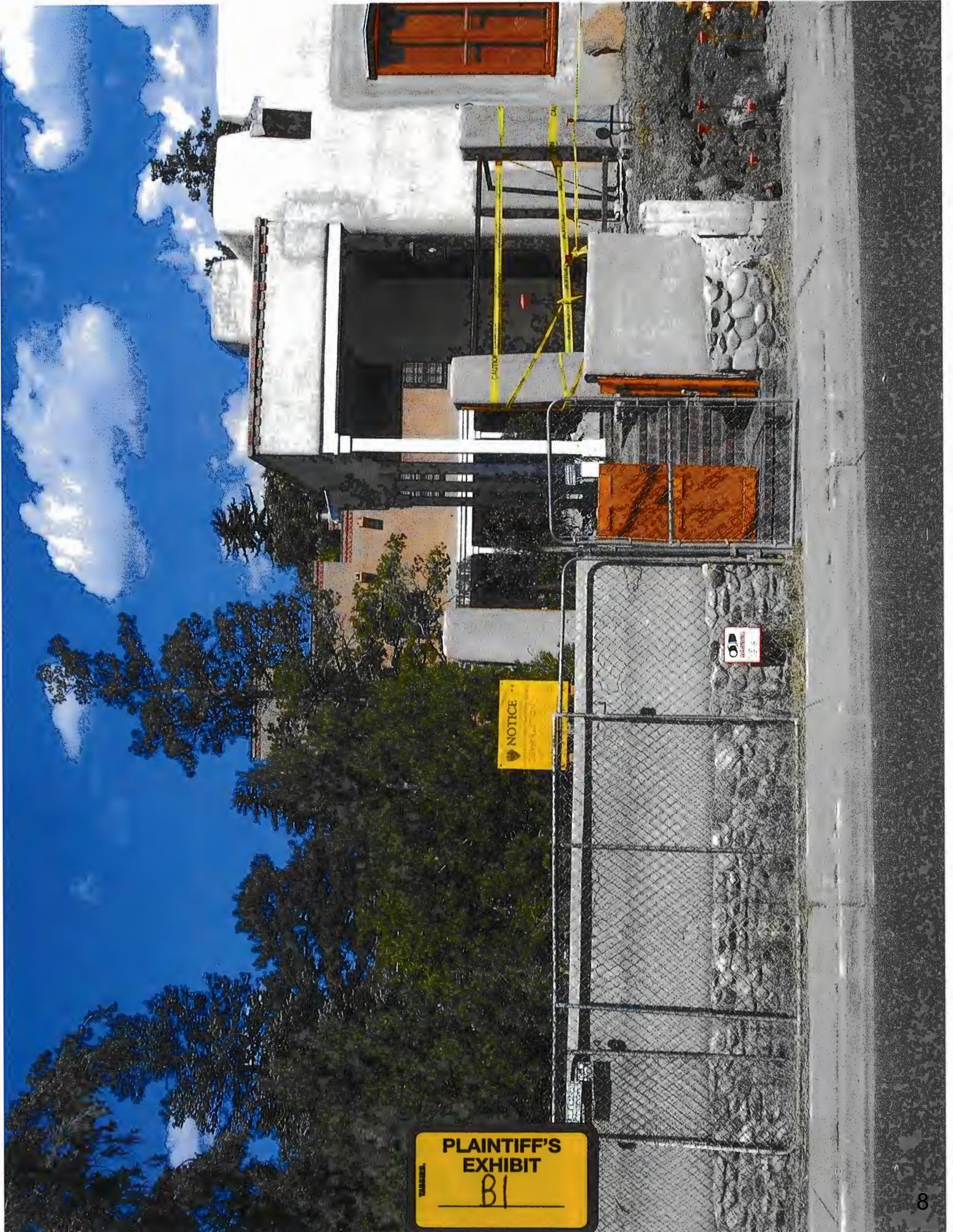
Basis for Appeal: The facts were incorrectly determined Ordinances/laws were violated and/or misrepresented

Description of the final action appealed from, and date on which final action was taken:

SEE EXHIBIT "A" ATTACHED HERETO

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





PLAINTIFF'S
EXHIBIT
B1

NOTICE



**PLAINTIFF'S
EXHIBIT**
Ba



**PLAINTIFF'S
EXHIBIT**
 c1



**PLAINTIFF'S
EXHIBIT**
C2

Project description: Case #H-05-172. 535 East Alameda Street Unit B (3&4); Case#H-07-102. 535 East Alameda Street Unit E (7); and Case#15-035. 535 East Alameda Street Yardwalls. Aaron Bohrer, agent for Richard Yates, owner, proposes to remodel a non-contributing residential structure (3/4) including construction of a 324 sq. ft. 2-car garage, a 1,043 sq. ft. studio addition, a 453 sq. ft. second floor addition, a 1,138 sq. ft. accessory structure addition, and 4'8" tall yardwalls, and to remodel a non-contributing residential structure (7) including construction of a 533 sq. ft. 2-car carport, a 574 sq. ft. addition, 380 sq. ft. of portal and a 4'4" tall coyote fence with stuccoed pilasters.

Case number: H-05-172, H-07-102, H-15-035
 Project Type: HDRB

PROJECT LOCATION (S): 535 East Alameda Street Unit B (3&4), E (7)

PROJECT NAMES:

OW – Richard Yates Santa Fe, NM 87501	428 Sandoval Street 505-984-1766
AP – Aaron Bohrer Santa Fe, NM 87501	428 Sandoval Street 505-984-1766

PROJECT DATA:

HISTORIC DISTRICT	Downtown & Eastside
HISTORIC BUILDING STATUS	Contributing
PUBLICLY VISIBLE FACADE-EAST	Yes
PUBLICLY VISIBLE FACADE-NORTH	Yes
PUBLICLY VISIBLE FACADE-SOUTH	Yes
PUBLICLY VISIBLE FACADE-WEST	Yes
HISTORIC DISTRICT INVENTORY NUMBER	NA
YEAR OF CONSTRUCTION	2006
PROJECT TYPE (NEW, ADD, ETC.)	Remodel
USE, EXISTING	Residential
USE, PROPOSE	Residential
HISTORIC BUILDING NAME	NA



City of Santa Fe, New Mexico

memo

DATE: July 14, 2015
TO: Historic Districts Review Board Members
FROM: David Rasch, Supervising Planner in Historic Preservation DR

CASE # H-05-172, 07-102, 15-035

ADDRESS: 535 East Alameda Street (3, 4, 7)
Historic Status: Non-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. setback study wall/fence ht. calc.

APPLICANT SUBMITTALS

- Proposal Letter
- Vicinity Map
- Site Plan/Floor Plan
- Elevations
- Photographs
- Other:

STAFF RECOMMENDATION:

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

BACKGROUND & SUMMARY:

535 East Alameda Street, formerly known as 540 East Palace Avenue, is a compound of five residences and a guest house. The main historic building, known as the Mrs. Ashley Pond House, was designed by John Gaw Meem and constructed in the Territorial Revival style by 1930. That residence and the attached guest house is listed as a contributing structure in the Downtown & Eastside Historic District. The four recently constructed Santa Fe Style residences will be remodeled and/or finished for habitation.

Now, the applicant proposes the final remodel of the property with the following eleven items.

Units 3 & 4

1. A 1,043 square foot studio addition will be located at approximately 17' 9" back from the Palace Avenue frontage. The proposed height is 4' above the existing two-story structure and there is more than 2' of slope on this part of the site. The façade features Territorial detailing including pedimented arched windows and doors and brick coping at the parapet.

2. A 1,138 square foot addition will be constructed at the west elevation of the existing residence. The addition will match existing height and character.

3. A 453 square foot second story addition will be constructed at the southeast corner of the existing residence. The addition will match existing height and character.

4. A 324 square foot 2-car garage will be constructed on the west side of the residence with wooden garage doors.

5. Two wooden trellises will be constructed at the street frontage to a height of 8' 9" high.

6. 4' 8" stuccoed yardwalls with accent pilasters and brick caps will be constructed along the east end of the Palace Avenue street frontage.

7. The east side retaining walls will be changed from Vera-Loc to natural stone.

Unit 7

8. A 533 square foot 2-car carport will be constructed to a height of 12' 9" on the west side of the residence. The carport, changed from a garage to provide more visibility of the primary façade of the contributing historic structure beyond, is designed in a Territorial Revival style with square posts, exposed headers, and brick coping on parapets.

9. A 574 square foot addition will be constructed on the northwest corner of the residence at a height lower than existing adjacent parapet height. The addition is designed to match existing conditions.

10. Two portals, totaling 370 square feet at 11' 9" high, will be constructed on the north and southwest side of the residence. The portals are designed in the Territorial Revival style with brick coping on the parapets and square posts with detailed bases and capitals.

11. A 4' 4" coyote fence will be constructed between stuccoed pilasters flanking the pedestrian entrance on Alameda Street between Unit 7 and the west lotline where the maximum allowable height is 4' 4". Paired wooden pedestrian gates will be installed.



Preliminary Zoning Review Worksheet

City of Santa Fe Land Use Department

To Be Completed By Applicant:		Site Address:	
Date Submitted: <u>6/16/2015</u>		<u>535 EAST ALAMEDA ST. UNIT 3 & 4</u>	
Property Owner of Record: <u>RICHARD YATES</u>		Proposed Construction Description:	
Applicant/Agent Name: <u>AARON BOHRER</u>		<u>RENOVATION OF #3, #4 ADDITION</u>	
Contact Person Phone Number: <u>505 670.2575</u>		TOTAL ROOF AREA: <u>4,833.69 (UNIT 3 & 4)</u>	
Zoning District: <u>HRD-DOWNTOWN/EASTSIDE</u>		Lot Coverage: <u>39.8% COMBINED</u>	
Overlay: <input type="checkbox"/> Escarpment <input type="checkbox"/> Flood Zone* <input type="checkbox"/> Other: <u>NA</u>		<input type="checkbox"/> Open Space Required: <u>NA</u>	
Submittals Reviewed with PZR:		Setbacks:	
<input checked="" type="checkbox"/> Legal Lot of Record <input checked="" type="checkbox"/> Development Plan <input checked="" type="checkbox"/> Building Plans		Proposed Front: _____ Minimum: <u>7'</u>	
<input type="checkbox"/> Existing Site Plan <input checked="" type="checkbox"/> Proposed Site Plan <input checked="" type="checkbox"/> Elevations		2 nd Front? _____	
Supplemental Zoning Submittals Required for Building Permit:		Proposed Rear: _____ Minimum: <u>7'</u>	
<input type="checkbox"/> Zero Lot Line Affidavit		Proposed Sides: L _____ R _____ Minimum: <u>5'</u>	
Access and Visibility: <input type="checkbox"/> Arterial or Collector** <input type="checkbox"/> Visibility Triangle Required		Height: Proposed <u>EXISTING</u>	
Use of Structure: <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial Type of Use: _____		Maximum Height: <u>2x + 4'</u> or	
Terrain: <input type="checkbox"/> 30% slopes <u>NA</u>		<input type="checkbox"/> Regulated by Historic Districts Ordinance	
*requires an additional review conducted by Technical Review Division.		<input type="checkbox"/> Regulated by Escarpment District	
** Requires an additional review conducted by the Traffic Engineering Division.		Parking Spaces:	
		Proposed <u>NA</u> Accessible _____	
		Minimum: _____	
		Bicycle Parking**:	
		Proposed <u>NA</u> Minimum: _____	
		** Commercial Requirement	

THIS REVIEW DOES NOT GRANT ZONING APPROVAL FOR BUILDING PERMIT. FINAL ZONING REVIEW WILL BE PERFORMED AT THE TIME OF BUILDING PERMIT APPLICATION.

AARON BOHRER
PRINT NAME

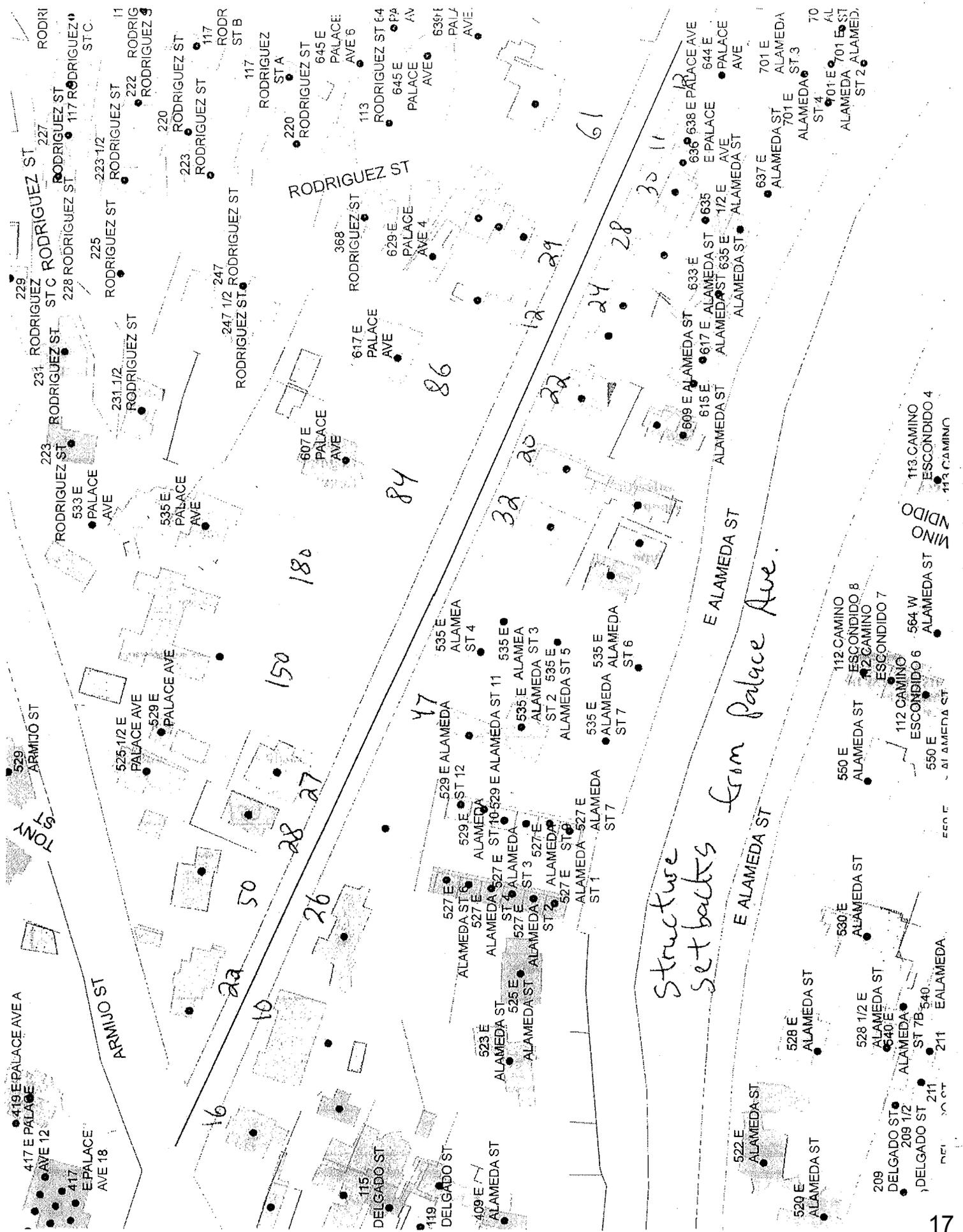
OWNER APPLICANT AGENT

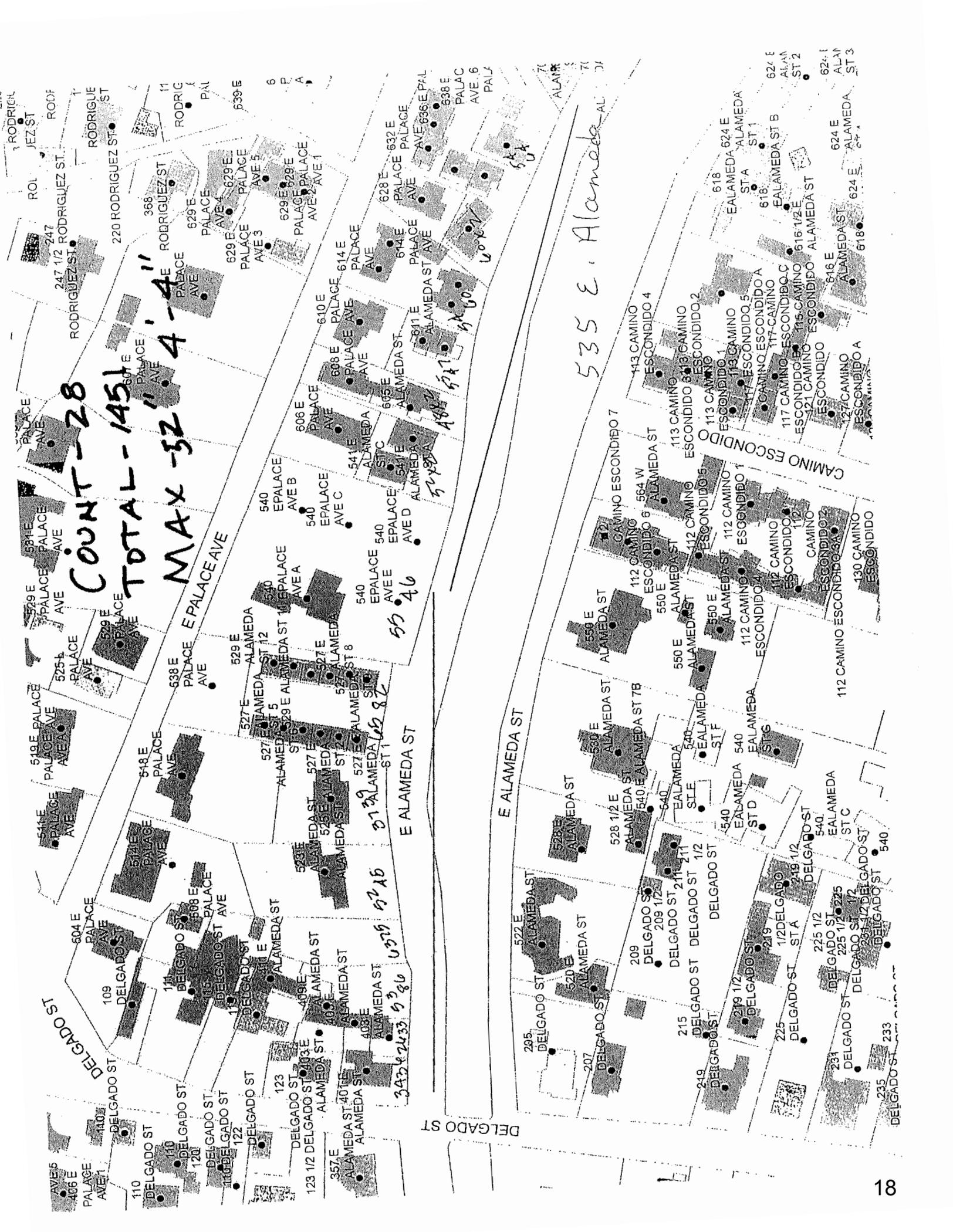
hereby certifies that the information provided for preliminary zoning review is accurate and will not be modified without consulting Land Use Department staff prior to submittal for Historic Districts Review Board review.

Aaron Bohrer
SIGNATURE

6/16/15
DATE

To Be Completed By City Staff:	
Additional Agency Review if Applicable:	
<input type="checkbox"/> Escarpment Approval by _____	Date: <u> / / </u>
<input type="checkbox"/> Flood Plain Approval by _____	Date: <u> / / </u>
<input type="checkbox"/> Traffic Engineering Approval by _____	Date: <u> / / </u>
Notes: _____	
Zoning Approval:	
<input checked="" type="checkbox"/> Preliminary Approval <input type="checkbox"/> with conditions <input type="checkbox"/> Rejected	
Comments/Conditions: _____	
REVIEWER: <u>Zach Thomas</u>	DATE: <u>6/17/15</u>





COUNT - 28
 TOTAL - 145
 MAX - 32
 4-4-4

535 E. Alameda



MAY - 8 2015

December 17, 2014
Revised May 7, 2015

Mr. David Rasch,
Planner Supervisor, Preservation Division
City of Santa Fe
P.O. Box 909
200 Lincoln Avenue
Santa Fe, NM 87504

RE: 535 East Alameda Street, Unit #7
(Formerly referred to as 540 East Palace Avenue, Unit A)
Project Type: HDRB

535 East Alameda Street, Unit #7

The development site, formerly referred to as 540 East Palace Avenue (referred to as "The Project" herein), is currently zoned R-21, 1.23 acres or 52,363 square feet in size and fits neatly between East Alameda Street and East Palace Avenue. The Project is located within the City of Santa Fe's Historic District.

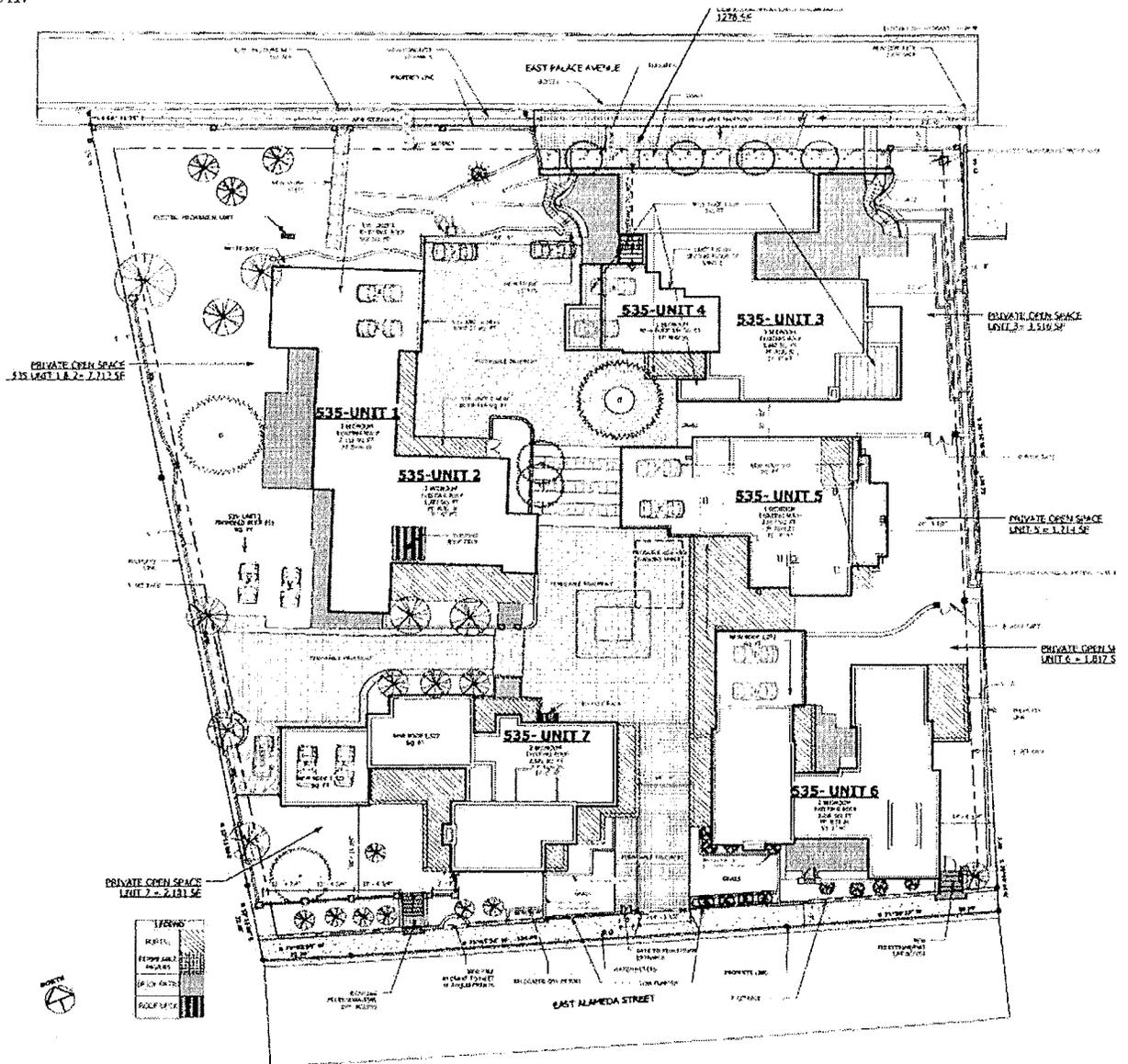
Presently, The Project has six in-situ residential structures that were sited to create a compound development. Two of the six buildings are attached and the remaining are detached structures. The two attached units were developed over time with one of the two a single family residence designed by the architect John Gaw Meem, known as the Ashley Pond House. An addition was built to the Meem original and since developed into two separate residences. The four new residential units were permitted in 2007 but due to a foreclosure action on the property, the construction project never reached completion. This submittal is in reference to Unit#7 in particular, with the following changes to the address and the individual unit references per the recorded development plan at Santa Fe County on 15 October, 2014

Change in Address

The new address for the project is 535 East Alameda Street with the residential Units numbered 1-7. The existing address shall remain until the new driveway is accessible by emergency personal and vehicles.

Reference Site Plan

Because the project is a combination of new construction and the renovation of existing residential units and site improvements, this Letter of Application references the SF Permit numbering system for consistency per the following site plan and the unit location:



NOTE ZONING: R - 21 / DOWNTOWN AND EASTSIDE HISTORIC DISTRICT

City of Santa Fe's permitting nomenclature and permit status:

<u>Old Address</u>	<u>New Address</u>	<u>Permit Status</u>
540 E. Palace	535 E. Alameda	
540 (west unit)	Unit 1	Currently submitted for construction permit
540-A (east unit)	Unit 2	Finalized with certificate of occupancy.
540-B	Unit 3	50 percent complete. This Unit is currently permitted under a "re-issuance permit".
540-F	Unit 4	Proposed new unit on the second floor of Unit 3. Access is from the lower Zocolo or Palace Avenue.
540-C	Unit 5	50 percent complete. This Unit is currently permitted under a "re-issuance permit".
540-D	Unit 6	95 percent complete. This Unit is currently permitted under a "re-issuance permit".
540-E	Unit 7 *	95 percent complete. This Unit is currently permitted under a "re-issuance permit".*

**Unit under consideration, this application-*The focus of this narrative is solely on Unit #7.

Proposed Modifications to Unit #7

Identified Existing Exterior Conditions

This residence is located in the southwest quadrant of The Project and contiguous with East Alameda Street to the south, sharing one side yard with Unit#1 and #2 within the compound. Since Unit #7 does not have a certificate of occupancy it is not occupied at this time.

Proposed Exterior Improvements

We submit the following scope of work for your consideration:

1. A proposed 2-car carport, 533 square feet. Said carport is made by continuing the existing portal around the new master bedroom suite on the west side to create a carport that reflects the same detailing by continuing the existing unit's detailing with painted wood capitals and plinths, wood columns and exposed beams, stucco parapets with brick copings, viga structure and wood decking. . The proposed structure's height is the same as the existing west facing portal of the same unit;

2. A proposed master suite addition including a bedroom, full bathroom and closet of 574 square feet. The master suite addition is planned as an extension to the building, forming an "L" shaped building that encloses a semi-private courtyard facing south and East Alameda Street. The addition's style and detailing reflect that found in the parent Unit; stucco parapets with pueblo style detailing, portals with brick coping and painted white columns. The proposed structure's height does not exceed the existing parapet height;
3. The proposed portals (combined square footage of 370 square feet) continue the existing unit's detailing with painted wood capitals and plinths, wood columns and exposed beams, stucco parapets with brick copings, viga structure and wood decking. We are introducing a wainscot 44" above finish floor under sections of the new portals only; at the main building entry and master bedroom portal addition. A proposed portal demarking the new building entry on the north side of the building and located adjacent to the new zocolo. The proposed portals continue the existing unit's detailing with painted wood capitals and plinths, wood columns and exposed beams, stucco parapets with brick copings, viga structure and wood decking. We are introducing a wainscot 44" above finish floor under the new portals only;
4. Proposed stucco yard walls that are located greater than 20'-0" from the property line shall reflect the same detailing found in the parent Unit; The proposed yard walls shall not exceed six feet in height;
5. Proposed stucco pilasters with stone bases, coyote infill fencing with wood gates run along the southern portion of the site. This proposed coyote fencing height shall not exceed four feet four inches in height.



SOUTHEAST CORNER ELEVATION



SOUTH ELEVATION AS SEEN FROM ALAMEDA



WEST ELEVATION LOOKING EAST FROM THE PROPERTY LINE



NORTH ELEVATION LOOKING SOUTH TO ALAMEDA STREET



EXISTING SITE PHOTOGRAPHS
540 EAST PALACE AVENUE, UNIT 540-E



MAY - 6 2015

**535 EAST ALAMEDA ST.
UNIT 7**

HISTORIC SUBMITTAL II

MAY 7, 2015



PALACIO AZUL

535 EAST ALAMEDA ST.
530 EAST PALACE AVE, SANTA FE, NEW MEXICO, 87501

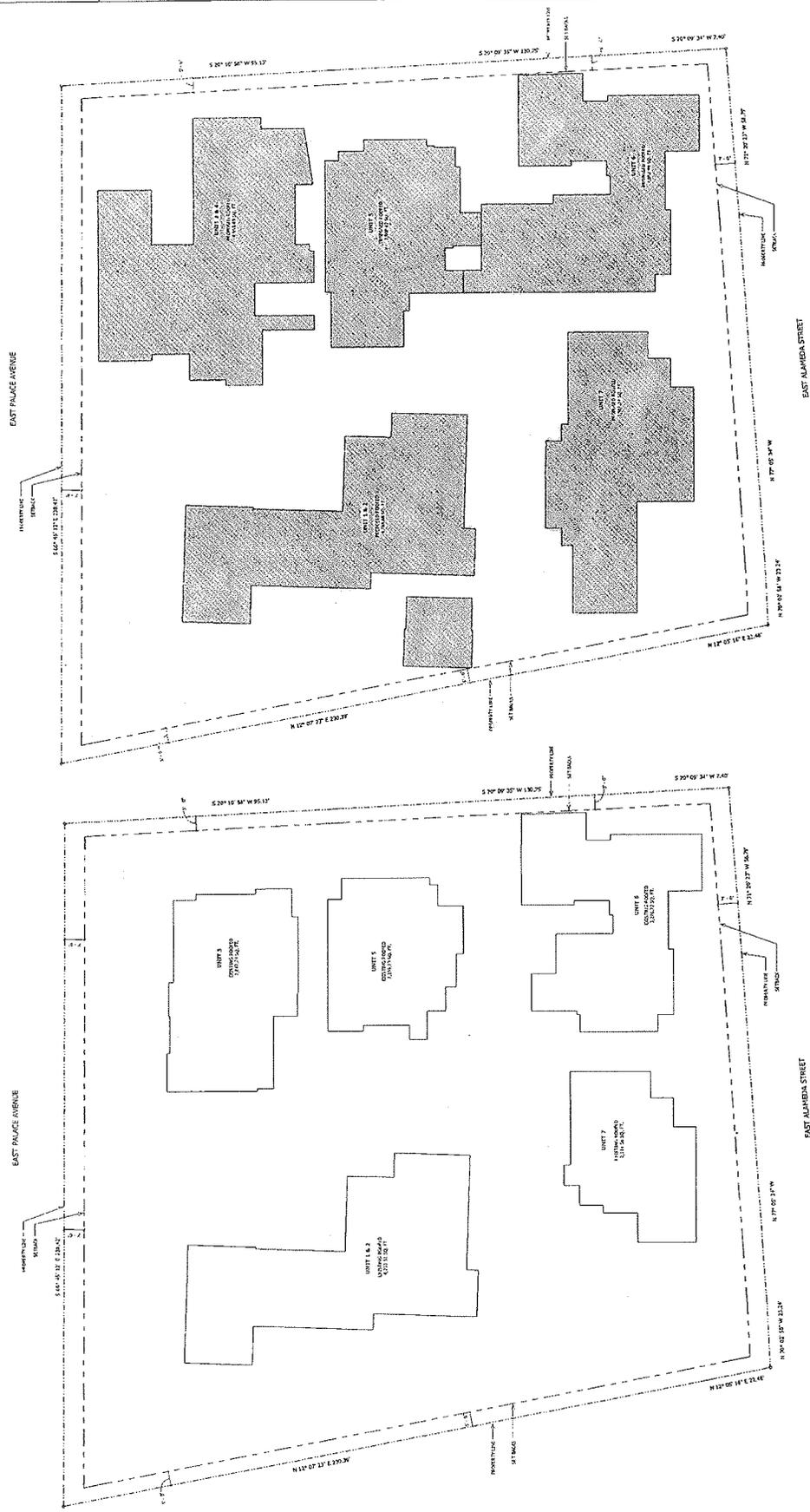
PROJECT NO.	20200000
DATE	
REVISION	
DATE	
BY	
CHECKED BY	
DATE	
PROJECT LOCATION	

ZONING STUDY - EXISTING & PROPOSED ROOFED SQUARE FOOTAGE

D-10

SCALE: AS SHOWN

AREA SCHEDULE	UNIT 1,3	UNIT 3,4,5	UNIT 6	UNIT 7	TOTALS	LOT COVERAGE	LOT SIZE
EXISTING	23,511 SQ. FT.	24,471 SQ. FT.	2,776 SQ. FT.	5,135 SQ. FT.	55,893 SQ. FT.	14.6%	382,520 SQ. FT.
PROPOSED	7,914 SQ. FT.	4,723 SQ. FT.	3,894 SQ. FT.	3,452 SQ. FT.	19,983 SQ. FT.	5.2%	382,520 SQ. FT.



① PROPOSED ROOFED AREA PLAN
1/16" = 1'-0"

② EXISTING ROOFED AREA PLAN
1/16" = 1'-0"

PALACIO AZUL

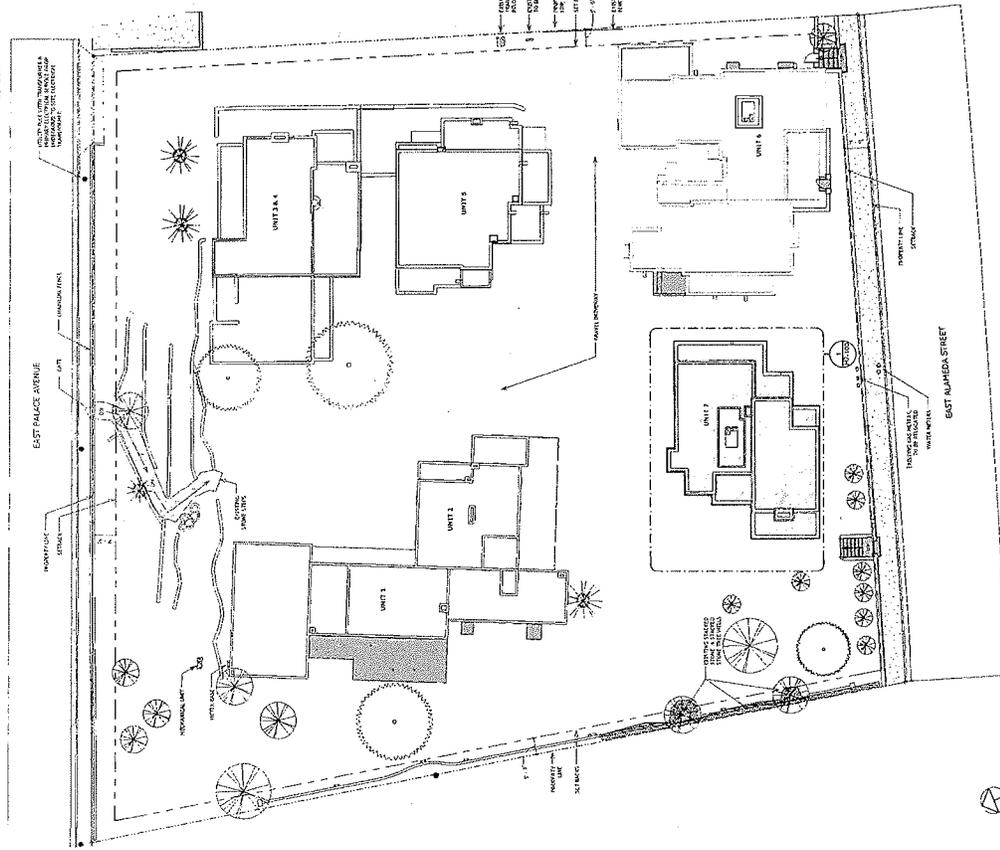
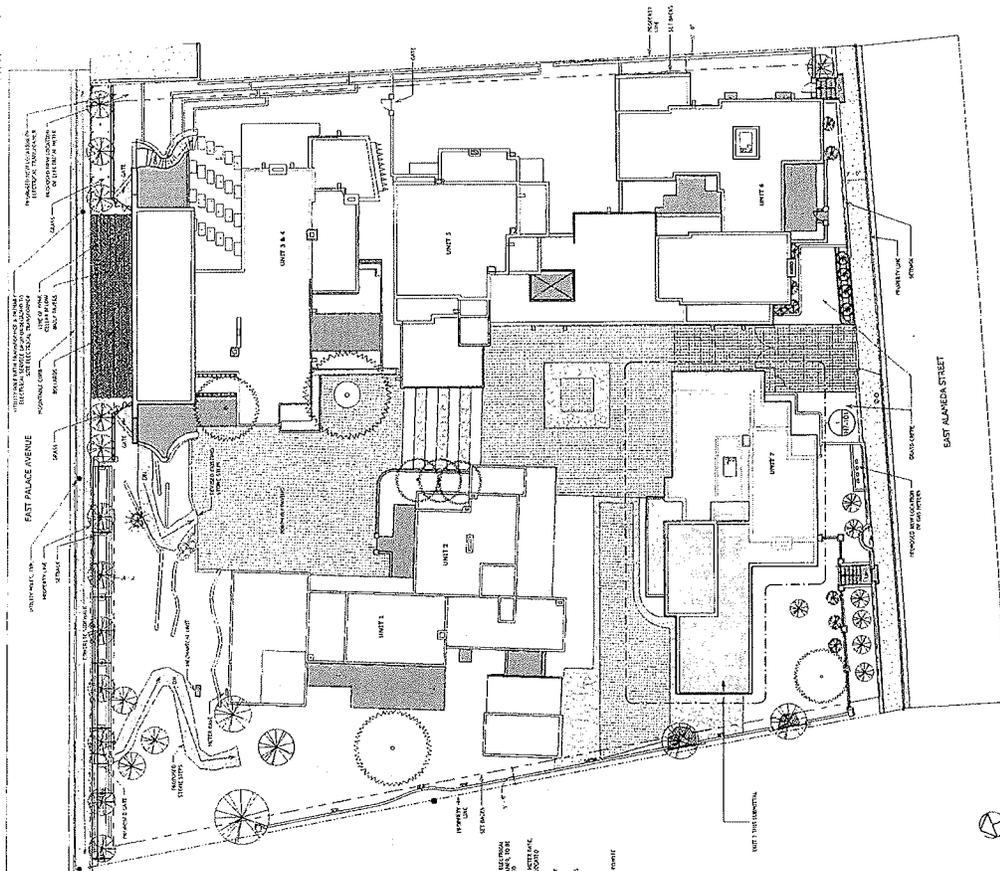
535 EAST ALAMEDA ST.
540 EAST PALACE AVE, SANTA FE, NEW MEXICO, 87501

NO.	REVISION DESCRIPTION	DATE
1	ISSUED FOR PERMITS	03/20/15
2	REVISIONS TO PERMITS	04/02/15
3	REVISIONS TO PERMITS	04/02/15
4	REVISIONS TO PERMITS	04/02/15
5	REVISIONS TO PERMITS	04/02/15
6	REVISIONS TO PERMITS	04/02/15
7	REVISIONS TO PERMITS	04/02/15
8	REVISIONS TO PERMITS	04/02/15
9	REVISIONS TO PERMITS	04/02/15
10	REVISIONS TO PERMITS	04/02/15

UNIT 7 - SITE PLAN - HISTORIC SUBMITAL II

H7-100

SCALE: AS SHOWN



PALACIO AZUL

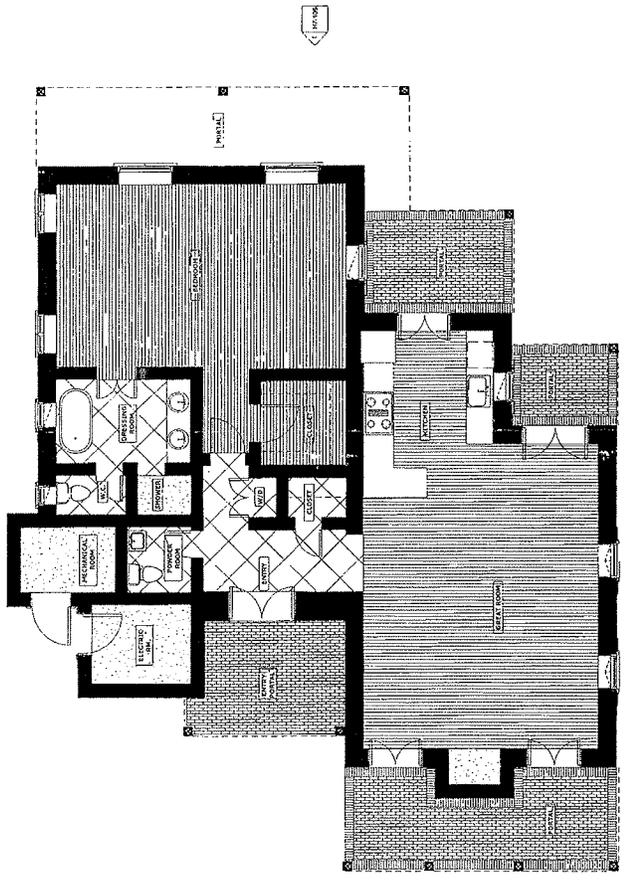
535 EAST ALAMEDA -
UNIT #7

535 PALACE AVENUE, SANTA FE, NEW MEXICO, 87501

PROJECT NO.	20120002
PROJECT DATE	03.22.12
SHEET DATE	03.22.12
DESIGNER	PHD
DATE	03.22.12
PROJECT DESCRIPTION	

FLOOR PLAN - EXISTING
HISTORIC SUBMITTAL II

H7-101
SCALE: AS SHOWN



① FLOOR PLAN - EXISTING
1/8" = 1'-0"

PALACIO AZUL

535 EAST ALAMEDA -
UNIT #7

FOR ALL MEASUREMENTS, CONSULT THE ARCHITECT'S RECORD DRAWINGS.

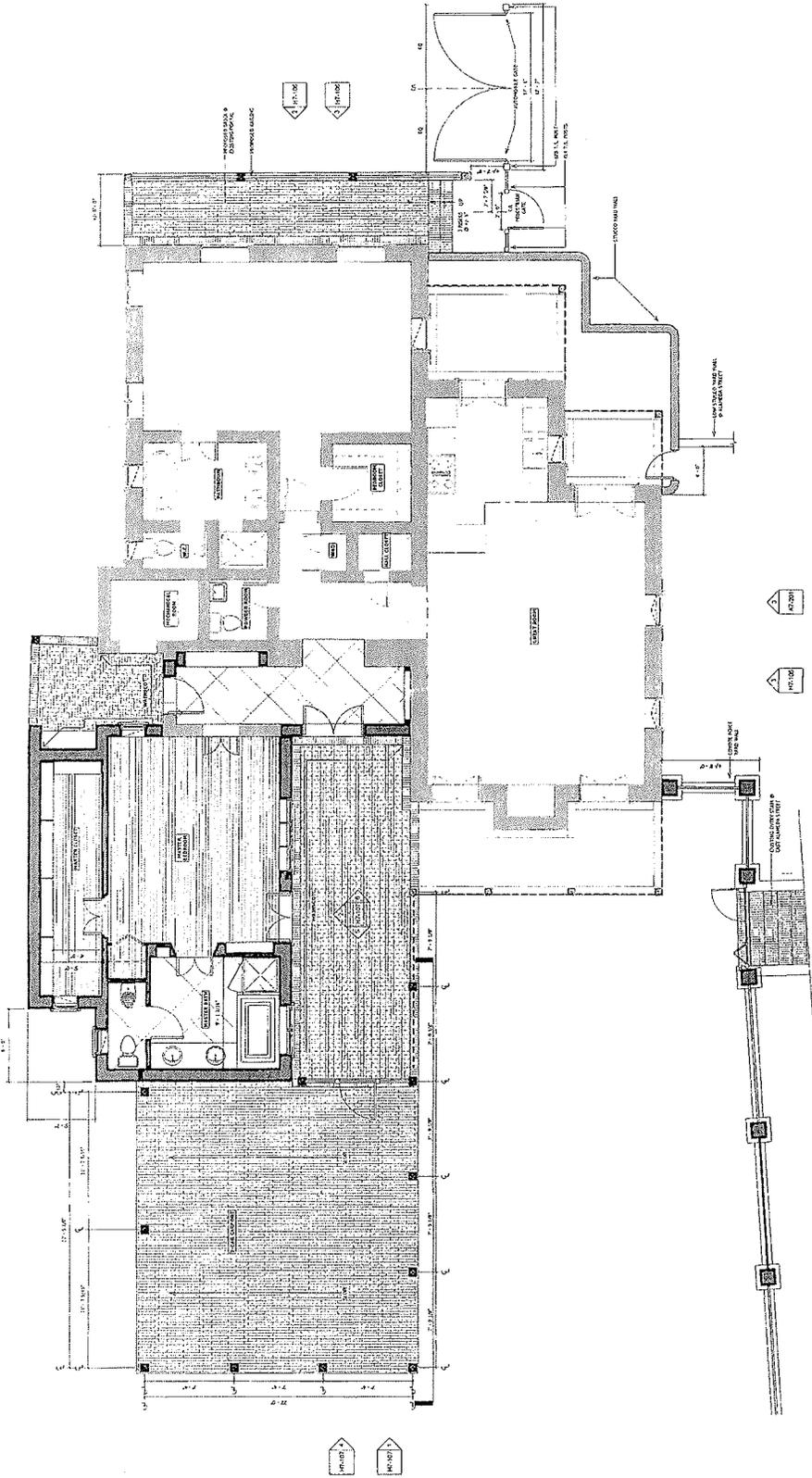
PROJECT NO.	0212000
PROJECT DATE	05/13/15
ARCHITECT FIRM	SKIDMORE OWINGS & MERRILL LLP
DATE	05/13/15
DESIGN DESCRIPTION	CONDO UNIT

FLOOR PLAN - PROPOSED
HISTORIC SUBMITTAL II

H7-10Z
SCALE: 1/8" = 1'-0"

DATE: 05/13/15

MAY - 8 2015



1. FLOOR PLAN, PROPOSED
1/8" = 1'-0"

PALACIO AZUL

535 EAST ALAMEDA -
UNIT #7

HISTORIC SUBMITTAL II

ROOF PLAN

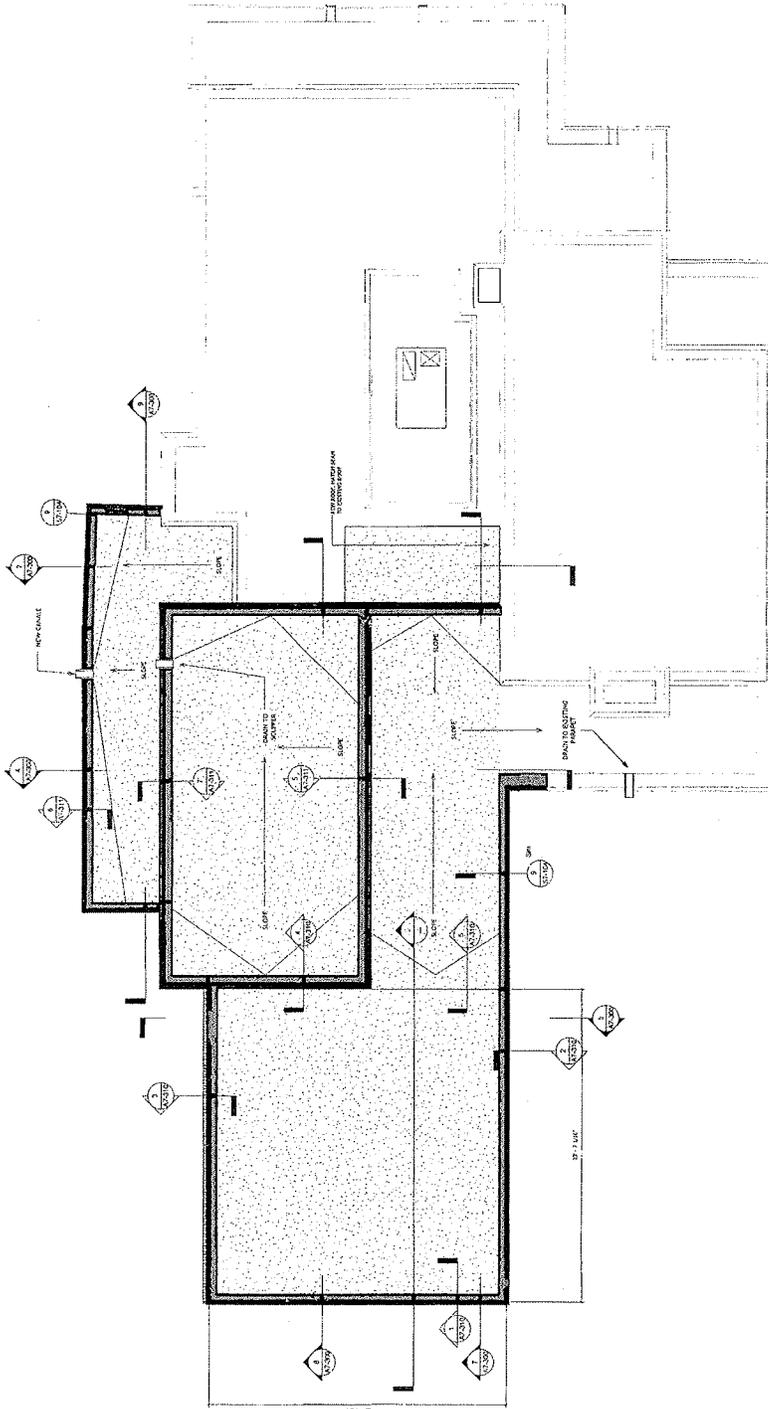
H7-103

SCALE: AS SHOWN

PROJECT NO.	2021006
ISSUE DATE	05/21/21
ISSUED FOR	CONSTRUCTION PERMITS
DESIGNED BY	DAVID
CHECKED BY	DAVID
DATE	05/21/21
APPROVED BY	

3/16/2021 10:00 AM

MAY



1. EDGE PLAN - PROPOSED
1/4" = 1'-0"

PALACIO AZUL

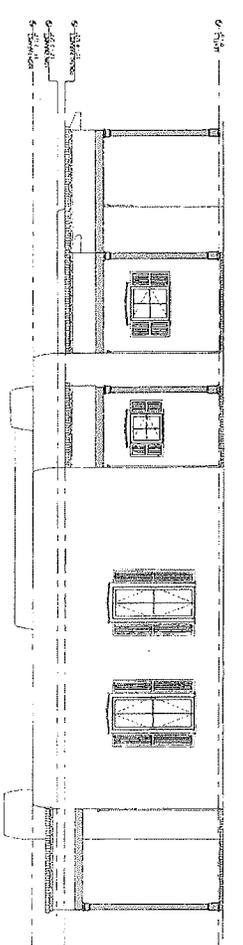
355 EAST ALAMEDA -
UNIT #7

PROJECT NO.	1000
DATE	10/20/14
PROJECT NAME	355 EAST ALAMEDA - UNIT #7
ARCHITECT	ARCHITECTS
SCALE	1/4" = 1'-0"
SHEET NO.	1000-01
SHEET DATE	10/20/14
DATE	10/20/14
PROJECT	355 EAST ALAMEDA - UNIT #7
SCALE	1/4" = 1'-0"
SHEET NO.	1000-01
SHEET DATE	10/20/14
DATE	10/20/14
PROJECT	355 EAST ALAMEDA - UNIT #7

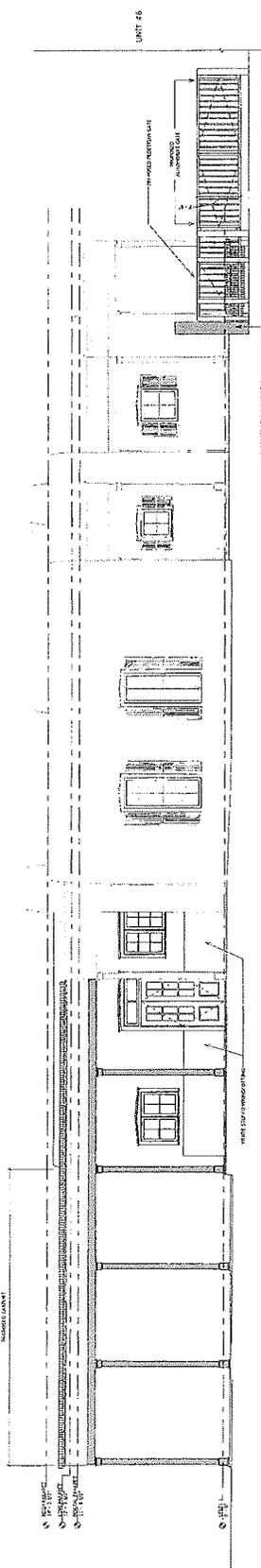
ELEVATIONS - EXISTING & PROPOSED

H7-105

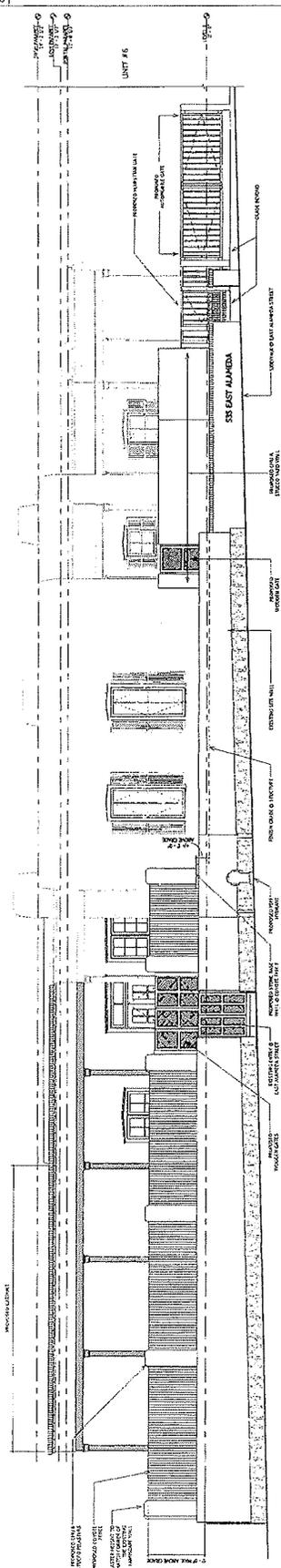
SCALE: AS NOTED



① SOUTH - EXISTING
1/4" = 1'-0"



② SOUTH - PROPOSED - WITHOUT YARD WALLS
1/4" = 1'-0"



③ SOUTH - PROPOSED - WITH YARD WALLS & EAST ALAMEDA VIEW
1/4" = 1'-0"

PALACIO AZUL

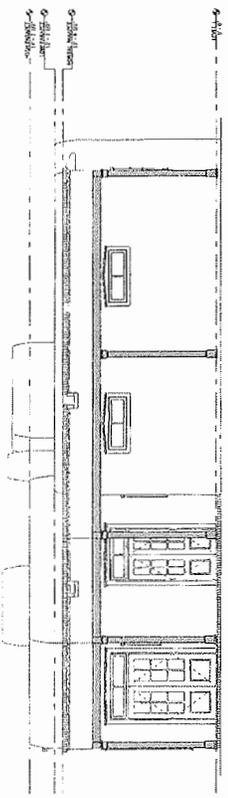
535 EAST ALAMEDA -
UNIT #7

PROJECT NO.	1212000
PROJECT DATE	05/21/15
SHEET TITLE (DATE)	04/11/15
DRAWN BY	AK
CHECKED BY	AK
DATE	02/11/14
DESCRIPTION	
DATE	

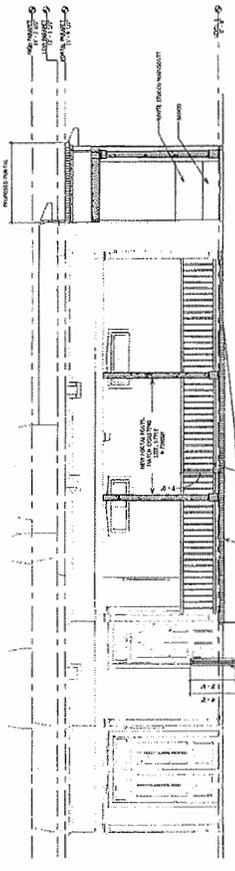
ELEVATIONS - EXISTING & PROPOSED HISTORIC SUBMITTAL II

H7-105

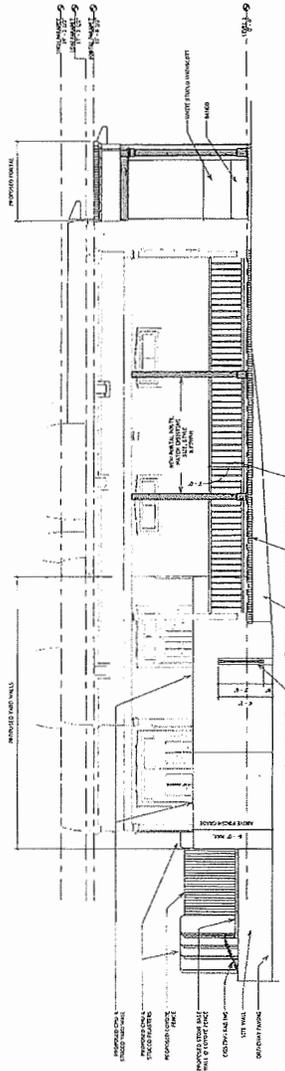
SCALE: AS NOTED



1. EAST - EXISTING
1/8" = 1'-0"



2. EAST - PROPOSED - WITHOUT YARD WALLS
1/8" = 1'-0"



3. EAST - PROPOSED - WITH YARD WALLS
1/8" = 1'-0"

PALACIO AZUL

535 EAST ALAMEDA -
UNIT # 7

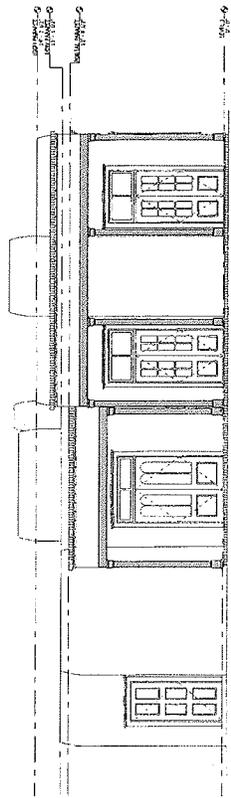
300 WALKER AVENUE, SANTA FE, NEW MEXICO, 87501

PROJECT NO.	1014
DATE	10/14/14
SCALE	AS SHOWN
DESIGNED BY	ARCHITECT
DRAWN BY	ARCHITECT
CHECKED BY	ARCHITECT
APPROVED BY	ARCHITECT
DATE	10/14/14
PROJECT	535 EAST ALAMEDA - UNIT # 7

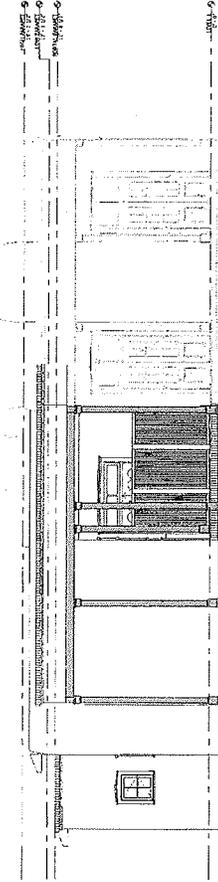
ELEVATIONS - EXISTING & PROPOSED
HISTORIC SUBMITTAL II

H7-107

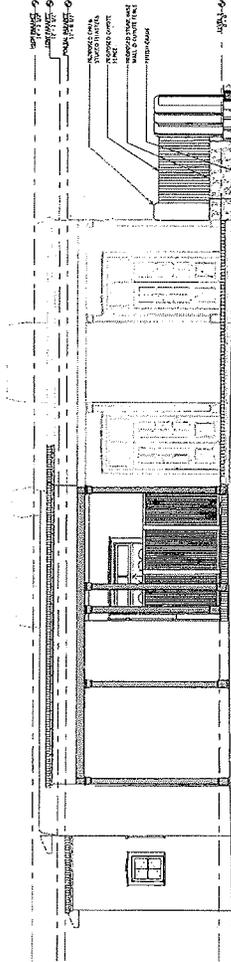
SCALE: AS NOTED



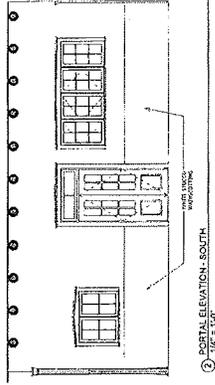
① WEST - EXISTING
1/4" = 1'-0"



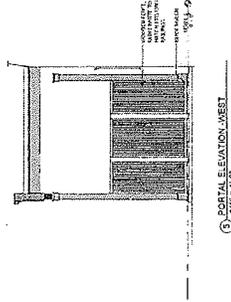
② WEST - PROPOSED - WITHOUT YARD WALLS
1/4" = 1'-0"



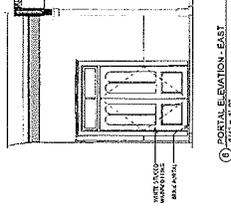
③ WEST - PROPOSED - WITH YARD WALLS
1/4" = 1'-0"



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



⑤ PORTAL ELEVATION - WEST
1/4" = 1'-0"



⑥ PORTAL ELEVATION - EAST
1/4" = 1'-0"



Agenda

DATE 7/8/15 TIME 9:07am

SERVED BY McClary

RECEIVED BY Alicia Hartung

HISTORIC DISTRICTS REVIEW BOARD FIELD TRIP

TUESDAY, July 14, 2015 at 12:00 NOON

HISTORIC PRESERVATION DIVISION, 2nd FLOOR CITY HALL

HISTORIC DISTRICTS REVIEW BOARD HEARING

TUESDAY, July 14, 2015 at 5:30 P.M.

CITY COUNCIL CHAMBERS

AMENDED AGENDA

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES: June 23, 2015
- E. FINDINGS OF FACT & CONCLUSIONS OF LAW

Case #H-15-023. 463 and 465 Camino de las Animas.
Case #H-15-055B. 1272 Canyon Road.
Case #H-15-056B. 461 Camino de Las Animas.
Case #H-15-058. 1247 Cerro Gordo Road.
Case #H-15-059B. 1342 Canyon Road.
Case #H-15-061. 626 Don Gaspar Avenue.

Case #H-15-055A. 1272 Canyon Road.
Case #H-15-056A. 461 Camino de Las Animas.
Case #H-15-057. 475 Arroyo Tenorio.
Case #H-15-059A. 1342 Canyon Road.
Case #H-15-060B. 2 Camino Pequeño.
Case #H-08-022. 1598 Canyon Road.

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

1. Case #H-15-056B. 461 Camino de Las Animas. Downtown & Eastside Historic District. Mark Naktin, agent for Newt White, owner, proposes to add a fireplace to a primary façade, to place a metal awning over a door on a primary façade, and to replace a window with a door on a primary facade of a contributing residential structure. Exceptions are requested to place an addition on a primary façade (Section 14-5.2(D)(2)(c)) and to alter opening dimensions on a primary façade (Section 14-5.2(D)(5)(a)). (Lisa Roach).
2. Case #H-15-062. 616 East Alameda Street Unit F. Downtown & Eastside Historic District. Lorn Tryk, agent for Paul Helfrich, owner, proposes to construct a 1,912 sq. ft. residence to the maximum allowable height of 14' 2", and to construct a yardwall to 4'6" high where the maximum allowable height is 6' high. (David Rasch).
3. Case #H-15-064A. 237½ Casados Street. Westside-Guadalupe Historic District. Will McDonald, agent for Mark Holland, owner, requests a historic status review of a non-stated residential structure. (David Rasch).
4. Case #H-15-065A. 1477 Canyon Road. Downtown & Eastside Historic District. Antoine Khoury, agent for Joanna Hurley, owner, requests a historic status review of a contributing residential structure. (David Rasch).
5. Case #H-15-065B. 1477 Canyon Road. Downtown & Eastside Historic District. Antoine Khoury, agent for Joanna Hurley, owner, proposes to construct a 967 sq. ft. addition to a height of 13'3" where the maximum allowable height is 15'1", install roof-mounted solar panels, alter windows and doors, and perform other remodeling. (David Rasch).
6. Case #H-15-066. 575 West San Francisco Street. Downtown & Eastside Historic District. Gary Mazziotti, agent/owner, proposes to remove chainlink fencing and replace it with a coyote fence with uneven latillas to the maximum allowable height of 58" at a contributing residential property. (Lisa Roach).



7. Case #H-15-063. 852 Old Santa Fe Trail. Downtown & Eastside Historic District. Fabu-Wall-ous Solutions, agent for Faye Schilkey, owner, proposes to replace an existing window with a French door on a primary façade of a contributing residential structure. An exceptions is requested to change the dimensions of an opening on a primary façade (Section 14-5.2(D)(5)(a)). (Lisa Roach).
8. Case #H-05-172. 535 East Alameda Street Unit B (3&4); Case#H-07-102. 535 East Alameda Street Unit E (7); and Case#15-035. 535 East Alameda Street Yardwalls. Downtown & Eastside Historic District. Aaron Bohrer, agent for Richard Yates, owner, proposes to remodel a non-contributing residential structure (3/4) including construction of a 324 sq. ft. 2-car garage, a 1,043 sq. ft. studio addition, a 453 sq. ft. second floor addition, a 1,138 sq. ft. accessory structure addition, and 4'8" tall yardwalls, and to remodel a non-contributing residential structure (7) including construction of a 533 sq. ft. 2-car carport, a 574 sq. ft. addition, 380 sq. ft. of portal and a 4'4" tall coyote fence with stuccoed pilasters. (David Rasch).

- H. COMMUNICATIONS
- I. MATTERS FROM THE BOARD
- J. ADJOURNMENT

Cases on this agenda may be postponed to a later date by the Historic Districts Review Board at the noticed meeting. Please contact the Historic Preservation Division at 955-6605 for more information regarding cases on this agenda.

Chair Rios felt that if the applicant is not present when they should be and everyone else is present that it was not appropriate.

Member Katz moved to postpone Case #H-05-172 because the applicant is not present.

Chair Rios asked to a date certain.

Member Katz said it would be to the next meeting. Member Boniface seconded the motion and it passed by unanimous voice vote.

Mr. Rasch said the next meeting would be July 28th.

A member of the public asked how far away the applicant was.

Member Katz moved to reconsider the previous motion. Member Biedscheid seconded the motion and it passed by majority (4-1) voice vote with Member Powell dissenting.

The Board took a brief recess at 6:33 p.m. and reconvened at 6:48 p.m. when the applicant arrived. All Board members were present.

Chair Rios asked the applicant to please be on time next time because the Board had to wait on him tonight for a good fifteen minutes.

Mr. Rasch recommended to the Board that they take 3 & 4 as one action and 7 as a separate action to break it up for legal.

Mr. Rasch gave the staff report for 3 & 4 as follows:

BACKGROUND & SUMMARY:

535 East Alameda Street, formerly known as 540 East Palace Avenue, is a compound of five residences and a guest house. The main historic building, known as the Mrs. Ashley Pond House, was designed by John Gaw Meem and constructed in the Territorial Revival style by 1930. That residence and the attached guest house is listed as a contributing structure in the Downtown & Eastside Historic District. The four recently constructed Santa Fe Style residences will be remodeled and/or finished for habitation.

Now, the applicant proposes the final remodel of the property with the following seven items.

Units 3 & 4

1. A 1,043 square foot studio addition will be located at approximately 17' 9" back from the Palace Avenue frontage. The proposed height is 4' above the existing two-story structure and there is more than 2' of slope on this part of the site. The façade features Territorial detailing including

pedimented arched windows and doors and brick coping at the parapet.

2. A 1,138 square foot addition will be constructed at the west elevation of the existing residence. The addition will match existing height and character.
3. A 453 square foot second story addition will be constructed at the southeast corner of the existing residence. The addition will match existing height and character.
4. A 324 square foot 2-car garage will be constructed on the west side of the residence with wooden garage doors.
5. Two wooden trellises will be constructed at the street frontage to a height of 8' 9" high.
6. 4' 8" stuccoed yardwalls with accent pilasters and brick caps will be constructed along the east end of the Palace Avenue street frontage.
7. The east side retaining walls will be changed from Vera-Loc to natural stone.

STAFF RECOMMENDATION:

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

Questions to Staff

Chair Rios noted this has address on East Alameda but asked if it primarily affects Palace.

Mr. Rasch explained that in this case, Unit 3 & 4 is much more visible from Palace than Alameda Street but that driveway access to Palace is being eliminated and all access will be from Alameda Street.

Chair Rios asked him to reiterate the height of that wall on Alameda and then how soon behind the wall the project would start.

Mr. Rasch said the yardwall allowance is 4' 8" high and the studio addition will be 17' 9" back from Palace Avenue frontage and 14' high from Palace Avenue.

Chair Rios asked if he would state what the impact is from both streets.

Mr. Rasch said from Alameda Street there is no visibility or very minimal visibility. He thought he included that one-page showing all of the setbacks in the packet but couldn't find it. He explained that he did a study of the 600' applicable streetscape to see where the other set backs were.

He found it was on page six in the packet. At the far west end of Palace Avenue streetscape, the

building is set back 16' on the same side of the street and next to it the set back is 10'. And then all of the setbacks are generally much further - anywhere from 20-30' and including one at 180' directly across the street and one at 150'. But going further east on Palace, it is 12' and 15'.

Chair Rios asked if the set backs are in harmony with the buildings on Palace.

Mr. Rasch agreed.

Member Katz referred to page 26, showing the new façade, and commented that the whole window looks like it is on the building but is not.

Mr. Rasch agreed. It is on a wall extension from the storage room. That area is a parapet extension of a sub-grade room. There is a wine cellar and he pointed out the window on the wall extension. It also has an east courtyard and the window looks down into that courtyard. But it isn't a yard wall because it is on top of a structure.

Member Katz asked of what it is an extension.

Mr. Rasch showed a view looking north and pointed it out.

Member Katz understood.

Member Biedscheid asked if that window has glass.

Mr. Rasch wasn't sure and suggested she ask the applicant.

Applicant Presentation

Present and sworn was **Mr. Aaron Bohrer**, 1713 D Montaña. He said that Mr. Rasch gave a concise presentation of the proposal. He offered to the Board an apology for being kept waiting. He said the presentation for 3 & 4 is a "slow gift."

He explained that this case came before the Board some months back and this part of the project was postponed due to the controversial architecture. The slow gift is, in essence, a product of direct communication with the neighborhood and listening to the Board's comments previously.

The owner had asked that he present the proposal to certain people in the neighborhood, which he did. And from their comments, mainly the Palace elevation, that they held two public meetings with the neighborhood. And they were led by Greg Allegretti to help them understand the complexity of the project.

He said that Member Katz already pointed out that the 3-dimensional aspect was hard to see on a 2 dimensional drawing. What they presented at the first meeting was not palatable to the neighborhood. So the owner made substantive changes and presented a revision to the neighborhood. The neighbors across

the street had concerns and at the next door down with 4-5 present at the meetings. And by end of the second meeting, he had the design that is before the Board now. There is one difference which is that the owner was very intent on this "thin" wall because of the amount of privacy for the courtyard below.

They have a height restriction for the site walls along Palace at 4' 8". That is respected in the project although that height is unfortunately not quite high enough for the privacy the owner desires. So directly behind the window in question is a courtyard space that is contiguous with what is the end of the studio addition that the owner proposes. And beyond that is another internal courtyard for the main house.

From that meeting, the owner wanted that extension for a visual privacy and in concert, took the trellis with one more bay to the east he took it and put it on the west side made that trellis or portal contiguous with the portion of the thin wall which makes that allowable, based on current zoning code the City follows.

He asked that Mr. Allegretti be able to comment, as a representative for the neighborhood and whether this design is agreeable for them.

He said it was a slow gift because it took months but the owner freely elected to postpone this meeting. We could have made a submittal earlier but he felt it was better to hold back and relax through another period and make it this evening.

He hoped sincerely that they have the neighborhood approval and that this is a design they can still back and the Board will find favor with it.

Chair Rios applauded him for including the neighbors. It is a smart way to go.

Public Comment

Chair Rios asked Greg Allegretti to come forward.

Present and sworn was **Mr. Greg Allegretti** who welcomed the new Board members. He said Mr. Bohrer is right. They did a lot of work and it was a good group to work with. The project is transformed considerably. He had one clarification item. The front façade, at one point was brick but it is stucco now even though that is not indicated on the drawings.

Everyone is generally pleased with it and there are no issues with the project, speaking for Jim Baker formally at 535 Palace Avenue, and for the rest informally.

Ms. Beninato (previously sworn) said this façade on Palace looks okay. It is still very massive on Palace but the walls and portals will hopefully help. It is the south façade that is so incredibly busy with so much detail. It is not visible but it is overwhelming.

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

Member Katz applauded the owner for a fabulous job with these changes. He was really disturbed with the first version because it looked so different from the rest of the street. This is way better.

Member. Katz noted a couple of problems with it. The trellis on the right, he asked if it continued further west on the property.

Mr. Bohrer agreed. He pointed out that cable trellis on the right. That is a three-bay trellis and that is it in its entirety.

Member Katz had a problem with the wall that looks like a 16' high parapet but didn't think it is a parapet. If it is to be called a parapet, it could be six feet high or six and a half feet high. He asked if that would that give the owner his privacy in that courtyard.

Mr. Bohrer thought it probably would. Obviously it would higher than a normal sight line for an individual. So it would engender more privacy in the courtyard. There is also an architectural aspect to it. At the owner's house on Upper Canyon Road, he devised a scheme that in some ways is very similar to this. It is a stucco building like this one. It is 14' high and a square. Inside the square is an L-shaped heated portion of the courtyard that occupies one quarter of that square and has an identical window treatment. Maybe this is a replay. It is successful on Upper Canyon Road that brings scale to it. He commented that Sharon Woods was contemplating including that house in her book.

Member Katz said the other question is the gate. He understood the entrance to the unit is actually to the right at the lower façade.

Mr. Bohrer said the gate has eight panels, two of which are stacked. And the entry into the studio lies between panel one and two and panel three and four. The entrance into 4 is beyond and it sits between the trellis and the corner of the building.

Member Katz said it looks like a huge gate for a driveway that doesn't fit in.

Mr. Bohrer said they wanted to respect the safe exiting of a vehicle. This is a vehicle entry point. There is parking between yardwall and house. That was a request from the neighborhood. We had bollards before to protect the house. The concern from them, was to make sure it is a safe area and people not parking where they should not be parking. So the yardwall has an opening for vehicles and is based on sight lines up and down Palace. This allows people to see up and down Palace when leaving.

Member Katz asked if there is any place on Palace that has these trellis/portals.

Mr. Bohrer said it is a classical motif seen as an extension to the Territorial building. This is the owner's residence so he does have a stake in it.

Mr. Rasch clarified that on page 28 there is a side view from the east. He pointed out the wine cellars and the yard walls and a parapet above the wall extension.

Member Boniface asked Member Katz about his concern with the window. He said he was trying to digest what he had said and looked at the elevation on page 26 and wondered what the building would look like with that chopped off. It adds a lot of visual texture there. Without it, we would have a large blank wall and then the trellis with a low yard wall behind. He found this quite acceptable.

He went back to page 28 where one could see the visual texture on the right - the low wall, then the trellis above and then the building - so it steps up as you go.

Member Powell said on the south façade, the false façade didn't register so well for him. The articulation between the yard wall and trellis is quite nice. It looks fine in two dimensions. But in three dimensions when you walk through it. He asked if the window was glassed or open.

Mr. Bohrer said the owner would like translucent glass in the window.

Member Powell said he didn't care for it.

Mr. Bohrer said they put together a video for the neighborhood showing how the building is actually perceived from Palace, one going east and the other going west. The thin wall begins to screen the façade that is N-S and in concert with the trellis and the 4' 8" yard wall, the viewer would perceive the larger mass to the left of that wall and the owner thought that out pretty well. The thin wall gives a long presentation along Palace and pulls the sides of the building back far enough so it is less about the mass and more about the plane. In the video it works very successfully. It is an aid to screen the rest of the building from the viewer.

Member Powell said he was missing the point and didn't understand, if it is a nice façade, why they would screen it.

Mr. Bohrer said it was just because of the mass. It makes it more dynamic with the trellis overlapping the screen wall. The 4' yardwall continues to the west and dies into the thin wall which then continues to the building.

Also another note. With the window, the thin wall is the only opportunity the public has to see the full height of the window behind the wall. It creates more variety in the elevation and looking up from Palace, you don't see the base of the building but here is the one episode where you see the entire height of that wall.

Mr. Rasch said another option regarding that window, if it is glazed is that he had several occasions where people wanted to block the view without removing the window and have used plexiglass and blocked the visibility behind it and then dry-walled it in. And from the street it looks like a real window.

Chair Rios asked the applicant to describe the pediments.

Mr. Bohrer said the windows have carved stone lintels.

Chair Rios asked what type of stone would be used.

Mr. Bohrer said they have not decided yet.

Chair Rios asked if it would be with wood.

Mr. Bohrer said they would be all stone.

Chair Rios asked on the wall if it is going to be brick or more stone on top of the cap on the wall.

Mr. Bohrer said it will be brick to match the coping on the house.

Chair Rios asked if there would be nothing protruding from the roof.

Mr. Bohrer agreed.

Member Roybal said it was nice to see the project moving on with all the modifications since it had been sitting there for so long. He walks by there a lot and sees the chain link there. This change will add a lot of beauty there.

Chair Rios agreed.

Member Biedscheid said regarding the window and this being new construction, that it adds a whimsical element; an unexpected surprise. It is in keeping with the surprise that Santa Fe style holds.

Member Boniface was still not clear on the stone. He asked what color and texture the stone would have. Would it be polished or what? He also noted there is no casing on the sides of the windows either.

Mr. Bohrer said this was a brick façade and when it was, the owner conceived of a carved lintel in the brick instead of wood, it would carry all the ogee curve and relief. It would be very durable and played into his selection of the stone material.

Since it has gone from brick to stucco, he was still under the impression that the owner would still like a stone lintel but if the Board prefers, they could review that further. For color, it would be white. He agreed that they need to get to that level of detail if they have tacit approval on the overall design. And he would be happy for Staff and Board review. Some of the details need to be worked out.

Mr. Allegretti asked if the vehicle gate would be painted or have natural wood.

Mr. Bohrer said he envisioned it as white.

Chair Rios asked about the detail for the pedestrian gate.

Mr. Bohrer envisioned that as white also. He pointed out that durability is an important issue in Santa Fé so with a gate of any size, they want to maintain it. He didn't have the detailing on the gate itself but it would be in keeping with Territorial style.

Chair Rios asked what color the building would be.

Mr. Bohrer said it is brown at the moment but the owner has not yet decided. It would be one in the Territorial panel of colors.

Mr. Allegretti said regarding the pediments that the white color is nice but the neighbors would like to see white painted wood for the pediments. The neighbors also support Mr. Rasch's suggestion to blacken the window so light doesn't come through.

Action of Board

Member Boniface moved in Case #H-05-172 and Case#15-035 at 535 East Alameda for units 3 and 4, to approve the application with the following conditions:

- 1. That all pediments above windows on the north elevation be wood painted a light color white;**
- 2. That the window on far east of the north elevation back side of the glass be painted black or another means that would not allow sight through it - not translucent but a solid black paint;**
- 3. That all trim colors including any stone, brick, metal or stucco, be brought to staff for their approval; and,**
- 4. That any exterior lighting be brought to staff for their approval as well.**

Member Roybal seconded the motion.

Member Katz requested an amendment that the window that could have a backing of black but not with the glass painted black. Member Boniface accepted the amendment as friendly.

Member Boniface added a condition

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

The motion passed by unanimous voice vote.

Unit 7

Mr. Rasch continued the staff report with the following four items for Unit 7:

1. A 533 square foot 2-car carport will be constructed to a height of 12' 9" on the west side of the residence. The carport, changed from a garage to provide more visibility of the primary façade of the contributing historic structure beyond, is designed in a Territorial Revival style with square posts, exposed headers, and brick coping on parapets.
2. A 574 square foot addition will be constructed on the northwest corner of the residence at a height lower than existing adjacent parapet height. The addition is designed to match existing conditions.
3. Two portals, totaling 370 square feet at 11' 9" high, will be constructed on the north and southwest side of the residence. The portals are designed in the Territorial Revival style with brick coping on the parapets and square posts with detailed bases and capitals.
4. A 4' 4" coyote fence will be constructed between stuccoed pilasters flanking the pedestrian entrance on Alameda Street between Unit 7 and the west lotline where the maximum allowable height is 4' 4". Paired wooden pedestrian gates will be installed.

STAFF RECOMMENDATION:

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

Questions to Staff

There were no questions to Staff.

Applicant's Presentation

Mr. Bohrer (previously sworn) said this is another slow gift that yielded more transparency. The Board objected to the opaque quality of the garage they removed the garage and put in a high roofed carport to match the existing west facing portal. It covers a portion of the new master bedroom addition. Unit 7 is a one-bedroom unit. The owner would like a two-bedroom unit there. He looked at the site plan and Mr. Rasch pointed out Unit 7 on the site plan.

Mr. Bohrer said they are changing the existing entry off Palace Avenue with a new entry off Alameda. Unit 7 is a somewhat sequestered building occupying the northwest corner. To the west was where it made sense for the added bedroom. The garage off unit 2 was approved and a little zocalo added to the new carport. So the context has changed. He kept the master bedroom as proposed but modified the garage to become a carport with a slightly smaller footprint. With the higher height, it allows more view to the Ashley Pond house.

Questions to the Applicant

Member Boniface noted in earlier testimony, Mr. Bohrer mentioned the carport is the same height as the portal and on page 38 shows that it indeed is the same. He asked if that is the current height of the existing portal.

Mr. Bohrer agreed.

Member Boniface said it has Territorial brick coping on that building or at least on the parapets but it seems to be a blend of styles there.

Mr. Bohrer said what is nice is that the building is adobe and the parapets are pueblo style but the brick portions are Territorial and he left it like that.

Member Boniface said he had no problem with that. It is typical to find buildings throughout Santa Fé that are a blend of styles.

Member Roybal asked how this brick coping matched to the see through to the building in back.

Mr. Bohrer said it is similar. The Ashley- Pond House has 4 rows of coping and this is a 3 row design so it is slightly different.

Chair Rios said it is good to differentiate them.

Member Roybal asked if the color has been determined.

Mr. Bohrer said the intent is to match the colors of the existing house. That has gone through some renovation and the owner is ready to stucco to match.

Member Roybal asked if the owner was the same owner throughout the project.

Mr. Bohrer agreed.

Public Comment

Ms. Beninato (previously sworn) said the applicant has shown incredible patience and done as much as they could with the neighborhood.

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

Chair Rios thanked the applicant for listening to the Board concerns. This is a good example of how it goes through different architects and neighborhood and the public voice their concerns and if the owner

and the architect listen to them, it brings a better project. It is sometimes a drag to go through them but in the end it is much better.

Member Katz said he had a real problem on page 18. This was a classic contributing building on a large lot in Santa Fe and visible from the street. Then on page 19, it shows the first iteration. They proposed to put additional houses on the lot. The Board made a mistake in allowing Unit 7 to be constructed. The others didn't block the original house but Unit 7 does and now they are proposing to completely block the original house.

He understands it is more desirable to have a 2-bedroom house but it blocks the historic house and is not acceptable. This reminded him of the historic Valdez House that bit by bit, El Castillo got approvals and it is now gone and the Historic Santa Fe Foundation de-plaques it. He would deny the second bedroom.

Action of the Board

Member Katz moved in Case #H-07-102 at 535 East Alameda with regard to Unit 7, to approve the carport, deny the bedroom addition, approve the north portal but not the southwest portal and deny the coyote fencing. Member Powell seconded the motion and it passed by majority (3-2) voice vote with Member Roybal and Member Biedscheid dissenting.

H. COMMUNICATIONS

There were no further communications.

I. MATTERS FROM THE BOARD

Member Powell saw a pattern of applicants showing up late and wondered if this is going to continue to be a pattern. It is disrespectful to the Board who make a great effort to be here on time and a lot of time other people like construction crews are being held up. He didn't know what happened to showing up on time and it is going down. If they don't show up and are more than five minutes late, the case should be postponed.

Mr. Rasch pointed out that many people call and ask where they are on the agenda and Ms. McCulley always tells them that she doesn't know how long it will take. He suspected the applicants, to reduce the amount they have to pay their agents, are telling them not to show up at the beginning.

Chair Rios said over the years the applicants showed up on time.



Agenda

CITY CLERK'S OFFICE

DATE 7/9/15 TIME 2:00pm

SERVED BY McCallen

RECEIVED BY Stacia Hartley

HISTORIC DISTRICTS REVIEW BOARD FIELD TRIP

TUESDAY, July 28, 2015 at 12:00 NOON

HISTORIC PRESERVATION DIVISION, 2nd FLOOR CITY HALL

HISTORIC DISTRICTS REVIEW BOARD HEARING

TUESDAY, July 28, 2015 at 5:30 P.M.

CITY COUNCIL CHAMBERS

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES: July 14, 2015
- E. FINDINGS OF FACT & CONCLUSIONS OF LAW

Case #H-15-056B. 461 Camino de Las Animas.

Case #H-15-063. 852 Old Santa Fe Trail.

Case #H-05-172. 535 East Alameda Street Unit B (3&4)

Case#H-07-102. 535 East Alameda Street Unit E (7)

Case#15-035. 535 East Alameda Street Yardwalls

Case #H-15-062. 616 East Alameda Street Unit F.

Case #H-15-066. 575 West San Francisco Street.

Case #H-15-064. 237 1/2 Casados Street.

Case #H-15-065B. 1477 Canyon Road.

Case #H-15-065A. 1477 Canyon Road.

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

1. Case #H-04-076. 201 Old Santa Fe Trail. Downtown & Eastside Historic District. Eric Enfield, agent for Teme LLC, owners, proposes to construct a 38,858 sq. ft. structure with a footprint of 12,087 sq. ft. to a height of 63' where the maximum allowable height is 65'. (David Rasch).
2. Case #H-15-024C. 558 San Antonio Street. Downtown & Eastside Historic District. Dale Zinn, agent for Cyrus Samii and Zahra Faramen, owners, proposes to construct a 1,162 sq. ft. guest house 14' high and an 862 sq. ft. addition to a contributing casita 14' high where the maximum allowable height is 15'8". Exceptions are requested to exceed the 50% footprint standard and place an addition at less than 10' back from a primary facade. (Section 14-5.2(D)(2)(d)). (Lisa Roach).
3. Case #H-15-067A. 721 Camino Cabra. Historic Review Historic District. Lisa Randall, agent for Santa Fe Public Schools, owners, proposes to install a ground mounted solar array at a maximum height of 12'7" at a non-stated structure. (David Rasch).
4. Case #H-15-067B. 700 Acequia Madre. Downtown & Eastside Historic District. Lisa Randall, agent for Santa Fe Public Schools, owners, proposes to install a ground mounted solar array at a maximum height of 11.75' at a significant structure. An exception is requested for a structure that does not harmonize with Santa Fe style (Section 14-5.2(E)). (David Rasch).
5. Case #H-15-068. 138 Park Avenue. Westside-Guadalupe Historic District. G.M Emulsion LLC, agent for Jim Nichols, owner, proposes to construct a coyote fence on a 48" high yardwall to a height of 72" where the maximum allowable height is 55". An exception is requested to exceed the maximum allowable height (Section 14-5.2(D)(9)). (David Rasch).

- H. COMMUNICATIONS
- I. MATTERS FROM THE BOARD
- J. ADJOURNMENT

Cases on this agenda may be postponed to a later date by the Historic Districts Review Board at the noticed meeting. Please contact the Historic Preservation Division at 955-6605 for more information regarding cases on this agenda.

MINUTES OF THE
CITY OF SANTA FÉ
HISTORIC DISTRICTS REVIEW BOARD

July 28, 2015

A. CALL TO ORDER

A regular meeting of the City of Santa Fé Historic Districts Review Board was called to order by Vice-Chair Cecilia Rios on the above date at approximately 5:30 p.m. in the Nambé Room, Convention Center, Santa Fé, New Mexico.

B. ROLL CALL

Roll Call indicated the presence of a quorum as follows:

MEMBERS PRESENT:

Ms. Cecilia Rios, Chair
Mr. Frank Katz, Vice Chair
Ms. Meghan Bayer
Ms. Jennifer Biedscheid
Mr. Edmund Boniface
Mr. William Powell
Mr. Buddy Roybal

MEMBERS EXCUSED:

OTHERS PRESENT:

Mr. Zach Shandler, Assistant City Attorney
Mr. David Rasch, Historic Planner Supervisor
Ms. Lisa Roach, Historic Planner Senior
Ms. Lisa Martínez, Land Use Department Director
Mr. Carl Boaz, Stenographer

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

C. APPROVAL OF AGENDA

Chair Rios suggested rearranging the agenda.

Member Katz moved to approve the agenda as amended with cases #H-15-067A and #H-15-067B moved to the front of the cases. Member Roybal seconded the motion and it passed by unanimous voice vote.

D. APPROVAL OF MINUTES: July 14, 2015

Member Katz requested the following changes to the minutes:

On page 27, third paragraph should say, "the east window," not the whole window.

[Stenographer's Note: From the recording, Member. Katz said, "On page 26, yes, there, right. That window that you see the whole window of - that looks as though it's the side of the building, but it's not, is it?"]

Member Katz said, "And Carl, maybe you can follow along with me here. Member Katz ... the second paragraph there. Member Katz said he had a real problem. Page 18 shows this was a classic contributing building on a large lot in Santa Fe, visible from the street. Then on page 19, it shows, rather than sows its first iteration. They proposed additional houses on the lot and I would add this: 'The three on the east side make sense.' Then in the next paragraph, after the first sentence, I would add, 'Public visibility is highly desirable but cannot block an owner's right to develop his property. It is a balance. If significant development can occur without blocking public visibility of primary façades, that strikes a reasonable balance completely. Completely blocking from another façade here is unreasonable.' Thank you."

Chair Rios requested the following changes to the minutes:

On page 6, first paragraph, it should read, "Member Roybal asked if among the other existing compound units in the area, this unit would fit right in with the architecture and everything around it because it is a very close-knit area there."

In the 3rd paragraph, it should read "Chair Rios asked Mr. Tryk to describe the exact location of the project and the direction the front of the structure faces."

On page 10, in the first sentence, change "nothing to "anything."

The second paragraph should be combined with the fourth paragraph and the third paragraph deleted. So it would read, Mr. Rasch said the east elevation, which has no public visibility is probably the only remainder of that original building, as it was quite small.

~~Chair Rios asked if he was saying the east elevation if he was referring to a façade of the east elevation or if this is a massing.~~

ITEM # 15-0766

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

Case #H-15-172

Case #H-07-102

Case #H-15-035

Address-535 East Alameda Street Yardwalls

Owner/Applicant's Name- Richard Yates

Agent's Name- Aaron Bohrer

THIS MATTER came before the Historic Districts Review Board ("Board") for hearing on July 14, 2015 upon the application ("Application") of **Aaron Bohrer**, agent for **Richard Yates** ("Applicant").

535 East Alameda Street, formerly known as 540 East Palace Avenue, is a compound of five residences and a guest house. The main historic building, known as the Mrs. Ashley Pond House, was designed by John Gaw Meem and constructed in the Territorial Revival style by 1930. That residence and the attached guest house is listed as a contributing structure in the Downtown & Eastside Historic District. The four recently constructed Santa Fe Style residences will be remodeled and/or finished for habitation.

The Applicant proposes the final remodel of the property with the following eleven items.

Units 3 & 4

1. A 1,043 square foot studio addition will be located at approximately 17' 9" back from the Palace Avenue frontage. The proposed height is 4' above the existing two-story structure and there is more than 2' of slope on this part of the site. The façade features Territorial detailing including pedimented arched windows and doors and brick coping at the parapet.
2. A 1,138 square foot addition will be constructed at the west elevation of the existing residence. The addition will match existing height and character.
3. A 453 square foot second story addition will be constructed at the southeast corner of the existing residence. The addition will match existing height and character.
4. A 324 square foot 2-car garage will be constructed on the west side of the residence with wooden garage doors.
5. Two wooden trellises will be constructed at the street frontage to a height of 8' 9" high.
6. 4' 8" stuccoed yardwalls with accent pilasters and brick caps will be constructed along the east end of the Palace Avenue street frontage.
7. The east side retaining walls will be changed from Vera-Loc to natural stone.

[Handwritten signature]



Unit 7

8. A 533 square foot 2-car carport will be constructed to a height of 12' 9" on the west side of the residence. The carport, changed from a garage to provide more visibility of the primary façade of the contributing historic structure beyond, is designed in a Territorial Revival style with square posts, exposed headers, and brick coping on parapets.

9. A 574 square foot addition will be constructed on the northwest corner of the residence at a height lower than existing adjacent parapet height. The addition is designed to match existing conditions.

10. Two portals, totaling 370 square feet at 11' 9" high, will be constructed on the north and southwest side of the residence. The portals are designed in the Territorial Revival style with brick coping on the parapets and square posts with detailed bases and capitals.

11. A 4' 4" coyote fence will be constructed between stuccoed pilasters flanking the pedestrian entrance on Alameda Street between Unit 7 and the west lotline where the maximum allowable height is 4' 4". Paired wooden pedestrian gates will be installed.

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

FINDINGS OF FACT

1. The Board heard testimony from staff, Applicant, and other people interested in the Application.
2. Zoning staff determined that the Application meets underlying zoning standards.
3. Staff recommends approval of this application which complies with section 14-5.2(D)(9) General Design Standards, Height Pitch Scale and Massing and (E) Downtown & Eastside Historic District.
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(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 14-5.2(D)(1)(b), if a “proposed alteration or new construction will cause an adjacent structure to lose its significant, contributing, or landmark status, the application may be denied.”
8. The main historic building, known as the Ashley Pond House, was designed by John Gaw Meem and constructed in the Territorial Revival style by 1930.
9. That residence and the attached guest house are listed as a contributing structure in the Downtown & Eastside Historic District, with the south facade and southern portion of the west facade having been designated as primary prior to any construction on the project.
10. The construction of bedroom addition, southwest portal and coyote fencing for Unit 7 will mask the primary facades of the Pond House from view from East Alameda Street.
11. Public visibility is an important part of Historic Districts Ordinance; many of the design standards are applicable only if the facade in question is publicly visible.
12. The desirability of maintaining public visibility of primary facades of contributing buildings must be balanced with the right of the owner to develop his property.
13. The three large homes sited on the eastern portion of the original lot, now each with a large two car garage, and the smaller home on the western side partially blocking the primary facades of the contributing Pond house have allowed the applicant significant and dense development rights on the property.
14. Balanced with that development, the elimination of the bedroom extension, the southwest portal and the coyote fence in Unit 7 to prevent the completely blocking of the primary facades of the contributing Pond house is reasonable.
15. Because the proposed additions to Unit 7 of the bedroom, attached southwest portal and coyote fence would block the primary facades of the contributing Pond House from public visibility they would likely cause the Pond House to lose its contributing status.
16. The information contained in the Application, and provided in testimony and evidence, establishes that all applicable requirements, except for the bedroom addition, southwest portal and coyote fencing for Unit 7, have been met.

CONCLUSIONS OF LAW

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

1. The Board has the authority to review and approve the Application.
2. The Board approved the Application as recommended by Staff for Units 3 and 4 with the conditions:
 - a. All pediments above windows on the north elevation shall be wood painted a light color white;
 - b. The back side of the glass in the window on the far east of the north elevation shall not be translucent, but shall have black backing or via another means that would not allow sight through it;
 - c. All trim colors, including any stone, brick, metal or stucco shall be submitted to staff for review and approval;
 - d. Any exterior lighting shall be submitted to staff for review and approval
 - e. There shall be no publicly visible rooftop appurtenances.
3. The Board approved the Application as recommended by Staff for Unit 7 for the items:

- a. Carport
 - b. North portal
4. The Board did not approve the Application for the items in Unit 7 blocking public visibility of the contributing structure:
- a. bedroom addition;
 - b. southwest portal;
 - c. coyote fencing

IT IS SO ORDERED ON THIS 28th DAY OF JULY 2015, THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.

Cecilia Rios
 Cecilia Rios
 Chair

7-28-15
 Date:

FILED:
Yolanda Y. Vigil
 Yolanda Y. Vigil
 City Clerk

7/29/15
 Date:

APPROVED AS TO FORM
Zachary Shandler
 Zachary Shandler
 Assistant City Attorney

7/28/15
 Date:

SF
ENDORSED

FIRST JUDICIAL DISTRICT COURT
COUNTY OF SANTA FE
STATE OF NEW MEXICO

MAR 18 2000

FIRST JUDICIAL DISTRICT COURT
SANTA FE, RIO ARriba & LOS ALAMOS COUNTIES
P. O. Box 2268
Santa Fe, New Mexico 87504-2268
John Vigil Quintana
County Administrator / District Court Clerk

No. ✓ SF 94-2322 (C) consolidated with
✓ SF 96-370 (C)
SF 96-793 (C)
SF 96-1006 (C)

D-161-CV-
1994-02322

TEME, LTD., a limited partnership,
d/b/a The Inn at Loretto,

Petitioner,

vs.

CITY OF SANTA FE, et al.,

Respondents.

COURT'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

Findings of Fact

1. The Court has jurisdiction over the parties and the subject matter of this action.
 2. Petitioner, Teme, Ltd., owns the real property located at 211 Old Santa Fe Trail, Santa Fe, New Mexico, on which is located the Loretto Chapel and the Inn at Loretto (the "Property").
 3. The Property is located within the City of Santa Fe's Historic District, which is registered as such on the State Register of Cultural Properties (since 1972) and the National Register of Historic Places (since 1973).
 4. The City of Santa Fe is a municipal corporation.
- A. SF 94-2322 (C)
5. On January 27, 1971, the Santa Fe City Council adopted Resolution No. 1971-3, which states that "the Council does not object to the concept of a building with a maximum



height of 65 feet to be located on the property now occupied by Loretto Academy, provided that such building conforms to applicable provisions of the H Zone and C-3 Zone Ordinances, and provided further that exterior details of such building receive approval of the Historical Style Committee.”

6. Petitioner purchased the Property from the previous owners, the Sisters of Loretto, in 1971.

7. Pursuant to a demolition permit issued by the City on February 2, 1971, Petitioner demolished all of the buildings that comprised the Loretto Academy, with the exception of the historic Loretto Chapel and the Opportunity School and its associated structures (hereafter “Opportunity School structures”).

8. Since the removal of the Loretto Academy building, no building permit had been issued for the northwest corner of the Property.

9. On June 8, 1994, the Petitioner, through its agent, James Kirkpatrick, filed an application to construct a three (3) story, 43-foot retail/office building at the northwest corner of the Property, and that application included the removal of a rock wall on the Property.

10. A public hearing on Petitioner’s application was held before the City’s Historic Design Review Board on July 12, 1994.

11. The Historic Design Review Board unanimously denied Petitioner’s application after a public hearing in which the Petitioner’s representative, James Kirkpatrick, was present and had the opportunity to present evidence and to cross-examine witnesses.

12. The minutes of the Historic Design Review Board reflect that the Board voted to deny the application to construct a building on the northwest corner of the Property for the

following reasons: (1) the potential impact of the proposed building on the Loretto Chapel and the contribution to the Chapel makes to the historic streetscape and the district, (2) the intrusive character of the proposed building on the historic district because of its height, (3) the proposed building would impair the view of the St. Francis Cathedral from Old Santa Fe Trail, and (4) the removal of the rock wall would further diminish the integrity of the site and district.

13. The Board's, and later the Council's, reasons for denying the application were necessarily based upon and inextricably connected to the following:

- a. the Board's erroneous understanding that it has the power and authority to preserve historic "view corridors";
- b. the Board's erroneous understanding that the "view corridor" to the St. Francis Cathedral was historic; and
- c. the Board's erroneous understanding of its authority to regulate proposed modifications or removal of the wall.

14. At no time did Teme propose to physically alter the Loretto Chapel or in any other way physically modify the structure, and at no time was the status of the Chapel as a contributing or significant structure proposed to be altered or removed.

15. The "view corridor" first came into existence in 1972, when Teme demolished the old Academy Building situated on the northwest corner of the Property. Prior to 1972, the Academy Building had blocked the view from the Chapel to the Cathedral.

16. At no time has any part of the rock wall been designated as "significant" or "contributing" pursuant to applicable City ordinances. More specifically, the City has not

employed the procedure prescribed in the Santa Fe City Code §§ 14-70.71, 14-70.72 for the designation of a structure as "contributing" or "significant" (as those terms are defined) with respect to the rock wall.

17. Neither the City Staff nor the Historic Design Review Board has the authority under the Santa Fe City Code §§ 14-70.71, 14-70.72 to designate structures as "contributing" or "significant." The City Council is the sole body which has the authority to make such designations in accordance with the procedures set forth in Santa Fe City Code §§ 14-70.71, 14-70.72. The City Council still has such authority to designate the rock wall as of the date of this decision, provided the required procedures are followed.

18. The City Code does not allow the Historic Design Review Board to regulate "view corridors," and the view created by Teme's demolition of the Academy Building on its property was not "historic" at the time of the decision because it was not fifty years old or older.

19. On July 19, 1994, Petitioner filed an appeal of the Historic Design Review Board's denial of this application to the Santa Fe City Council.

20. After a public hearing on September 13, 1994, at which the Petitioner was present and had an opportunity to present evidence, the Santa Fe City Council denied Petitioner's appeal and upheld the decision of the Historic Design Review Board, based upon the same reasons as the Historic Design Review Board's denial of Teme's application.

21. The Petitioner never received a permit to build on the northwest corner of the property or to demolish the rock wall.

B. SF 96-370 (C)

22. The Opportunity School served as a school for handicapped children, and had served other functions associated with the history of the Loretto Academy.

23. Petitioner did not demolish the Opportunity School structures pursuant to the demolition permit issued by the City on February 2, 1971.

24. Instead, Petitioner used the Opportunity School structures for office space and storage for approximately twenty-five (25) years after the demolition permit was issued.

25. In 1983, the Opportunity School structures were surveyed for their historic character.

26. On February 26, 1992, the City adopted Ordinance No. 1992-8 (§§14-70.71, et seq.), which authorized the City to designate certain buildings and structures as "landmark," "significant" and "contributing," and to regulate the alteration, demolition and additions to such buildings and structures. The Ordinance also provides for the adoption of an official map of landmark, significant and contributing structures.

27. On November 14, 1995, Petitioner's agent, Mr. Kirkpatrick, attended a public meeting of the Historic Design Review Board at which the Board voted to recommend inclusion of the Opportunity School structures on the City's official map of "landmark," "significant" and "contributing" structures. Mr. Kirkpatrick informed the Board of his opposition to the proposed action.

28. After a public hearing on January 10, 1996, the City Council adopted Ordinance No. 1996-1 designating the Opportunity School structures and a small section of a wall on the northwest boundary of the property as "contributing" structures.

C. SF 96-793 (C)

29. In December 1992, the City Council enacted Ordinance No. 1992-51 authorizing the Historic Design Review Board to restrict building heights in the historic district to less than that allowed by the underlying zoning.

30. Subsequent to the adoption of Ordinance No. 1992-51, an ad hoc committee was formed to develop a height ordinance with specific standards. The ad hoc committee included two members of the City Council, two members of the Historic Design Review Board, two members of the Development Review Committee, and two representatives of the Planning Department.

31. Petitioner's agent, James Kirkpatrick, was present at meetings of the Planning Commission, Historic Design Review Board, and Santa Fe City Council and at those meetings he spoke in opposition to the proposed Ordinance and its application to the Property.

32. After a public hearing on February 28, 1996, the Santa Fe City Council enacted Ordinance No. 1996-8, which includes standards and a formula for determining allowable building heights in the historic district.

33. Ordinance No. 1996-8 was not used in the City's consideration of Petitioner's application to build on the northwest corner of the property, and the application was not denied on that basis.

D. SF 96-1006 (C)

34. On February 2, 1971, Petitioner received a permit to demolish all of the structures on the Property, with the exception of the Loretto Chapel.

35. Petitioner did not demolish the Opportunity School structures pursuant to the permit issued on February 2, 1971, and, instead, used the structures for storage and office space for the next twenty-five (25) years.

36. The Opportunity School structures were designated as "contributing" structures under Ordinance No. 1996-1 of the City's historic district ordinances after public hearing on January 10, 1996, and those structures were included on the City's Historic District Status Map as of that date.

37. On January 19, 1996, Petitioner filed another application for a permit to demolish the Opportunity School structures.

38. The Opportunity School structures are historically significant.

39. The Opportunity School structures are an essential part of a unique street section.

40. The demolition of the Opportunity School structures would result in a loss or deterioration of the historic character of the historic district.

42. After a public hearing on February 27, 1996, the Historic Design Review Board denied Petitioner's application to demolish the Opportunity School structures.

43. Petitioner filed an appeal of the Historic Design Review Board's denial of its application for a demolition permit and, after a public hearing on April 10, 1996, the Santa Fe City Council denied Petitioner's appeal and upheld the Historic Design Review Board's decision.

Conclusions of Law

1. To the extent that any of the foregoing findings of fact are in whole or in part conclusions of Law, they are hereby incorporated as conclusions of law.

A. SF 94-2322 (C)

2. The public hearing conducted by the Historic Design Review Board on July 12, 1994 on Petitioner's application to construct a building on the northwest corner of the Property was properly noticed, and did not deny Petitioner's right to due process and equal protection.

3. The Historic Design Review Board's and the Council's denial of Petitioner's application to construct a building on the northwest corner of the Property and to demolish a rock wall was unsupported by substantial evidence, was arbitrary and capricious and not otherwise in accordance with law for the following reasons:

- a. Neither the Board nor the Council has the power or authority under the Santa Fe City Code as adopted to preserve historic "view corridors" and the "view corridor" in question was not "historic";
- b. The Board's and the Council's ability to regulate or establish "open space" requirements is limited to the provisions of the Loretto Subdistrict of the Business Capital District as found in Santa Fe City Code § 14-26.66 et seq., and additionally limited to the concept of open space set forth in the definition of "streetscape" contained in Santa Fe City Code § 14-70, and the Board and

the Council were required to make findings with respect to both of those ordinances.

c. the rock wall has not been designated as a "contributing" or "significant" structure under the Santa Fe City Code, and to the extent the Board and Council denied the application on that basis, its decision was unlawful, arbitrary and capricious, although the Council still has the authority to make such designation in the future under the Santa Fe City Code;

d. There was no evidence that the historic status of the Loretto Chapel itself would be altered or changed under Teme's application, and the Board's and the Council's denial of the application on the basis that the Chapel's status or the Chapel itself would be altered or changed was arbitrary, capricious and unlawful.

4. The public hearing conducted by the Santa Fe City Council on September 13, 1994 on Petitioner's appeal of the Historic Design Review Board's denial of his application for a building permit was properly noticed.

5. The City Council technically and substantially complied with the requirements of the Open Meetings Act in its consideration of the Petitioner's application to build on the northwest corner of the Property and to demolish the rock wall, and Petitioner was not denied due process and equal protection.

6. Resolution No. 1971-3 is not binding on the City, it did not create vested rights, and the City is not estopped from enforcing the Historic District Ordinances, or any other ordinances, with regard to the subject Property.

7. Petitioner had no vested right to construct a building on the northwest corner of the Property and to demolish the rock wall.

8. The City was not estopped from denying Petitioner's application to build on the northwest corner of the Property and to demolish the rock wall.

9. The City Council's denial of Petitioner's appeal of the Historic Design Review Board's denial of Petitioner's application to construct a building on the northwest corner of the property was arbitrary and capricious, and was unsupported by substantial evidence.

10. The City has the right to preserve the rock wall on the northwest corner of the property in accordance with the procedures set forth for doing so under the Santa Fe City Code and Historic District Ordinances.

B. SF 96-370 (C)

11. The Petitioner had no vested right to demolish the Opportunity School structures.

12. The City was not estopped from denying Petitioner's application to demolish the Opportunity School structures (for the purpose of this conclusion, the Opportunity School structures do not include the 1984 additions to those structures).

13. The Opportunity School structures, with the exception of the 1984 additions, are "contributing" under the City's historic district ordinance, and the City properly denied the Petitioner's application with regard to the "contributing" structures.

14. The Property was properly included in Ordinance No. 1996-1, and the Historic Districts Status Map, governing the designation of "significant" and "contributing" structures under the City's historic district ordinance.

C.SF 96-793 (C)

15. Ordinance No. 1996-8 (the Height Ordinance) is not unreasonable or arbitrary, and it is reasonably related to the City's interest in preserving the historic character and integrity of the historic district.

16. Ordinance No. 1996-8 is not unconstitutional.

17. The ad hoc committee was not a decision-making or policy making body under the Open Meetings Act.

18. Even if the Open Meetings Act applied to the ad hoc committee, any procedural defect under the Open Meetings Act was cured by the subsequent discussion of Ordinance No. 1996-8 at public hearings of the City's Planning Commission, the Historic Design Review Board, a Planning commission subcommittee, and the City Council.

19. Ordinance No. 1996-8 was properly adopted after several public hearings of the City's Planning Commission, a Planning Commission subcommittee, the Historic Design Review Board and the Santa Fe City Council.

20. Petitioner had adequate notice and a meaningful opportunity to present evidence and to cross-examine witnesses in its protests of the adoption of Ordinance No. 1996-8.

21. Ordinance No. 1996-8 was not used as the basis for the City's denial of Petitioner's application to construct a building on the northwest corner of the Property.

22. The Petitioner had no vested right to construct buildings on the Property up to a height of 65 feet.

23. The Historic Design Review Board and the Santa Fe City Council were not estopped from denying Petitioner's application for a permit to build structures on the Property up to 65 feet in height.

D. SF 96-1006 (C)

24. The demolition permit issued on February 2, 1971 expired in accordance with Section 303(d) of the Uniform Building Code, which had been adopted by the City of Santa Fe, and which provides that permits shall expire if the work authorized by the permit is not commenced within 60 days, or if the work is suspended or abandoned for a period of 120 days.

25. Petitioner did not demolish the Opportunity School structures in 1971, and instead, used the structures as office and storage space for approximately 25 years prior to applying for a new demolition permit in 1996. Petitioner, therefore, did not substantially rely on the demolition permit issued for February 2, 1971.

26. Petitioner had no vested right to demolish the Opportunity School structures.

27. The City was not estopped from denying Petitioner's application for a permit to demolish the Opportunity School structures.

28. The demolition of the Opportunity School structures would cause the loss of historic fabric and historic character in the City's historic district.

29. The City's decision denying the Petitioner's application for a permit to demolish the Opportunity School structures designated as "contributing" under the ordinance was supported by substantial evidence, and was not arbitrary and capricious.

Stephen Pfeffer

STEPHEN PFEFFER
DISTRICT JUDGE