



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
MAY 10, 2017
CITY COUNCIL CHAMBERS

AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 5/5/17 TIME 3:40 PM

SERVED BY Melanie Byers

RECEIVED BY _____

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES: Reg. City Council Meeting – April 26, 2017
9. PRESENTATIONS
 - a) Capital High School – New Mexico State Boys Basketball Runner-Up.
 - b) St. Michael's High School – Santa Fe City Football Champions.
 - c) Santa Fe High School – Santa Fe City Baseball Champions.
 - d) Santa Fe High School – New Mexico State JROTC Champions.
 - e) Santa Fe Prep School – New Mexico State Girls LaCrosse Champions.
 - f) New Mexico High School Female Athlete of the Year; Jocelyn Fernandez – St. Michael's High School Five Sport Female Athlete.
 - g) Capital High School; Jose Tapia – 5 Times State Wrestling Champion.
10. CONSENT CALENDAR
 - a) Request for Approval of Procurement Under State Price Agreement in the Amount of \$131,008.64 – Replacement of Cellular Remote School Flasher Connect Systems; Gades Sales Co., Inc. (Necasio Lovato)



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
MAY 10, 2017
CITY COUNCIL CHAMBERS

- b) Request for Approval of Procurement Under State Price Agreement in the Amount of \$46,550 – Replacement of Traffic Signal Cabinets. (Necasio Lovato)
 - 1) Econolite Group, Inc.
 - 2) Gades Sales Co., Inc.
 - c) Request for Approval of Procurement Under City of Albuquerque Agreement in the Amount of \$111,128.78 – Three Replacement BMW Motorcycles and Equipment for Police Department. (Andrew Padilla)
 - 1) BMW Santa Fe
 - 2) Sandia Automotive Corporation
 - d) Request for Approval of Exempt Procurement and Amendment No. 5 to Agreement in the Amount of \$35,642.88 for a Total Amount of \$257,388 – CenturyLink Metro Ethernet Services; Qwest Corporation d/b/a CenturyLink QC. (Larry Worstell)
 - e) Request for Approval of Procurement Under Cooperative Price Agreement in the Amount of \$366,278 and Budget Adjustment in the Amount of \$266,278 – Type 3 Fire Engine for Fire Department; Super Vacuum Manufacturing Company, Inc. (Jan Snyder)
 - f) Request for Approval of Findings of Fact and Conclusions of Law for Case No. 2017-07, 1611 Alcadessa St. Railyard Master Plan Amendment; and Case No. 2017-08, 1611 Alcadessa St. Railyard Development Plan. (Kelley Brennan)
11. Request to Publish Notice of Public Hearing for June 8, 2017:
Bill No. 2017-13: An Ordinance Relating to the City of Santa Fe Economic Development Plan Ordinance, Article 11-11 SFCC 1987; Approving and Adopting a Local Economic Development Project Participation Agreement Between the City of Santa Fe and Second Street Brewery, Inc. for Expansion of the Manufacturing Facility, a Local Economic Development Project. (Councilor Harris, Councilor Trujillo and Councilor Ives) (Fabian Trujillo)
12. MATTERS FROM THE CITY MANAGER



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
MAY 10, 2017
CITY COUNCIL CHAMBERS

13. MATTERS FROM THE CITY ATTORNEY

Executive Session

In Accordance with the New Mexico Open Meetings Act §§10-15-1(H)(2)(7) and (8) NMSA 1978, Discussion Regarding Limited Personnel Matters, Including, without Limitation, the Proposed Agreement Between the City of Santa Fe and the Santa Fe Firefighters Association, International Association of Firefighters – Local 2059; Threatened and Pending Litigation in Which the City of Santa Fe is or may Become a Participant, Including, without Limitation, Discussion Regarding Case No. 1:17-CV-00355, *CNSP D/B/A/ NMSURF v. The City of Santa Fe*, Case No. D-101-CV-2009-03914, *Ralph Brutsche v. City of Santa Fe*, and Concerning BDD Diversion Structure Issues; and Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights by the City of Santa Fe. (Kelley Brennan)

14. Action with Respect to the Proposed Agreement Between the City of Santa Fe and the Santa Fe Firefighters Association, International Association of Firefighters – Local 2059. (Kelley Brennan)

15. MATTERS FROM THE CITY CLERK

Canvass of Election Results – May 2, 2017 Special Municipal Election.

16. COMMUNICATIONS FROM THE GOVERNING BODY

EVENING SESSION – 7:00 P.M.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. SALUTE TO THE NEW MEXICO FLAG
- D. INVOCATION
- E. ROLL CALL
- F. PETITIONS FROM THE FLOOR
- G. APPOINTMENTS



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
MAY 10, 2017
CITY COUNCIL CHAMBERS

H. PUBLIC HEARINGS:

- 1) Request from Loretto Service Company, LLC for a Transfer of Ownership Only of Liquor License No. 0661, with On Premise Consumption Only, from Commonwealth Loretto Operating, Inc. to Loretto Service Company, LLC. This License Will Remain at 211 Old Santa Fe Trail. (Yolanda Y. Vigil)
- 2) Request from Parallel Studios for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Dispensing/Consumption of Beer and Wine at El Museo Cultural, 555 Camino de la Familia, Which is Within 300 Feet of Tierra Encantada Charter School @ Alvord, 551 Alarid Street. The Request is for the Currents News Media 2017 Exhibition Which Will be Held on June 9 and June 10, 2017, with Alcohol Service from 6:00 p.m. to 11:30 p.m. (Yolanda Y. Vigil)
- 3) CONSIDERATION OF BILL NO. 2017-11 ADOPTION OF ORDINANCE NO. 2017-___: (Councilor Lindell, Councilor Dominguez, Councilor Villarreal, Councilor Ives and Councilor Trujillo)
An Ordinance Amending Subsection 23-5.4 SFCC 1987 to Prohibit Smoking in the Plaza Park During Santa Fe Bandstand Events. (Rob Carter)
- 4) **Case #2017-09.** Appeal of the Historic Districts Review Board's Decision on January 24, 2017, Concerning the Proposed Remodel of the Residence at 547 Hillside Ave. (Formerly 538 ½ Hillside Ave.) in the Downtown and Eastside Historic District as Case #H-15-104. Aminda Diaz, Neighbor, Requests that the Governing Body Rescind the Board's Decision Which Allowed the Historic Preservation Division to Approve an Egress Window. (Theresa Gheen & David Rasch)
- 5) **Bill No. 2017-10:** An Ordinance Relating to the Land Development Code, Chapter 14 SFCC 1987; Amending Subsection 14-6.3(D)(1) to Amend the Standards for Accessory Dwelling Units; and Making Such Other Stylistic or Grammatical Changes That Are Necessary. (Councilor Ives) (Greg Smith) (**Postponed by Sponsor to July 27, 2017**)

I. ADJOURN



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
MAY 10, 2017
CITY COUNCIL CHAMBERS

Pursuant to the Governing Body Procedural Rules, in the event any agenda items have not been considered prior to 11:30 p.m. such items shall be postponed to a subsequent meeting, provided that the date, time and place of such meeting is specified at the time of postponement.

NOTE: New Mexico law requires the following administrative procedures be followed when conducting "quasi-judicial" hearings. In a "quasi-judicial" hearing all witnesses must be sworn in, under oath, prior to testimony and will be subject to reasonable cross-examination. Witnesses have the right to have an attorney present at the hearing.

Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6521, five (5) working days prior to meeting date.

SUMMARY INDEX
SANTA FE CITY COUNCIL MEETING
May 10, 2017

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<u>AFTERNOON SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved [amended]	1-2
APPROVAL OF CONSENT CALENDAR	Approved	2
CONSENT CALENDAR LISTING		2-3
APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – APRIL 26, 2017	Approved	3
<u>PRESENTATIONS</u>		3-4
CAPITAL HIGH SCHOOL – NEW MEXICO STATE BOYS BASKETBALL RUNNER-UP	Absent will reschedule	4
ST. MICHAEL'S HIGH SCHOOL – SANTA FE CITY FOOTBALL CHAMPIONS	Presentation	4
SANTA FE HIGH SCHOOL – SANTA FE CITY BASEBALL CHAMPIONS	Presentation	5
SANTA FE HIGH SCHOOL – NEW MEXICO STATE JROTC CHAMPIONS	Presentation	5
SANTA FE PREP SCHOOL – NEW MEXICO STATE GIRLS LACROSSE CHAMPIONS	Presentation	5
NEW MEXICO HIGH SCHOOL FEMALE ATHLETE OF THE YEAR; JOCELYN FERNANDEZ – ST. MICHAEL'S HIGH SCHOOL FIVE SPORT FEMALE ATHLETE	Presentation	5
CAPITAL HIGH SCHOOL – JOSE TAPIA – 5 TIMES STATE WRESTLING CHAMPION	Presentation	6
<u>CONSENT CALENDAR DISCUSSION</u>	None	6

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING FOR JUNE 8, 2017. BILL NO. 2017-13: AN ORDINANCE RELATING TO THE CITY OF SANTA FE ECONOMIC DEVELOPMENT PLAN ORDINANCE, ARTICLE 11-11 SFCC 1987; APPROVING AND ADOPTING A LOCAL ECONOMIC DEVELOPMENT PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY OF SANTA FE AND SECOND STREET BREWERY, INC., FOR EXPANSION OF THE MANUFACTURING FACILITY, A LOCAL ECONOMIC DEVELOPMENT PROJECT	Approved	6-10
MATTERS FROM THE CITY MANAGER	Information/discussion	10
<u>MATTERS FROM THE CITY ATTORNEY</u>		
EXECUTIVE SESSION	Approved	11
MOTION TO COME OUT OF EXECUTIVE SESSION	Approved	11
ACTION WITH RESPECT TO THE PROPOSED AGREEMENT BETWEEN THE CITY OF SANTA FE AND THE SANTA FE FIREFIGHTERS ASSOCIATION, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS – LOCAL 2059	Postponed to 05/31/17	12
<u>EVENING SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	13
PETITIONS FROM THE FLOOR		13-17
APPOINTMENTS	None	17
<u>PUBLIC HEARINGS</u>		
REQUEST FROM LORETTO SERVICE COMPANY, LLC, FOR A TRANSFER OF OWNERSHIP ONLY OF LIQUOR LICENSE NO. 0661, WITH ON PREMISE CONSUMPTION ONLY, FROM COMMONWEALTH LORETTO OPERATING, INC., TO LORETTO SERVICE COMPANY, LLC. THIS LICENSE WILL REMAIN AT 211 OLD SANTA FE TRAIL	Approved	17-18

ITEM

ACTION

PAGE #

REQUEST FROM PARALLEL STUDIOS FOR
A WAIVER OF THE 300 FOOT LOCATION
RESTRICTION AND APPROVAL TO ALLOW
THE DISPENSING/ CONSUMPTION OF BEER
AND WINE AT EL MUSEO CULTURAL, 555
CAMINO DE LA FAMILIA, WHICH IS WITHIN
300 FEET OF TIERRA ENCANTADA CHARTER
SCHOOL @ ALVORD, 551 ALARID STREET.
THE REQUEST IS FOR THE CURRENT NEWS
MEDIA 2017 EXHIBITION WHICH WILL BE HELD
ON JUNE 9 AND JUNE 10, 2017, WITH ALCOHOL
SERVICE FROM 6:00 P.M. TO 11:30 P.M.

Approved

19

CONSIDERATION OF BILL NO. 2017-11, ADOPTION
OF ORDINANCE NO. 2017-9. AN ORDINANCE
AMENDING SUBSECTION 23-5.4 SFCC 1987, TO
PROHIBIT SMOKING IN THE PLAZA PARK DURING
SANTA FE BANDSTAND EVENTS

Approved [amended]

20-25

APPEAL OF THE HISTORIC DISTRICTS REVIEW
BOARD'S DECISION ON JANUARY 24, 2017,
CONCERNING THE PROPOSED REMODEL OF
THE RESIDENCE AT 547 HILLSIDE AVE.
(FORMERLY 538 ½ HILLSIDE AVE.), IN THE
DOWNTOWN AND EASTSIDE HISTORIC
DISTRICT AS CASE #H-15-104. ARMINDA DIAZ,
NEIGHBOR, REQUESTS THAT THE GOVERNING
BODY RESCIND THE BOARD'S DECISION WHICH
ALLOWED THE HISTORIC PRESERVATION DIVISION
TO APPROVE AN EGRESS WINDOW

Board's decision vacated and
Remanded back to H-Board

25-48

BILL NO. 2017-10: AN ORDINANCE RELATING TO
THE LAND DEVELOPMENT CODE, CHAPTER 14
SFCC 1987; AMENDING SUBSECTION 14-6.3(D)(1)
TO AMEND THE STANDARDS FOR ACCESSORY
DWELLING UNITS; AND MAKING SUCH OTHER
STYLISTIC OR GRAMMATICAL CHANGES THAT
ARE NECESSARY

Postponed to 07/27/17

48

END OF PUBLIC HEARINGS

ITEM**ACTION****PAGE #****MATTERS FROM THE CITY CLERK****Information****48-49****COMMUNICATIONS FROM THE GOVERNING BODY****Information/discussion****49-56****ADJOURN****56**

**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
May 10, 2017**

AFTERNOON SESSION

1. CALL TO ORDER AND ROLL CALL

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Pro-Tem Signe I. Lindell, on Wednesday, May 10, 2017, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

Members Present

Councilor Signe I. Lindell, Mayor Pro-Tem
Councilor Carmichael A. Dominguez
Councilor Mike Harris
Councilor Peter N. Ives
Councilor Joseph M. Maestas
Councilor Christopher M. Rivera
Councilor Ronald S. Trujillo
Councilor Renee D. Villarreal

Members Excused

Mayor Javier M. Gonzales

Others Attending

Brian K. Snyder, City Manager
Marcos Martinez, Assistant City Attorney
Yolanda Y. Vigil, City Clerk
Melessia Helberg, Council Stenographer

6. APPROVAL OF AGENDA

Brian Snyder, City Manager, said he would like to postpone Item #14 on the Afternoon Agenda, to the May 31, 2017 meeting of the Governing Body, noting they will not be speaking about the Firefighters contract in Executive Session. He said the contract was voted on for ratification, however there was

missing language in the ratification. So the Firefighters are going back to the union to be sure everything is correct in the ratification.

MOTION: Councilor Dominguez moved, seconded by Councilor Ives, to approve the agenda, as amended.

VOTE: The motion was approved on a voice vote with Mayor Pro-Tem Lindell and Councilors Dominguez, Harris, Ives, Maestas, Rivera, Trujillo and Villarreal voting in favor of the motion and none voting against.

7. APPROVAL OF CONSENT CALENDAR

MOTION: Councilor Dominguez moved, seconded by Councilor Trujillo, to approve the following Consent Calendar, as presented.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

Against: None.

10. CONSENT CALENDAR

- a) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT IN THE AMOUNT OF \$131,008.64 – REPLACEMENT OF CELLULAR REMOTE SCHOOL FLASHED CONNECT SYSTEMS; GADES SALES CO., INC. (NECASIO LOVATO)**
- b) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT IN THE AMOUNT OF \$46,550 – REPLACEMENT OF TRAFFIC SIGNAL CABINETS. (NECASIO LOVATO)**
 - 1) **ECONOLITE GROUP, INC.**
 - 2) **GADES SALES CO., INC.**
- c) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER CITY OF ALBUQUERQUE AGREEMENT IN THE AMOUNT OF \$111,128.78 – THREE REPLACEMENT BMW MOTORCYCLES AND EQUIPMENT FOR POLICE DEPARTMENT. (ANDREW PADILLA)**
 - 1) **BMW SANTA FE**
 - 2) **SANDIA AUTOMOTIVE CORPORATION.**

- d) REQUEST FOR APPROVAL OF EXEMPT PROCUREMENT AND AMENDMENT NO. 5 TO AGREEMENT IN THE AMOUNT OF \$35,642.88, FOR A TOTAL AMOUNT OF \$257,388 – CENTURYLINK METRO ETHERNET SERVICES; QWEST CORPORATION D/B/A CENTURYLINK QC. (LARRY WORSTELL)
- e) REQUEST FOR APPROVAL OF PROCUREMENT UNDER COOPERATIVE PRICE AGREEMENT IN THE AMOUNT OF \$366,278 AND BUDGET ADJUSTMENT IN THE AMOUNT OF \$266,278 – TYPE 3 FIRE ENGINE FOR FIRE DEPARTMENT; SUPER VACUUM MANUFACTURING COMPANY, INC. (JAN SNYDER)
- f) REQUEST FOR APPROVAL OF FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR CASE NO. 2017-07, 1611 ALCADESA ST., RAILYARD MASTER PLAN AMENDMENT; AND CASE NO. 2017-08, 1611 ALCADESA ST., RAILYARD DEVELOPMENT PLAN. (KELLEY BRENNAN)

END OF CONSENT CALENDAR

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – APRIL 26, 2017.

A copy of the minutes of the *City Council Meeting Executive Session* of April 26, 2017, is incorporated herewith to these minutes as Exhibit "1."

MOTION: Councilor Dominguez moved, seconded by Councilor Ives, to approve the minutes of the Regular Meeting of April 16, 2017, as presented.

VOTE: The motion was approved on a voice vote with Mayor Pro-Tem Lindell, and Councilors Dominguez, Harris, Ives, Maestas, Rivera, Trujillo and Villarreal voting in favor of the motion and none voting against.

9. PRESENTATIONS

Mayor Pro-Tem Lindell read a letter into the record from Mayor Gonzales:

I would like to congratulate all our City teams who competed and came out on top. To be a champion means more than who wins versus loses. It's about working hard every day, giving your time and talent to your team, walking into the arena, or on the field, and putting it all on the line. You are champions because when you were exhausted and couldn't give more, you did, and won. You cheered at times, and during defeat you held each other up. That's not much different from the City you call home. We are always there for one another. Know that every citizen in Santa Fe celebrates your success in the field, and we all will be cheering for you as you go to the next stage of life or return next season to defend your title.

From a personal point, I want to say how proud I am of my incredible daughter, Cameron Gonzales. She has had the extraordinary privilege of being part of the Prep family and has thrived because of faculty, friends and coaches. Even before she started the exciting journey toward a State La Crosse title with the Lady Griffins, she showed the traits of a champion, consistently overcoming great challenges, only to reach new heights time and again.

I'm sorry I can't be with you tonight, honey, but know that I am so proud of you.

*Love,
Dad*

a) CAPITAL HIGH SCHOOL – NEW MEXICO STATE BOYS BASKETBALL RUNNER-UP

There was no one from this group in attendance.

Mayor Pro-Tem Lindell said we will hold this award and reschedule it at a later date.

b) ST. MICHAEL'S HIGH SCHOOL – SANTA FE CITY FOOTBALL CHAMPIONS

The St. Michael's High School City Football Champions came to the front of the Chambers, where they were presented with a Muchisimas Gracias Certificate and with heartiest congratulations by Councilor Rivera, a graduate of St. Michael's, assisted by Councilor Maestas and Councilor Dominguez

Coach Fernandez said it was a great season, the team put in a lot of effort this year which was shown on the field. He said he is very proud the way they participated this year, and it is a tremendous thing to be the City champions 8 years in a row.

Councilor Rivera said, as a St. Michael's alum he is proud of this team, noting he coached with Coach Fernandez when he first started out. He is proud of everything Coach Fernandez has done with St. Michaels High School football over the past years.

Councilor Trujillo and Councilor Maestas added their congratulations and pride in the accomplishments of the Santa Fe Horsemen.

Councilor Dominguez thanked the student athletes for representing the City well, as well as their parents for their support. He said his sister graduated from St. Michael's.

Mayor Pro-Tem Lindell added her congratulations and best wishes, saying we are very proud of you, and expressed thanks to their parents and Coach Fernandez

c) SANTA FE HIGH SCHOOL – SANTA FE CITY BASEBALL CHAMPIONS

The Santa Fe High School City Baseball Champions came to the front of the Chambers, where they were presented with a Muchisimas Gracias Certificate and heartiest congratulations by Councilor Trujillo, a graduate of St. Michael's, assisted by Councilor Maestas and Councilor Dominguez

Councilor Villarreal and Councilor Trujillo presented a Muchisimas Gracias Certificate from Mayor Gonzales and the members of the City Council, and thanked them for their hard work and commitment. Councilor Trujillo said winning back to back championships is phenomenal, and said all of us are proud of what they have accomplished, saying he is an ex-Demon as well.

The Coach said this is his third year, and believes we have a national level team as well.

d) SANTA FE HIGH SCHOOL – NEW MEXICO STATE JROTC CHAMPIONS

The Santa Fe High School City New Mexico State JROTC Champions, came to the front of the Chambers, where they were presented with a Muchisimas Gracias Certificate and heartiest congratulations by the Governing Body.

e) SANTA FE PREP SCHOOL – NEW MEXICO STATE GIRLS LACROSSE CHAMPIONS

The Santa Fe Prep School New Mexico State Girls Lacrosse Champions, came to the front of the Chambers, where they were presented with a Muchisimas Gracias Certificate and heartiest congratulations by Mayor Pro-Tem Lindell and Councilor Harris, noting this their 4th straight State Championship.

The Coach said she has coached this team for the past 3 years, and being the State Champion 4 years in a row is amazing, commenting their personal achievements are outstanding as well.

Councilor Harris congratulated the team, and said his daughter attended Santa Fe Prep, and was on a State Soccer Team.

Mayor Pro-Tem Lindell added her congratulations and best wishes to the team.

f) NEW MEXICO HIGH SCHOOL FEMALE ATHLETE OF THE YEAR; JOCELYN FERNANDEZ – ST. MICHAEL'S HIGH SCHOOL FIVE SPORT FEMALE ATHLETE

Jocelyn Fernandez, St. Michaels High School, and High School Female Athlete of the Year, was honored and presented with a Muchisimas Gracias Certificate by Councilor Villarreal. Councilor Dominguez her accomplishments into the record. They congratulated her and wished her continued good luck with her next adventure.

g) CAPITAL HIGH SCHOOL – JOSE TAPIA – 5 TIMES STATE WRESTLING CHAMPION

Javier Tapia, on behalf of his brother, Jose Tapia, Capital High School, a 5 time State Wrestling Champion accepted a Muchisimas Gracias Certificate presented by Councilor Dominguez, who read Jose's accomplishments into the record. He noted that Javier Tapia, a sophomore at Capital High is a 2-time State Wrestling Champion.

Mayor Pro-Tem Lindell said Jose is an amazing athlete and congratulated him on his accomplishments and wished him well in the future.

Councilor Ives said when we bring back the missing athletes, he hopes we can bring the St. Michael's High Choir who won the State Championship.

Councilor Rivera said the St. Michael's Girls Golf Team just won the State Golf Championship this weekend, and he would like to bring them back for honors as well.

CONSENT CALENDAR DISCUSSION

No items were pulled from the Consent Calendar for discussion.

11. **REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING FOR JUNE 8, 2017. BILL NO. 2017-13: AN ORDINANCE RELATING TO THE CITY OF SANTA FE ECONOMIC DEVELOPMENT PLAN ORDINANCE, ARTICLE 11-11 SFCC 1987; APPROVING AND ADOPTING A LOCAL ECONOMIC DEVELOPMENT PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY OF SANTA FE AND SECOND STREET BREWERY, INC., FOR EXPANSION OF THE MANUFACTURING FACILITY, A LOCAL ECONOMIC DEVELOPMENT PROJECT. (COUNCILOR HARRIS, COUNCILOR TRUJILLO AND COUNCILOR IVES AND COUNCILOR MAESTAS). (FABIAN TRUJILLO)**

Councilor Dominguez asked the committee schedule

Fabian Trujillo, Manager, Office of Business Growth, Office of Economic Development, said it has been approved by the EDRC, it will go to the CBQL on Friday, to Finance on May 22, and back to the City Council for a public hearing on May 31, 2017.

Councilor Dominguez asked if this request is time sensitive.

Mr. Trujillo said yes. The sensitivity is the construction schedule. If we delay approval, it could delay the construction of the facility, noting they are somewhat under construction, and it would delay the construction of the infrastructure to be done to the site.

Councilor Dominguez said then we have invested without having this request approved.

Mr. Trujillo said \$100,000 will come from the New Mexico State Local Economic Development Fund, that has to be approved, and the owner is putting in approximately \$1.8 million.

Councilor Dominguez said he doesn't anticipate this happening, and asked what happens if this request isn't approved. He said this is something with which we deal on occasion which is a timing issue where people are making investments assuming the Governing Body will approve something. He asked if it isn't approved if it will impact the project.

Mr. Trujillo said probably not, because it is already in the Plan, but that is something he would have to ask of the general manager.

Councilor Harris said the company, Second Street Brewery, is making a major investment to a facility on Rufina of \$1.8 million. He said they probably have a wish list which would total more than \$2 million. He said there are certain things they want to accomplish with the additional \$150,000 while they are in construction prior to opening. He said the opening will be fairly soon. He said these funds help add to some of the work they want to accomplish which they haven't been to accomplish within their own funding.

Chair Dominguez said, assuming all things are in order, they will move forward with the project whether or not this is approved.

Councilor Harris said we can ask for more specific information, noting this is simply a Request to Publish. He said Mr. Tweet, one of the owners and the General Manager, is hoping this will continue to move forward in the outlined schedule for them to put the money in service.

Councilor Dominguez said, "I don't necessarily oppose this application or the establishment, I'm more concerned about, and I don't know if it's a loophole, maybe that's too risky of a word, but it seems to me that we have to be careful in making it clear, and this isn't necessarily tied to this case, but that folks aren't investing money on a project thinking that maybe they will get an approval from us. And if we don't, how much will that impact their project. It isn't really relevant to this, it doesn't sound like and that's why I'm asking. Because I just think, from a systemic perspective, we need to keep an eye on that. There are number of things I can point to. The Airport is one of them, some of the grant monies that we get there. I just wanted to ask those questions, just about the scheduling to make sure that we keep it moving forward."

Councilor Harris said both he and Mr. Trujillo have spoken with Mr. Tweet about his schedule. He said, for example, because we were not able to get a quorum for our normal CBQL, which will be the Economic Development Advisory Committee, today at 11:00 a.m., and will meet at 3:00 p.m. to meet the request of the owner and General Management to get the process complete so they can put this money to work as they complete their project.

Mr. Trujillo said the construction schedule is on packet page 35, and the part they're looking to do for these monies doesn't start until July 15, 2017. He said they are well aware of the risk of starting earlier. They will start July 15, 2017, and will finish by July 15, 2018, noting these are target dates. They will be building the infrastructure with the \$150,000 for this facility on the site.

Councilor Dominguez said there is an issue, telling Mr. Snyder that this is not on the May 22, 2017 meeting agenda for the Finance Committee. He said, in this case, Finance staff needs to make sure that all staff get their information submitted timely so the agenda can be approved, and then we can anticipate these sorts of things. He said, "But as of right now, and it obviously could change tomorrow, it is not on the Finance Agenda. We need to make sure that staff does what they need to do to get these done on time. I'm sure the City Clerk certainly would appreciate that, and in this case, the Finance staff would appreciate that. So as far as what you told me about it being scheduled for Finance on the 22nd, that is not true."

Mr. Snyder said he thought that was the schedule, and he will recheck with the Finance Director to see what is the holdup, noting he has the package of materials which states that they were due.

Mr. Snyder said he can't speak directly to this, but can guess, from what Councilor Harris said about the lack of quorum, once the Committee meets, action is taken, it is then passed to the Finance Committee. He is guessing there may be an item ready to go, once the Committee meets and there is a quorum and passes it on. It won't appear on the agenda until it is heard at the previous committee. He said he is guessing that is what it is, and it could be after the meeting at 3:00 p.m. on Friday, which would be too late for the Finance Committee agenda. He said, "I can work with Fabian and Adam to get it on the agenda, and if we are comfortable with it, and you are comfortable with it as the Chair, it can on the place order, and if for some reason there is not a quorum, and it doesn't get acted on, we can decide how we want to proceed."

Councilor Dominguez said, as the Finance Committee Chair will recommend it go to Finance even if it doesn't get out of the Committee. He said, "But please, I just want to, again, make it very clear that the expectation is that materials get submitted on time. That is one of the things that the Finance Committee has asked for, that we don't get information at the last minute. And so we will put it on the Consent Agenda as well."

Yolanda Vigil, City Clerk, said, "So given what Fabian said and you all have said, we would like to change that Notice of Public Hearing to actually have a May 31st Public Hearing. So it would go to Finance on May 22nd and then there would be a public hearing on May 31, 2017, and that will bring it a little bit closer."

Mr. Snyder said to clarify. What Councilor Dominguez was saying is very true, on almost every month, except for May there are 5 Wednesdays this month, so the time frame for the deadline may not be until the referenced meeting, because Finance meets on the 22nd. Typically, it would meet on the 15th, so we may have a little bit of time here, and we can talk about making sure it gets through the Committee process.

Councilor Dominguez said this is fine, and recognizes we have that extra week in May. However, his remarks are to stress that information be submitted to the appropriate staff in a timely manner. He said, "This probably is a draft agenda, and that's fine. I just wanted to make that point."

Councilor Rivera said he drove by the building two days ago on his way home, after the Public Works meeting and it looks like it is significantly complete. He asked the percentage of completion in Phase 1.

Mr. Trujillo said he hasn't seen the whole part of the [inaudible]. He has the construction timeline for the infrastructure. He said the funds you will be reviewing, approved by the State Legislature, will not be for the building itself. It is mostly for the infrastructure and the improvements on the inside. He said if they are already building the facility, he thinks they are on schedule with what they are looking to do.

Councilor Rivera said this is significantly close to completion, and they are now requesting funds from us and from the State well into the project. He asked if this is how it works typically, or do they usually go for approval prior to starting construction to secure the monies beforehand.

Mr. Trujillo said every project is different, and sometimes they start way before, and are advised not to start construction until they get the funds. However, they are accelerating this project because they would like to have the facility open as soon as possible.

Mr. Trujillo continued, saying this is a major expansion, create 51 jobs, 5 production jobs that average more than \$67,000 annually. It is going to be a taproom and a production facility. He said he found out and are working with the State, and they wanted to request \$150,000 to do some things that they otherwise couldn't do. He said they have an agreement and brought "this forth to you as soon as we could."

Councilor Rivera said then most companies don't take the chance and start construction until they know the monies are secure, and Mr. Trujillo said they usually do not.

Councilor Rivera asked, again, if this doesn't pass, since they have started already, he presumes they have the funds to complete the building.

Mr. Trujillo said he is unsure, saying he thinks it is important to pass this, but he would have to ask Mr. Tweet regarding that. He said the request is only about 3-5% of the project, so they probably wouldn't do the infrastructure piece they are looking to do.

Councilor Rivera said he is in favor of the project. He is just trying to figure out how they thought about the whole thing, and anticipated the funds coming, the schedule as it relates to the money they didn't yet have. He thinks it is a good thing, and will be fine, he is just curious about how they came about the project.

Councilor Harris said he thinks all of these are legitimate questions. He will be speaking with Mr. Tweet to make sure he attends the meeting on Friday, as well as the Finance Committee meeting on Monday.

MOTION: Councilor Ives moved, seconded by Councilor Maestas, to approve this request.

DISCUSSION: Councilor Dominguez said he would like to see the Building Permit and the Building Permit application, noting he would like to see the timing.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

Against: None.

12. MATTERS FROM THE CITY MANAGER

Mr. Snyder said he and Mr. Johnson are discussing calling a Special Council meeting on May 22, 2017, immediately following the Finance Committee meeting, specifically for the Property Tax discussion. He said it didn't get out of Public Works with a motion earlier this week, and it will be heard at the Finance Committee on May 22, 2017. He said to get everything in order to submit to the State and DFA, they want to have the special meeting on May 22, 2017, after the Finance Committee takes action on this item. He said this is a suggestion, noting Councilor Maestas has raised questions both online and offline about some issues of timing, and we didn't want to get into any snafus with the State. He believes this would be the best action, rather than waiting until May 31, 2017, to take action at the regular Governing Body meeting.

Councilor Ives would note is that this item was moved forward without recommendation, so he thinks it is "appropriately tee-up," for how we exercise those items. He does agree that leaving it to May 31st, if there are questions that can be answered earlier, and addressing those questions earlier is a prudent and reasonable course of action. He is in favor of moving a Special Meeting following the Finance Committee meeting on May 22, 2017.

Responding to the Mayor Pro-Tem, Ms. Vigil said she will send notice of the Special Governing Body Meeting on May 22, 2017, to the members to the Governing Body.

13. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION

IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT NMSA 1978, SECTION 10-15-1(H)(2), (7) AND (8), DISCUSSION REGARDING LIMITED PERSONNEL MATTERS; INCLUDING, WITHOUT LIMITATION, THE PROPOSED AGREEMENT BETWEEN THE CITY OF SANTA FE AND THE SANTA FE FIREFIGHTERS ASSOCIATION, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS—LOCAL 2059; THREATENED OR PENDING LITIGATION IN WHICH THE CITY OF SANTA FE IS OR MAY BECOME A PARTICIPANT INCLUDING, WITHOUT LIMITATION, CASE NO. 1:17 CV-00355, CNSP D/B/A NMSURF V. THE CITY OF SANTA FE, CASE NO. D-101-CV-2009-03914, RALPH BRUTSCHE V. CITY OF SANTA FE, AND CONCERNING BDD DIVERSION STRUCTURE ISSUES; AND DISCUSSION OF THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY OR WATER RIGHTS BY THE CITY OF SANTA FE (KELLEY BRENNAN)

MOTION: Councilor Rivera moved, seconded by Councilor Ives, that the Council go into Executive Session to discuss the matters listed on the Agenda in accordance with the recommendation of the City Attorney.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

Against: None.

MOTION TO COME OUT OF EXECUTIVE SESSION

MOTION: At 7:05 p.m. Councilor Rivera moved, seconded by Councilor Ives, that the City Council come out of Executive Session and stating for the record that the discussion in Executive Session was limited to the matters noted on the agenda

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

Against: None.

14. ACTION WITH RESPECT TO THE PROPOSED AGREEMENT BETWEEN THE CITY OF SANTA FE AND THE SANTA FE FIREFIGHTERS ASSOCIATION, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS – LOCAL 2059. (KELLEY BRENNAN)

This item was removed from the Agenda and postponed to the next meeting of the Governing Body on May 31, 2017

MOTION: Councilor Ives moved, seconded by Councilor Dominguez, to reconsider the previous approval of the Agenda, as amended, to move Items #15 and #16 to the end of the evening agenda, and to approve the Agenda as further amended.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

Against: None.

End of Afternoon Session at approximately 7:05 p.m.

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor Pro-Tem Lindell, at approximately 7:05 p.m. There was the presence of a quorum as follows:

Members Present

Councilor Signe I. Lindell, Mayor Pro-Tem
Councilor Carmichael A. Dominguez
Councilor Mike Harris
Councilor Peter N. Ives
Councilor Joseph M. Maestas
Councilor Christopher M. Rivera
Councilor Ronald S. Trujillo
Councilor Renee Villarreal

Members Excused

Mayor Javier M. Gonzales

Others Attending

Brian K. Snyder, City Manager
Marcos Martinez, Assistant City Attorney
Melissa Byers, Assistant City Clerk
Melessia Helberg, Council Stenographer

F. PETITIONS FROM THE FLOOR

Mayor Pro-Tem Lindell gave each person 2 minutes to speak

Gloria Mendoza, Santa Fe, said, The voters have spoken. They have the power. They rejected the lies and innuendos that Mayor Gonzales tried to impose on them to force them to pay for a whim, to pay this way for this political aspiration. The most disgraceful part of this whole idea of a Sugar Tax, was using children as pawns to try to manipulate some or all of the money that would come in. I don't have enough time to explain what the manipulation process would be, now, but it will be disclosed at some point. The people of Santa Fe are not uneducated or as submissive as you think they are. Taxpayers have been used and manipulated for decades. Well no more. When your followers and you Mayor, decided to accept Bloomberg's money, including all of you who are sitting there, except of course Trujillo, you basically ruined your careers and your integrity to fund this issue of Pre-K which is not even your responsibility. In other words, you were bought and you willingly sold out for Bloomberg money. That is sad. *[inaudible]* And ever Councilor who happily followed the Mayor, when he stood up to talk out at the last meeting, like little puppies, will also be known as Banditos. Always. Come March 2018 and the election after that, we'll remind you people how all of you did not represent your Districts. I'm proud of the people who went to

vote. I want them to know that they own and control their own City, and what you tried to decide for them here means nothing. And I want to let Morty Simon and Carol Oppenheimer know, you're done at City Hall."

Helen Leyva said, "I come in front of the Board as a concerned citizen. I would like to express my disgust with the Mayor and his Council. Javier's cabinet lacks ethical practices and continues to push underhanded agendas at the expense of our community. Your shady sugar tax attempts opened the eyes of Santa Fe citizens and has motivated many to get involved and to be active in future City dealings. They are lawfully aware on how evilly an elected Mayor can try to manipulate the people using sugar on an issue that is not the responsibility of the City. When Javier accepted money from the Governor, like Bloomberg who helped him push the voting in favor of the sugar tax, and his people, he clearly demonstrated to all of us he could sell out our community. Our vote on May 2nd proves we cannot be bought. My basic question to Javier, how he can justify a pay increase to his salary, when his City employees have not even gotten the 5% that he promised them. Javier just proves to all of us that Javier is here for himself. He doesn't deserve to be reelected or a change to run for Governor. Javier, he does not represent Santa Fe."

Shelley Holmes Garcia, Santa Fe, said, "This is for backstabber [inaudible]. We showed you backstabber Javier, on May 2nd, we the people still own our beautiful Santa Fe. We don't and won't sell out like you did. This win, and yes, I'm calling it a win, is so very personal to me. My peer prevailed, and I'm sure you remember from two weeks ago. He may not be here, but I am, and like I told you before backstabber, I will see to it you don't win any other election if I can help it. I have let everyone know what you did to him, and they all agree with me. You are the biggest backstabber of all. What you did to him, may not have been a big deal to you, but you are the one the caused his heart attack, and I for one, will never forget that. After you hired that worthless at the County in Finance, that's what he did to him. That's the way he repaid him. The only politician from all of you that I trust, amongst all of you, is Ron Trujillo. He is humble and honest man like my Peter. I know he will not sell Santa Fe or the people here. He is going to be our next Mayor. Ron, I want you know that no matter who Yolanda is, because she's married to one of my cousins, but you have the Holmes backup. And I talked to all of them and they're a big family. So you have our backup Ron. To me, Javier is scum. I want him to know, and to always remember, what goes around, comes around. And he is going to get his. And by the way. Where is he anyway. Where is he. I'm sure he would have won, he would be here, I'm sure. But that's the way he is. He's a coward. That's what he is."

Laurie Martinez said, "I go back probably 18 generations in Santa Fe. And I helped Javier get into office, and I stand here tonight so so embarrassed that I helped somebody as dishonest as Javier Gonzales into the office of Mayor. He has disgraced his family, he's disgraced his mother and his father more than anything. He is a disgrace to the Gonzales name. He's a disgrace. Where is he tonight. I think his constituents, we deserve to know where that coward is tonight. I'm sure that if his sugar tax with Bloomberg out of New York City, I mean, really, how does that even happen. I can't stand here and say why I think he's in with Bloomberg, because I just won't say it. How does that even happen that billionaire from New York City would have anything to do with this little coward from Santa Fe, New Mexico. It's just unbelievable that he has sold out the City of Holy Faith. I have heard him talk about the City of Holy Faith. He has no idea, he has no ethics. He doesn't even know who he is. And what he's done to the City of

Santa Fe it's unbelievable to me with my 18 generations standing behind me. My father is 95 years old and is still alive who is friends with his mom and dad. It's just unbelievable. Like I said, where is he tonight, because I guarantee you if his little sugar tax would have won, he would be here gloating. He would. Like I said. Can somebody answer where he is tonight. I think us, we all deserve that right to know where Javier is tonight, yet he wants a salary of \$175,000 a year. Try it, Javier, try it."

Amber Espinosa-Trujillo, 3117 Siringo Rondo South, said, "I am here to address the pay that is proposed for the Mayor. I think that, at this point, based on what happened last week and where we are financially, we really need to look at being fiscally sound. And it is a non-partisan race and we [inaudible] non-partisan, the last time I checked. And it just really bothers me that you are making the Republicans happy and making the Democrats happy. No. You guys work for constituents. That's what you signed up for and that's what you need to serve. And so we really need to look at the amount, and look at similar cities. And yes, I know my husband is running for Mayor before anyone points it out, and I don't think that amount of money is appropriate for anyone, including my husband. Because, I think we need to lower, and I'm sorry Brian, but the City Manager's amount needed to be lowered, and the Mayor's needs to be just a little bit over that. But I don't think you guys need to be fiscally irresponsible, or just taking the money. Because, guess what, we are all taxpayers, and you guys and the people, which side you are on the sugar tax or against, we are all the payers of this and we need to be fiscally responsible. When you all came to the City, they didn't give you a pot of gold that is just endless. You need to start thinking fiscally responsible, and it doesn't make you Democrat, it doesn't make you progressive, it doesn't make you Republican. It make you fiscally responsible and there's nothing wrong with that. So I really hope you guys will make the right decision when this comes around."

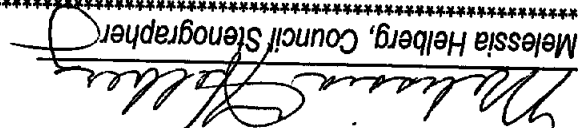
Loveless Johnson IV, 303 E. Buena Vista, said, "I would like to address two issues tonight. First, as we all know the City just endured a very divisive sugar tax vote. And I am here on behalf of all of the citizen leaders who chose to join together from all political philosophies and join Smart Progress New Mexico, in defeating that idea. And on behalf of those citizens, we are requesting that you all lead our City by initiating and conducting a real conversation with the City of Santa Fe, about how we can address, as a community, the issue of our Early Childhood Education. As Council Trujillo point out, when he voted no, this isn't the job of the City of Santa Fe to fund and deal with education. However, that does not mean our leadership cannot engage the community on a positive solution that is sustainable and works for the community. I am here on behalf of Smart Progress New Mexico and the citizens of this City, to request that you show us the leadership, now that we've had a yes or no conversation with the City that cost us \$85,000. We're requesting a free conversation now that is actually meaningful and leads to a solution that the brightest minds this City has to offer can create. We have some really bright people in this town. And it's about time you all engaged them and took advantage of it."

Mr. Johnson continued, "The other issue I would like to raise is the issue of the City of the new salary structure that is being proposed for the Mayor. And my request is that you all consider, since Mayor Gonzales appointed this particular Commission that is going to decide what the salary is, that you all vote to suspend any new salary until a new administration not with a potential conflict of interest would receive that new salary. And we're requesting that as well on behalf of the citizens. Thank you very much for your time Councilors."

VERBATIM TRANSCRIPT
OF THE REQUESTED PORTION OF PETITIONS FROM THE FLOOR, ITEM #F
CITY COUNCIL MEETING
May 10, 2017

STEFANIE BENINATO: Stefanie Beninato, P.O. Box 1601, Santa Fe, New Mexico. I am disappointed in Javier Gonzales' lack of honesty. I had asked Javier about trying to get money from the Permanent Fund as a solution to Pre-K. He told me he had several people lobbying for that. The only lobbyist registered was Mark Duran. So Javier was not there, even though he assured me was, unless he was lobbying without a lobbyist designation, [inaudible] for a lobbyist designation nor was any City employee. I'm particularly bothered by the proponents of the sugar tax still trying to come across as very righteous and judgmental. This is not really about not wanting to be taxed, I mean, for some people obviously it could be. But I think it really, for I think many people, was about the tax wasn't going to work, it wasn't the [inaudible], whether the City really should have been involved in that at all, whether the tax is really going to be used as efficiently for Pre-K education, or was it going to bleed out into bureaucracy and to broad means. Things like that. The track record of the City with large pots of money, all those things contributed. And that to everyone who voted for the sugar tax was somehow moral and righteous. I know people who voted because they don't want to pay for other peoples health care. And they thought that by having the sugar tax, less people would be drinking sugary drinks, therefore less people would have diabetes, and therefore we would have to pay less for that. So, again, not everyone had perhaps the highest motives for voting for the sugar tax, and so we can get beyond that, I don't know what's going to happen. I think there are many policy issues that could happen such really putting affordable housing in affluent neighborhoods, lobbying for more progressive alternative programs for people who have committed crimes. Because not having a parent in jail is actually the largest determinant of a child's success. And also, living in an affluent neighborhood would break cycles of poverty as a credibly important determinant of a child suppressed. It could happen now. I thank you very much."

I certify that this is a true and accurate transcript of the requested portion of Petitions from the Floor, Item #F, City Council Meeting, May 10, 2017.


Melissa Helberg, Council Stenographer

Jim Williamson said, "I'm a 4th generation New Mexican, currently living in Tierra Contenta. I am also a single father trying to raise my two sons. And I think we all agree that we want to keep Santa Fe affordable for our families to live, right, a great place. I'm sure everyone in the room agrees with that. And there's my two, right there. However every time City Hall takes money out of our pockets, whether it be a soda tax, or the Park Bond that wasn't accounted for. That takes money out of those boys' lunches, school activities, fundraising activities. We need to really think that's not play Monopoly money. That's actually real peoples' money, small businesses' money. And myself, personally, I try to invest in the small guy. You know, I went to dinner at Dion's, to try to help the little people. So the moment you guys take, the less money we have to buy things, and that's less money for jobs, etc. I would like to offer a suggestion on the Mayor's salary initiative, any time there is a bond or anything electoral, if you could list it's going to be this amount of money, the salary is X plus Y benefit equals Z effect on the taxpayer. That way, everyone understands the total cost. That way there is no bait and switch, and everyone has a clear understanding. And everyone coming from the great recession, we're still recovering from that obviously. Our families have had to make do with less, so we ask you, as a community, to do the same at City Hall. Thank you."

Sasha Anderson, 149 Alamo Drive, said, "I just came down, because I have been to the last few Council meetings. I'm not a 4th generation New Mexico, I just moved here 1½ years. My children were born in New York. I was the child of addicts who moved around a lot, sorry. But I wanted to say thank you to all of the Councilors, and by extension all of the City employees and all the civil servants who come to work every day, come to all of these meetings, not just tonight. I know they're meeting nearly every night of the week. I want to thank you for doing your jobs. And I want to thank you for moving forward with the soda tax initiative, not because I think there should be a soda tax. But I think that direct democracy in any form is always wonderful. So I just wanted to say thank you. I know some of you have had curse words thrown at you in the last few weeks, and I just wanted to counteract that, so that's that."

G. APPOINTMENTS

There were no appointments.

H. PUBLIC HEARINGS

- 1) **REQUEST FROM LORETTO SERVICE COMPANY, LLC, FOR A TRANSFER OF OWNERSHIP ONLY OF LIQUOR LICENSE NO. 0661, WITH ON PREMISE CONSUMPTION ONLY, FROM COMMONWEALTH LORETTO OPERATING, INC., TO LORETTO SERVICE COMPANY, LLC. THIS LICENSE WILL REMAIN AT 211 OLD SANTA FE TRAIL. (YOLANDA Y. VIGIL)**

A Memorandum dated May 5, 2017, with attachments, prepared by Yolanda Y. Vigil, City Clerk, to Mayor Gonzales & City Councilors, is in the Council packet. Melissa Byers, Assistant City Clerk, noted there are staff reports in the packet regarding litter, noise and traffic. Staff does not anticipate a substantial change in litter and noise or any unacceptable traffic impacts due to approval of this request. She said

staff requests that it be noted that the Applicant is required to comply with all of the City's Ordinance as a condition of doing business in the City.

Mayor Pro-Tem Lindell asked if the Applicant is present.

Melissa Byers, Assistant Clerk, said, "Linda Akin, the Agent for the Applicant is here."

Public Hearing

Stephanie Beninato, P.O. Box 1601, Santa Fe, was sworn. Ms. Beninato said she doesn't know if this transfer would be part of the plan that is being discussed at this point, but thinks it is, and asked Councilor Dominguez if this is correct.

Councilor Dominguez said he currently is working on a plan, but there is nothing he can say substantially about it.

Ms. Beninato said she is very happy the City is doing this on a City-wide basis, and hopes that will make the consumption of alcohol, including in downtown, a little more rational and hopefully reasonable.

The Public Hearing was closed

MOTION: Councilor Ives moved, seconded by Councilor Dominguez, to approve the request for a transfer of ownership only of Liquor License No. 0662 with on premise consumption only, from Commonwealth Loretto Operating, Inc., to Loretto Service Company, LLC, with the license to remain at 211 Old Santa Fe Trail, with all conditions of approval as recommended by staff.

DISCUSSION: Councilor Dominguez said, "Just so the Governing Body knows. We talked about it a little bit at the last meeting or maybe two meetings before that. I will be proposing an alcohol plan. It's not necessarily City-wide, it could be, but right now we're focusing on a specific part of Santa Fe. We're basically using the Chapter 14 overlay concept, I think. So it's in the very early stages, but this something that really wouldn't be subject to that anyway."

VOTE: The motion was approved on the following roll call vote:

For: Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

Against: None.

- 2) **REQUEST FROM PARALLEL STUDIOS FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF BEER AND WINE AT EL MUSEO CULTURAL, 555 CAMINO DE LA FAMILIA, WHICH IS WITHIN 300 FEET OF TIERRA ENCANTADA CHARTER SCHOOL @ ALVORD, 551 ALARID STREET. THE REQUEST IS FOR THE CURRENT NEWS MEDIA 2017 EXHIBITION WHICH WILL BE HELD ON JUNE 9 AND JUNE 10, 2017, WITH ALCOHOL SERVICE FROM 6:00 P.M. TO 11:30 P.M.**

A Memorandum dated May 5, 2017, with attachments, prepared by Yolanda Y. Vigil, City Clerk, to Mayor Gonzales & City Councilors, is in the Council packet, noting there is a letter on the packet from Carl Gruenier, Santa Fe Public Schools, stating that they will refrain from issuing a decision regarding opposition or non-opposition to this request.

Mayor Pro-Tem asked if the Applicant is present and Ms. Byers said yes.

Public Hearing

There was no one speaking to this request.

The Public Hearing was closed

MOTION: Councilor Trujillo moved, seconded by Councilor Ives, to grant the request for a waiver of the 300 foot location restriction and allow the dispensing/consumption of beer and wine at El Museo Cultural, 555 Camino de la Familia, for the Current News Media 2017 Exhibition on June 9 and June 20, 2017, with alcohol service from 6:00 p.m. to 11:30 p.m.

VOTE: The motion was approved on the following roll call vote:

For: Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

Against: None.

- 3) **CONSIDERATION OF BILL NO. 2017-11, ADOPTION OF ORDINANCE NO. 2017-9 (COUNCILOR LINDELL, COUNCILOR DOMINGUEZ, COUNCILOR VILLARREAL, COUNCILOR IVES AND COUNCILOR TRUJILLO). AN ORDINANCE AMENDING SUBSECTION 23-5.4 SFCC 1987, TO PROHIBIT SMOKING IN THE PLAZA PARK DURING SANTA FE BANDSTAND EVENTS. (ROB CARTER)**

Public Hearing

Sandra Adam [inaudible], Albuquerque, an employee of American Cancer Society, Cancer Action Network, said they are really excited about this Ordinance making the Plaza smoke-free, and that "at some point we can extend it to all the time."

P. Rivera, Albuquerque, Government Relations Director, American Heart Association, said they thank you for bringing the Ordinance to the City Council, and still supports smoking as a choice, but breathing is a right, a personal freedom and does not include the right to harm other people. She said she would echo Sandra, that we hope this will become permanent policy for the Plaza.

Lacy Daniel, Co-Chair, New Mexico Allied Council on Tobacco, Albuquerque, said this is a Statewide tobacco prevention coalition and support the Ordinance, and appreciate the City for bringing this forward. She said second hand smoke kills, as we all know, and smoke-free Ordinances give non-smokers the right to breathe smoke-free air.

Laura McCloskey, Executive Director, Chronic Disease Prevention Council, Albuquerque, said this is a great bill because it clears the air on the Plaza where so many people gather. She said people exposed to eCigarettes actually absorb nicotine into their bodies, just like second hand smoke. And no matter what you believe about eCigarettes, there is no reason they should be shared in public places where innocent bystanders will be exposed to toxic emissions. Additionally, every [inaudible] health agency has affirmed that second hand smoke is a serious, preventable cause of disease and death. The 2006 U.S. Surgeon's report said it best, "The debate is over. The evidence is clear. Second hand smoke kills." She said there is no safe level of exposure and the only way they are sure of health protection is 100% smoke-free environment. She said, "Let's keep both of these additions out of the Plaza. Thank you very much."

Angelique Auers, resident of Councilor Dominguez's District, and cancer survivor. She said second hand smoke exposes people to nearly 70 cancer causing chemicals and linked to several different types of cancer. She is a four-year, head and neck cancer survivor who wants to enjoy music on the Plaza. She said it is unpleasant when someone sits next to her and blows smoke in her face. She said second hand smoke is almost as bad as direct inhalation. People should enjoy the fresh air and the time they are out and not have to breath fumes. She thanked the Governing Body for taking this step forward to help protect our community from second hand smoke.

Stefanie Beninato, Santa Fe, said she works on the Plaza, and enjoys the Plaza. She said second hand smoke on the Plaza definitely is a problem. She said she is highly allergic to tobacco and nicotine, so she moves around when she is downwind from someone who is smoking. She said she has suggested closing the Plaza to smoking, and appreciates this step, especially during the concerts on the Plaza. She said 1-2 people can ruin it for a very large number of people. She hopes this will be extended to a year-round ban. There are places for people downtown for smokers which is a whole block on Don Gaspar for smokers. It would be good to have a place outside, open to the public, that would be smoke-free, and the Plaza would be a great place for that to happen.

The Public Hearing was closed

MOTION: Councilor Dominguez moved, seconded by Councilor Ives, to Adopt Ordinance No. 2017-9, and to add the Santa Fe Bandstand Events at the SWAN Park as well.

DISCUSSION: Councilor Dominguez said it is a relatively minor language change. He asked Mr. Martinez if the notification is an issue. He asked if it is noticed correctly. He didn't amend it at Finance. He just said he would be doing it here at Council. He said he would hate to bring another amendment to the Ordinance soon after this. He said perhaps that we did discuss it at Finance is notification enough to not change the caption of the bill.

CLARIFICATION OF THE MOTION: Mr. Martinez said, "The text of the Ordinance is about the Plaza itself, and so it would be a little bit difficult... for example, it falls under the category of Plaza Prohibited Uses, and so we can't add the SWAN Park here, because 23-5.4 is addressing the Plaza specifically, and that's the difficulty. Conceptually, I think everyone is on board."

Councilor Dominguez said, "So, even though we kind of had a discussion about it at Finance, we didn't amend it at Finance, but..."

Mr. Martinez said, "I'm concerned that the text itself in Chapter 23, which addresses other parks, hasn't been formally amended. And so, I don't think there has been sufficient notice, in spite of the fact that I doubt there is any objection to it."

Councilor Dominguez said he is unsure how we would enforce that. He asked, "Can we just give simple direction then, that... we may be able to get that amended before SWAN Park events happen. It's the same company, and I obviously don't want to mess with their contract or the agreement that we have with them either."

RESTATED MOTION: Councilor Dominguez moved, seconded by Councilor Ives, to adopt Ordinance No. 2017-9, as presented, and said, "I'll look for an amendment later on."

DISCUSSION: Responding to the Mayor Pro-Tem, Councilor Dominguez said, "No, we don't need to postpone it. I think we'll just let it go through, but just recognize for the record that I will be bringing something forward that would include Santa Fe Bandstand events at the SWAN Park just to be consistent."

FRIENDLY AMENDMENT: Councilor Ives proposed a friendly in Subsection A(4) that was added, to modify that section so that it reads: 'Smoke cigarettes, cigars, pipes or any other device that produces smoke and/or odor ~~beginning one (1) hour before Santa Fe Bandstand events until the end of the event within the Park Plaza, as defined.~~'

Responding to the Chair, Councilor Ives said it would be striking the language in Section A(4), "...beginning one (1) hour before Santa Fe Bandstand events until the end of the event" He said essentially, it would prohibit smoking in the Plaza Park.

THE AMENDMENT WAS FRIENDLY TO THE MAKER.

Councilor Trujillo said the amendment says "smoke/and or odor." He said there are some vapes which has no odor, they just want the nicotine, and it produces no smoke, but it produces a vapor. He asked how we define that in the Ordinance.

Mr. Martinez said, "Councilor Trujillo, I think something as specific as what you are asking about, I would leave that to the discretion of the Officers who are charged with enforcing this Ordinance. And I think, in their judgment if they feel someone is just trying to skirt the spirit of this law, I think they can make a judgment call and cite them, and then let's see how the judge wants to handle it."

Councilor Trujillo said he is very glad that Councilor Lindell brought this forward. He said he tried to do this many years ago, and also to include chewing tobacco, noting people are spitting tobacco all over the baseball fields. However, the Ordinance wasn't received well back then. He said he is glad to see this. He said he isn't a smoker and it will make the Bandstand much more enjoyable.

Councilor Maestas asked if it is necessary to amend the caption of the Ordinance as well, because it no longer applies to Bandstand events with the change.

Mr. Martinez said, "I believe that is correct Councilor Maestas."

Councilor Maestas said he is okay with the change, and asked if that would be considered a material change.

Mr. Martinez said, "I don't think so, because we want to give notice to the public that the Council is proposing, at least, to prohibit smoking in the Plaza during the Santa Fe Bandstand Events, is a limiting clause..... I believe there is sufficient notice to the public that that limiting clause is not going to be part of the notice. I do think it is, however, necessary to amend the caption."

FRIENDLY AMENDMENT: Councilor Maestas said he would propose to amend the caption of the Ordinance so that reads, "An Ordinance amending Subsection 23-5.4 SFCC 1987 to prohibit smoking in the Plaza Park ~~during Santa Fe Bandstand Events.~~" **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND THE SECOND.**

DISCUSSION: Councilor Harris said, "I can't help but sit here thinking, just like I voted to, as the lady said, to put the special election as an example of direct democracy. I know it's not going to happen, but I'm curious if we put this question to the voters as well. I'm bothered by this. I think it is unnecessary. I think people can and should work these things out. I understand second hand smoke, and I guess it's hard for me to really classify in open air, cigarette or vaping as second hand. It seems like that is third hand perhaps, I don't know. Enforcement, particularly if you just did it during Bandstand Events, I think enforcement would be an issue. At Finance Committee, we heard that signage would be posted during the Bandstand Events and taken down, and just operationally that was difficult."

Councilor Harris continued, "I was going to propose simply that we put signs up that say, "Thank You for Not Smoking," and let people sort it out, which I believe that they would do. For those reasons, I really can't support this. And like I say, I just have this question in my mind, if we had a special election, what would the voters say. It would be interesting to hear what the public, most of them anyway, had to say on this tonight. I know this is going to pass, I certainly understand that, but I just think, particularly given the current circumstances, I think it's off the mark. Thank you."

Councilor Rivera asked if the Ordinance would pertain to dry ice machines or smoke machines that may be used by the bandstand for its events to make smoke.

Mr. Martinez said, "Councilor Rivera, I don't think that is the purpose of this Ordinance. I think you raise an interesting point, but the title of the Ordinance is to prohibit smoking in the Plaza Park. I don't think that people would interpret that to mean smoke machines for purposes of entertainment. But as I said before, I would leave that to the discretion of an officer."

Councilor Rivera said, "I think when you leave it to the discretion of an officer, it opens the door for many things. So, I support this, I was just curious about that part of it."

Councilor Villarreal said for those of us who participated in the Plaza cleanup, we could see that the biggest trash item we picked up were cigarette butts, including the fact that we have extinguishing containers. I know they're full. And this is not necessarily a one day cleanup, but it is our cleanup of a community building effort, and this is a constant thing for our Parks staff. She said, "To me, this is a no brainer, and there's plenty of other places to smoke, and we're talking about the park area where the green space is, where the Bandstand is located. And people don't need to have other people's smoke around them when you're trying to dance and enjoy music, or any other event, Fiestas, etc., live entertainment. I'm fine with the Amendment, so that's all I have to say. Thank you."

FRIENDLY AMENDMENT: Councilor Ives proposed an amendment to address Councilor Rivera's point, in Section 1(A)(4), line 1, between the words "other" and "device," insert the word similar to clarify.

Councilor Dominguez said then that would prevent the smoke machine. **Councilor Ives** said he was just trying to draw a distinction that the device has to be similar to cigarettes, cigars, pipes or other similar devices...**THE MOTION WAS FRIENDLY TO THE SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

Councilor Harris said to respond to Councilor Villarreal, we had a discussion about what are boundaries of Plaza Park, and no one had a clear answer. And Rob Carter came up and said, in his opinion, it was curb to curb. However, I just heard Councilor Villarreal talking about the grassy areas in front of the Bandstand. He said he thinks, if this passes, we need to clear what are the boundaries of Plaza Park. He said additionally, there is a small fiscal impact to this action – costs associated with implementing the Ordinance and enforcement. He said at the very least there needs to be a definition of what constitutes the Plaza Park.

Councilor Dominguez said he recalls that there was a definition, that the Park Plaza was curb to curb, and the other side of the curb, outside of that is the periphery. He asked if there is a definition.

Mr. Martinez said, "Councilor Dominguez, there is actually a definition and a map associated with where the boundaries of the Plaza Park are. And so, we would consider the boundary of the Plaza Park as drawn on the map, to be the defining area."

Councilor Dominguez asked if that would include the roadways.

Mr. Martinez said, "It will not include the roadways. It seems to include the, I'm looking at now, and it seems to consider the sidewalk around the Plaza."

Councilor Dominguez said the map is not in the packet.

Mr. Martinez said, "I don't believe it's in the packet, it's just under the Code itself. There is a definition in the Code of the Plaza Park."

Councilor Dominguez asked to be directed to a line. He asked Mr. Martinez to read the definition again, so he can be clear on the motion.

Mr. Martinez said, "The Code itself provides a map. And so I think the reference to the Plaza Park here would then refer to the map as defined by the Code."

Councilor Dominguez asked, "Okay, so describe the map to me."

Mr. Martinez said, "I will do my best."

Councilor Dominguez said, "Maybe you could just talk in terms of curb to curb and green space, not necessarily right-of-way or sidewalks."

Mr. Martinez said, "It's down there by Lincoln, Palace, Old Santa Fe Trail and San Francisco Street, but it does not include the street itself. It includes the sidewalk around the Park area."

Councilor Dominguez said, "So that describes the Plaza Park that we're talking about tonight."

Mr. Martinez said, "For the Code, yes. And the Code has a specific Plaza Park boundary that would show where that is."

Councilor Dominguez asked, "On the map, what is the area defined as from curb to curb."

Mr. Martinez said, "The Plaza boundary itself, but that's not call the Plaza Park boundary."

Councilor Dominguez said, "Okay. So that's the boundary. Okay, I'm satisfied. I think that gets the...."

Mr. Martinez said, "And for the record, the Ordinance is 1981-39."

Councilor Trujillo said, "So Marcos, so technically, a person could just step off the curb and.... so, I just want to make sure the Police understand that as well. If a person is just off the curb, they're not breaking the law."

Mr. Martinez said, "That's right."

VOTE: The motion, as amended, was approved on the following roll call vote:

For: Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Ives, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

Against: Councilor Harris.

Councilor Dominguez thanked Councilor Trujillo "for bringing that up, and that would actually be the case wherever we draw the boundary, whether it is the curb, or the sidewalk, or the right of way, whatever the case may be. So, I appreciate that."

- 4) CASE #2017-09. APPEAL OF THE HISTORIC DISTRICTS REVIEW BOARD'S DECISION ON JANUARY 24, 2017, CONCERNING THE PROPOSED REMODEL OF THE RESIDENCE AT 547 HILLSIDE AVE. (FORMERLY 538½ HILLSIDE AVE.) IN THE DOWNTOWN AND EASTSIDE HISTORIC DISTRICT AS CASE #H-15-104. ARMINDA DIAZ, NEIGHBOR, REQUESTS THAT THE GOVERNING BODY RESCIND THE BOARD'S DECISION WHICH ALLOWED THE HISTORIC PRESERVATION DIVISION TO APPROVE AN EGRESS WINDOW. (THERESA GHEEN & DAVID RASCH)**

A Memorandum dated May 1, 2017, for the May 10, 2017 Meeting of the Governing Body, with attachments, to the Members of the Governing Body, from Theresa Gheen, Assistant Attorney, is incorporated herewith to these minutes as Exhibit "2."

A copy of a recommended motion, entered for the record by Theresa Gheen, is incorporated herewith to these minutes as Exhibit "3."

A copy of two color photographs of the site, entered for the record by Oliver Netburn, is incorporated herewith to these minutes as Exhibit "4."

A copy of page 11 of the minutes of the Historic Districts Review Board of January 10, 2017, with the action of the Board highlighted in yellow, entered for the record by Oliver Netburn, is incorporated herewith to these minutes as Exhibit "5."

Mayor Pro-Tem Lindell said we will proceed by hearing from City staff, then the Appellant, the Appellee and then from the public. She asked the Governing Body to hold any questions until the presentations are complete.

Public Hearing

Presentation by City Attorney's Office

Theresa Gheen, Assistant City Attorney, presented information regarding this matter. Please see Exhibit "2," for specifics of this presentation.

Ms. Gheen noted that there are two suggested motions in her Memorandum, and said she has another motion which could be considered regarding moving to vacate the Board's decision and remand it back to the Historic Districts Review Board for further action and to make further findings regarding whether and how the proposed window is harmonious [Exhibit "3."]

Mayor Pro-Tem Lindell asked Ms. Gheen to distribute the additional motion to the Governing Body.

Presentation by the Appellant

All those speaking this evening were sworn en masse

Mayor Pro-Tem Lindell gave the Appellant 15 minutes for their entire presentation

Oliver Netburn, 549 Hillside Avenue, Santa Fe 87501, previously sworn, said, "I will go into a little bit of the background of my history and I'm going to try to brief for the next presentation. My wife Arminda Diaz has owned the property at 549 Hillside Avenue, going on 9 years now. During which time, she has been committed, to not only the property, but the City of Santa Fe. Shortly after we met, she introduced me to Santa Fe, and, to my surprise, I had never been here before, but I quickly fell in love with the City, and I immediately recognized her admiration for the City and developed that same admiration. So the property that we have here before you today, represents not only our instant connection to Santa Fe, but also our long term commitment to the City in which we hope to build a stronger relationship over time"

Mr. Netburn continued, "As I've indicated, and I have and I would like to pass out minutes and maybe some *[inaudible]*, if I can have Arminda hand out the minutes while I talk."

Mayor Pro-Tem Lindell said, "Please."

Mr. Netburn continued, "So, as indicated the DRB approved the proposed projects, '*...with the exception of the egress window and simply not approve that part of the application and hope that it gets amicably resolved.*' Following the DRB's action on the Conclusions of Law, and the action that it was made public, both of which diminished their intent of what the DRB had stated in their original motion."

Mr. Netburn continued, "Staff states that the action that certified the Historic Preservation Division's understanding of the approved motion. So this is effectively what they understand was the motion that was made at the Board, while it may not be necessarily appealable, this is clearly what they understand was the action of the Board."

Mr. Netburn continued, "The approval letter states that, '*The decision of the Board was to approve the application as submitted, with a condition that the location of the master bedroom egress window be approved by staff on the north or west elevation before construction permit application is submitted.*' So the record is clear, the DRB did not approve an egress window on the north elevation and it didn't delegate the authority to the staff to approve a window on the north elevation. It delegated staff to approve some other window, but it did not delegate authority to the staff to approve that window."

Mr. Netburn continued, "During the hearing, both staff and the Applicant acknowledged that there were alternative solutions that were possible. And I think staff included those as part of her presentation, where she said that there is a window well that could be on the west elevation. Staff stated that the only viable option would be to move the egress window to the west elevation, and if possible, staff could give administrative approval for that, so that would be a requirement, so effectively, staff was outlining to the Board. If you want to delegate authority for us, where is the authority you can delegate to us, which would be to approve an egress window on the west elevation."

Mr. Netburn continued, "The afternoon's testimony then also discussed that was a viable option, but said that only if Building and Zoning would approve it. So really, the Applicant didn't have an objection to moving the egress window to the west elevation, but simply whether or not the City would approve it. Staff has stated that they would approve it, if they were given that authority by the Board, and we believe if any authority was given to the staff, that was the authority that was granted. Furthermore, generally speaking, with Historic Districts, the HDRB only has the authority to approve minor modifications to structures. That's what's written in the Code. They are the review and decision-making body for all projects within their jurisdiction. If any delegation to approving the modification was given to the Director or to staff, which we don't believe is their authority to delegate authority that the Governing Body granted to them, we don't believe it's their authority to then grant that authority to another body."

Mr. Netburn continued, "We believe that modification would need to be consistent with Section 14-11(C)(2)(b). In that it states that the modification is permitted if the Director makes certain findings, one of which is, that the modification will not result in any negative or safety impacts on the community or negatively impact a neighboring property. So if there was any delegation of authority, the Director would have to make these sets of findings and that would have to be then the basis for their modification of the Board's approval."

Mr. Netburn continued, "We believe that staff's understanding of the Board's motion as presented in the action letter, which they say represents their understanding of the Board's motion, is allowed evidence and contrary to the record. The Board's action was not to approve the window on the north elevation, that was still what they say did not to approve what was on the north elevation. Any delegation of authority staff can only be found in Section 14-11(C)(2)(b) as I stated previously. Secondly as was discussed, with the Plat Map that was submitted to the Board as part of their review of the application was an outdated document. We have a larger Board here, which also should be in the record. The image that you have before you now, the yellow is what was shown to the Board. You have the red which is all the property and then there are some limited common elements that are filled in between it."

Mr. Netburn continued, "The way the actual site is currently developed is 'this' way. Where you have the yellow, which is actually, currently the property. You can see that the building itself actually takes up the entire limited common element that was previously there, that was presented to the Board as being essentially an existing limited common element. That limited common element doesn't exist. That building now goes all the way up to our limited common element. There is no place in between our limited common element and this building. The window that is in question is essentially on that north elevation."

Mr. Netburn continued, "And so, I just also wanted to then provide you with some photos that we have [Exhibit "4"]. This gives you sort of a realistic image of what the existing situation is. It shows where our building is, it shows the limited common element, which is essentially a small patio. Our building is approximately 400 sq. ft., the residence that is in question is approximately 2,600 sq. ft., so about 6 times the size of our property. And we have one limited common element which is about 400 sq. ft. So as you can see, there's really not much difference between the buildings themselves. Our limited common element is really our only private space. And as you can see, the window that is being proposed is not necessarily a scientific, accurate representation. It would have to be about 5 ft. x 4 ft. in order to meet the egress requirements. And so we've made that including this window really diminishes the quality and the value, and the use and enjoyment of our limited common element."

Mr. Netburn continued, "Lastly, we did have a historic consultant who submitted a document, that was submitted in the record. This consultant was on the list of approved consultants with the City of Santa Fe. She reviewed the project and she found that the proposed windows on the north elevation were not consistent with the Pueblo Spanish Revival Style, which the existing architecture is reflective of. And so we believe that based purely on design, and based on the sole expert witness testimony that was given at the initial hearing through the letter that was submitted, that the Governing Body here could make a decision that, based on design alone, and without any evidence to the contrary from an expert witness, that the proposed window on the north elevation is inconsistent with the existing architectural style."

Mr. Netburn continued, "With that, ultimately, we don't oppose the project. Our only objection is this window on the north elevation. We are for the Applicant legalizing and getting permits for the projects and being able to sell the property for financial gain, that's not our concern. But obviously, initially, we, Arminda, bought this property 9 years ago. We intend to use this property as we get older, hopefully retiring to this property. We have a long term investment in this property. And so our interest here is purely to preserve our property rights, and preserve our use and enjoyment of the property that we own. Thank."

Responding to Mayor Pro-Tem Lindell, Ms. Byers said the Appellant has 6 minutes and 40 seconds of their time remaining.

Arminda Diaz [previously sworn], said, "I am the property owner. I will be brief. I had rather give most of my time to one of our speakers. Like Oliver said, we're not developers. I've owned this property for 9 years, I've weathered possible bankruptcy, loss of my father. I have spent a lot of time and effort to keep this property, to make my payments, despite loss of business, loss of revenue, etcetera, etcetera. I work extended hours just so I can pay my mortgage and keep the property, and hopefully, one day to retire here. We do not oppose the project. We believe that this window will affect our property in the long term. The Applicant are developers. They're not going to be living in the property, they're just going to sell it for a buck. *[inaudible]*. There are other options to the way the window can be located. One is on the west side via *[inaudible]*, which I spent the time to..... I'm an architect and licensed in New Mexico. The window can be on the west side, it is an approved means of egress. It would be a nicer option. There is another option that my architect, Greg Allegretti, also came up with on the east side. If you flip the page, it's the second option, which is also an approved means of egress. And most importantly, those windows would egress into their own common element so it would not impact my limited common element. And we've proposed these options to the Applicant and they have not responded to them. So, anyway, with that, I have nothing else to say."

Rachel Winston [previously sworn], said, "Good evening Councilors, I'll try to make this quick, because we are running out of time. My name is Rachel Winston, I'm with the firm of Walcott, Henry and Winston, 200 W. Marcy Street, Suite 203, Santa Fe 87501. I have practiced condominium law for the past 11 years, and more 60% of my job is currently devoted to representing condominium associations and condominium rent/owners. I also have been a member of the Board of Adjustment for the past 10 years, and I currently serve as Vice-Chair."

Ms. Winston continued, "I have asked to speak, because I support this appeal, but more importantly, I am concerned about the broad implications at issue. I am concerned that not only does the City misconstrue the H-Board's motion to approve all but the proposed north facing window, I'm more concerned that approving a window will compound what I see as statutory and procedural violations that already plague this project, undermining the framework which was intended to prevent exactly this kind of intrusion into the Appellant's property rights. And what I mean by that, is the Condominium Act, as you may know, governs condominiums in the State of New Mexico, and has been in effect for the 35 years. The Act is designed to prevent exactly the type of situation we are encountering with this proposed window."

Ms. Winston continued, "As has been described, condominiums consist of units and common elements. A subset of common elements are known as limited common elements which are reserved for the exclusive use of one or more, but not all of the unit owners. Limited common elements of a permanent quality travel with a unit. *[inaudible]* the limited common elements that are assigned to the unit. In this case, we're dealing with a 427 sq. ft. unit, adjacent to a unit that is 6 times the size. The 427 sq. ft. unit has a patio which is roughly equivalent in size, that serves as a functional extension of the living space

inside that unit. What is being proposed is punching a window into the walled patio area that currently is a private use area for the smaller unit."

Ms. Winston continued, "The Condominium Act, again, provides that a limited common element cannot be altered without the consent of unit owners whose units are affected. That is Section 47-7B-8 of the Condominium Act. In addition to that, however, the Condominium Act provides that the condominium declarations, which is the legal document that creates the condominium, can have additional provisions that need to be addressed by making alterations in the condominium. In this case, what seems to be completely ignored by the parties is, Section 4.1(M) of the Declaration which provides that *no unit owner shall, without the consent of the other unit owners, add an exterior light source within or upon using it, if such light will shine directly upon a yard area designated as a limited common element for another unit, or, upon a wall facing out upon a courtyard, or yard area designed as a common element for another unit.*"

Ms. Winston continued, "It seems to me, between the provisions in the Condominium Act addressing alterations to limited common elements, and the Declaration which provides that you cannot add a light source without getting direct approval from the affected unit owner, this window should not have been approved. And, moreover, I don't think it was approved. I don't believe this motion of the H-Board functioned to approve the window or to delegate to the staff the right to approve the north facing window. And with that, I'm happy to stand for questions or turn it to the next person."

Responding to Mayor Pro-Tem Lindell, Ms. Byers said the Appellant has 25 seconds of their time remaining.

Councilor Dominguez asked if the people speaking now are just representing the Applicant.

Mayor Pro-Tem said we are going to have public comment. She said if you have is public comment, you can wait and the Appellant will not be charged with that time. If someone has something to add to the Appellant's actual case, then now would be the time to do that.

Presentation by the Applicant/Appellee

Ron Van Amberg, attorney for the Applicant, said, "I will be brief, primarily because I commend the City Attorney's staff and Ms. Gheen for what I see is an excellent and thorough summary of what the issues are, and what is before this Council and what is not."

Mr. Van Amberg continued, "What is not before this Council are issues relating to condominium laws and condominium declarations. If you were to argue that, I would suggest that in the Condominium Act, the condominium association is allowed to grant easements across all common elements, and the common elements are defined as including limited common elements. What we are talking about is a situation where, in the event of a fire, somebody may be exiting a window and onto the ground below. I really doubt whether or not the Appellant will be out there on her patio while a fire is raging 20 feet away from her, and someone, in the event they can't go out the front door has to jump out a window, how that is going to interfere with anything."

Mr. Van Amberg continued, "I would submit that the only issue before this Council relates to whether or not the plans and the application are supported by or violate the Historic Design standards. And that is how the City Attorney has isolated the issue, and I fully concur in that. There is some question or challenge as to whether or not there was an approval of the window, and I submit we are not here to give an interpretation that the question is whether or not the Appellant is successful in reversing the unanimous decision of the Historic Board. If there issues relating to interpretation of what occurred, then that is reserved for another venue."

Mr. Van Amberg continued, "And with that, unless there are questions, I would like to turn this over to John Clemens."

John Clemens, [previously sworn], 228 St. Francis Drive, said, "I'm actually the Project Manager for Coyote Development, which is actually owned by Randall G. Scott, who is a 3rd generation Santa Fean. His family has been here for years and years. It was last year they bought the property with the intention to remodel it and move into it. They did not buy it to sell. They bought it so that they could live in it and raise their kids. They actually sold their house in Sol y Lomas, and took the proceeds so that could buy this, remodel it. In going through the process, and finding all the problems that come along with the condominium, they since did decide to sell it, and move away from that. So they still have all their proceeds to buy a home tied up in this property, so they are Santa Feans."

Mr. Clemmons continued, "Again, I agree with Ron Van Amberg and the City Attorney, that this is a venue for looking at the H-Board's authority and their ability to approve just the historical content of the property. I do have some photos to pass out, which basically show that they are north facing windows. You are in a condominium. You are going to look into other peoples' courtyards. We have one now on the second story that does look into the courtyard currently. We have two designating as per their plat, there are two designated parking spots that park right in front of her courtyard, which is actually.... we have a 3 foot wall. Their unit, the 450 sq. ft. unit, is underneath the ground about 8 feet. There is only about 3 feet above grade from the road. So anybody who parks in our designated parking area for the condo, will actually look into their common area. So that's the only privacy... well in a condo, you really don't have a lot of privacy unfortunately. These are actually 3 free standing units that are in the condo. I did point out in some of those pictures that Unit A has windows that look directly into our limited common area. So you can see that all the existing windows are looking into their unit." *[STENOGRAPHER'S NOTE: Mr. Clemens provided color photographs of the subject site to the Governing Body, but did not enter the photographs for the record.]*

Mr. Clemmons continued, "So the precedent has already been set, they are already there. The window isn't really the issue tonight. It's whether or not the H-Board can give historical approval. They are not even at the point of permit or building anything yet. So I think we need to focus on that. I also think we do contribute to Santa Fe. I did include a picture of one of the last South Capitol historic buildings that was restored by Coyote Development to make sure that we keep the historical integrity of Santa Fe from the cementitious stucco to the existing windows, to the wood headers, to not changing the site at all or the front of the unit. That house is on Coronado and South Capitol. Anything they're doing is in guidelines with the Historic District, and making sure that we keep Santa Fe Beautiful.

Mr. Clemmons continued, "So our commitment and contribution to the City is very great, and we're restoring El Farol Restaurant right now, *[inaudible]* at 808 Canyon Road. We're keeping it exactly the way it is, and restoring it to the way it should be. So we're not making anything any worse."

Mr. Clemmons continued, "The condo actually owns a limited common element, not the person who has the use of it. So, realistically, she doesn't own that area. It's owned by the condo. You can grant access for... they are used for, in the case of a fire, you can jump out a window and you can run for somebody's limited common area, and that's what that's for."

Mr. Clemmons continued, "The Applicant has put a gate blocking our parking so that she.... and I did include a picture of that. There is a green horse gate that was red tagged by the City that she's not allowed to put up. It wasn't approved by the H-Board. It wasn't approved by the City. The City Attorney has records of that, that it was illegally put up, so she's blocking our parking. She doesn't live there. She's actually not a resident of Santa Fe. I know this because some of the tenants that were short term renters, came out and said, oh, there's a lock on the gate how do we get through. I said, I don't know, I don't even know whose gate is. So they don't live there. So all this talk about wanting to contribute to Santa Fe, they don't live there, it's a short term. And they put in an illegal gate blocking our parking."

Mr. Clemens continued, "Well, they stuccoed our wall. So our wall adjoins their courtyard. And their unit isn't even finished. You can see it's gray coated, so they don't even have an approved stucco color by the Historic Board. So she's just done whatever she's felt like doing in this 9 years, probably because it's hidden down in a hole and nobody really notices. So the H-Board has never approved the gate, never approved her stucco color, and hasn't approved, much less the Condo Association and the gentleman that owns the other unit and the Condo Architectural Committee are here right now. And they can attest that she hasn't gotten approval for any of that."

Mr. Clemens continued, "The window on the west side, as they propose in their packet can be done. However, it would have to be approved by Historic and it's not very cost effective. By their architect's suggestion, it's \$10,000 to \$20,000 put in a window, when all we have to do is put a window on the side that goes to a limited common area. And the window, we offered it to be frosted glass, non-protruding, not a casement window, that would just slide up and it wouldn't protrude into their courtyard, just to offer some consideration."

Mr. Clemens continued, "So we've done everything we can, to try to do the best we can to make sure that this is done in the right channels, and I believe she's just barking up the wrong tree, because this isn't even the venue for it. It should be just tabled and not even considered. And that's it."

Speaking to the Request

Wendy Capp, 511 Douglas Street, 87501 *[previously sworn]*, said she is here on behalf of Arminda Diaz. Ms. Capp said she is the owner of Two Casitas, Santa Fe Vacation Rentals, which has been in business since 1998. She said Ms. Diaz has been a client for 9 years, and she has been "one of my most respected, dedicated easy to with wonderful homeowner." She said when she learned about this

project and saw they were talking about having this 5 ft. x 4 ft. window, it sounded excessive to her, which was going to look right into the space where her guests and Arminda's are, when she is here and uses the property. She said one of the main things about this house is it has a beautiful flagstone patio that is private, and doesn't see where it's not private. The way the house is built it allows for a really nice little sitting area. This would ver obtrusive. It would really interfere with the value of the home, with enjoyment of the home both by the owner and my guests. I don't know what kind of people would really want to rent that house short term, which is a legitimate means of income here in Santa Fe. The house is multi-view. She believes the window clearly would reduce the value of the property as well, which would be very unfortunate. She has seen condos go through this kind of thing over and over and over again, to the point where, "I'm like, I don't even know if I want to represent condos..... I really home you guys can consider this homeowner's needs and their rights."

David Garrity, 545 Hillside Avenue, [previously sworn], said he is a legal resident at that address. He said his husband and himself are the Architectural Committee, appointed by [inaudible]. He said they reviewed Ms. Diaz's design for her expansions that she never actually undertook, and reviewed the Applicant's proposed design. They specifically excluded a number of things that they felt were not historic. He said he has served as an Advisory Board Trustee for the National Trust for Historic Preservation, and they have been preservationists for more than 25 years, and understand the law. Mr. Garrity said the National standards exempt anything that is not visible from a public way. The wall in the back is not visible from a public way. This whole addition was built in the last 10 years, so the standards don't apply in the same vision. Additionally this was one property owned by the Trujillo family, and it was all built over time over the last 115 years. It was built to be one unit and everything looks at everything. There is a gate between their yard and the Applicant's yard. It is meant to connect.

Mr. Garrity continued, saying they used to hear the phone calls from the last owner of that unit, speaking out on his porch. He said "It's never been private. I don't know where the idea that Mr. Scott got that was supposed to be private. That actually was a storage building originally. We have tried, and he believes the Applicant also has tried.....the reason that is a double hung window design in there, which isn't historically accurate is because he changed it to modify it to relate to her, because he figured, all right, he had a casement window that swung out. He said he thought well, all right, she doesn't want anything protruding on her courtyard, so he changed the window to double hung to be less intrusive." He said the idea of wells doesn't work at all. He said they have a weather problem, and are on a hill, and when there is a torrent of rain, the water comes pouring down. They have had to dig out their foundation and re-weatherproof it, so that's not going to work, and it's also on a public way.

Greg Allegretti, 1925 Aspen Drive, Suite 802-B [previously sworn], said he is an architect and has practiced architecture in Santa Fe for more than 30 years. He said he deals with egress issues daily, as well as windows on lot lines in dozens of projects. He said, "And I can say flatly, plainly, period, without hesitation, without zero percent uncertainty, this window will not be allowed. It does not meet the Building Code." He said whatever kind of window it would be, you can't put a window on a lot line. He said that applies to this project and other projects. He said he believes Councilor Harris has experience with this kind of thing, and hopes he will speak to that. He said they looked at the area, and the gentleman said it's

not possible, it won't work, but he has done it. He did one on East Alameda, on lower Canyon Road and at the top of Lower Canyon Road, it is lovely and looked great. [inaudible]. That is false and sounds like an exaggeration of the added cross. He said alternatives exist and it should be done right, and done to Code. It can be attractive, affordable if they do it right. He said, "This is never going to happen this way. Whether it stops here, with this Council, whether it is stopped at [inaudible] and Permits, and that's a fear that we have. [inaudible] It's not going to happen because it is illegal. These are good, hard-working people, and he wouldn't disparage what they do, but surely things can get by them. He hopes it doesn't happen that way. He thinks you should stop this right now, because it's not right.

Sandra Deitch, previously sworn, said she has lived in Santa Fe for 14 years, and is a friend of Arminda and her husband. She said she has known Arminda for 9 years, and she is here a lot. She said, no, she doesn't live here full time because she's working so she can pay for her house. She said several years ago, Arminda invested time and money to get approval for her addition. She said Arminda adores Santa Fe and will be retiring here, and come here a lot. She said, "I know, because feed the dinner. So anyway, that's all I have to say and I really appreciate your listening to my chatter. That's it."

Stefanie Beninato, P.O. Box 1601, Santa Fe [previously sworn], said she thinks these are legal issues, whether the Board made the decision and whether the Board had the authority to delegate power to the staff. She said she attended that meeting, and her recollection is the Board didn't exactly approve the egress window to the north, but it is a non-contributing building and is not visible from the street. So the Board could allow some leeway there in terms of it being a double hung window as opposed to a casement window. She said it also is a question of whether the common element is really a lot line. She understands is that it would be an exterior lot line, which might make an egress window illegal, but not if it's coming into a common area within a condo property itself. She said there is a decision here about enforcing condominium rules as opposed to zoning rules, and that include the overlay of the Historic Zone. The Historic Board does not enforce restrictive covenants, or solar covenants or easements, so you have to go someplace else. You have to go to District Court if you think your homeowners association rules are not being followed. That's not something the Historic Board is going to do. They are going to look at the design issues.

Ms. Beninato continued, saying she believes this was referred back to staff because there was some discussion of having an egress window on the west side. It wasn't known whether that would be allowed, and so it was a question of bringing these alternative designs to the Land Use Department, and getting feedback from them. And then the staff would have some input. So she thinks you don't need to look at who lives there or doesn't, or has it longer than someone else. She asked if you are being asked to enforce homeowners association rules, is this really a lot line as defined by Code as not being allowed to have an egress window on it, and whether the Historic Board took the right action or not.

The Public Hearing was closed

Councilor Dominguez thanked everyone for speaking this evening, saying he always appreciates the thoroughness of Ms. Gheen's Staff Report.

Councilor Dominguez said he is a little confused, not so much about the scope of the HDRB and how appropriate it is for them to consider ingress and egress as it relates to the Fire Code. He said he is a little confused about what the options were that the HDRB considered. He said the motion talks about making sure that the discretion staff has is consistent with what the Board is seeing. He isn't quite sure what that means.

Ms. Gheen said beginning on page 58 of the Staff Report, that shows the report that was before the H-Board, noting the design begins on page 81. She said she believes the developed design that was before the Board was that north facing window.

Councilor Dominguez said what the Board is seeing is consistent with the north-facing window.

Ms. Gheen said, "In terms of seeing visual, I believe that yes, the north facing window was the developed design that was presented. It was discussed at the hearing, the option of having the window well on the west side, but many people here throughout the hearing pipe up if you disagree, but I don't believe the drawings were presented for that alternative design. If you want to take a look at the minutes of that, that starts on page 43 of your packet. And I can show you that.... page 48, in the middle, I think I actually have it marked here, page 48 of your packet. The only other viable option that doesn't seem possible, this is I guess HPD staff's statement, *'The only other viable option that doesn't seem possible, given Mr. Clemens' testimony, is to move the egress window to the west elevation and, if possible, Staff could give administrative approval for that, should that be a requirement....Chair Rios asked Mr. Clemens about moving the window to the west...'* and then Mr. Clemens had some statements."

Councilor Dominguez said he would like to cut to the chase on that one, asking if there is no other alternative, what are the options. What options does the Applicant have.

Ms. Gheen said, "north and west."

Councilor Dominguez said but they proposed the north to the HDRB.

Ms. Gheen said, "Right. The west would require excavation of a window well of some sort."

Councilor Dominguez said that clears it somewhat for him. He said then the HDRB did consider both the north and west.

Ms. Gheen said, "I would say yes."

Councilor Dominguez said for staff, there has been a lot of discussion about condo and asked if these are fee simple lots. He isn't clear about that either. There are condo laws and all sorts of other stuff and common space, but he didn't see any of that in Ms. Gheen's Staff Report.

Ms. Gheen said, "Right. And the reason I didn't include that in my Staff Report is because it's really outside the jurisdiction of the H-Board's decision. And what's on appeal is the H-Board's decision. And the matters of condo law, matters of egress, matters of Fire Code, Building Code, the H-Board really didn't have jurisdiction to decide those issues."

Councilor Dominguez said, "The HDRB is all basically esthetics and architecture. It's not rights of way for lack of a better term."

Ms. Gheen said, "Right, but it's design. It's about how something looks, whether or not it would comply with any other law or Codes, really is irrelevant. The question is within the 4 corners of the Design Code that the design was acceptable to the party."

Councilor Dominguez said he has a question for the Appellant. He said there is testimony that you all don't live there and other stuff about short term rentals, and he thinks one of the members of the public who spoke, talked about you not living there full time because you work. So I just wanted to get that clarified a little bit."

Mr. Netburn said, "Arminda Diaz, who purchased the property 9 years ago, doesn't live in the City of Santa Fe. We reside in Los Angeles, but she has always come back to Santa Fe. She comes to Santa Fe 3-4 times a year."

Councilor Dominguez asked how the property is being used, and if it is a short term rental.

Mr. Netburn said, "Yes. Correct. It's a short term rental. We are a legal short term rental property, so we have permits for that use."

Councilor Dominguez said then you really are looking just at the property rights, and not the quality of life of the property owner.

Mr. Netburn said, "Well, actually, we intend to retire to this location, so we're attempting to preserve rights and the use and the...."

Councilor Dominguez said, "I hope you understand that we get lots of intentions all the time, and sometimes it doesn't work out, but I respect that."

Mr. Netburn said, "So, Arminda has owned the property for 9 years, and it isn't a profit making machine, and so it's not necessarily something that we are using as an economic engine. It's something that we're hoping to hold onto, and in the future be able to reside there."

Councilor Dominguez said he has a question for the Applicant, which will be his last question. He said Staff has said basically that what you presented to the HDRB was the north side window, but that there also was an alternative which was the west side, and Mr. Netburn said that is correct.

Councilor Dominguez continued, saying he read part of the minutes where Mr. Netburn mentions that, and he asked him to articulate the reason why that is not an option. If it is something that is not doable financially, he is unsure how he feels about that. However, if there is something that makes it "obscenely financially not doable," that's different. He asked Mr. Netburn to "talk to me a little bit about why you chose not to necessarily present that option to the HDRB."

Mr. Netburn said, "I'm not sure that would actually be approved by the H-Board, because it does change the façade. There's actually that part of the building sits 7 feet under the grade of the road, like the Architectural Committee member said. The road comes down at an angle, so the window would be 7 feet above. There's no way to get out of it. You would have to create a stairwell type window that would probably create drainage issues. You would have to put a rock wall around that wall to..."

Councilor Dominguez said, "But those things are solutions. They may be costly, but they are solutions."

Mr. Netburn said, "Well, and they may not be approved for the façade which the H-Board does have the..."

Councilor Dominguez said, "But they may be approved."

Mr. Netburn said, "Correct. They may be. Correct. However, meeting with staff on several occasions, looking at the viable options of what a design.... you know, a lot of times when we do this, we go in and say okay, what can we do. What can we not do. You know, what is the way to design this. We don't just come up with a design in our head and say, let's do what you want. So, based on staff recommendation, looking at that, saying okay well this would probably be the most viable. It's out of the way, you can't see it from the street. This could be an approved solution."

Councilor Dominguez asked if staff recommended that.

Mr. Netburn said, "They didn't recommend it, but they didn't say that it was discouraged and/or there was a better, viable option."

Councilor Dominguez said, "But I just heard you say that staff recommended."

Mr. Netburn said, "After meeting with them, and based on what their recommendations are of the project as a whole, not that particular window, saying, okay well would this be approved. And they never tell you, oh yeah, all these things would be approved. They just say this looks good, this may be, this would be a good, viable option. So if we change the façade that much, then there may be a possibility where the H-Board would not approve it. So that's our concern. And so a lot of times...."

Councilor Dominguez said he understands that, but doesn't think that is really anything for the Applicant or the Appellant to determine, that is for the Governing Body and the HDRB."

Mr. Netburn said, "Correct, but it is our choice to go in and say we would like to submit this, or we like the path of least resistance."

Councilor Dominguez said he wants to talk to staff a little bit about the process. He asked staff what they recommended to the Applicant. He said he knows staff tries to be flexible and provide all options. However, it sounds as if the Applicant is saying is that staff recommended that they go this north facing window route, because it was the path of least resistance, and he would like to hear a little about that.

David Rasch, Planner Supervisor, Historic Preservation Division, said, "It was Nicole Thomas's case, so I know all of the case less than she does. But it was at the hearing that we saw opposition to the window on the north. And that's when staff said to the H-Board, there's another option that would probably meet the Building Code when it goes to Permit, and that would be the west. Now the west is publicly visible, and there is no window in that location. And the window well would be more intrusive in the design of the building, than the north window. The north window is what the Applicant proposed. I don't believe HPD staff has any problem with either location. I do believe the Board intended for staff to try to work with the Appellant and the owner to come up with a decision and then not have to go back to the H-Board, but just approve what we could negotiate. The fact is, it is just about a design on a non-contributing building in the Downtown and Eastside Historic District. Once it goes for permit, someone said this evening, that it may not meet the law. That's not up to me or the H-Board. So I think this appeal is misplaced. We are discussing only design at this hearing.

Councilor Dominguez said, to get back to what was or was not recommended by staff, he read in the Staff Report that there was some opposition to the north facing window, and that was part of the hearing of the HDRB.

Mr. Rasch said, "Correct. From the Appellant."

Councilor Dominguez said then staff didn't necessarily tell the Applicant that you have two choices, but this is the best choice.

Mr. Rasch said, "Correct. I was at the H-Board hearing, and it was not..."

Councilor Dominguez said I'm not talking at the H-Board. He understands staff wants to come up with solutions, more often than not. He wants to get that clarified, because he hears the Applicant saying that there are lots of options. When you start a project there are many things you can do, and we've seen some very creative things at this Governing Body, noting some are more cost restrictive than others, but they are options. He said, "I want to make it clear that I'm interpreting something wrong in that staff is giving a recommendation to the Applicant that maybe they didn't give."

Mr. Rasch said, "Maybe Nicole Thomas said it seems to be easier if you do the north, because it's not publicly visible. But I don't support any recommendation either way. I do believe my Division could approve either."

Councilor Ives said he wants to be clear with staff on a few items. One, in terms of the issue of this window, the only jurisdiction of the Board is as to its design elements, and there is no jurisdiction over its functional elements in the sense of this egress window, and asked if this is a correct statement.

Ms. Gheen said, "I believe it's correct and I also see staff member David Rasch nodding his head in agreement."

Councilor Ives, referring to Memo page 2, said toward the bottom, there is a reference stating, *'The Applicant's prior remodel applications in 2016 were delayed due to incomplete information. Early on, the Appellant objected to the window. Since then, the Appellant constructed a gate which blocks entrance from the proposed north facing window to the parking area. While a determination of a Code violation has not yet been considered by the Land Use Department, it was done without a building permit and without Board or staff approval.'* He said on page 29 of the Memo, that is referenced in the minutes with a statement by Mr. Clemmons that, *'The other thing is, the neighbor has decided to make herself do whatever she wants to do. She put a gate, right now, that was red tagged by the City. Chair Rios stopped him to say that was not part of this case.'* He asked if the Chair's statement there a correct statement.

Ms. Gheen said, "I believe that is correct, because the issue is really the design of the window that was, yes, that's what was on the Agenda, that was being decided, is the design of it, and I'm sorry and the rest of the application by the Applicant."

Councilor Ives said, "In light of that, I just don't understand why it is in our Memo. Because it would seem to be an irrelevant issue."

Ms. Gheen said, "I guess that's a fair statement. I guess I put that in there to indicate the relationship between the neighbors and how contentious this issue is."

Councilor Ives said if it's non-jurisdictional, in his mind it really doesn't add to the debate, so those sorts of things aren't terribly productive in this type of action.

Councilor Ives said, in terms of the Historic Districts Review Board consideration of this type of issue, there are references in the materials to the fact that the structure to which this remodel was being applied, was itself, not properly approved or permitted, asking if that is what the record states.

Ms. Gheen said, "That's what I understand. Correct."

Councilor Ives asked, "Is that any part or portion of what the H-Board would have jurisdiction to consider when looking at a matter like this."

Ms. Gheen said, "I think in that case... this happens not infrequently that an Applicant asks for retroactive approval for something. And when you ask for retroactive approval, it means that you have built something without approval by the H-Board, and oftentimes it means without a Building Permit. Whether or not a Building Permit has been issued, or whether an H-Board approval has been given or not, it doesn't really speak to whether or not the design itself is acceptable. However, it may indicate whether

an Applicant is observant of the Code and the requirements that have been placed upon them in the past. And sometimes the Board has decided on the issue after making a point that the Applicant should have come before the Board for approval before they had constructed something."

Councilor Ives said he is not sure he recalls any statements anywhere, at least in the materials he has looked through, where that particular discussion occurred one way or the other, but she can point him to any spot.

Ms. Gheen said, "I don't think that the discussion occurred in this last hearing. I don't recall.... yes, but I think it's that the application was, in part, to correct work that had been done without a Permit. That's my understanding. I see the Applicant is nodding his head yes as well."

Councilor Harris asked Ms. Gheen to repeat her statement.

Ms. Gheen said, "I think that the application was, I think there were several points.... in part for retroactive approval for the work that had already been done. Is that correct. I see that the Applicant is nodding his head yes."

Councilor Ives asked where that is stated in the materials.

Ms. Gheen said, "I'm not sure I did state that in the materials."

Councilor Ives understands she may not have stated it, but if it's in the application, and asked where in the application can that be found. Responding to the Mayor Pro-Tem, Councilor Ives said, "I am questioning the H-Board's, whether it has any jurisdictional questions when you are presented with a project which may have been illegally constructed in the first instance, because no Permit was pulled for it. And so, in part, the question in my mind is whether or not an Applicant needs to perfect that in some way, i.e., if they went to the City and got a waiver of the permit and went through a process, then, presumably they are coming into the H-Board fully authorized with, at least, what currently exists, as opposed to what is being proposed to be changed. So I'm trying to understand, really, whether the H-Board did consider that matter at all, and I just don't see it in the record."

Mr. Clemens said, "We did meet with Greg Smith at Zoning about getting our preliminary zoning approval. He did not think that it was an unpermitted addition that needed to go through that route, so we basically, if there was something when we got through Planning and Zoning, that is not an H-Board responsibility. They are looking at design. They're not looking a permit, non-permit. They get their zoning approval. There are other preliminaries on approval, and they say whether or not you can move forward, based on what the Zoning Director states. And so, we got the preliminary zoning approval by the Zoning, Greg Smith, and he allowed us to move forward with that. And the H-Board does not have... they're looking at the design. They are, and I think his question which wasn't clearly answered, was it's only about the design, not looking at permitted, unpermitted, all those kinds of things. The same thing with the window egress, all of that stuff. They're just looking at the design. They're looking at, does it conform to the Historical Standard of Santa Fe."

Councilor Ives said he has a question for David Rasch, saying he recalls a case that we considered upon, he believes in Wilderness Gate, involving some green stucco and a portal that was illegally constructed. He asked Mr. Rasch to remind him of the H-Board action in that case.

Mr. Rasch said, "When the Historic Division Inspector was reviewing the property nearby, he heard construction work going on at the location where the green stucco is now installed, and instituted a Stop Work Order, during the construction of a portal that did not have approval. And then that Applicant was cited also with the stuccoing without approval. So that's how we found out about it. We went to the Board and H-Board approved the continuing of the construction of the portal as designed, and denied the green stucco. So they remedied that issue."

Councilor Ives asked Mr. Rasch, in his experience, if there are other cases in connection with the work for the Historic Districts Review Board where there have been uses potentially that were not properly permitted at the time, and the H-Board, as part of its consideration, acted in some way on those issues.

Mr. Rasch said, "Yes. If it is about a use, the H-Board doesn't have jurisdiction, but they are assisting the entire Land Use Department in correcting that violation. So if there is a design issue associated with an unpermitted use, that unpermitted use is resolved by the Zoning Specialist before it goes for public hearing to the H-Board, if it needs to. And then the H-Board rules on any design issue that is related to that violation."

Councilor Ives said the Applicant said they had a conversation with Greg Smith in Land Use. He asked Mr. Rasch to his knowledge, if Mr. Smith is authorized to make that decision within the Land Use Department, and to his knowledge, was that decision made in this instance.

Mr. Rasch said, "I am familiar with the issue that was going on. There was an alleged second unit that was not permitted in that building. Greg Smith was the staff member who investigated it, and I do believe he is the staff member that has that authority to determine if the proposed project that was brought before the Land Use Department at that time, meets current Code. And he did confirm that it does."

Councilor Ives said he is curious about the timing of the staff review of this issue. He said on January 10, 2017, there is an H-Board hearing on the matter. He said the only reference he saw in the record, regarding the reason this issue might have been delegated, was a request from the Applicant that the parties have an opportunity to decide this issue.

Ms. Gheen said, "I believe that was actually a request by the Appellants' Attorney."

Councilor Ives asked if she is speaking of Brian Parish, and Ms. Gheen said yes.

Councilor Ives referred to the H-Board minutes of January 10, 2017, packet page 46, where Mr. Parish said, '*...We just asked the Board not to go forward with this until we have the opportunity to try and work some plan out to accommodate both parties.*' He said so this delegation is made, and asked Mr. Rasch if such delegations are commonplace, and if so, just tell him whether or not the practice of the Board in that regard of delegating to staff an additional later decision on a particular design issue.

Mr. Rasch said, "It is very common for the Historic Districts Review Board to delegate a minor alteration to the staff after a hearing, or as a motion in a hearing. Oftentimes, it is design issues that are simply resolved and not affecting the design of the building in a significant way, such as a light fixture next to a door. They often will say, we defer to staff to figure that out before Building Permit. In this case, because it was a contentious issue that was discussed at the hearing, the Board saw more time was needed. They didn't think they needed to see the case back, because we know that there was going to be window 'here' or 'here.' And they said, staff we have confidence in your ability to work with these two people or one person and decide which window is the one that is accepted and approve the design without going back to them, mostly because it is a non-contributing building, so the Board doesn't have very strict standards on how it has to look. It just needs to meet the District Standards. So they had faith that staff could decide that once we got past the impasse of the egress problem."

Councilor Ives said then subsequently, the action letter was issued, which is undated, and asked Mr. Rasch if he recalls when the letter was issued.

Mr. Rasch said the day after an H-Board hearing, staff writes up these Board Action Letters, summarizing what was approved at the Board, and that's to expedite the permit submittal. He said permits can't be released until the end of the appeal period, which is a full month after the approval herein. Therefore, we write a letter that allows them to apply for a permit to expedite it. That's all that function is.

Councilor Ives said he is looking in the record to see if action delegated to staff was actually taken and then evidenced in the record.

Mr. Rasch said, "Because of this appeal, we have not approved a window on the north or west. Appeals will basically stop all action until the issue is resolved. And if you deny this appeal tonight, I will work with the Applicant and hopefully, the Appellant and come up with a window design that I can give to the Applicant and they will go for a Building Permit. If this appeal is approved, I will not approve a window on the west or the north, at least. You may decide a window on the west is acceptable."

Councilor Ives said the Findings and Conclusions of Law are approved on January 24, 2017, noting in Finding #3, the first bullet point states, '*A window will be added where one does not exist on the north elevation. The window on the north elevation will be double hung and installed in a manner that prevents it from encroaching on the neighboring condominium.*' He asked, "If this delegation had been made, but there had been no determination of staff back to the Board on this issue, are we saying that the Board then did not decide this issue."

Mr. Rasch said, "Typically when the Board delegates authority to staff to resolve something, they usually do not require us to bring it back to them. They say, you finish it. So we wouldn't bring our decision of north or west back to the Board, unless that was their condition."

Councilor Ives said his problem is that we're saying there is this process that we follow, that the H-Board makes determinations and they have the capacity to delegate to staff decisions being made. But the issue on appeal is whether or not this window should be allowed. But apparently, there has been no decision made at the Board level because there hasn't been either a recommendation by staff on that

issue pursuant to the delegation, or action by the Board because, presumably they leave that for staff to make a further determination.

Mr. Rasch said that is correct.

Ms. Gheen said, "The Appellant actually makes several claims, including the interpretation of the decision, and that would be one of the many claims that she made."

Councilor Ives said he is uncomfortable in reviewing something when "I'm being told that no decision has been made at the Board level on this particular issue."

Ms. Gheen said, "So the decision, if you want to take a look at the actual decision that was passed, it would be on pages 38-39, I guess 39 actually at the very top, there is the one conclusion at the top on page 39, and that actually has the approved decision was, *'The Board unanimously approved the Application as recommended by staff, except for the egress window on the north elevation about which further discussion with the neighbor is encouraged and for which approval may be made by staff.'*

Councilor Ives said, "Again, I just don't see why we're called to make a decision on action which hasn't been made at the level below. So I'm just having a hard time trying to figure out why it comes to us sort of *sua sponte*."

Mr. Rasch said, "That's why I believe, I agree with the City Attorney, this appeal is not ripe until it goes to Building Permit."

Councilor Ives said, "I think, nonetheless, it has to go back to Historic Design. I thought there was a mechanism by which that failure to act on the delegation might have been perfected by the Board's decision, if the recommendation had been made by staff to the Board in the first instance, such that a determination had been made, pursuant to the delegation, which then was incorporated in the Findings & Conclusions. But because that process really hasn't happened, in many ways, I think we're being asked to decide on a decision that hasn't been made yet and I'm just uncomfortable doing that."

Ms. Gheen said, "Legally, I think this is a very interesting position to be in, because if one takes a look at the actual motion that was approved on page 49, it says, *'.... staff can approve it to the window if it is substantially in line with what the Board is seeing...'* So one could make the argument that once the HPD would approve something, but only if it is not in line with what the Board saw, it could then appeal it to the H-Board. If HPD does approve something that is substantially *[inaudible]*... where do you appeal that. Because I think that that's actually what is being appealed at this point, that is whether or not the Board was in its power to allowed HPD to approve something which is substantially in line with what the Board saw. Which indicates that the Board really did not have a problem with it, and wanted to give the Applicant an opportunity to resolve it, to not prohibit litigation."

Councilor Ives said, "What I would say in response is, I have no problem in considering an action by the Board on whether a north facing window in this area of town is within the applicable design standards. And we've heard some testimony from, where there is testimony in there, by Pippen, I believe,

forgive me if I'm mispronouncing that, to the effect that there are no north facing windows and this was designed to preserve privacy, etc.; but of course there is additional evidence that there are other north facing windows. But I just don't have anything of the Design Review Board saying yea or nay. And again, I would hope we don't get in this process issue in the future, because I think ultimately, what it requires is simply the Board taking action, whether it's on the recommendation of staff, we do the delegation or not. So those are my issues. I apologize for taking so long, but thank you."

Councilor Harris said he will be brief. He said he needs to particularly respond to Mr. Allegretti. He said, "He is correct that I've been in the development business a long time. I've developed a number of condominium projects in Santa Fe and Los Alamos. As others have asked their questions, I've tried to look at the plats. The easiest one to read is on page 80. It's perhaps the original plat creating the condominium. On page 52 is one version of the 3rd Amended Plat which is in 2011. I think originally, if the page 80 document is the original Condominium Plat, it was 2004. I refer to that because it's easier to read. In both cases, they refer to a Condominium within Tract B. So, as near as I can tell, this is one lot. And, from my own experience, and again, I approach it as a man who is developing the property, not as the attorney. I turn to others to create those documents. And if I understand it correctly, where the window is being proposed, this is on a unit line, really not a lot line. Mr. Allegretti makes a very emphatic statement that it is illegal, the window is illegal because it's on a lot line. My experience says otherwise. This is essentially the boundary line for a particular unit.

Councilor Harris continued, "Besides all of that, to me, particularly.... the first document that I see is really the last one that is listed, it is a statement from Appellant's attorney, one of their attorneys, Jeremy Jones, on November 18, 2016. Basically it only argues real estate issues, legal issues, condominium issues and says we need to sell this by the 5th of December, which is prior to the H-Board's hearings. And, so clearly, it didn't get resolved. We've had a lengthy discussion about what the H-Board felt. They did act and approve a number of items associated with the project, and there were 7 or 8 items that were fairly significant. In many ways, this window is the least of what is being proposed. And we've heard testimony from Mr. Rasch that it is not unusual for the H-Board to ask staff to resolve this. And as I read from the minutes, in particularly Mr. Katz's motion, I think he was hoping, the word that is used is amicable. It seems like that was what the Board, to a certain extent was trying to accomplish, hoping the parties could work it out, that directing it back to staff was within their authority and the staff's authority and is within their procedures and practices. This wasn't a one-off directive to staff. So I think we know the rest from there. The appeal was filed."

Councilor Harris continued, "I think, just on the face of it, there is a long standing dispute. I also was interested to hear the testimony of the gentleman involved in the Architectural Committee. I'm sorry I've forgotten your name. I think, in my view and I kind of spoke to this earlier when we discussed the Smoking Ordinance on the Plaza. People need to work these things out and particularly in condominiums. Again, they just have to, and when things go wrong for whatever reason, it's very difficult to resolve. Personally, I think this dispute is where we find it in front of us."

Councilor Harris continued, "So, for myself, I would agree with Ms. Gheen's analysis. I agree with what the Board did, and Mr. Rasch's statement. And feel that the Board knows, generally, we are talking about a north facing window here. Whether it is an egress window, yes in a single hung, or double hung,

whichever it may be, it doesn't really specify, you are going to have a big unit in order to get clearance on the lower half of that window. They are proposing to frost it. A casement window would be much smaller, basically one-half of the single hung window. But yes, it would swing out for, in the case of emergency, it would swing all the way out. And I think it's fair that is somebody wanted ventilation, particularly like weather we are having right now, it would be open for a little bit. And so the casement window would protrude out into that space a bit. But as a concession, a single hung window would not protrude, but still potentially meet the Code. It doesn't really get into.... there is still height and any number of considerations. But, I'm assuming that an egress window can be provided into this limited common element and then access out."

Councilor Harris continued, "I know other people want to talk. I won't make a motion at this point, but I personally think that the Board acted within its authority, and that I support Ms. Gheen's analysis. And actually I would be in favor of just not remanding, it would be great for us to create new Findings of Fact and Conclusions of law. I'm here to support the Board's Findings of Fact and Conclusions of Law. But again, I won't make a motion, because I know other people have things they want to say."

Councilor Maestas said he wanted to comment briefly about the nature of the delegation of authority. He said, "I understand it is common practice, but I think the Board knew that particular window was controversial, and yet they still delegated that authority to staff. And so that, really, I think makes me very uncomfortable and feel that this particular delegation is a departure from common practice by the Board. Thank you."

Mayor Pro-Tem Lindell said, "I have a lot of notes on this, but I think at this point, it's not really necessary that I go through all of these notes. I think what this comes down to... I have a couple of options here. We can persist and move this forward and then there will be an application for a building permit. And whether that will be legal, or not legal, I do not know. That is not my expertise. I would be inclined to say that this project can be held up for a very very very long time. There has been a solution presented on page 126 in our packet. I don't know who consulted Mr. Hays, I've heard of Mr. Hays before. He estimates that this would cost about \$10,000 to move this window to the west side. That's a solution."

Mayor Pro-Tem Lindell continued, "I don't know if these parties want to take that solution and move the project forward, or if the parties want to wait for months and months and months, and see this be held up in, what I think.... I don't think what we do here is the end of this. I think where this is headed is it's going to go to Court. It's going to be a long time. It's going to be a lot of money, and we have a solution that would allow this to move along. And I would hope, that both parties would embrace that solution and come to an agreement that they would do that. Because, our decision tonight will move the process to a different place, but it's not going to be the end of the process."

Mayor Pro-Tem Lindell continued, "And I have lots of notes, and technical things about this, but really and truly they don't matter that much. Because, unless both parties would agree to this solution, this is just going to go on for a very long time. So, that's my suggestion. Is that those parties would agree to putting this window on the west wall. I know it adds cost to the applicant, but I think, in the big picture that

cost is going to be less today than what it will be 6 months from now, and 6 months of lost time. And I just, in trying to be expedient about this, that's what I would suggest. So I know Councilor Dominguez either wants to make more comments or..."

Councilor Dominguez asked if the intention is for this to be heard this *de novo*, and if so is that allowable by Ordinance. Because if your recommendation is for us to hear this *de novo*, then certainly Councilor Lindell's solution is possible.

Mr. Martinez said, "The City Council's review is *de novo*."

Councilor Dominguez said, "The reason I ask is because there is a part of me that wants to.... I don't think this is a very clean appeal, especially given what Councilor Ives stated. A decision really hasn't been made, and staff said it's not ripe for an appeal until they get the Building Permit, and I agree with that. And so I'm concerned about the delegation of authority. It seems to me that had the HDRB decided one way or the other – north, west, south, up down, whatever the case may be, then the appeal would be a lot cleaner. We then could make a decision based on what the Code says, and not leave it up to some sort of interpretation. So there is a part of me that wants to remand this back to the Board so they can make a decision. And if an appeal is considered, we at least have something on which to base that appeal. But the fact that this is intended to be a *de novo* hearing, we could imply say that the Applicant has to do the west side, which I think has been a part of the solution."

Councilor Dominguez continued, "After reading the minutes of the HDRB, I'm not too sure that.... I don't think they, or even us, certainly tonight have kind of considered the fiscal impacts or any of that. So, I'll do this just to kind of get going and then we can have a debate about it. So what I'll do is I'll actually consider staff's recommended motion."

MOTION: Councilor Dominguez moved, seconded by Councilor Maestas, to vacate the Board's decision and remand Case #2017-09 back to the Historic Districts Review Board for further action in accordance with the direction of the Governing Body and to decide one way or the other on a north window or a west window, and make further findings regarding whether and how the proposed window is harmonious..

DISCUSSION: Councilor Dominguez said his motion is so we can get a clear action from the HDRB and that the delegation of authority is decided one way or the other.

Councilor Dominguez continued, "I think Councilor Harris is right. Usually, in these kinds of cases, we want to be able to give staff the opportunity to come up with a solution that works for everyone, but I don't think that's going to be the case here. I would hope, maybe, that as it goes back to the Board, that that kind of decision is made, but I don't necessarily see that. So that will be my motion."

Councilor Harris said on the motion, he feels it has been given a lot of attention. He thinks staff is qualified and working to the greatest extent possible, and they have to work with Land Use as well on the egress situation. He said if the grade is that high, to create a west window egress you have to create a window well. He said if there is someone who isn't very agile going out a window to a window well which is a number of feet in depth, saying, "I just don't know."

Councilor Harris continued, "We have good staff in Mr. Rasch and Ms. Ramirez-Thomas as well as Greg Smith, who seems to be involved in this. I think they are capable of sorting this out to the best of their ability. I think this situation has gone so far and feelings are kind of fixed on this one. So somebody has to make a decision and I think it needs to be staff."

Councilor Dominguez agrees, saying we've seen lots of cases, especially in his work as a former Planning Commissioner. He agrees that we have a qualified staff and they can try to take care of these things. However, if he heard the testimony correctly in the questions by Councilor Ives, staff really hasn't made a decision one way or another. It seems possible that staff could come back and say this really isn't consistent with what the Board is seeing. He said staff has said the Appeal isn't ripe, because it hasn't yet gone for a Building Permit. Staff has said they haven't made a technical decision yet. These two things don't speak to whether or not staff is qualified. He said, "It just seems to me, that because the decision from the HDRB wasn't as clean as it could have been, the appeal isn't read until decisions are made. That's the way I see it. So I don't disagree with you. I think staff is qualified, competent, and capable of being able to come up with a solution. And you never know. They may come up with a solution by the time this does get back to the HDRB. So, that's just a comment."

Councilor Rivera asked if this was going to be heard, just with regard to the window, is this something that typically would go to the HDRB.

Mr. Rasch said, "The Land Use Code does give certain legal authority to HPD staff, without the H-Board. In this Historic District, all exterior alterations, by Code, go to the H-Board. But, little things that are not publicly visible, I often approve administratively. Because why would I bring a small garbage enclosure fence on the back of one's house to the H-Board, when it takes two months, \$250 for a base fee, and \$25 for a poster just to get a hearing. So I do administratively approve very small items. In this case, if they just asked for the window and nothing else, I would consider that, because it's not publicly visible on a non-contributing building, and I would send it up to my supervisor and say, is this something you would allow me to approve. So it's clear by law, but by practice you have to be realistic about what goes in front of the H-Board.

Councilor Rivera asked if that would be the same if it was being considered on the west side as well.

Mr. Rasch said, "I would say yes, because of its non-contributing status. The west side is publicly visible, and it will change the look of that façade, but with a non-contributing building, we're not using preservation standards. We're using design standards, and why I said earlier, a window either on the north or the west meets the design standards for a non-contributing building. So my staff can approve either very easily."

Councilor Rivera said, "I think I would agree to send it back to the HDRB, just because I don't understand why we are here. They should have made a decision, but they didn't. They didn't because it is a tough decision and because they didn't want to have to get in the middle of what appears to be neighbors that can't seem to get along because of gates and fences and other things that are being put up. However, I do agree with Councilor Harris that staff has made the right decision. I think had there not been the issue of what appears to be feuding neighbors, that this decision would have been made and there wouldn't have been any problems. So with that, I'll just see if there's any other comments."

EXPLANATION OF MOTION BY MAKER: Councilor Dominguez said, "Basically, the motion is to vacate the Board's decision and remand it back to the Board for further action in accordance with the direction of the Governing Body to have the H-Board consider both the west and the north window and that they make a decision on that. And to make further findings regarding whether and how the proposed window is harmonious. And I think that once that that happens, they make a decision and then if there is going to be an appeal, there's going to be an appeal and then we can consider it based on that discussion and that decision, and we can go from there. And who knows what's going to come out of it. In the end our job is to do what we can to follow the law and protect the City as much as we can, and to make sure that due process is considered. I just don't think that we are quite there yet. I would feel much better, especially after the line of questioning that Councilor Ives brought up, I would feel much better if that decision was made and then we can consider that appeal as it comes forward."

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Maestas, Councilor Trujillo and Councilor Villarreal.

Against: Councilor Rivera.

Explaining his vote: Councilor Rivera said, "No. I continue to support staff decisions."

- 5) **BILL NO. 2017-10: AN ORDINANCE RELATING TO THE LAND DEVELOPMENT CODE, CHAPTER 14 SFCC 1987; AMENDING SUBSECTION 14-6.3(D)(1) TO AMEND THE STANDARDS FOR ACCESSORY DWELLING UNITS; AND MAKING SUCH OTHER STYLISTIC OR GRAMMATICAL CHANGES THAT ARE NECESSARY (COUNCILOR IVES). (GREG SMITH). Postponed by Sponsor to July 27, 2017.**

This item is postponed to the Governing Body meeting of July 27, 2017.

END OF PUBLIC HEARINGS

THE GOVERNING BODY THEN RETURNED TO COMPLETE THE AFTERNOON AGENDA

15. MATTERS FROM THE CITY CLERK

Ms. Byers read the official results from the official Canvass, for the election held on May 2, 2017, noting the results for were 8,383 and against 11,537.

Mayor Pro-Tem Lindell asked if we can break-down our voting by precincts.

Ms. Byers said municipal election voting is not done by precincts. They do have the results broken out by Districts.

Mayor Pro-Tem Lindell asked if that is because of the new system.

Ms. Byers said she doesn't believe there has been reporting by precincts, it is just by District. She will check with Ms. Vigil and get back to her.

Mayor Pro-Tem Lindell said it would be interesting to see the election day numbers by precinct.

Councilor Villarreal said she thinks they have done District breakdowns, but since it was changed to convenience centers, we don't get the breakdown by precincts.

Councilor Maestas asked when we will get the final cost of the Special Election.

Ms. Byers said Ms. Vigil is working on that, trying to get all the invoices from the vendors that we used, and thinks that will be available within the next week.

Councilor Harris said this was a very disruptive election at many levels. He asked if there will be a debriefing at the Ethics and Campaign Finance Board. He said they saw two cases, made some decisions. He would find it interesting if there was a discussion about the election in general and the whole tenor of the election. He thinks there needs to be an acknowledgment that this was not our finest hours.

Ms. Byers said the City Attorney's Office staffs the Ethics and Campaign Review Board, and they are scheduled to have another meeting to go over additional data. She said the PACs are submitting another report, which is due by May 16, 2017. She can pass the request to Zachary Shandler, Assistant City Attorney, the staff liaison, with your concern and whether the Committee would be doing a debriefing of the election.

15. COMMUNICATIONS FROM THE GOVERNING BODY

A copy of Bills and Resolutions Scheduled for introduction by members of the Governing Body, for the City Council meeting of May 10, 2017, is incorporated herewith to these minutes as Exhibit "6."

Councilor Maestas

Councilor Maestas said in the Quarterly Finance Report it said the proposed Property Tax would be used to pay for the 2% cost of living allowance, but the General Fund will require only about \$1 million. In the coming fiscal year we agreed to set aside \$400,000 to balance what we expect from replacing the Operating Mill Levy. This decision was made only for FY 18, and we are implying to the public that these funds will be used to continue to pay for a 2% COLA, but the real cost is only \$1 million to the General Fund. He said employees funded with Lodgers' Tax revenue and Utility Fee revenues make up about \$400,000 of the \$1.45 million estimated fiscal impact. He asked what will happen to the \$400,000 after FY

2018. He asked if it is the plan to continue to set aside \$400,000 for a merit pay pool in perpetuity. He wants to make sure we communicate with the public in a transparent fashion about the intended use of the Operating Mill Levy.

Mr. Snyder said the General Fund will take between \$1 and \$1.1 million of the \$1.5 million. He said Councilor Maestas is correct, the \$400,000 will go to the Merit COLA Pool, based on a study, noting staff will come back to the Council with the Study with a full evaluation. He can't speak to where the funds will go in FY 2018, 2019 and thereafter. He would like to think that they would come back with a plan, that it not be a one-time funding of a Merit COLA Pool, but rather a funding source for looking at raises in a strategic manner across the City. He said, based on the action taken by Council, it is his understanding that the 2% across the board, whether funded from Property Tax, Utilities and Lodgers, that will be recurring and the \$400,000 was accounted as one-time revenue in the budget approval process, with the understanding that there would be a future discussion about what, if anything the Merit COLA Pool could evolve into or look like or what we do in the future with that pot of money. He said there is more conversation is to be had. There were strong discussions and feelings about whether or not the City could do a Merit Pool. He said he remains pretty convinced it can be done and there is a value to it, and he plans to put some effort into bringing back a plan to the Governing Body to show what could be for its consideration, along with other options for your consideration and action. He said if it isn't a Merit Pool, what else could it be and based on what other communities.

Councilor Maestas said if the \$400,000 of the funds we have temporarily earmarked for Merit Pool conceivably go into a COLA so we can provide a higher COLA permanently and not just the 2%, at least beyond 2018 pending the outcome of the Compensation and Classification Study.

Mr. Snyder said that is correct, that could be the Council's decision, and he would utilize it to fund a future COLA after the next fiscal year.

Councilor Maestas said his only concern is that it is an Operating Mill levy and can be used for any operating expense – salary increases or anything germane to the operating budget. He said there is nothing memorializing that commitment to a 2% COLA and tying it to the Mill Levy we want to enact and replace. He said, "That's my only concern. It's not really binding on the City. It's in the budget, unless we add specific language, but I don't think we can do that. It's only going to show up as an Operating Mill Levy in the property tax rolls." He said, "I just think it's a little deceptive and I'm not comfortable with it, because it will depend on each and every budget. We're assuming that each and every budget is going to have that 2% COLA."

Mr. Snyder said the 2% is recurring, but it's one time, one year 2%. The \$1 million coming from the Mill Levy will go into the General Fund Operating category. He said Councilor Maestas is correct that it isn't earmarked for the Salaries and Benefits line item, but that is what it was approved as. So moving forward, our Operating Budget just increased by \$1 million in the General Fund. And that funding source as identified in the approved budget, also the revenues increase by \$1 million from the property tax which will be considered in upcoming meetings, so it's dedicated to that. The unallocated portion of \$400,000 is exactly that. My proposal was to fund a Merit Pool and to fund it in perpetuity. He said he got the sense from Council's discussion during the budget hearings, the name was changed to Merit COLA Pool, and

that it would need to be studied further and come back to the Council to get clear direction on how or if you wanted to proceed with a Merit COLA Pool, and if not the Council could consider adding the \$400,000 to whatever COLA may be utilized in the upcoming budget, or whatever at that time.

Councilor Maestas said okay, it's going to salary adjustments of some sort to equal \$1.45 million.

Mr. Snyder said that is correct.

Councilor Maestas said, "I guess maybe that's my point. I want to maybe generalize it a little more. That way we're a little more transparent with the public, and that we don't leave the \$400,000 discretionary like this year it's Merit Pay/COLA, after the Compensation Study what is it going to be. Is it still going to be dedicated to some form of salary adjustments. That's the only point that I'm making."

Mr. Snyder said that would be his recommendation. As we move forward with the Compensation and Classification Study and get information on that as well have conversations on a Merit Pay Pool and what a Merit Pay System looks and feels like, he thinks they are all intertwined. He reiterated his intention as contained in his Memo is that it be used for compensation. So the Merit Pool is a parking lot until we develop that system. But if the Merit Pool does not move forward, and the Compensation and Classification Study yields a deficiency across the Board somehow, the \$400,000 could be used toward funding as Councilor Maestas stated.

Councilor Maestas wants more discussion on that later.

Councilor Maestas asked the status of the Joint Governing Body with the County Commission.

Mr. Snyder said the agenda has not been set. The date has been set for June 14, 2017. He meets with the County Manager once a month and talks with her throughout the week as necessary. He said they have not started to discuss what will be on the agenda. He said the overall tenor of the meeting as requested by the County is to look at outstanding items, topics and issues that have been a problem in the past, or are current challenges. He sees the current GRT discussion at the County definitely could be a timely discussion between the City and County. It's an opportunity to discuss anything current as well as past items. As you all know we've been in mediation in a lot of areas, but there are still remaining topics that we could discuss from a policy level and then staff can move forward on things.

Mr. Snyder continued, saying he thinks one of his and Katherine's hopes is that as the conversation moves forward, we can move forward in certain conversation around, for example, behavioral health is one of the challenges in the community and that has been discussed by both governments. We can locate opportunities where we have the same challenges and look for common threads so both City and County Manager and staffs can move forward.

Councilor Maestas asked if there have been requests for feedback from Mr. Snyder and staff regarding the County's proposed expenditures of the GRT increase they're thinking about.

Mr. Snyder said he has had no specific conversations on the GRTs that have been discussed at the County Commission about how it will be spent. He said the County had a referendum in November where a capital investment was approved into a facility, but there were no associated operational dollars, so he and the County Manager talked about that generally, but not specifically to this GRT.

Councilor Maestas said he would reinforce Councilor Harris' remarks on the need for a debriefing on the Special Election. He said he has issues which may require policy changes. He said, for many of us were forced to rely on information that was being financed by one side, which he thinks is very dangerous. We need to rely on objective, independent information. In the future we need to insist that whatever data we review on which we base our decisions be independent and objective which he doesn't think happened.

Councilor Maestas introduced the following:

1. A Resolution amending Resolution No. 2010-64 regarding the Bicycle and Trail Advisory Committee to permit a resident of Santa Fe County to serve on the Committee. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "7."
2. A Resolution expressing the Governing Body's respectful request to the Santa Fe County Commission for a delay in action on their proposed County-wide Gross Receipts Tax increase, pending the outcome of the planned Joint City Council/County Commission in June 2017 to fully address the issue.

Councilor Trujillo

Councilor Trujillo said he received an email from Victor Lucero about the ball fields, and he is pleased with that. He said they did top dressing, because he received a lot of complaints from coaches and players. He remains concerned about the pocket gophers. He said the contractor sets 150 to 200 traps per day, and this is just in the playing fields at Ragle, but they haven't gotten to the outer perimeters of the park. He goes there all the time, and knows Mr. Lucero is trying. He said it looks like a million little land mines have exploded, and wants us to be aware that people are still using that field, and we have to be very aggressive with this.

Councilor Trujillo said we have been getting a lot of moisture and the weeds are growing, and he doesn't want the City to look like it did last year, so he is hoping we can attack those weeds in any way allowed under the IPM Ordinance.

Councilor Trujillo said on May 24, 2017, is opening day for Santa Fe Fuego, and he calls on his colleagues and the staff to attend the game, at 6:00 p.m.

Councilor Harris

Councilor Harris said he had a call from *The New Mexican* late yesterday and he responded to what the County Commission is considering regarding the GRT. He said we talked about this during the budget and we were given a pie chart about how the GRT is distributed. He said he used that information to actually calculate percentages which he passed on to the newspaper. He said he has been concerned about the lack of understanding about where tax money goes, who gets what portion of our GRTs. According to the chart, the City gets 32% of our 8.3125 cents, the County 19.5%, the State 48%. He said there is a greater misunderstanding on property taxes. Prior to the recent Bond Question which was approved, the City's take is about 9%. He wanted to think about how to correct the misunderstanding and better educate the public. He said the recent election compounded that. He said recently a statement was made in writing that the City increased electrical rates which isn't true. There was a lot of misinformation in some of what went out from the opponents of the tax. He said we need to have an honest discussion about what and how it is done.

Councilor Harris continued, saying he told the Reporter that as far as he knows, there was no discussion between the City and the County prior to the County's action and that was confirmed by Mr. Snyder that there was none at the staff level. He noted we sit with County Commissioners on SWMA and Buckman Direct Diversion and the subject never came up, and he assumes this was not discussed, noting he told him that was unfortunate. He also told him he doesn't want to pick a fight, but it does need to be talked about, commenting he knows the County doesn't want to pick a fight. He would like to think that we can agree prior to that. He said Councilor Maestas has introduced a Resolution which is fine, and we won't hear that until the Special Council Meeting on May 22, 2017. He would like for us to agree that we will have that discussion at the Joint meeting and the Resolution wouldn't have the effect if we can agree to it beforehand. He said we need an honest discussion about what this means, noting he asked a series of questions of Mr. Snyder he will put in writing, for example, he wants to see a schedule of the GRT increases and the property tax for the past 10 years. He is glad we're going to have this serious discussion, because there is a potential to increase the City's rate to 8.5%.

Mayor Pro-Tem Lindell

Mayor Pro-Tem Lindell, on behalf of Mayor Gonzales, introduced a Resolution adopting administrative procedures for Native American Arts or Crafts District. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "8."

Mayor Pro-Tem Lindell introduced the following:

1. A Resolution in support of National Gun Violence Awareness Day on June 2, 2017. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "9"
2. An Ordinance amending Subsection 14-6.3(B)(2)(c) SFCC 1987, to regulate parking or storage of specified noncommercial vehicles within residentially zoned districts.

Councilor Lindell asked to be added as a cosponsor of Councilor Maestas' Resolution on the GRT.

Councilor Dominguez

Councilor Dominguez asked to be added as a cosponsor of Councilor Maestas' Resolution on the GRT. He would like to invite the people from Smart Progress New Mexico, because they need to understand it as well, noting at the budget hearings, there was no one from the public representing any group including Smart Progress to better understand the realities of our budget.

Councilor Dominguez said he was asked by members of the Governing Body to look at the Children & Youth Commission, and he is working on a bill that is intended to make the Commission more efficient, to address specific concerns from Councilor Maestas and Mayor Pro-Tem Lindell. He is looking to become more efficient by combining Children & Youth, Human Services and Juvenile Justice and he is working on that right now. He said there potentially could be an early childhood or Pre-K component to it as well, noting we already are funding early childhood and Pre-K to some level.

Councilor Dominguez said he is working on the Alcohol Plan.

Councilor Maestas asked Councilor Dominguez to consider an assessment of Pre-K City-wide, what is the status right now City-wide.

Councilor Dominguez said he still is debating whether it is a Resolution directing staff to do something, or amending the Ordinance and be very clear about the expectations. He said there are fiscal implications and he is toying with the idea of increasing the allocation from the GRT, noting it doesn't increase taxes.

Councilor Dominguez said, regarding the Mayor's proposed salary, we need to figure out how that translates to part of the next FY budget, ensuring that is squared away. It depends on the Commission's recommendation.

Mr. Snyder said the budget currently has \$74,000 in it for the full year, depending on the Commission's decision.

Councilor Dominguez said it is important that the public knows that. He said we have budgeted a salary of \$74,000, but it depends on the Commission's final decision.

Councilor Villarreal

Councilor Villarreal said she concurs with Councilor Harris about confusion and misunderstanding about property taxes and GRTs. She challenged a reporter to write a story about the differences and where the revenue goes, noting we haven't raised property taxes in 10 years. In GRT, the breakdown would need clarity so people understand a large portion goes to the State, and what goes to the County and the City. It would be very helpful to understand that piece and how it plays into our budget.

Councilor Villarreal introduced a Resolution sponsoring the inaugural "Take A Kid For A Hike Day," a free community event, on June 17, 2017. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "10."

Councilor Villarreal asked to be added as a cosponsor of Mayor Pro-Tem Lindell's in support of National Gun Violence Awareness Day on June 2, 2017.

Councilor Villarreal reminded her colleagues and the public that Community Day on Saturday, 10:00 a.m. to 3:00 p.m. It is a good day to celebrate unity because that's what we really need right now.

Councilor Villarreal asked to be added as a cosponsor of Councilor Maestas' GRT Resolution.

Councilor Ives

Councilor Ives said he would join as cosponsor of Mayor Gonzales' Resolution, Councilor Villarreal's Resolution, Councilor Rivera's Resolution and Councilor Maestas' Resolution changing the makeup of the Bicycle and Trail Advisory Committee.

Councilor Rivera

Councilor Rivera introduced a Resolution proclaiming severe or extreme drought conditions may exist in the City of Santa Fe; imposing fire restrictions; restricting the sale or use of certain fireworks within the City of Santa Fe between June 6 and July 4, 2017; and prohibiting other fire hazard activities. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "11."

Councilor Rivera noted this has to be done every 30 days during the stated period by State law.

Councilor Maestas noted Councilor Rivera introduced a Resolution to delineate the responsibilities of the Mayor. He doesn't know if there will be a job description and asked how this factors into that, noting it is relevant to the Salary Commission discussions.

Councilor Rivera said he has had discussions with the City Manager and Human Resources Director who assured him they were moving forward with a job description to go the Commission and the Commission would base its decision off that. He did review the job description and is confident it would be sufficient for the Commission to help with its work. He assumes the jobs descriptions for the Mayor, City Manager and Deputy City Manager, will come forth with any recommended Mayor's salary.

Mr. Snyder said Ms. Trujillo took the lead and is the liaison for that Task Force, and were given the 3 job descriptions, but is unsure how, or if they were utilized. They also were given other data from surrounding areas, including the BBER for Albuquerque's Mayor.

Mayor Pro-Tem Lindell said it's terrific to make a job description of Mayor, but doesn't know what it means – do they have to have a degree in Public Administration. She said it is a public elected official and doesn't know that there is such a thing as a job description for City Councilor or Mayor. She said it is so misunderstood in the public right now and people think the Council or the Mayor sets the salary. She said this Commission sets the salary. The City Council does not vote on it, we do not put our fingers on that. She spoke with people today that are pretty in touch about this community who asked her if she was going to vote for that, and she told him she doesn't vote on this. It was set by the Charter vote in 2014.

Councilor Dominguez agrees, but there still has to be an appropriation by the Governing Body. This in many ways is still a moving target because there is a salary, a job description, organization that has to be done, budgetary impacts and all kinds of overlap.

Mayor Pro-Tem Lindell said she understands, she is just commenting that she thinks the public is very unclear about this process. She would hope we would try either through Matt Ross or somehow to get information to the public that this will not be voted on by this Council.

I. ADJOURN

There was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 10:30 p.m.


Approved by:

Mayor Javier M. Gonzales

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:


Melessia Helberg, Council Stenographer

CITY COUNCIL MEETING
EXECUTIVE SESSION
April 26, 2017

The Governing Body of the City of Santa Fe met in an executive session duly called on April 26, 2017 beginning at 9:30 p.m.

The following was discussed:

In Accordance with the New Mexico Open Meetings Act NMSA 1978, §§10-15-1(H)(7) and (8), Discussion Regarding Threatened or Pending Litigation in which the City of Santa Fe is or May Become a Participant Including without Limitation Case No. 1:17-cv-00355, *CNSP D/B/A/ NMSURF v. The City of Santa Fe* and Litigation Concerning BDD Diversion Structure Issue; and Discussion of the Purchase, Acquisition, or Disposal of Real Property or Water Rights by the City of Santa Fe Including, without Limitation Proposed Lease of Office Space at 500 Market Street.

PRESENT

Mayor Gonzales
Councilor Harris
Councilor Ives
Councilor Lindell
Councilor Maestas
Councilor Rivera
Councilor Trujillo
Councilor Villarreal

ABSENT

Councilor Dominguez

STAFF PRESENT

Brian K. Snyder City Manager
Kelley A. Brennan, City Attorney
Yolanda Y. Vigil, City Clerk
Marcos Martinez, Assistant City Attorney
Matthew O'Reilly, Asset Development Director

There being no further business to discuss, the executive session adjourned at 10:16 p.m.

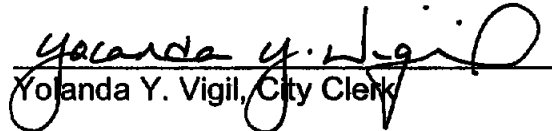

Yolanda Y. Vigil, City Clerk

Exhibit "1"



City of Santa Fe, New Mexico

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

www.santafenm.gov

Javier M. Gonzales, Mayor

Councilors:

Signe I. Lindell, Mayor Pro Tem, Dist. 1

Rence Villarreal, Dist. 1

Peter N. Ives, Dist. 2

Joseph M. Maestas, Dist. 2

Carmichael A. Dominguez, Dist. 3

Christopher M. Rivera, Dist. 3

Ronald S. Trujillo, Dist. 4

Mike Harris, Dist. 4

Memorandum

To: Members of the Governing Body

From: Theresa Gheen, Assistant City Attorney *TEG*

Via: Kelley Brennan, City Attorney *KAB*

Re: Case #2017-09. Appeal of the Historic Districts Review Board's Decision on January 24, 2017, Concerning the Proposed Remodel of the Residence at 547 Hillside Ave. (Formerly 538 ½ Hillside Ave.) in the Downtown and Eastside Historic District as Case #H-15-104. Arminda Diaz, Neighbor, Requests that the Governing Body Rescind the Board's Decision Which Allowed the Historic Preservation Division to Approve an Egress Window. (Theresa Gheen/David Rasch)

Date: May 1, 2017 for the May 10, 2017 Meeting of the Governing Body

I. THE APPEAL

On February 8, 2017, Arminda Diaz (Appellant), residing at 538 ½ Hillside Avenue, Unit D (also known as 549 Hillside Ave.), filed a Verified Appeal Petition (Petition) appealing the part of the January 24, 2017 Decision (the Decision) by the Historic Districts Review Board (Board) that allowed Historic Preservation Division (HPD) staff to approve Coyote Development Group LLC's (Applicant) first-floor window, identified as an "egress window", proposed in its application (Application) to remodel 547 Hillside Avenue (Property). Appellant also appeals HPD staff's Board Action Letter ("Action Letter") that reflects the Board's action. (Petition is marked as **Exhibit A**, pp. 8-36; Decision is marked as **Exhibit B**, pp. 37-39; the minutes of the September 22, 2016 hearing (Hearing) are marked as **Exhibit C.1**, pp. 40-49, the handout at the Hearing is marked as **Exhibit C.2**, p. 50-51, and corrections to the minutes are marked as **Exhibit C.3**, pp. 52-55; the staff report is marked as **Exhibit D**, beginning p. 56-91; Action Letter is marked as **Exhibit E**, p. 92; additional documentation from HPD is marked as **Exhibit F** p. 93-99; and additional submittals by Applicant and/or Appellant are marked as **Exhibit G**, p. 100 *et seq.*).

Exhibit "2"

II. HISTORY

1. The Property & Proposal for an "Egress Window"

The Property is a single-family, two-story house within the Plaza Walk Condominium ("Condominium"). The Condominium is comprised of three buildings. The Appellant owns Unit D, north of the Property, and has a "limited common element" (LCE). The Property is a two-story building consisting of Unit B, which in the most recent plat appears to have merged with Unit C. The third building, Unit A, is to the south. The Condominium owns the land on which all units are situated, including the LCEs. Each unit has LCEs dedicated to that unit's use. (See Ex. D, p. 79; Ex. G, last page)

The Applicant's Property is designated as non-contributing to the Downtown & Eastside Historic District. The Applicant desires to remodel and sell the Property.

At the January 10, 2017 Hearing, the Applicant presented its proposal to remodel the Property. The proposal included several remodel items, including among others, the removal of a 2nd-story, north-facing window, and the placement of a 1st-floor, north-facing window on the master suite façade. (See Ex. D, p. 60 (Item 3, 1st bullet), pp. 81, 85).

Only the master suite's north or west facades are physically available for a window. If a window were placed on the master suite's west side, it would be a basement window since the grade of the land begins at approximately six feet. (Ex. C.1, p. 48; Ex. D, p. 89) South of the master suite is the existing living room, and east of the master suite is infill. (Ex. D, p. 80, 89)

Fire and building code requirements regarding "egress" windows are outside the purview of the Board. The Board identified the master suite window as an "egress window" simply as a means of identification in the Hearing and Decision.

HPD staff recommended the Board approve the entire Application, as it found that it complied with the Overlay Zoning Historic District Design Code ("Design Code", SFCC 14-5.2), specifically, Subsections 14-5.2(D)(9) (General Design Standards for all H Districts) and 14-5.2(E) (Downtown and Eastside Design Standards).

The Applicant's prior remodel applications in 2016 were delayed due to incomplete information. Early on, the Appellant objected to the window. Since then, the Appellant constructed a gate which blocks entrance from the proposed north-facing window to the parking area. While a determination of a Code violation has not yet been considered by the Land Use Department, it was done without a building permit and without Board of staff approval.

As is customary, within a few days after the January 10, 2017 hearing, HPD staff issued a "Board Action Letter". (Exhibit E) On January 24, 2017, the Board approved its Decision.

¹ The "Existing North Elevation" drawing lacks the existing north-facing window on the 2nd story. (Ex. D, p. 85)

III. BASIS FOR APPEAL:

Code Subsection 14-3.17(A)(2) provides that “an [a]ppeal may only be filed for the following reasons:

- (a) the final action appealed from does not comply with Code Chapter 14 or §§3-21-1 through 3-21-14 NMSA² (the Statute);
- (b) Code Chapter 14 has not been applied properly; or
- (c) the decision appealed from is not supported by substantial evidence

IV. ISSUES

Claims: The Appellant claims that the Board’s Decision and the Action Letter were arbitrary and capricious, lacked substantial evidence, and were not in accordance with law, raising the following questions:

- (1) Whether the Action Letter is appealable.
- (2) Whether the Decision materially departs from the motion approved at the Hearing.
- (3) Whether the Decision to delegate approval of a north-facing window to HPD staff is supported by substantial evidence.
- (4) Whether the building code, fire code or private property issues are appealable.
- (5) Whether a north-facing window would be inconsistent or disharmonious with the Design Code.

V. RELIEF SOUGHT

The Appellant asks the Governing Body to grant her appeal, vacate the Board’s Decision and deny the Applicant’s proposal to construct a first-floor, north-facing window.

VI. ANALYSIS

Issue 1: Whether HPD staff’s Action Letter is appealable.

The Appellant makes several claims regarding the Action Letter. However, “[o]nly *final actions* may be appealed” and the Action Letter is not a “final action” under the Santa Fe City Code (SFCC or “Code”)³. SFCC 14-3.17(A)(1)(a). It is customary soon after Board hearings for HPD staff to issue, as a courtesy, an action letter to individual applicants to streamline the building permit application process. An action letter certifies the HPD’s understanding of the approved motion. Otherwise, applicants usually wait at least 2 weeks until the Board approves its written decision.

Conclusion to Issue 1: Since the Action Letter is not appealable, this claim should be dismissed.

² Section 3-21-8 B. NMSA 1978 provides in pertinent part: “Any aggrieved person...affected by a decision of an administrative...commission or committee in the enforcement of Sections 3-21-1 through 3-21-14 NMSA 1978 or ordinance, resolution, rule or regulation adopted pursuant to these sections may appeal to the zoning authority. ...”

³ “*Final actions* of the *land use director* include the written issuance or denial of a *permit* or other approval within the *land use director’s* jurisdiction.” SFCC §14-3.17(A)(1)(c).

Issue 2: Whether the Decision materially departs from the motion and discussion at the Hearing.

The Appellant argues that the Board's Decision to delegate approval authority to HPD staff for the north-facing window materially deviates from the approved motion at the Hearing and was disallowed by the Board Chair. The Appellant also appears to argue that the Decision's Conclusion of Law (COL) no. 2 is intended to prohibit HPD from approving the north-facing window. The Appellant lacks a reasonable basis to support any of these claims.

The approved motion states in its entirety:

Member Katz moved in Case #H-15-104, at 547 Hillside Avenue, to accept staff recommendations and approve the application with the exception of the egress window and simply not approve that part of the application and hope that it gets amicably resolved and Staff can approve it if it is substantially in line with what the Board is seeing. Member Boniface seconded the motion.

Member Biedscheid clarified that it is egress on the north elevation. Member Katz agreed and the motion passed by unanimous voice vote.

(Ex. C.1, p. 49). Similarly, the Decision's COL no. 2 states:

The Board unanimously approved the Application as recommended by staff, except for the egress window on the north elevation about which further discussion with the neighbor is encouraged and for which approval may be made by staff.

(Ex. B, p. 39) (Emphasis added) In the approved motion and Decision, the Board's delegation of authority to HPD staff to approve the window is clear and without room for ambiguity.

Appellant argues the Board Chair stated the window cannot be approved by the Board.⁴ However, even assuming the Board Chair intended Appellant's interpretation, such comments would not

⁴ The minutes state:

Chair Rios asked Mr. Clemens about moving the window to the west.

Mr. Clemens [representing the Applicant] said that was one of the questions his attorney had mentioned, as well. But because of the height of the grade of the road on that west side, it is really high. So, he asked if it would be acceptable for them to jump out of a window that they can climb up on top of to get out. It is six feet before it is at grade. So, it would have to be some type of basement window with removal of dirt for a person to actually get out. That would be the next option. But if Building or Zoning would approve it, it would be a different avenue to try.

Chair Rios felt that if the Board approves this project, all but that window could be approved until there is further discussion on that.

(Ex. C.1, p. 48) (Emphasis added) The CAO disagrees with the Appellant's interpretation of Chair Rios's comments. The context indicates that Chair Rios meant the Board could delay approval of the window, not that it could not approve the window at all.

invalidate or materially change the meaning of the approved motion or Decision to delegate its approval authority to HPD staff. The Board Chair did not even vote on the motion.

Conclusion for Issue 2: This claim does not fall within any of the three bases for appeal cited above and therefore may be dismissed. If this claim is decided on its merits, it is recommended that the Governing Body find that COL no. 2 is in accordance with the approved Board motion and is neither arbitrary nor capricious, and is in accordance with law.

Issue 3: Whether the building code, fire code or private property issues are ripe for appeal.

The Appellant raises a number of issues outside the scope of the Board's authority and irrelevant to the Decision. She alleges that the Decision violates the building and fire code and infringes on her private property rights. She also alleges that the plat in the HPD staff report was materially incorrect in that it didn't show that the proposed window borders her LCE, and is therefore grounds to reverse the Decision. The Appellant argues that the corrected plat she provides shows that the proposed window location would open onto her LCEs, which, she claims, necessitates an easement over Appellant's property for egress out a north-facing window. The Appellant attempts to use the lack of an easement as support for her claim that there is a lack of substantial evidence to support the Board's decision to delegate authority to approve the window.

All of these claims, even if true, are irrelevant to the Decision and are not ripe for appeal. The Board's authority is limited to design issues under Subsection 14-5.2. Building and fire code issues come to bear on the LUD's review of an application for a construction permit. Such a permit has not yet been issued, and, in fact, will *never* be issued by the Board. Building and fire code issues are irrelevant to the Board's Decision and outside its jurisdiction.

As for whether a north-facing window would interfere with the Appellant's use, enjoyment and market value of her property, issues regarding *private property rights* are also outside of the Board's purview and are similarly irrelevant to the Decision. (Indeed, deciding on property disputes between private individuals is outside the purview of the City as a whole, and would likely be dismissed if later appealed on these grounds.)

As is clear from the plain meaning of the approved motion and Decision, and contrary to the Appellant's assertion, the Decision did not require the Appellant and Applicant to agree on an easement. The Board "hoped" (approved motion) and "encouraged" (Decision) that the neighbors would further discuss and resolve their issue. One cannot reasonably interpret such language as a requirement to agree to an easement. Indeed, the Board lacks authority to require an easement, since such matters are outside the Board's jurisdiction.

Conclusion to Issue 3: Issues relating to building and fire code issues and private property rights should be dismissed by the Governing Body since these issues are outside the scope of the Decision being appealed, were not decided by the Board, are not within its jurisdiction, and therefore, there is no relevant final action to appeal. The Appellant lacks a basis to appeal these issues.

⁵ Within a condominium, a "limited common element" is property dedicated to the exclusive use of fewer than all condominium units, and is a subset of a condominium's "common elements." The "common elements" are all portions of condominium property other than the units. See NMSA 1978, §47-4A-3.

Issue 4: Whether the Decision to delegate approval of the north-facing window to HPD staff is supported by substantial evidence.

The Appellant argues that there is a lack of substantial evidence to support the Board's delegation of its authority to HPD staff to approve the window. (Ex. A, p. 13, ¶2) The Appellant attempts to support this argument by claiming an easement does not exist over her LCE. (She argues that lawful egress out of the window would require her permission via an easement to egress onto her LCE.) However, the Board's authority does not include requiring easements or resolving private property disputes. The Board's purview is limited to applying the Design Code (SFCC §14-5.2). Even assuming an easement is required under the building or fire code for "egress", the lack of an easement is irrelevant for the purposes of this appeal of the Board Decision.

A question remains as to whether there was otherwise substantial evidence to support the Decision. The "substantial evidence" standard does not require the Board to find a certain percentage of the evidence supports one side. It means that the Board must identify evidence that is particularly persuasive and is "such evidence as a reasonable mind might accept as adequate to support a conclusion." NM Human Services Dept. v. Garcia, 1980-NMSC-023, ¶5.

In this case, HPD staff recommended approval of the Application because it complied with design standards. The Board approved per staff recommendation, but delegated approval authority of the master suite window to HPD staff. The City Attorney's Office (CAO) believes there is sufficient information in the record for the Board's delegation of approval to HPD staff.

Conclusion to Issue 4: The CAO recommends the Governing Body find there was substantial evidence to support the Board's delegation of authority to approve the window.

Issue 5: Whether a north-facing window is inconsistent or disharmonious with the Design Code.

Lastly, the Appellant argues that a window on the master suite's north façade would violate the design standards of the Downtown and Eastside Historic District (D&E District) (SFCC 14-5.2(E)). Appellant claims that no surrounding homes have a north-facing window and therefore, it would be inconsistent with "historic architectural style." (Ex. A, p. 15) Appellant does not reference a particular part of the Design Code other than its general purposes⁶, stated in its entirety as follows:

(1) General Purpose

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, some of these qualities being:

⁶ Note: The Appellant incorrectly references her citation to the purpose of the Downtown and Eastside Historic District (§14.5.2(E)). That is incorrect. Her citation is to the general purpose of the Historic District Design Code (§14-5.2(A)(1)).

- (a) The continued existence and *preservation* of historical areas and *buildings*;
- (b) The continued construction of *buildings* in the historic styles; and
- (c) A general harmony as to style, form, color, height, proportion, texture and material between *buildings* of historic design and those of more modern design.

SFCC 14-5.2(A)(1). (Emphasis added)

Since there is no express prohibition of north-facing windows in the Design Code, it is within the Board's discretion to decide whether a proposed window is inconsistent or disharmonious. At the Hearing, the Board made no mention of potential disharmony, and the Board voted unanimously to delegate approval of the window to HPD staff.

It should be noted that the Appellant's assertion that nearby homes lack north-facing windows is factually incorrect. Among the three houses within the Condominium, two currently have north-facing windows – Unit A to the south, and the second story of Unit B on the Property. (Ex. F) The Applicant proposed to remove that second-story window and replace it with a wall, and to add a window on the north side of the first-floor. So, the implementation of the proposal is a net zero for north-facing windows.

Conclusion to Issue 5: It is up to the Governing Body in this *de novo* hearing to independently consider the evidence and decide, under Subsection 14-2.2(F), whether the Decision violates the design standards for the Downtown and Eastside Historic Districts, as set forth in 14-5.2(E). The Governing Body may affirm or concur with the Board's Decision to delegate HPD staff authority to approve of the proposed first-story "egress window", or it may vacate and conclude that the design is not in compliance with 14-5.2(E). It is the opinion of the CAO however, that a north-facing window is not prohibited by the Downtown and Eastside Historic District Design standards and that the Board did not err on that point.

VII. CONCLUSION

Option 1. The Governing Body may conclude that the Board decided in accordance with law, with substantial evidence and not arbitrarily or capriciously, or the Governing Body independently may concur with the Board's conclusions of law.

Proposed Motion: I move to deny the appeal and

- affirm the Board's decision, OR
- make separate findings of fact to support its conclusions of law.

Option 2. The Governing Body may conclude that the Board did not act in accordance with law, lacked substantial evidence, or acted arbitrarily or capriciously, or the Governing Body may independently decide to grant the appeal.

Proposed Motion: I move to vacate the Decision and:

- grant the appeal in part and remand to the Board for further action in accordance with the direction of the Governing Body, OR
- grant the appeal and reject the proposed north-facing window on the Property.



LUD Use Only

Time Filed: 9:50 AM

Fee paid: \$ 100

Receipt attached: ☒

(date stamp)

RECEIVED

FEB - 8 2017

Land Use Dept.

Case #2017-09

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: Diaz Arminda
Last First M.I.

Address: 5027 Almaden Dr. Los Angeles CA 90042
Street Address City State ZIP Code

Phone: (310) 995-1941 E-mail Address: arminda.diaz@mc.com

Additional Appellant Names: _____

Correspondence Directed to: ☒ Appellant ☐ Agent ☐ Both

Agent Authorization (If applicable)

I/We: _____

authorize _____ to act as my/our agent to execute this application.

Signed: _____ Date: _____

Signed: _____ Date: _____

Subject of Appeal

Project Name: 547 Hillside Avenue

Applicant or Owner Name: Coyote Development Group LLC

Location of Subject Site: 547 Hillside Avenue

Case Number: H-15-104 Permit Number (if applicable): _____

Final Action Appealed:

☐ Issuance of Building Permit ☒ Other Final Determination of LUD Director

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

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

A person who has recognized legal interest

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: _____

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

EXHIBIT

A

Description of Harm

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

See attached

Explain the Basis for Appeal

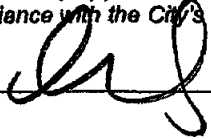
Please detail the basis for Appeal here (be specific):

See attached

Signature and Verification

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

Appellant Signature:



Date:

02 07 17

Agent Signature:

Date:

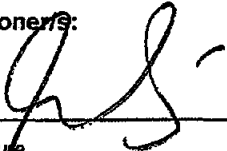
State of New Mexico)

) ss.

County of Santa Fe)

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

Petitioner/s:



Signature

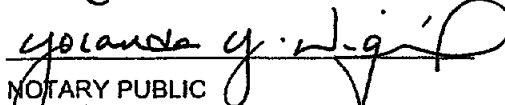
Signature

ARZMINDA DIAZ

Print Name

Print Name

Subscribed and sworn to before me this 7th day of February, 20 17 by Arzminda C. Diaz.



NOTARY PUBLIC

My commission expires:

7-24-18

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

=====

Misc GL		
	1x	100.00 100.00

GL Number: 11001.431470...

Payer Name: ARMINDA DIAZ

=====

SubTotal:	100.00
Total:	100.00

=====

CH Visa Card
7000.101551 100.00
Number : *****5674
Date : 05/19

02/08/2017 09:49 ChristIM
#0434706 /3/1
***** DUPLICATE #001 *****

02/08/2017 09:50 ChristIM
Thank You ~

RE: Case No. H-15-104 (547 Hillside Avenue)

Dear Honorable Mayor and Councilmembers,

I respectfully ask that you review, consider and support my appeal of the Historic Districts Review Board's approval of Case No. H-15-104 (547 Hillside Avenue), which would potentially permit the placement of an "egress window" that opens into my courtyard (hereafter referred to as a Limited Common Element, or "LCE"). My appeal is based upon the following: 1) the "Board Action" letter (Approval Letter) (see Exhibit A) and Findings of Facts and Conclusions of Law (FFCL) (see Exhibit B) incorrectly interprets the action of the Historic Districts Design Board (HDRB) as shown in the January 10, 2017 HDRB Meeting Minutes (see Exhibit C); 2) the action of the HDRB was based on substantially inaccurate information; 3) the Approval Letter would directly affect my property both with regard to my use and enjoyment of my property as well as the future value of my property, by imposing, without covenant, an egress easement into my LCE; and 4) the Approval Letter would result in a design inconsistent with the recognized architectural style of the Downtown and Eastside Historic District.

Background

The proposed project attempts, in part, to bring into compliance an existing, partially subterranean addition that was illegally constructed, which enclosed a Limited Common Element that had been allocated to "Unit B". This is evidenced by: (1) comparing the Second Amended Plat (which was out of date and provided incorrect information, but attached to the application for Case No. H-15-104), with the Third Amended Plat (which our representative presented to the HDRB at their January 10, 2017 hearing); and (2) a review of the permitting at the time construction occurred (none existed). The addition was constructed upon, and abuts, the Limited Common Element line, which is the lot line. The proposed project also intends to convert the existing space to a bedroom.

On October 28, 2015, the applicant (Coyote Development Group, LLC.) applied to the Historic Preservation Division (HPD) for review of the proposed project.

The project was initially scheduled for a public hearing by the HDRB on November 24, 2015. However, the hearing was postponed due to an error—the address misidentified for the subject property. The project was then scheduled for two subsequent public hearings in January and June of 2016, but was continued by the HDRB both times because the application was incomplete.

On January 10, 2017, the project was presented to the HDRB who conditionally approved the project, as shown in the January 10, 2017 HDRB Meeting Minutes.

Appeal

The Approval Letter and Findings of Fact and Conclusions of Law incorrectly interprets the action of the HDRB as shown in the HDRB Meeting Minutes

As indicated in the HDRB Meeting Minutes, "Member Katz moved to accept staff recommendations and approve the application **with the exception of the egress window and simply not approve that part of the application** (emphasis added) and hope that it gets amicably resolved and Staff can approve it if it is substantially in line with what the Board is seeing." Member Biedscheid clarified that it is the egress on the north elevation, which is the window central to this appeal. The motion was passed unanimously.

Following the HDRB's action the HPD issued the Approval Letter which states that "[t]he decision of the Board was to approve the application as submitted with the condition that the location of the master bedroom egress window be approved by staff, on the north or west elevation, before a construction permit application is submitted." **The record is clear—the HDRB did not approve the egress window.**

The HDRB Meeting Minutes further clarify the intent of the HDRB.

HPD staff acknowledged that the proposed project would require an egress window for the proposed bedroom that "is necessary under fire code and [that] **the current deed does provide some obstruction to that.**" (emphasis added) Staff went on to say that, "after this design is approved, the applicant can move forward to determine how that egress is going to work." Staff concluded that "[t]he only other viable option that doesn't seem possible, given [the applicant's] testimony, is to move the egress window to the west elevation and, if possible, Staff could give administrative approval for that, should that be a requirement."

The applicant, in response, indicated that he was not sure if an egress window at the west elevation, which would be in the form of a window well, would meet fire code, but ended his response by saying, "...if Building or Zoning would approve it, it would be a different avenue to try."

Chair Rios immediately followed the applicant's comment by indicating that "if the Board approves this project, **all but the window could be approved** until there is further discussion on that." (emphasis added)

The motion of the HDRB is clear and without room for interpretation.

The HDRB clearly did not approve the window along the north elevation. The motion was "to accept staff recommendations and approve the application **with the exception of the egress window and simply not approve that part of the application.**" (emphasis added) This is further supported by Chair Rios' statement that "if the Board approves this project, **all but the window could be approved.**" (emphasis added)

Also, the second half of the motion is consistent with the suggestion made by HPD staff's suggestion that "[t]he only other viable option... is to move the egress window to the west elevation and, if possible, Staff could give administrative approval for that, should that be a requirement." In light of the previous paragraph above, and the clear disapproval of the egress window on the north elevation, the motion made by the HDRB grants staff the authority to only administratively approve an egress window along the west elevation, unless there was an agreement between the applicant and myself whereby I (and only I) granted an easement and proof of such was presented to the Staff. Any interpretation that the HDRB in fact did, or even intended, to grant staff the authority to approve an egress window on the north elevation, without proof of an easement being presented, would completely contradict the clear and unambiguous disapproval of such an egress window.

Therefore, that portion of the Approval Letter issued by the HPD, now the Final Action, and the FFCL which interprets the HDRB's decision to grant Staff the authority to approve an egress window on the north elevation, without proof of the grant of an easement by myself, lacks substantial evidence to support it. I respectfully ask that the Mayor and City Council modify the Final Action by clarifying the potential apparent authority of Staff to approve an egress window on the north elevation, without proof that an easement has been granted. To be clear, there has been no grant of easement that would permit legal egress through my LCE which is required by the Condominium Act, NMSA 1978, Section 47-7B-8.

Lastly, as a licensed Architecture in both California and New Mexico I am well-aware of the fire codes. In response to the applicant's concern that a window well at the west elevation would not meet fire code, I have reviewed the plans and provided drawings and have concluded that a window well on the west elevation could be code-compliant.

The action of the HDRB was based on substantially inaccurate information.

Plat Map

The applicant submitted and the City staff accepted an outdated survey and Plat Map that grossly misrepresent the existing conditions. Specifically, the survey and Plat Map found in the submittal documents and the Staff Report are dated 2004 (see Exhibit D) and do not include the unpermitted addition that is part of the instant application. Instead, the 2011 "Third Amended" Plat Map (see Exhibit E) is Plat Map of record and includes the unpermitted addition that is part of the instant application.

The use of the 2004 Map and its misrepresentation of the existing conditions can lead one to believe that the proposed window at issue is, in fact, not situated directly on the lot line, but instead located 10s of feet away from the lot line. This misrepresentation has not only aesthetic implications (the window being less than 20 feet from my front door), more importantly, it is fraught with legal implications in terms fire/life safety and fire code compliance and a taking of my property.

As it pertains to the later, if the City were to approve the conversion of the unpermitted addition it must do so in compliance with applicable building code provisions, including the fire code. The City of Santa Fe has adopted the 2011 International Building Code which provides "[w]here basements contain one or more sleeping rooms, emergency escape and rescue openings shall be required in each sleeping room... Such openings shall open directly into a public way or to a yard or court that opens to a public way." The proposed window does not open onto a public way (or onto a yard or court leading to a public way). It opens onto a courtyard that is reserved for my exclusive use (a Limited Common Element, or "LCE"), which no easement has been granted to the applicant, and which does not provide the required egress path of travel to a public way.

The HDRB cannot approve an egress window without legal egress. I own the Limited Common Element across which an easement is required, and I have not granted an easement. The Condominium Act requires consent of the Unit Owner who owns the Limited Common Element before the allocation of a Limited Common Element may be altered, because such would affect her property rights in the Limited Common Element. See NMSA 1978, § 47-7B-8(A) (1983) ("That allocation shall not be altered without the consent of the unit owners whose units are affected.")

If the City approves the egress window on the north elevation without proof of an easement, such could be interpreted to be an unconstitutional act in violation of Article IX, Section 14 of the New Mexico Constitution ("Neither the state nor any county, school district or municipality, except as otherwise provided in this constitution, shall directly or indirectly lend or pledge its credit *or make any donation to or in aid of any person....*") (*emphasis added*). In essence, the City would be approving a window which takes away a private property right from me regarding my exclusive use of her Limited Common Element and granting, or donating, a limited easement so that Unit B could be compliant with public, municipal codes, to the applicant.

Given the above, should the City approve the conversion of the unpermitted addition, it would do so knowing that the proposed egress was not in compliance with the applicable building code and would be liable for any damages or injuries that may occur as a result.

Effect on my property - use and enjoyment and future value

In approving a window along the northern unit boundary, the City, in effect, will be granting an easement to Unit "B" across my LCE. Pursuant to Section 47-7B-14 of the New Mexico Statutes Annotated 1978 "[t]o the extent that any unit or common element encroaches on any other unit or common element, a valid easement for the encroachment exists." Therefore, if the City were to approve the egress window on the basis that an egress path of travel was provided across my LCE it can only be construed that Unit B encroaches onto my LCE and as such a valid easement for the encroachment exists. The City does not have the authority to grant such an easement, nor has such easement been granted.

If Unit B had such an easement across my LCE, it would reduce my use and enjoyment of the LCE and ultimately the future value of my property. I would be prohibited from altering or using that portion of my LCE in a manner that would result in an obstruction for Unit B's egress, including new landscaping or installation of certain outdoor amenities, such as a fire pit. In fact, any obstruction, such as a chair, a table, a barbeque, etc. (common items found in any courtyard), located on such an easement could be construed as creating an obstruction, leaving me vulnerable to civil and potentially criminal liability.

Along those lines, these new liabilities that would be imposed upon myself or any future owner of the property would likely diminish the property value and would certainly increase the cost of any insurance policy.

Design inconsistent with purpose of the Downtown and Eastside Historic District

In establishing Historic Districts throughout the city, the City Council and Mayor "deemed it essential...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..." (Section 14-5.2 of the Santa Fe Land Development Code) The Land Development Code further explains these qualities as: a) the continued existence and preservation of historical areas and buildings; b) the continued construction of buildings in the historic styles; and a) general harmony as to style, form, color, height, proportion, texture and material between buildings of historic design and those of more modern design.

The inclusion of a window along the north elevation is inconsistent and not in harmony with the historic architectural style of the surrounding homes. Specifically, windows are typically placed along the southern and western elevations allowing for solar heating and cooling. Currently no windows exist on the northern elevation, consistent with the historic architectural style.

In addition, as suggested, the applicant could include an egress window along the western elevation. This egress window would not be visible a public right-of-way and would therefore not conflict with any of the provisions of the Downtown and Eastside Historic District.

Given that the window along the north elevation is inconsistent and not in harmony with the historic architectural style of the surrounding homes, and that there is another alternative, a window along the western elevation which does not conflict with the Downtown and Eastside Historic District, I request that the only window that may be permitted by Staff, absent my consent to an easement across my LCE, be along the western elevation.

Conclusion

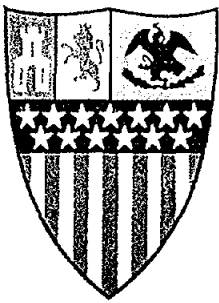
I hereby request that the Mayor and City Council grant my appeal and thereby modify the Board Action to expressly prohibit any window along the north elevation unless such a window has been agreed to by myself and the applicant (in written) and for which an easement has been granted to allow access from the egress window to the public right-of-way.

Thank you for your time and consideration,

Arminda Díaz

Exhibit A

“Board Action” Letter (Approval Letter)



City of Santa Fe, New Mexico

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

www.santafenm.gov

Javier M. Gonzales, Mayor

Council

Signe I. Lindell, Mayor Pro Tem, Dist. 1

Renee Villarreal, Dist. 1

Peter N. Ives, Dist. 2

Joseph M. Maestas, Dist. 2

Carmichael A. Dominguez, Dist. 3

Chris Rivera, Dist. 3

Ronald S. Trujillo, Dist. 4

Mike Harris, Dist. 4

Project description: John Clemens, agent for Coyote Development Group LLC, owners, proposes to replace a portal and windows, construct a 36 sq. ft. addition and re-stucco on a non-contributing residential structure.

Case number: H-15-104

Project Type: HDRB

PROJECT LOCATION(S): 547 Hillside Avenue

PROJECT NAMES:

OW – John Clemens
Santa Fe NM 87501

228 S. St. Francis
505-8200-7000

AP – John Clemens
Santa Fe NM 87501

228 S. St. Francis
505-8200-7000

BOARD ACTION

This is to certify that the Historic Districts Review Board (HDRB) acted on your request at their hearing on January 10, 2017. The decision of the Board was to approve the application as submitted with the condition that the location of the master bedroom egress window be approved by staff, on the north or west elevation, before a construction permit application is submitted. For further information please call 955-6605.

Sincerely,

Nicole Ramirez Thomas
Planner Senior, Historic Preservation Division

NOTE: Applicant can use this action letter to apply for construction permit, but the permit shall not be released until the end of the appeal period which starts on the date of filing of the Findings and Conclusions in the City Clerk's office (SFCC 14-3.17(D)). Your permit will be denied if any changes on plans that were not approved by the HDRB or if conditions of approval are not met. Please attach copies of this letter to all sets when submitting for construction permits.

Exhibit B

Findings of Facts and Conclusions of Law

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

Case #H-15-104

Address – 547 Hillside Avenue

Agent's Name – John Clemens

Owner/Applicant's Name – Coyote Development Group LLC

THIS MATTER came before the Historic Districts Review Board (“Board”) for hearing on January 10, 2017.

547 Hillside Avenue (formerly 438 ½ Hillside Avenue) is a residential structure designated as noncontributing to the Downtown and Eastside Historic District. The house was constructed in 1945 in the vernacular style (Spanish Revival elements) with the western portion of the house at two stories and the eastern portion of the house at one story. Exposed vigas and river rock stone, on the west and south elevations, are the defining characteristics of the home. This case came before the Board in January 2016 and in June 2016 and was postponed by the Board both times due to incompleteness of the application. The Applicant proposes to remodel the property with the following 7 Items, but the exposed rock character of the house will be unchanged:

- 1) Addition of a 36 sq. ft. mechanical room to the east elevation of the second floor of the residence. A 4'-0" x 6'-0" door will be added to the mechanical room which will open on the exterior of the home.
- 2) Removal of existing 138 sq. ft. entrance portal on the west elevation and construction of a 30 sq. ft. portal in its place. The remaining portal square footage will be used to construct a 108 sq. ft. entryway into the house. The area above the constructed entry will be enclosed on the second story.
- 3) Replacement of 17 non-divided lite windows with Pella true divided lite windows in the color “Turquoise.” Windows openings will change and be recessed 4” and bullnosed.
 - A window will be added where one does not exist on the north elevation. The window on the north elevation will be double hung and installed in a manner that prevents it from encroaching on the neighboring condominium.
 - Window dimensions and locations will change on the south elevation. The front door on the south elevation will be reoriented to face west.
 - A window will be added to the first story of the west elevation. A window will be placed at the second story mechanical room addition.
 - The east elevation will have a door at the mechanical room addition, a door under the portal, and a window; dimensions will change.
- 4) Refurbish existing wood deck and replace hand railing in-kind with a wood railing. The length of the set of stairs will be shortened.
- 5) Placement of an air conditioning condenser on the east side of the home.
- 6) Corbels will be added to the north elevation along the posts of the portal. Corbels are also noted on the south elevation at the portal.
- 7) Restucco of the residence in cementitious El Rey “La Morena.”

FINDINGS OF FACT

1. After conducting public hearings and having heard from the Applicant and all interested persons, the Board hereby FINDS, as follows:
2. Zoning staff determined that the Application meets underlying zoning standards.
3. Staff Recommendation: Staff recommended approval of the application in that it complies with SFCC 14-5.2(D)(9) General Design Standards for All H Districts Height, Pitch, Scale and Massing and 14-5.2(E) Downtown and Eastside.
4. The project is, without limitation, subject to requirements of the following sections of the Santa Fe Land Development Code:
X Section 14-5.2(D)(9) General Design Standards, Height Pitch Scale and Massing (of any structure).
5. The property is located in the following district and subject to the related sections of the Santa Fe Land Development Code:
X Downtown and Eastside Historic District (Section 14-5.2(E))
6. An Exception Request was not applicable to this Application.
7. At the public hearing, an agent for a neighbor of the Applicant argued that the window was intrusive and illegal on the basis of it not meeting building code requirements of an easement to a public way and it is a window on a lot line.
8. The Applicant's property and the neighbor's property are both within the same condominium, so there is not a lot line separating them.
9. An attorney for the neighbor claimed the egress window would open to the neighbor's limited common element and urged that the Applicant and the neighbor continue to negotiate a plan to accommodate both parties.
10. Egress issues are building and fire code issues, not issues within the jurisdiction of the Historic District Review Board.
11. Under Sections 14-2.6(C), 14-2.7(C)(2), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f) and 14-5.2(C)(3)(b), 14-5.2(C)(3)(a) and Section 14-5.2(D) the Board has authority to review, approve, with or without conditions, or deny, all or some of the Applicant's proposed design to assure overall compliance with applicable design standards.
12. Under Section 14-5.2(C)(3)(b), the Board has the authority to approve an application for alteration or new construction on the condition that changes relating to exterior appearance recommended by the Board be made in the proposed work, and no permit is to issue until new exhibits, satisfactory to the Board, have been submitted.
13. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review have been met.
14. The information contained in the Application, and provided in testimony and evidence establishes that all applicable design standards for Board approval as herein described have been met.

CONCLUSIONS OF LAW

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

1. The Board has the authority to review and approve the Application.

2. The Board unanimously approved the Application as recommended by staff, except for the egress window on the north elevation about which further discussion with the neighbor is encouraged and for which approval may be made by staff.

IT IS SO ORDERED ON THIS 24th DAY OF JANUARY 2017, THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.

Cecilia Rios
Chairperson

24 January 2017
Date:

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

1/31/17
Date:

APPROVED AS TO FORM
Mary
Assistant City Attorney

1/24/2017
Date:

Exhibit C

January 10, 2017

HDRB Meeting Minutes

(pages 5-11)

SUMMARY INDEX
HISTORIC DISTRICTS REVIEW BOARD
January 10, 2017

<u>ITEM</u>	<u>ACTION TAKEN</u>	<u>PAGE(S)</u>
B. Roll Call	Quorum Present	1
C. Approval of Agenda	Approved as amended	2
D. Approval of Minutes December 13, 2016	Approved as amended	2
E. Findings of Fact & Conclusions of Law	Approved as presented	2-3
F. Business from the Floor	Comments	3-4
G. Communications	Comments	4
H. Action Items		
1. <u>Case #H-15-104</u> 547 Hillside Avenue	Partially approved	5-10
2. <u>Case #H-08-054</u> 530 Camino del Monte Sol	Approved with conditions	10-26
3. <u>Case #H-16-100B</u> 1039 Camino San Acacio	Approved with conditions	26-32
4. <u>Case #H-16-103A</u> 503 Apodaca Hill	Designated noncontributing	32-34
5. <u>Case #H-13-023</u> 739 Acequia Madre	Approved as recommended	34-35
6. <u>Case #H-16-105A</u> 1066 Camino San Acacio	Designated noncontributing	35-38
7. <u>Case #H-16-106A</u> 418 Apodaca Hill	Postponed	38
8. <u>Case #H-16-107</u> 119 East Buena Vista Street	Approved as presented	38-41
9. <u>Case #H16-108</u> 510 Halona Street	Denied	41-48
10. <u>Case #H-16-104</u> 621 Halona Street	Approved as presented	48-51
11. <u>Case #H-16-110</u> 486 Camino Don Miguel	Postponed with directions	51-56
I. Matters from the Board	None	56
J. Adjournment	Adjourned at 9:35 p.m.	56

MINUTES OF THE
CITY OF SANTA FE
HISTORIC DISTRICTS REVIEW BOARD

December 13, 2016

A. CALL TO ORDER

A regular meeting of the City of Santa Fé Historic Districts Review Board was called to order by Ms. Cecilia Rios, Chair, on the above date at approximately 5:30 p.m. in the City Council Chambers, 200 Lincoln Avenue, 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. Jennifer Biedscheid
Ms. Meghan Bayer
Mr. Edmund Boniface

MEMBERS EXCUSED:

Mr. William Powell
Mr. Buddy Roybal

OTHERS PRESENT:

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

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

A moment of silence was observed in memory of Deborah Shapiro.

Shrine rectory and office structure at Our Lady of Guadalupe church.

Mr. Rasch was excited to announce that Santa Fe is one of three finalists for the National Geographic Society for "Sense of Place" in an international competition. He explained that there are five categories in the World Legacy Awards with 15 finalists and only two are in the USA and the other is Jackson Hole in a different category. Santa Fe Historic Preservation Division is a main partner in this nomination. The other two finalists in this category are an Inuit community in Alaska for training native citizens on traditional boat making and the other is in Peru where women and children will be trained in native crafts to help get out of poverty. The ceremony is March 8 in Berlin, Germany. It is rare that Santa Fe has gotten this far.

H. ACTION ITEMS

Chair Rios informed the public regarding the appeal procedures and limited public comment time.

1. **Case #H-15-104. 547 Hillside Avenue.** Downtown & Eastside Historic District. John Clemens, agent for Coyote Development Group LLC, owners, proposes to replace a portal and windows, construct a 36 sq. ft. addition and re-stucco on a non-contributing residential structure. (Nicole Ramirez Thomas)

Ms. Ramirez Thomas presented the Staff Report as follows:

BACKGROUND & SUMMARY:

547 Hillside Avenue (formerly 438 ½ Hillside Avenue) is a residential structure that is designated as noncontributing to the Downtown and Eastside Historic District. The house was constructed in 1945 in the vernacular style (Spanish Revival elements) with the western portion of the house at two stories and the eastern portion of the house at one story. Exposed vigas and river rock stone, on the west and south elevations, are the defining characteristics of the home. This case came before the Board in January 2016 and again in June 2016 and was postponed by the Board both times due to incompleteness of the application.

The applicant proposes to remodel the property with the following 7 items.

- 1) Addition of a 36 sq. ft. mechanical room to the east elevation of the second floor of the residence. A 4'-0" x 6'-0" door will be added to the mechanical room which will open on the exterior of the home.
- 2) Removal of existing 138 sq. ft. entrance portal on the west elevation and construction of a 30 sq. ft. portal in its place. The remaining portal square footage will be used to construct a 108 sq. ft. entryway into the house. The area above the constructed entry will be enclosed on the second story.

- 3) Replacement of 17 non-divided lite windows with Pella true divided lite windows in the color "Turquoise." Windows openings will change and be recessed 4" and bullnosed.
 - A window will be added where one does not exist on the north elevation. The window on the north elevation will be double hung and installed in a manner that prevents it from encroaching on the neighboring condominium.
 - Window dimensions and locations will change on the south elevation. The front door on the south elevation will be reoriented to face west.
 - A window will be added to the first story of the west elevation. A window will be placed at the second story mechanical room addition.
 - The east elevation will have a door at the mechanical room addition, a door under the portal, and a window; dimensions will change.
- 4) Refurbish existing wood deck and replace hand railing in-kind with a wood railing. The length of the set of stairs will be shortened.
- 5) Placement of an air conditioning condenser on the east side of the home.
- 6) Corbels will be added to the north elevation along the posts of the portal. Corbels are also noted on the south elevation at the portal.
- 7) Restucco of the residence in cementitious El Rey "La Morena."
- 8) The exposed rock character of the house will be unchanged.

STAFF RECOMMENDATION:

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

Questions to Staff

There were no questions to Staff.

Applicant's Presentation

Mr. John Clemens, 228 St. Francis Drive, was sworn. He said the footprint is kept except they will square off the portal and the mechanical door will be seen. The height is the same. The window placement is changing slightly and they are using true divided light windows.

Chair Rios believed this is an improvement.

Questions to the Applicant

Chair Rios asked if there would be any rooftop equipment.

Mr. Clemens said no.

Member Boniface noted the application said there would be a 36-square foot mechanical room to the east elevation of the second floor. On page 32 in the packet, he asked if the mechanical room was in the lower, right-hand corner.

Mr. Clemens agreed - the one with double doors.

Member Boniface said on the floor plan, it looks like a bathroom and it is on the south side.

Mr. Clemens said it is on the east side. The mechanical room is on the right side of the page. He pointed it out on the displayed floor plan.

Member Boniface asked what is on the lower left side.

Mr. Clemens said it is the entry portal.

Member Biedscheid said on the proposed east elevation, it appears there is a different texture on the walls under the portal.

Mr. Clemens explained that the stucco is the same but one elevation is with the railing and one is without the railing.

Public Comment

Mr. Greg Allegretti, 1925 Aspen Drive, Suite 802B, was sworn and said he had four points to make. His client is Ms. Diaz who owns the adjacent property and enjoys a private courtyard where at least one window is proposed that is highly intrusive on her privacy and is illegal for two reasons: it doesn't meet building code because it is a means of egress and there is no easement there leading to a public way which is required for egress windows. Also, it does not meet code and notwithstanding advice to the contrary which might have come even from the City Attorney's office. A window on a lot line is specifically prohibited in the code. A window on a lot line is not permitted at all.

He asked how the applicant propose to install the windows. The applicant has no permission to come onto his client's property to install or repair such a window. There are easily accommodated ways to solve their problem with egress by having a window on another elevation and there are provisions in the code to

do that but the applicant has refused to do that. "It is just a thoughtless and intrusive project ... and I'm appalled by it."

Chair Rios asked what elevation he was talking about with the window.

Mr. Allegretti said it is the north elevation. There is a sunken courtyard next to it.

Chair Rios asked the applicant to respond.

Mr. Clemens said this is a condo so the lot line is not there. The lot line is huge. It is like .4 acre, so that is not the lot line. There is nothing in any code or condo docs that say you cannot look into a neighbor's courtyard. He offered a frosted glass double-hung window so it would not protrude out. He said they tried to do everything to accommodate her. "The neighbors look into our courtyard. Our upstairs looks into their courtyard. Everybody looks into other courtyards because it is a condo. There are three different units in that condo. There is no way to not put a window there. The grade of the dirt, because it is sunken down next to us - that's the only place we could have egress. Otherwise, up on the street side, it is eight feet high. So, it is actually underground where that is. There is no other place for a window unless we did like a basement window to the front street; and it probably wouldn't be very nice and appealing for historic."

He said, "The other thing is, the neighbor has decided to make herself do whatever she wants to do. She put a gate, right now, that was red tagged by the City."

Chair Rios stopped him to say that was not part of this case.

Mr. Clemens said "We have done everything we can to try to come to an agreement that would work to be able to have egress for that downstairs area. And that's the only way that we can have egress is one window, frosted, non-intrusive to her courtyard."

Chair Rios asked if he would have plenty of room to stucco.

Mr. Clemens said they could stucco. "Obviously, we would get permission to get on that side of the wall. Otherwise, we would hang down the side and do it or something so we could not set foot on her limited common area. However, right in front of that is our common area and our parking area is adjacent where she has blocked us in. And we would be able to stucco that obviously with her permission to make sure we could do it. But she did paint it gray, which is our wall that she already painted gray. So, it is not meeting historic standards by any means right now. She painted it gray to match her house."

Mr. Brian Parish, 204 Maynard Street, was sworn, who said he represented Ms. Diaz from the Sommer Udall Law Firm. He said, "We object to the placement of the window because the egress would be into the limited common area with Ms. Diaz, the way it is placed. We have been trying to work out negotiations. We just ask the Board not to go forward with this until we have the opportunity to try and work some plan out to accommodate both parties."

He referred to the plat on page 22 and pointed out that it is an old plat and incorrect. It doesn't show the exterior walls correctly. He had a copy of the correct plat with him and provided copies for the Board. A copy is attached to these minutes as Exhibit 1. He pointed the area in yellow that leads into the common area of Ms. Diaz's unit.

Chair Rios asked for comment from Ms. Gheen.

Ms. Gheen said this came up a couple of months ago and they decided on a policy that the condo association give prior approval that they would agree to this. In this case, the Architectural Committee has given prior approval of the design, shown on page 21 in the packet. The final sentence says, "We reserve any issues of drainage because structural quality is for building permit review. "So, it does indicate that the condominium association [unintelligible] final approval on the egress issue and has given approval on the design. The letter seems to indicate that they probably would actually give approval on the final. Of course, they reserve the right to bring something up. Egress is not an issue under the jurisdiction of the Historic Districts Review Board according to Chapter 14. I believe it is actually a building and fire code issue. It is not even a zoning issue. So, if there is an egress issue, it probably would be worked out at the building permit stage. Again, if there is an internal conflict regarding whether the condominium association would agree to it or not, that's really a decision that the condominium association would make and is really not our position to read the mind of the condominium association or overstep our jurisdiction over the private matter."

Chair Rios asked if she was saying the Board could go forward with the window as proposed.

Ms. Gheen agreed. The Board's purview is 14-5.2 in the code which is the design code.

Chair Rios surmised that if there are any problems down the road, the building permit would not be issued.

Ms. Gheen agreed, if there were issues with the requirements for a building permit to be issued.

Member Biedscheid asked if she said it is Land Use that gives approval prior to coming here and if so, she asked if this letter is sufficient.

Ms. Gheen said the association is only three condos. She believed the architectural design committee is just the same as the condo board.

Mr. Parish said that is why it is in conflict. It has been difficult to get the parties to negotiate.

Mr. John Eddy, 227 East Palace, was sworn. He said he was confused about the preservation of the vernacular stone work. He saw in one place in the packet that the stonework would be protected and at another place that it will be removed. He urged the Board to clarify that issue. Vernacular stonework is an important part of our historic preservation.

Ms. Ramirez Thomas said the building is noncontributing and the applicant's letter makes it clear that they plan to maintain all the stonework and not change anything about it.

Ms. Stefanie Beninato was sworn. She said it was distressing to have a window with possible egress problems or not because of the time needed for everyone to deal with it. It is a mixed message and needs to be clear. "It is either allowed for egress or it is not. If the Assistant City Attorney or any assistant - not picking just on that person - but if an assistant city attorney is here, it would be nice if that person was educated enough about our code, including the fire code, because it does play into the building, to be able to advise the Board that it would be a window that would be approved for egress or not so that you know that it is a viable element for later on down the road in this project."

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

Ms. Ramirez Thomas said Staff has had discussions about this with Yolanda Cortéz and Greg Smith with regard to their approvals of this project. Egress is necessary under fire code and the current deed does provide some obstruction to that. So, at the point, after this design is approved, the applicant can move forward to determine how that egress is going to work and negotiate it with Ms. Diaz.

The only other viable option that doesn't seem possible, given Mr. Clemens' testimony, is to move the egress window to the west elevation and, if possible, Staff could give administrative approval for that, should that be a requirement.

Chair Rios asked Mr. Clemens about moving the window to the west.

Mr. Clemens said that was one of the questions his attorney had mentioned, as well. But because of the height of the grade of the road on that west side, it is really high. So, he asked if it would be acceptable for them to jump out of a window that they can climb up on top of to get out. It is six feet before it is at grade. So, it would have to be some type of basement window with removal of dirt for a person to actually get out. That would be the next option. But if Building or Zoning would approve it, it would be a different avenue to try.

Chair Rios felt that if the Board approves this project, all but that window could be approved until there is further discussion on that.

Member Biedscheid asked if the Staff is satisfied that the condo letter makes it a complete packet.

Ms. Ramirez Thomas said they have had no indication to the contrary. The Association is four individuals and the letter indicates they are the architectural design review board for the Condo Association. Staff has received no information that there is any kind of conflict or problem with this letter.

Ms. Gheen added that the issue is whether the condo association approved the egress on limited common element. It is not a zoning issue; all zoning requirements have been met for it to come to the H Board and the approval of the egress is at the next step - building permit - so it seems the process has

been properly met.

Action of the Board

Member Katz moved in Case #H-15-104, at 547 Hillside Avenue, to accept staff recommendations and approve the application with the exception of the egress window and simply not approve that part of the application and hope that it gets amicably resolved and Staff can approve it if it is substantially in line with what the Board is seeing. Member Boniface seconded the motion.

Member Biedscheid clarified that it is egress on the north elevation. Member Katz agreed and the motion passed by unanimous voice vote.

2. Case #H-08-054. 530 Camino del Monte Sol. Downtown & Eastside Historic District. Lisa Roach, agent for Robert and Kris Barrie, owners, proposes to construct 1,700 sq. ft. of additions, a 3'4" yardwall, and replace doors on a contributing residential structure. An exception is requested to exceed the 50% footprint standard (Section 14-5.2(D)(2)(d)). (Nicole Ramirez Thomas)

Ms. Ramirez Thomas presented the Staff Report as follows:

BACKGROUND & SUMMARY:

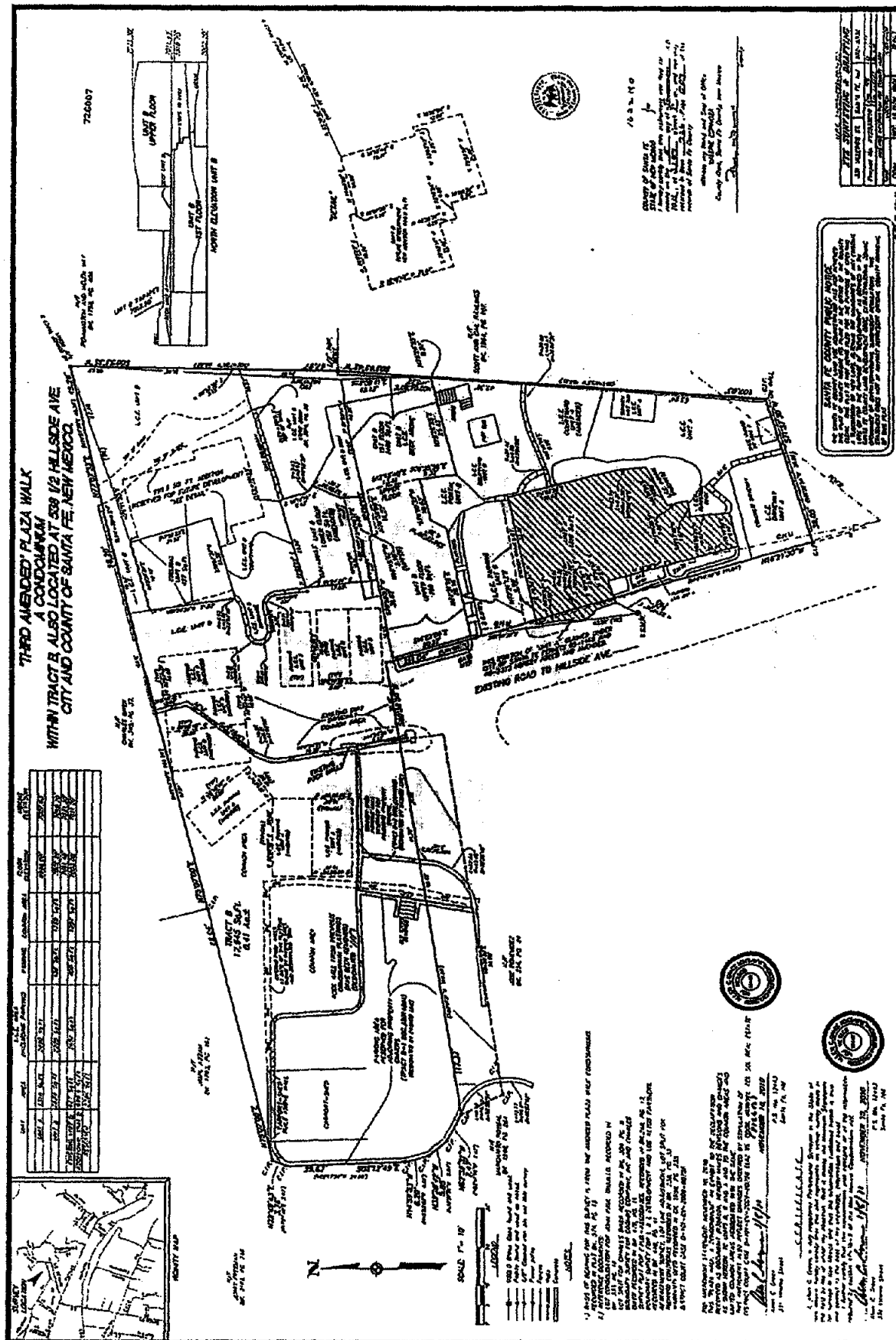
530 Camino del Monte Sol is a Spanish Pueblo Revival style residential structure which is designated contributing to the Downtown and East Side Historic District. The east elevation and a portion of the south elevation of the house are primary. The date of construction of the original house is 1928 and modifications to the property occurred in the 1950s, 1960s, and more recently in the 2000s. The original house may have been designed and built by artist Frank Applegate.

In 2004 the Board approved the addition of 773 square feet of roofed area to the house for a kitchen and portal. The addition was added to a non-primary elevation (the north elevation) with an exception to place a portal closer than 10 feet from the primary (east) elevation of the home. At the time of the 2004 case a non-historic garage to the west elevation of the property was included in the overall calculation of the increase in the footprint of the house. The total footprint increase of the property including the garage and the addition was 49% of the historic footprint.

In the HCPI form there are two garages noted on the footprint. The original garage was enclosed and incorporated into the footprint of the house in the 1950s or 1960s. A new garage, the garage sited as non-historic in 2004, was built in the 1960s. The garage is assumed to have a construction pre-1967 as the garage was in existence prior to the purchase of the home by Mrs. Kathryn Seeler Jones in 1969. The garage also is characteristic of those built in the late 1950s and 1960s as it is a narrow single car garage with a wood panel door and a flat roof. The history of the garage now makes the garage footprint part of the

Exhibit D
2004 Plat Map

Exhibit E
“Third Amended”
Plat Map



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

Case #H-15-104

Address – 547 Hillside Avenue

Agent's Name – John Clemens

Owner/Applicant's Name – Coyote Development Group LLC

THIS MATTER came before the Historic Districts Review Board ("Board") for hearing on January 10, 2017.

547 Hillside Avenue (formerly 438 ½ Hillside Avenue) is a residential structure designated as noncontributing to the Downtown and Eastside Historic District. The house was constructed in 1945 in the vernacular style (Spanish Revival elements) with the western portion of the house at two stories and the eastern portion of the house at one story. Exposed vigas and river rock stone, on the west and south elevations, are the defining characteristics of the home. This case came before the Board in January 2016 and in June 2016 and was postponed by the Board both times due to incompleteness of the application. The Applicant proposes to remodel the property with the following 7 Items, but the exposed rock character of the house will be unchanged:

- 1) Addition of a 36 sq. ft. mechanical room to the east elevation of the second floor of the residence. A 4'-0" x 6'-0" door will be added to the mechanical room which will open on the exterior of the home.
- 2) Removal of existing 138 sq. ft. entrance portal on the west elevation and construction of a 30 sq. ft. portal in its place. The remaining portal square footage will be used to construct a 108 sq. ft. entryway into the house. The area above the constructed entry will be enclosed on the second story.
- 3) Replacement of 17 non-divided lite windows with Pella true divided lite windows in the color "Turquoise." Windows openings will change and be recessed 4" and bullnosed.
 - A window will be added where one does not exist on the north elevation. The window on the north elevation will be double hung and installed in a manner that prevents it from encroaching on the neighboring condominium.
 - Window dimensions and locations will change on the south elevation. The front door on the south elevation will be reoriented to face west.
 - A window will be added to the first story of the west elevation. A window will be placed at the second story mechanical room addition.
 - The east elevation will have a door at the mechanical room addition, a door under the portal, and a window; dimensions will change.
- 4) Refurbish existing wood deck and replace hand railing in-kind with a wood railing. The length of the set of stairs will be shortened.
- 5) Placement of an air conditioning condenser on the east side of the home.
- 6) Corbels will be added to the north elevation along the posts of the portal. Corbels are also noted on the south elevation at the portal.
- 7) Restucco of the residence in cementitious El Rey "La Morena."



FINDINGS OF FACT

1. After conducting public hearings and having heard from the Applicant and all interested persons, the Board hereby FINDS, as follows:
2. Zoning staff determined that the Application meets underlying zoning standards.
3. Staff Recommendation: Staff recommended approval of the application in that it complies with SFCC 14-5.2(D)(9) General Design Standards for All H Districts Height, Pitch, Scale and Massing and 14-5.2(E) Downtown and Eastside.
4. The project is, without limitation, subject to requirements of the following sections of the Santa Fe Land Development Code:
X Section 14-5.2(D)(9) General Design Standards, Height Pitch Scale and Massing (of any structure).
5. The property is located in the following district and subject to the related sections of the Santa Fe Land Development Code:
X Downtown and Eastside Historic District (Section 14-5.2(E))
6. An Exception Request was not applicable to this Application.
7. At the public hearing, an agent for a neighbor of the Applicant argued that the window was intrusive and illegal on the basis of it not meeting building code requirements of an easement to a public way and it is a window on a lot line.
8. The Applicant's property and the neighbor's property are both within the same condominium, so there is not a lot line separating them.
9. An attorney for the neighbor claimed the egress window would open to the neighbor's limited common element and urged that the Applicant and the neighbor continue to negotiate a plan to accommodate both parties.
10. Egress issues are building and fire code issues, not issues within the jurisdiction of the Historic District Review Board.
11. Under Sections 14-2.6(C), 14-2.7(C)(2), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f) and 14-5.2(C)(3)(b), 14-5.2(C)(3)(a) and Section 14-5.2(D) the Board has authority to review, approve, with or without conditions, or deny, all or some of the Applicant's proposed design to assure overall compliance with applicable design standards.
12. Under Section 14-5.2(C)(3)(b), the Board has the authority to approve an application for alteration or new construction on the condition that changes relating to exterior appearance recommended by the Board be made in the proposed work, and no permit is to issue until new exhibits, satisfactory to the Board, have been submitted.
13. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review have been met.
14. The information contained in the Application, and provided in testimony and evidence establishes that all applicable design standards for Board approval as herein described have been met.

CONCLUSIONS OF LAW

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

1. The Board has the authority to review and approve the Application.

2. The Board unanimously approved the Application as recommended by staff, except for the egress window on the north elevation about which further discussion with the neighbor is encouraged and for which approval may be made by staff.

IT IS SO ORDERED ON THIS 24th DAY OF JANUARY 2017, THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.

Cecilia Liss
Chairperson

24 January 2017
Date:

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

1/31/17
Date:

APPROVED AS TO FORM
[Signature]
Assistant City Attorney

1/24/2017
Date:

SUMMARY INDEX
HISTORIC DISTRICTS REVIEW BOARD
January 10, 2017

ITEM	ACTION TAKEN	PAGE(S)
B. Roll Call	Quorum Present	1
C. Approval of Agenda	Approved as amended	2
D. Approval of Minutes December 13, 2016	Approved as amended	2
E. Findings of Fact & Conclusions of Law	Approved as presented	2-3
F. Business from the Floor	Comments	3-4
G. Communications	Comments	4
H. Action Items		
1. <u>Case #H-15-104</u> 547 Hillside Avenue	Partially approved	5-10
2. <u>Case #H-08-054</u> 530 Camino del Monte Sol	Approved with conditions	10-26
3. <u>Case #H-16-100B</u> 1039 Camino San Acacio	Approved with conditions	26-32
4. <u>Case #H-16-103A</u> 503 Apodaca Hill	Designated noncontributing	32-34
5. <u>Case #H-13-023</u> 739 Acequia Madre	Approved as recommended	34-35
6. <u>Case #H-16-105A</u> 1066 Camino San Acacio	Designated noncontributing	35-38
7. <u>Case #H-16-106A</u> 418 Apodaca Hill	Postponed	38
8. <u>Case #H-16-107</u> 119 East Buena Vista Street	Approved as presented	38-41
9. <u>Case #H16-108</u> 510 Halona Street	Denied	41-48
10. <u>Case #H-16-104</u> 621 Halona Street	Approved as presented	48-51
11. <u>Case #H-16-110</u> 486 Camino Don Miguel	Postponed with directions	51-56
I. Matters from the Board	None	56
J. Adjournment	Adjourned at 9:35 p.m.	56



MINUTES OF THE
CITY OF SANTA FE
HISTORIC DISTRICTS REVIEW BOARD

December 13, 2016

A. CALL TO ORDER

A regular meeting of the City of Santa Fé Historic Districts Review Board was called to order by Ms. Cecilia Rios, Chair, on the above date at approximately 5:30 p.m. in the City Council Chambers, 200 Lincoln Avenue, 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. Jennifer Bledscheid
Ms. Meghan Bayer
Mr. Edmund Boniface

MEMBERS EXCUSED:

Mr. William Powell
Mr. Buddy Roybal

OTHERS PRESENT:

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

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

A moment of silence was observed in memory of Deborah Shapiro.

C. APPROVAL OF AGENDA

Mr. Rasch noted that Case #H-16-106A was postponed because of an incomplete application.

Member Boniface moved to approve the agenda as amended with Case #H-16-106A postponed. Member Biedscheid seconded the motion and it passed by unanimous voice vote.

D. APPROVAL OF MINUTES:

December 13, 2016

Member Katz requested the following changes to the minutes:

On page 12, third line from the bottom should say, "But there is no basis for an exception in the Code for situations where we don't need the rule."

On the next section at the end of the line, insert "existing criteria and" after "the."

Chair Rios requested the following changes to the minutes:

On page 12, tenth paragraph, it should say, "Mr. Wong said the daughter would stay in the master bedroom and the mother, Ms. Barrie, has Parkinson's. The parents would stay in the original master bedroom at the bottom."

On page 13, 4th paragraph, the third instance of "it" should be "if."

On page 15, 4th paragraph, Chair Rios voted no with Member Roybal.

On page 39, under Questions to Staff, it should read, "Chair Rios asked for the total of windows to be repaired or replaced." And on the first sentence it should say "repaired" instead of "repair."

Member Boniface moved to approve the minutes of December 13, 2016 as amended. Member Katz seconded the motion and it passed by voice vote with all voting in favor except Member Biedscheid and Member Bayer, who abstained.

E. FINDINGS OF FACT & CONCLUSIONS OF LAW

Case #H-16-002C. 450 Camino Monte Vista.

Shrine rectory and office structure at Our Lady of Guadalupe church.

Mr. Rasch was excited to announce that Santa Fe is one of three finalists for the National Geographic Society for "Sense of Place" in an international competition. He explained that there are five categories in the World Legacy Awards with 15 finalists and only two are in the USA and the other is Jackson Hole in a different category. Santa Fe Historic Preservation Division is a main partner in this nomination. The other two finalists in this category are an Inuit community in Alaska for training native citizens on traditional boat making and the other is in Peru where women and children will be trained in native crafts to help get out of poverty. The ceremony is March 8 in Berlin, Germany. It is rare that Santa Fe has gotten this far.

H. ACTION ITEMS

Chair Rios informed the public regarding the appeal procedures and limited public comment time.

1. **Case #H-15-104, 547 Hillside Avenue.** Downtown & Eastside Historic District. John Clemens, agent for Coyote Development Group LLC, owners, proposes to replace a portal and windows, construct a 36 sq. ft. addition and re-stucco on a non-contributing residential structure. (Nicole Ramirez Thomas)

Ms. Ramirez Thomas presented the Staff Report as follows:

BACKGROUND & SUMMARY:

547 Hillside Avenue (formerly 438 ½ Hillside Avenue) is a residential structure that is designated as noncontributing to the Downtown and Eastside Historic District. The house was constructed in 1945 in the vernacular style (Spanish Revival elements) with the western portion of the house at two stories and the eastern portion of the house at one story. Exposed vigas and river rock stone, on the west and south elevations, are the defining characteristics of the home. This case came before the Board in January 2016 and again in June 2016 and was postponed by the Board both times due to incompleteness of the application.

The applicant proposes to remodel the property with the following 7 items.

- 1) Addition of a 36 sq. ft. mechanical room to the east elevation of the second floor of the residence. A 4'-0" x 6'-0" door will be added to the mechanical room which will open on the exterior of the home.
- 2) Removal of existing 138 sq. ft. entrance portal on the west elevation and construction of a 30 sq. ft. portal in its place. The remaining portal square footage will be used to construct a 108 sq. ft. entryway into the house. The area above the constructed entry will be enclosed on the second story.

- 3) Replacement of 17 non-divided lite windows with Pella true divided lite windows in the color "Turquoise." Windows openings will change and be recessed 4" and bullnosed.
 - A window will be added where one does not exist on the north elevation. The window on the north elevation will be double hung and installed in a manner that prevents it from encroaching on the neighboring condominium.
 - Window dimensions and locations will change on the south elevation. The front door on the south elevation will be reoriented to face west.
 - A window will be added to the first story of the west elevation. A window will be placed at the second story mechanical room addition.
 - The east elevation will have a door at the mechanical room addition, a door under the portal, and a window; dimensions will change.
- 4) Refurbish existing wood deck and replace hand railing in-kind with a wood railing. The length of the set of stairs will be shortened.
- 5) Placement of an air conditioning condenser on the east side of the home.
- 6) Corbels will be added to the north elevation along the posts of the portal. Corbels are also noted on the south elevation at the portal.
- 7) Restucco of the residence in cementitious El Rey "La Morena."
- 8) The exposed rock character of the house will be unchanged.

STAFF RECOMMENDATION:

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

Questions to Staff

There were no questions to Staff.

Applicant's Presentation

Mr. John Clemens, 228 St. Francis Drive, was sworn. He said the footprint is kept except they will square off the portal and the mechanical door will be seen. The height is the same. The window placement is changing slightly and they are using true divided light windows.

Chair Rios believed this is an improvement.

Questions to the Applicant

Chair Rios asked if there would be any rooftop equipment.

Mr. Clemens said no.

Member Boniface noted the application said there would be a 36-square foot mechanical room to the east elevation of the second floor. On page 32 in the packet, he asked if the mechanical room was in the lower, right-hand corner.

Mr. Clemens agreed - the one with double doors.

Member Boniface said on the floor plan, it looks like a bathroom and it is on the south side.

Mr. Clemens said it is on the east side. The mechanical room is on the right side of the page. He pointed it out on the displayed floor plan.

Member Boniface asked what is on the lower left side.

Mr. Clemens said it is the entry portal.

Member Biedscheid said on the proposed east elevation, it appears there is a different texture on the walls under the portal.

Mr. Clemens explained that the stucco is the same but one elevation is with the railing and one is without the railing.

Public Comment

Mr. Greg Allegretti, 1925 Aspen Drive, Suite 802B, was sworn and said he had four points to make. His client is Ms. Diaz who owns the adjacent property and enjoys a private courtyard where at least one window is proposed that is highly intrusive on her privacy and is illegal for two reasons: it doesn't meet building code because it is a means of egress and there is no easement there leading to a public way which is required for egress windows. Also, it does not meet code and notwithstanding advice to the contrary which might have come even from the City Attorney's office. A window on a lot line is specifically prohibited in the code. A window on a lot line is not permitted at all.

He asked how the applicant propose to install the windows. The applicant has no permission to come onto his client's property to install or repair such a window. There are easily accommodated ways to solve their problem with egress by having a window on another elevation and there are provisions in the code to

do that but the applicant has refused to do that. "It is just a thoughtless and intrusive project ... and I'm appalled by it."

Chair Rios asked what elevation he was talking about with the window.

Mr. Allegretti said it is the north elevation. There is a sunken courtyard next to it.

Chair Rios asked the applicant to respond.

Mr. Clemens said this is a condo so the lot line is not there. The lot line is huge. It is like .4 acre, so that is not the lot line. There is nothing in any code or condo docs that say you cannot look into a neighbor's courtyard. He offered a frosted glass double-hung window so it would not protrude out. He said they tried to do everything to accommodate her. "The neighbors look into our courtyard. Our upstairs looks into their courtyard. Everybody looks into other courtyards because it is a condo. There are three different units in that condo. There is no way to not put a window there. The grade of the dirt, because it is sunken down next to us - that's the only place we could have egress. Otherwise, up on the street side, it is eight feet high. So, it is actually underground where that is. There is no other place for a window unless we did like a basement window to the front street; and it probably wouldn't be very nice and appealing for historic."

He said, "The other thing is, the neighbor has decided to make herself do whatever she wants to do. She put a gate, right now, that was red tagged by the City."

Chair Rios stopped him to say that was not part of this case.

Mr. Clemens said "We have done everything we can to try to come to an agreement that would work to be able to have egress for that downstairs area. And that's the only way that we can have egress is one window, frosted, non-intrusive to her courtyard."

Chair Rios asked if he would have plenty of room to stucco.

Mr. Clemens said they could stucco. "Obviously, we would get permission to get on that side of the wall. Otherwise, we would hang down the side and do it or something so we could not set foot on her limited common area. However, right in front of that is our common area and our parking area is adjacent where she has blocked us in. And we would be able to stucco that obviously with her permission to make sure we could do it. But she did paint it gray, which is our wall that she already painted gray. So, it is not meeting historic standards by any means right now. She painted it gray to match her house."

Mr. Brian Parish, 204 Maynard Street, was sworn, who said he represented Ms. Diaz from the Sommer Udall Law Firm. He said, "We object to the placement of the window because the egress would be into the limited common area with Ms. Diaz, the way it is placed. We have been trying to work out negotiations. We just ask the Board not to go forward with this until we have the opportunity to try and work some plan out to accommodate both parties."

He referred to the plat on page 22 and pointed out that it is an old plat and incorrect. It doesn't show the exterior walls correctly. He had a copy of the correct plat with him and provided copies for the Board. A copy is attached to these minutes as Exhibit 1. He pointed the area in yellow that leads into the common area of Ms. Diaz's unit.

Chair Rios asked for comment from Ms. Gheen.

Ms. Gheen said this came up a couple of months ago and they decided on a policy that the condo association give prior approval that they would agree to this. In this case, the Architectural Committee has given prior approval of the design, shown on page 21 in the packet. The final sentence says, "We reserve any issues of drainage because structural quality is for building permit review. "So, it does indicate that the condominium association [unintelligible] final approval on the egress issue and has given approval on the design. The letter seems to indicate that they probably would actually give approval on the final. Of course, they reserve the right to bring something up. Egress is not an issue under the jurisdiction of the Historic Districts Review Board according to Chapter 14. I believe it is actually a building and fire code issue. It is not even a zoning issue. So, if there is an egress issue, it probably would be worked out at the building permit stage. Again, if there is an internal conflict regarding whether the condominium association would agree to it or not, that's really a decision that the condominium association would make and is really not our position to read the mind of the condominium association or overstep our jurisdiction over the private matter."

Chair Rios asked if she was saying the Board could go forward with the window as proposed.

Ms. Gheen agreed. The Board's purview is 14-5.2 in the code which is the design code.

Chair Rios surmised that if there are any problems down the road, the building permit would not be issued.

Ms. Gheen agreed, if there were issues with the requirements for a building permit to be issued.

Member Bledscheid asked if she said it is Land Use that gives approval prior to coming here and if so, she asked if this letter is sufficient.

Ms. Gheen said the association is only three condos. She believed the architectural design committee is just the same as the condo board.

Mr. Parish said that is why it is in conflict. It has been difficult to get the parties to negotiate.

Mr. John Eddy, 227 East Palace, was sworn. He said he was confused about the preservation of the vernacular stone work. He saw in one place in the packet that the stonework would be protected and at another place that it will be removed. He urged the Board to clarify that issue. Vernacular stonework is an important part of our historic preservation.

Ms. Ramirez Thomas said the building is noncontributing and the applicant's letter makes it clear that they plan to maintain all the stonework and not change anything about it.

Ms. Stefanie Beninato was sworn. She said it was distressing to have a window with possible egress problems or not because of the time needed for everyone to deal with it. It is a mixed message and needs to be clear. "It is either allowed for egress or it is not. If the Assistant City Attorney or any assistant - not picking just on that person - but if an assistant city attorney is here, it would be nice if that person was educated enough about our code, including the fire code, because it does play into the building, to be able to advise the Board that it would be a window that would be approved for egress or not so that you know that it is a viable element for later on down the road in this project."

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

Ms. Ramirez Thomas said Staff has had discussions about this with Yolanda Cortéz and Greg Smith with regard to their approvals of this project. Egress is necessary under fire code and the current deed does provide some obstruction to that. So, at the point, after this design is approved, the applicant can move forward to determine how that egress is going to work and negotiate it with Ms. Diaz.

The only other viable option that doesn't seem possible, given Mr. Clemens' testimony, is to move the egress window to the west elevation and, if possible, Staff could give administrative approval for that, should that be a requirement.

Chair Rios asked Mr. Clemens about moving the window to the west.

Mr. Clemens said that was one of the questions his attorney had mentioned, as well. But because of the height of the grade of the road on that west side, it is really high. So, he asked if it would be acceptable for them to jump out of a window that they can climb up on top of to get out. It is six feet before it is at grade. So, it would have to be some type of basement window with removal of dirt for a person to actually get out. That would be the next option. But if Building or Zoning would approve it, it would be a different avenue to try.

Chair Rios felt that if the Board approves this project, all but that window could be approved until there is further discussion on that.

Member Biedscheid asked if the Staff is satisfied that the condo letter makes it a complete packet.

Ms. Ramirez Thomas said they have had no indication to the contrary. The Association is four individuals and the letter indicates they are the architectural design review board for the Condo Association. Staff has received no information that there is any kind of conflict or problem with this letter.

Ms. Gheen added that the issue is whether the condo association approved the egress on limited common element. It is not a zoning issue; all zoning requirements have been met for it to come to the H Board and the approval of the egress is at the next step - building permit - so it seems the process has

been properly met.

Action of the Board

Member Katz moved in Case #H-15-100 to accept staff recommendations and approve the application to regress window and simply not approve that part of the application involved and Staff can approve it if it is substantially in line with the staff report. Member Boniface seconded the motion.

Member Biedscheid clarified that it is eg... with elevation. Member Katz agreed and the motion passed by unanimous voice vote.

2. **Case #H-08-054. 530 Camino del Monte Sol.** Downtown & Eastside Historic District. Lisa Roach, agent for Robert and Kris Barrie, owners, proposes to construct 1,700 sq. ft. of additions, a 3'4" yardwall, and replace doors on a contributing residential structure. An exception is requested to exceed the 50% footprint standard (Section 14-5.2(D)(2)(d)). (Nicole Ramirez Thomas)

Ms. Ramirez Thomas presented the Staff Report as follows:

BACKGROUND & SUMMARY:

530 Camino del Monte Sol is a Spanish Pueblo Revival style residential structure which is designated contributing to the Downtown and East Side Historic District. The east elevation and a portion of the south elevation of the house are primary. The date of construction of the original house is 1928 and modifications to the property occurred in the 1950s, 1960s, and more recently in the 2000s. The original house may have been designed and built by artist Frank Applegate.

In 2004 the Board approved the addition of 773 square feet of roofed area to the house for a kitchen and portal. The addition was added to a non-primary elevation (the north elevation) with an exception to place a portal closer than 10 feet from the primary (east) elevation of the home. At the time of the 2004 case a non-historic garage to the west elevation of the property was included in the overall calculation of the increase in the footprint of the house. The total footprint increase of the property including the garage and the addition was 49% of the historic footprint.

In the HCPI form there are two garages noted on the footprint. The original garage was enclosed and incorporated into the footprint of the house in the 1950s or 1960s. A new garage, the garage sited as non-historic in 2004, was built in the 1960s. The garage is assumed to have a construction pre-1967 as the garage was in existence prior to the purchase of the home by Mrs. Kathryn Seeler Jones in 1969. The garage also is characteristic of those built in the late 1950s and 1960s as it is a narrow single car garage with a wood panel door and a flat roof. The history of the garage now makes the garage footprint part of the

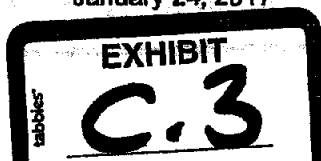
Historic Districts Review Board
January 10, 2017

EXHIBIT 1



SUMMARY INDEX
HISTORIC DISTRICTS REVIEW BOARD
January 24, 2017

ITEM	ACTION TAKEN	PAGE(S)
B. Roll Call	Quorum Present	1
C. Approval of Agenda	Approved as presented	1-2
D. Approval of Minutes January 10, 2017	Approved as amended	2-3
E. Findings of Fact & Conclusions of Law	Approved as amended	3
F. Business from the Floor	Comments made	3-4
G. Communications	Comment by Ms. Gheen	4
H. Action Items		
1. <u>Case #H-16-089</u> 562½ Garcia Street	Approved with conditions	4-8
2. <u>Case #H-17-001</u> 110 Delgado	Three designations made	8-17
3. <u>Case #H-17-002</u> 600 Camino del Monte Sol	Postponed for better drawings	17-21
4. <u>Case #H-16-109</u> 76 East San Francisco Street	Postponed for redesign	21-32
I. Matters from the Board	None	32-34
J. Adjournment	Adjourned at 8:03 p.m.	34



MINUTES OF THE
CITY OF SANTA FE
HISTORIC DISTRICTS REVIEW BOARD

January 24, 2017

A. CALL TO ORDER

A regular meeting of the City of Santa Fé Historic Districts Review Board was called to order by Ms. Cecilia Rios, Chair, on the above date at approximately 5:37p.m. in the City Council Chambers, 200 Lincoln Avenue, 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. Jennifer Bledscheid
Ms. Meghan Bayer
Mr. William Powell
Mr. Buddy Roybal

MEMBERS EXCUSED:

Mr. Edmund Boniface

OTHERS PRESENT:

Mr. David Rasch, Historic Planner Supervisor
Ms. Theresa Gheen, Assistant City Attorney
Ms. Nicole Ramirez Thomas, Senior Planner
Mr. Carl Boaz, Stenographer

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

C. APPROVAL OF AGENDA

Member Katz moved to approve the agenda as presented. Member Roybal seconded the motion and it passed by unanimous voice vote.

D. APPROVAL OF MINUTES:

Member Biedscheid requested the following changes:

On page 20, she apologized that her statement was inaudible. She said what she asked the applicant to respond to staff question related to criterion #5 regarding why the portal could not be enclosed as part of the remodel.

On page 23, last paragraph, flushing out should be changed to "fleshing out."

On page 26, second paragraph, second line, she asked to replace "it" with "new proposal."

On page 37, second paragraph, it should say, "Member Biedscheid thought it was interesting that the 1946 date in the current HCPI report described a stepped gable suggesting a small chapel."

Chair Rios requested the following changes:

On page 1, the date should be changed to January 10, 2017.

On page 20, first paragraph, which should read, "Chair Rios believed what Ms. Ramirez Thomas offered would not be productive. The Council would just remand it back to the H Board. She said the Board is the proper body to make a decision regarding such a project."

On page 24, eighth paragraph, "the" should be "that."

On page 37, under Questions to the Applicant, it should be "Staff's."

On page 45, the speaker's last name was Beltran, not Rincon.

Ms. Gheen requested the following changes:

On page 17, first paragraph, last line, it should read, "The- City Attorney has also said it was reasonable."

In the 3rd paragraph, second line, it should read, "That part is a vestige when the Historic Districts Review Board ..."

Member Katz said the term is "de minimis" - not de minimus.

Member Roybal moved to approve the minutes of January 10, 2017 as amended. Member Bledscheid seconded the motion and it passed by unanimous voice vote.

E. FINDINGS OF FACT & CONCLUSIONS OF LAW

Case #H-15-104. 547 Hillside Avenue - no changes.

Case #H-16-103A. 503 Apodaca Hill - Ms. Gheen said the last Conclusion of Law should be "Retain the existing noncontributing status for the residential structure and assign noncontributing status to the yard wall."

Case #H-13-023. 739 Acequia Madre - no changes.

Case #H-16-105A. 1066 Camino San Acacio - no changes.

Member Katz moved for approve the Findings of Fact and Conclusions of Law as just amended. Member Roybal seconded the motion and it passed by unanimous voice vote.

F. BUSINESS FROM THE FLOOR

Ms. Stefanie Beninato came to the podium and said:

"I have a couple of things. First of all, at 600 Galisteo, which is now also known as 1405 Paseo de Peralta, there was a notice that they would be here at this hearing tonight for H-Board approval. And it's not even on the agenda, even though they have two signs up, saying January 24th. My concern, since I am the agent for the owners of 604 Galisteo, is that a window was broken out on the second floor and I've been asking the City to get the owner to block it up; board it up. And the excuse has been that he is coming to H Board and he needs to get approval for windows. But windows will take weeks to come in, anyway. So, just wondering what happened to that case."

"Secondly, I want to talk a little bit about a net or changing the ordinance. And I want to remind you all that you are obliged by oath to uphold the law. You may ... or apply the law. And you may not like the law. Like the 50% rule about adding on... you know, all of that. But instead of like coming up with reasons like it's sensitively added or it's whimsical or whatever ... You should be versed in the law as it's written, because by pushing the law as it's written, you will finally get the City Council to have the political will to change the ordinance. If all you do is keep reinterpreting it in your own personal ... to your own personal, to your own personal standards, that's never going to happen."



Agenda

DATE 1/3/17 TIME 11:40
 SERVED BY [Signature]
 RECEIVED BY [Signature]

HISTORIC DISTRICTS REVIEW BOARD FIELD TRIP

TUESDAY, January 10, 2017 at 12:00 NOON

HISTORIC PRESERVATION DIVISION, 2nd FLOOR CITY HALL

HISTORIC DISTRICTS REVIEW BOARD HEARING

TUESDAY, January 10, 2017 at 5:30 P.M.

CITY COUNCIL CHAMBERS

AMENDED

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES: December 13, 2016
- E. FINDINGS OF FACT & CONCLUSIONS OF LAW

Case #H-16-002C. 450 Camino Monte Vista.
Case #H-16-100A. 1039 Camino San Acacio.
Case #H-16-099B. 100 Sandoval Street.

Case #H-16-051B. 500-550 Montezuma Avenue.
Case #H-16-099A. 100 Sandoval Street.
Case #H-16-101. 5 Cerro Gordo Road.

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

1. Case #H-15-104. 547 Hillside Avenue. Downtown & Eastside Historic District. John Clemens, agent for Coyote Development Group LLC, owners, proposes to replace a portal and windows, construct a 36 sq. ft. addition and re-stucco on a non-contributing residential structure. (Nicole Ramirez Thomas)
2. Case #H-08-054. 530 Camino del Monte Sol. Downtown & Eastside Historic District. Lisa Roach, agent for Robert and Kris Barrie, owners, proposes to construct 1,700 sq. ft. of additions, a 3'4" yardwall, and replace doors on a contributing residential structure. An exception is requested to exceed the 50% footprint standard (Section 14-5.2(D)(2)(d)). (Nicole Ramirez Thomas)
3. Case #H-16-100B. 1039 Camino San Acacio. Downtown & Eastside Historic District. Will McDonald, agent for Tamar Hurwitz, owner, proposes to remodel a non-contributing residential structure including replacing windows, increasing height from 12'6" to 14'9" where the maximum allowable height is 15'10", and constructing a 6' high coyote fence. An exception is requested to increase a non-historic nonconformity (Section 14-5.2(A)(6)) and to construct not in Santa Fe style (Section 14-5.2(E)). (David Rasch)
4. Case #H-16-103A. 503 Apodaca Hill. Downtown & Eastside Historic District. Antonio Gonzales, agent/owner, requests a historic status review with designation of primary elevations, if applicable, of a non-contributing and non-statused residential property. (David Rasch)
5. Case #H-13-023. 739 Asequia Madre. Downtown & Eastside Historic District. Will McDonald, agent for Georgia Maryol, owner, proposes to construct a stuccoed yardwall from 3' to an accent at 5'4" high where it attaches to an existing 7'3" high wall and where the maximum allowable height is 5' on a contributing and non-historic residential property. (David Rasch)
6. Case #H-16-105A. 1066 Camino San Acacio. Downtown & Eastside Historic District. Jon Wisniewski, agent for John Casti, owner, requests a historic status review with designation of primary elevations, if applicable, of a non-contributing residential property. (Nicole Ramirez Thomas)
7. Case #H-16-106A. 418 Apodaca Hill. Downtown & Eastside Historic District. Sandra Donner, agent for Patricia Kopren, owner, requests historic status review with designation of primary elevations, if applicable, of a contributing residential property. (David Rasch)

EXHIBIT

D

8. Case #H-16-107. 119 East Buena Vista Street. Don Gaspar Area Historic District. Steve McCormick, agent for Andrew Sanford, owner, proposes to remove non-historic additions from a non-contributing residential structure and demolish a non-contributing shed. (Nicole Ramirez Thomas)
9. Case #H-16-108. 510 Halona Street. Downtown & Eastside Historic District. The Right Plumber, agent for Jason Price, owner, proposes to construct a 1,940 sq. ft. residential structure to the height of 22'3" where the maximum allowable height is 16'1" and a 522 sq. ft. casita to a height of 13'6" on a vacant lot. An exception is requested to exceed the maximum allowable height (Section 14-5.2(D)(9)). (Sobia Sayeda)
10. Case #H-16-104. 621 Halona Street. Downtown & Eastside Historic District. Tim Curry, agent for Bill Tierney and Barry Weiss, owners, proposes to construct a 432 sq. ft. second story addition to match existing height to a non-contributing residential structure. An exception is requested to have lites larger than 30" (Section 14-5.2(E)(1)(c)). (Nicole Ramirez Thomas)
11. Case #H-16-110. 486 Camino Don Miguel. Downtown & Eastside Historic District. Tom Easterson-Bond, agent for Suella Domres, owner, proposes to construct a trombe wall on a residential structure. An exception is requested to have lites larger than 30" (Section 14-5.2(E)(1)(c)). (Nicole Ramirez Thomas)

I. MATTERS FROM THE BOARD

J. ADJOURNMENT

Cases on this agenda may be postponed to a later date by the Historic Districts Review Board at the noticed meeting. Please contact the Historic Preservation Division at 955-6685 or check <http://www.santafemn.gov/historic-districts-review-board-hearing-packets> for more information regarding cases on this agenda.



CITY OF SANTA FE, NEW MEXICO

PROJECT DESCRIPTION: John Clemens, agent for Coyote Development Group LLC, owners, proposes to replace a portal and windows, construct a 36 sq. ft. addition and re-stucco on a non-contributing residential structure.

Case number: H-15-104

Project Type: HDRB

PROJECT LOCATION (S): 547 Hillside Avenue

PROJECT NAMES:

OW - Coyote Development Group LLC PO Box 2509 Santa Fe NM 87504

AP - John Clemens 228 S. St. Francis Santa Fe NM 87501 505-8200-7000

PROJECT DATA:

HISTORIC DISTRICT

Don Gaspar Area ☐ Downtown and Eastside ☒ Historic Review ☐ Transition ☐ Westside-Guadalupe ☐

HISTORIC BUILDING STATUS

Non-Statused ☐ Non-Contributing ☒ Contributing ☐ Significant ☐ Landmark ☐

PRIMARY ELEVATIONS: N 1A North ☐ South ☐ West ☐ East ☐

PUBLICLY VISIBLE FACADE-EAST Yes ☒ No ☐

PUBLICLY VISIBLE FACADE-NORTH Yes ☐ No ☒

PUBLICLY VISIBLE FACADE-SOUTH Yes ☒ No ☐

PUBLICLY VISIBLE FACADE-WEST Yes ☐ No ☒

HISTORIC DISTRICT INVENTORY NUMBER

YEAR OF CONSTRUCTION

1945

PROJECT TYPE

Status ☐ Primary Elevations ☐ Remodel ☒ Demolition ☐ New ☐ Other _____

USE, EXISTING Residential ☒ Non-Residential ☐

USE, PROPOSE Residential ☒ Non-Residential ☐

HISTORIC BUILDING NAME

City of Santa Fe, New Mexico

memo

DATE: January 10, 2016
TO: Historic Districts Review Board Members
VIA: David Rasch, Supervising Planner in Historic Preservation DR
FROM: Nicole Ramirez Thomas, Planner Senior in Historic Preservation NRT

CASE # H-15-104

ADDRESS: 547 Hillside Avenue
Historic Status: Noncontributing
Historic District: Downtown & Eastside

REFERENCE ATTACHMENTS (Sequentially):

CITY SUBMITTALS

- ☒ Case Synopsis
☐ District Standards & Yard wall
& fence standards.
☒ Historic Inventory Form
☒ Zoning Review Sheet
☐ Other:

APPLICANT SUBMITTALS

- ☒ Proposal Letter
☒ Vicinity Map
☒ Site Plan/Floor Plan
☒ Elevations
☒ Photographs
☒ Other: Letter from Common
Bonds preservation; letter from
condominium association.

STAFF RECOMMENDATION:

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

BACKGROUND & SUMMARY:

547 Hillside Avenue (formerly 438 ½ Hillside Avenue) is a residential structure that is designated as noncontributing to the Downtown and Eastside Historic District. The house was constructed in 1945 in the vernacular style with the western portion of the house at two stories and the eastern portion of the house at one story. Exposed vigas and river rock stone, on the west and south elevations, are the defining characteristics of the home. This case came before the Board in January 2016 and again in June 2016 and was postponed by the Board both times due to incompleteness of the application.

The applicant proposes to remodel the property with the following 7 items.

1) Addition of a 36 sq. ft. mechanical room to the east elevation of the second floor of the residence. A 4'-0" x 6'-0" door will be added to the mechanical room which will open on the exterior of the home.

2) Removal of existing 138 sq. ft. entrance portal on the west elevation and construction of a 30 sq. ft. portal in its place. The remaining portal square footage will be used to construct a 108 sq. ft. entryway into the house. The area above the constructed entry will be enclosed on the second story.

3) Replacement of 17 non-divided lite windows with Pella true divided lite windows in the color "Turquoise." Windows openings will change and be recessed 4" and bullnosed.

- A window will be added where one does not exist on the north elevation. The window on the north elevation will be double hung and installed in a manner that prevents it from encroaching on the neighboring condominium.
- Window dimensions and locations will change on the south elevation. The front door on the south elevation will be reoriented to face west.
- A window will be added to the first story of the west elevation. A window will be placed at the second story mechanical room addition.
- The east elevation will have a door at the mechanical room addition, a door under the portal, and a window; dimensions will change.

4) Refurbish existing wood deck and replace hand railing in-kind with a wood railing. The length of the set of stairs will be shortened.

5) Placement of an air conditioning condenser on the east side of the home.

6) Corbels will be added to the north elevation along the posts of the portal. Corbels are also noted on the south elevation at the portal.

7) Restucco of the residence in cementitious El Rey "La Morena."

8) The exposed rock character of the house will be unchanged.

NEW MEXICO HISTORIC BUILDING INVENTORY FORM

building threatened? yes	surveyed date	by <u>SL</u>	county SANTA FE	ID no. <u>05162196</u>
field map SFHD #2	number <u>20602196</u>		UTM reference zone <u>12</u> <u>13</u>	easting northing
location description <u>538 1/2 HILLSIDE</u>			city/town SANTA FE	
			land grant/reservation	
building name A			legal description TNSP N S range E W sec loc. of neg.	
			date of construction estimate _____ actual _____ source _____ use present <input checked="" type="checkbox"/> residential other _____ historic <input checked="" type="checkbox"/> residential other _____ condition <input checked="" type="checkbox"/> excellent <input type="checkbox"/> good <input type="checkbox"/> fair <input type="checkbox"/> deteriorating degree of remodeling <input type="checkbox"/> minor <input type="checkbox"/> moderate <input type="checkbox"/> major describe: _____ surroundings: RESIDENTIAL relationship to surroundings <input checked="" type="checkbox"/> similar <input type="checkbox"/> not similar district potential <input type="checkbox"/> yes <input type="checkbox"/> no significance <input type="checkbox"/> eligible <input type="checkbox"/> of <input type="checkbox"/> none if eligible, interest why? _____ associated buildings? <input checked="" type="checkbox"/> yes what type? <u>STORAGE SHED, CAR PORCH, APARTMENT</u> if inventoried, list ID nos. see back? <input type="checkbox"/> yes	
comments owner: John Trujillo 963-1243				



Preliminary Zoning Review Worksheet

City of Santa Fe Land Use Department

To Be Completed By Applicant		Site Address: <u>592 Hillside Avenue</u>
Date Submitted: _____	Property Owner of Record: <u>Coyote Development Group LLC</u>	Proposed Construction Description: <u>Rebuild existing residence, 1.5 stories, 1700 sq ft</u>
Applicant/Agent Name: <u>John Clements</u>	Contact Person Phone Number: <u>(505) 463-5359</u>	TOTAL ROOF AREA: <u>1501</u>
Zoning District: <u>NA EB</u>		Lot Coverage: _____ %
Overlay: <input type="checkbox"/> Escarpment <input type="checkbox"/> Flood Zone* <input type="checkbox"/> Other: _____		<input type="checkbox"/> Open Space Required: _____
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: <u>NA</u> Minimum: _____
<input checked="" type="checkbox"/> Existing Site Plan <input checked="" type="checkbox"/> Proposed Site Plan <input checked="" type="checkbox"/> Elevations		2nd Front? <u>NA</u> Minimum: _____
Supplemental Zoning Submittals Required for Building Permit:		Proposed Rear: _____ Minimum: _____
<input type="checkbox"/> Zero Lot Line Affidavit		Proposed Sides: L _____ R _____ Minimum: _____
Access and Visibility: <input type="checkbox"/> Arterial or Collector** <input type="checkbox"/> Visibility Triangle Required		Height: Proposed <u>NA</u> Minimum: _____
Use of Structure: <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial Type of Use: _____		Maximum Height: _____ or
Terrain: <input type="checkbox"/> 30% slopes		<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: _____ 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.

John Clements [] OWNER [] APPLICANT [x] 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.

SIGNATURE: [Signature] DATE: 11-28-16

To Be Completed By City Staff:	
Additional Agency Review if Applicable:	
<input type="checkbox"/> Escarpment Approval by _____ Date: ____/____/____	
<input type="checkbox"/> Flood Plain Approval by _____ Date: ____/____/____	
<input type="checkbox"/> Traffic Engineering Approval by _____ Date: ____/____/____	
Notes: _____	
Zoning Approval:	
<input checked="" type="checkbox"/> Preliminary Approval <input type="checkbox"/> with conditions <input type="checkbox"/> Rejected	
Comments/Conditions: <u>NA to extg. bldg, hti, setbacks</u>	
REVIEWER: <u>[Signature]</u>	DATE: <u>11/28/16</u>

Date: September 30, 2016

To: Historic Design Review Board

Project Address: 547 Hillside Avenue

Review District: Downtown Eastside

On behalf of Coyote Development Group, LLC I would like to request review and possible approval from the Historic Design Review Board for renovation project located at the above mentioned address. This letter describes the entire scope of exterior work we are proposing. If it conflicts with any aspect of any of the drawings, the letter takes precedence.

The renovation will consist of:

- Removal of the existing front entrance portal in order to incorporate a new entryway and portal. The existing portal is triangular shaped for total area of 138 sq. ft. See Demolition Plan, Sheet #7 of Drawings.
- New front entrance portal will be 5'5 x 5'5" for a total area of 30 sq. ft. See Demolition Plan, Sheet #7 of Drawings.
- The area of the existing portal that will be removed and will be used for the new portal as well as the new entry. No additional square footage will be added in that area.
- New mechanical room will be added on the second floor located at the eastside of the residence. The new mechanical dimensions will be 4' x 9' and will include a new 4'0" x 6'0" door. This door will not be visible from the road. It is on the East side as per Sheet #12 East Elevations.
- Replace the existing interior stairway and rebuild at new location to meet fire code as shown on the floor plan, sheet #3 of Plans.
- Window replacement. There will be a total of (17) seventeen windows to be removed and replaced with "Pella" windows with true divided light. The windows will match existing "turquoise" color. A catalog tear sheet is attached showing the Pella windows and the options we plan to use.
- The residence will be re-stucco using El Rey cementitious stucco, "La Morena" in color.
- Refurbish the existing wooden deck to include new wooden railing. Any suggestions from board would be appreciated.
- Existing floor framing to be thoroughly inspected, replaced and reinforced as needed.

- Footprint and exterior walls will stay the same, except for squaring off entry portal, as per Demo Plan on sheets 7 & 8. All of the first floor exterior walls are adobe, and will be retained and repaired as needed. Where the second floor and lower level exterior walls, are 2X6 frame, the window installation details need to match the ones set in adobe, with the glass recessed 4" from the exterior surface and the edges of the opening rounded over. (You can copy the detail used at 545 Hillside.) The generic details on Sheet #16 for the exterior walls and windows will not be used.
- Exposed exterior rock to stay preserved, "as is". The stone yard wall and the Iron gates will be retained and only taken out where new entry is, on sheet 12, proposed west elevation. The proposed redesign of the main entry will require relocating at least a portion the wall.
- All wood trim to be stained in Pecan Base color as provided.
- Downstairs master bedroom to have one "obscure" double hung window as to not encroach, or look on neighboring condo.
- All new exterior framing shall be 2x6" as too look like adobe construction to match.
- Refrigerated air conditioning condenser will be located on the east side of the home as to not impact either neighbor.

The proposed renovation is located off the public access road that leads to Hillside Avenue.

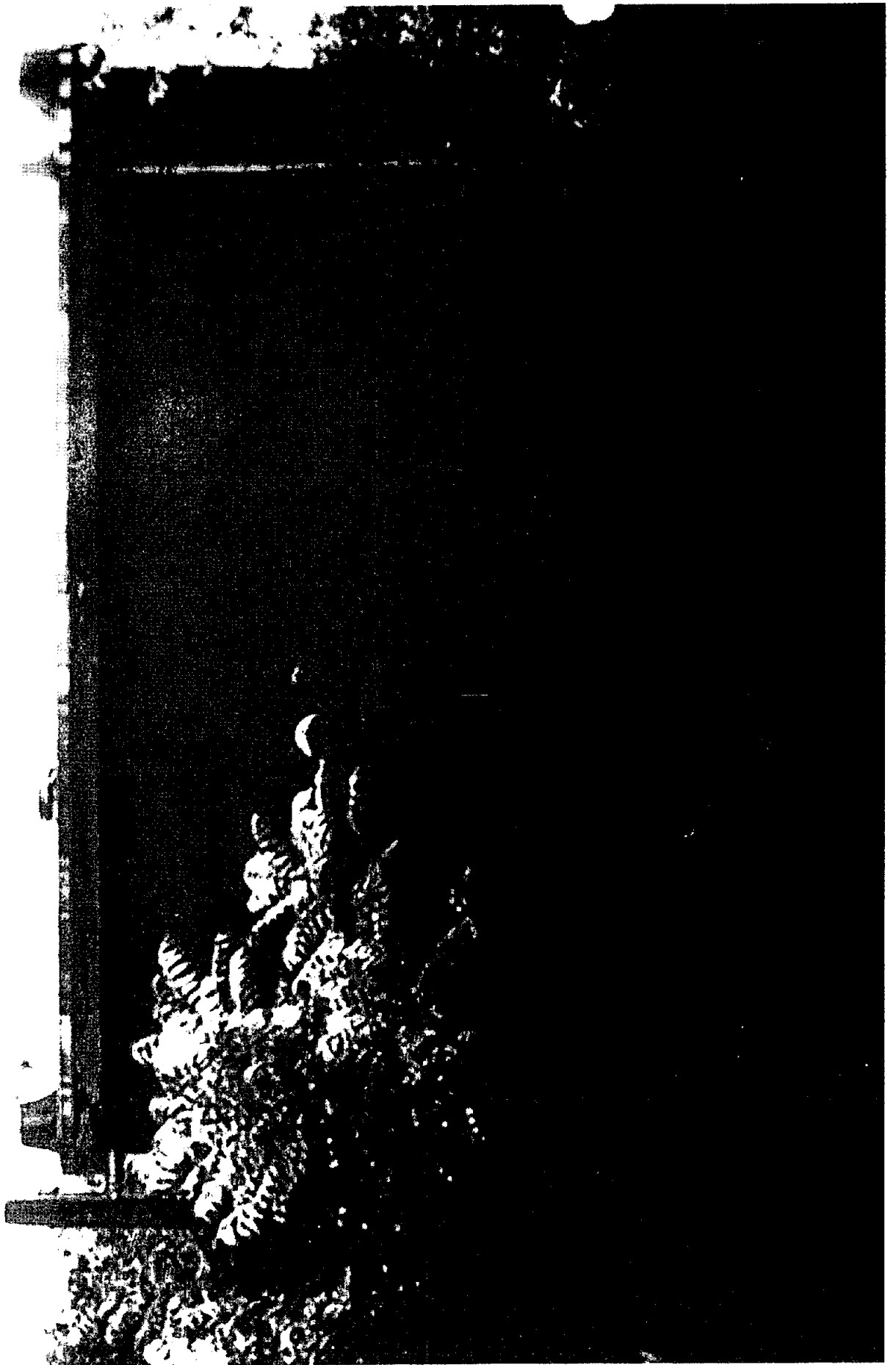
By applying for review by the Historic Design Review Board the intent is to preserve the historic significance of the existing residence with the least possible impact on the surrounding streetscape and neighboring properties. By following the Historic District Requirements set forth we believe this can be accomplished.

Thank you for your consideration,



John Clemens, Agent for Coyote Development Group, LLC

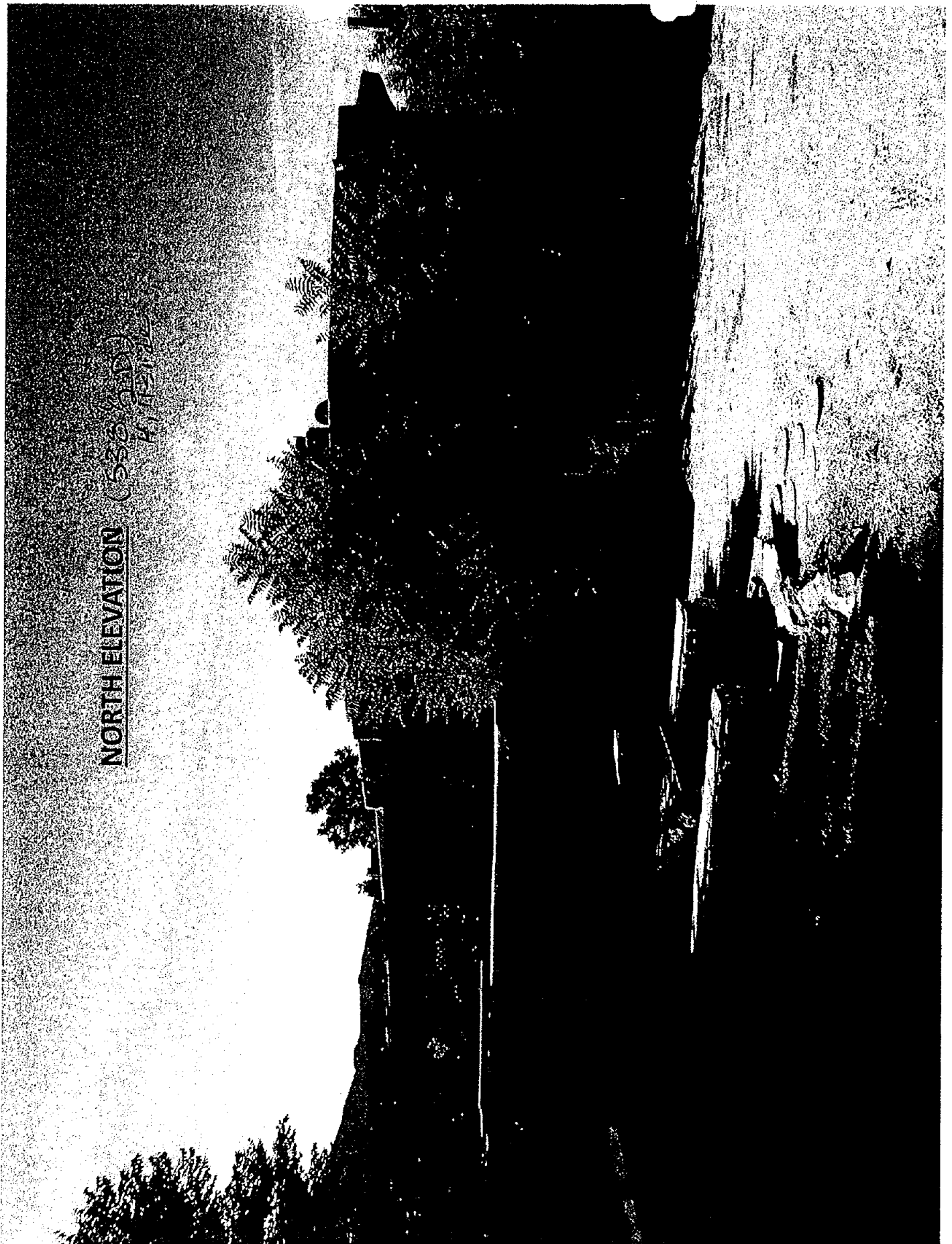
WEST ELEVATION
HILLSIDE AVENUE (538 1/2 D)



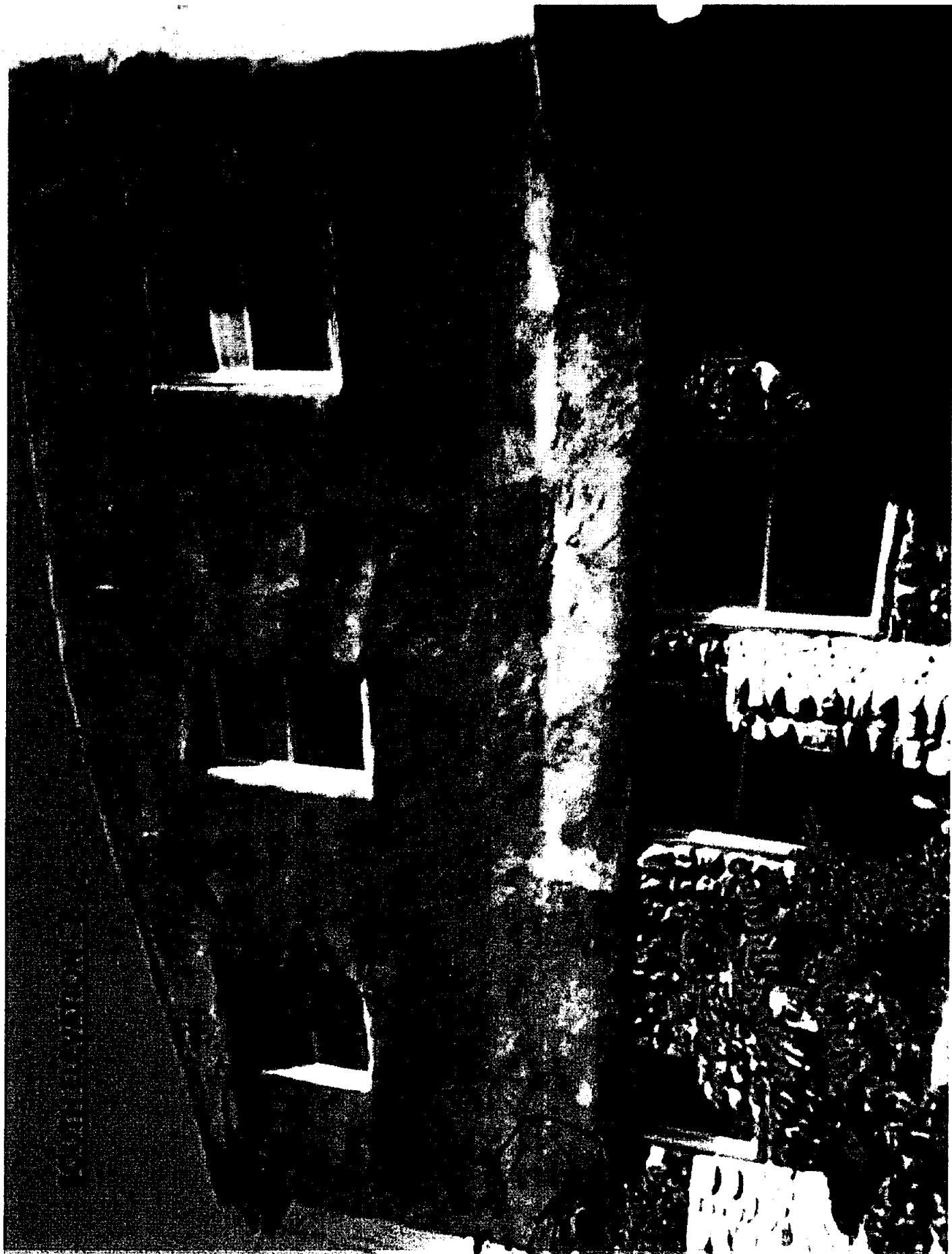




NORTH ELEVATION (530'±)
A. F. 1111

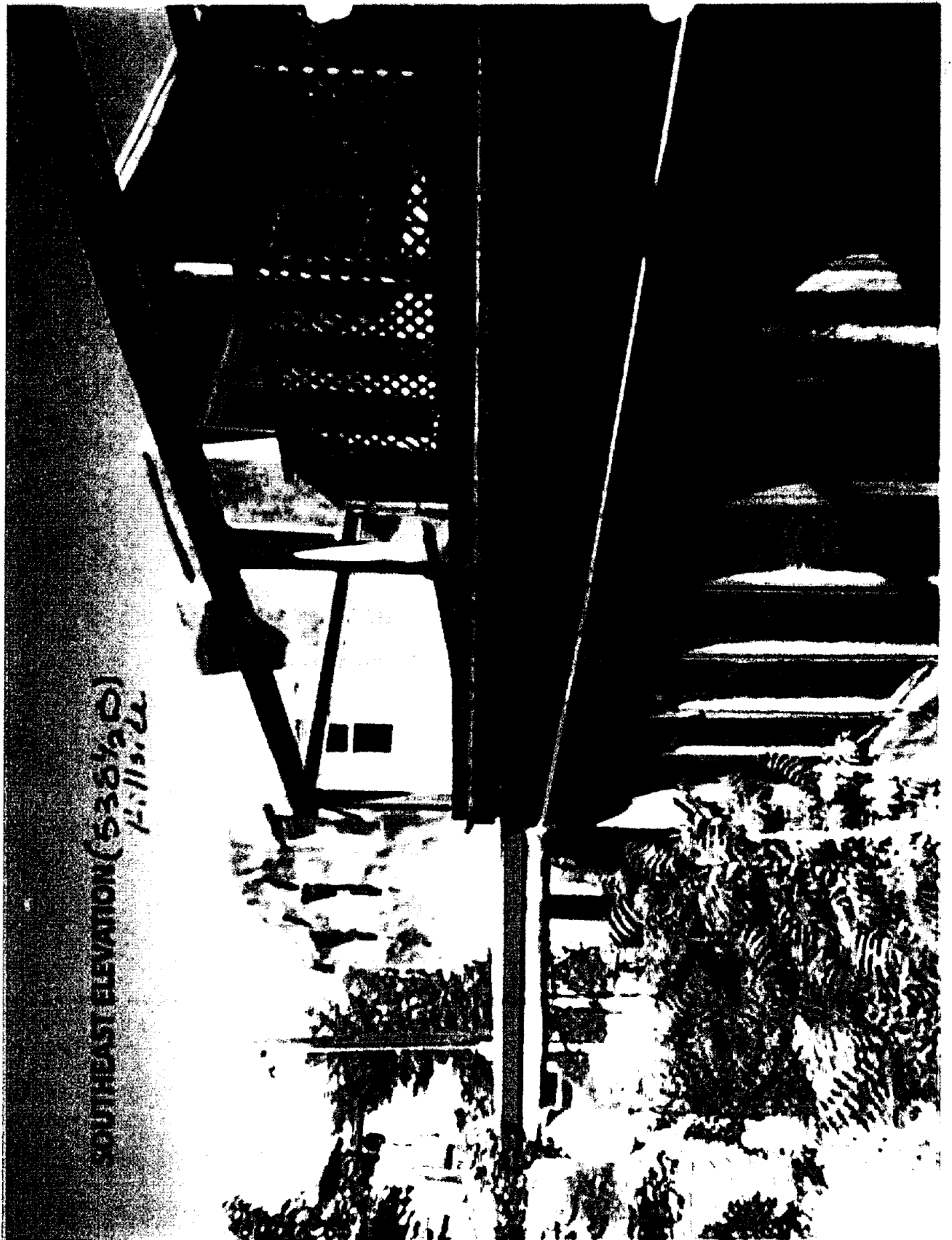


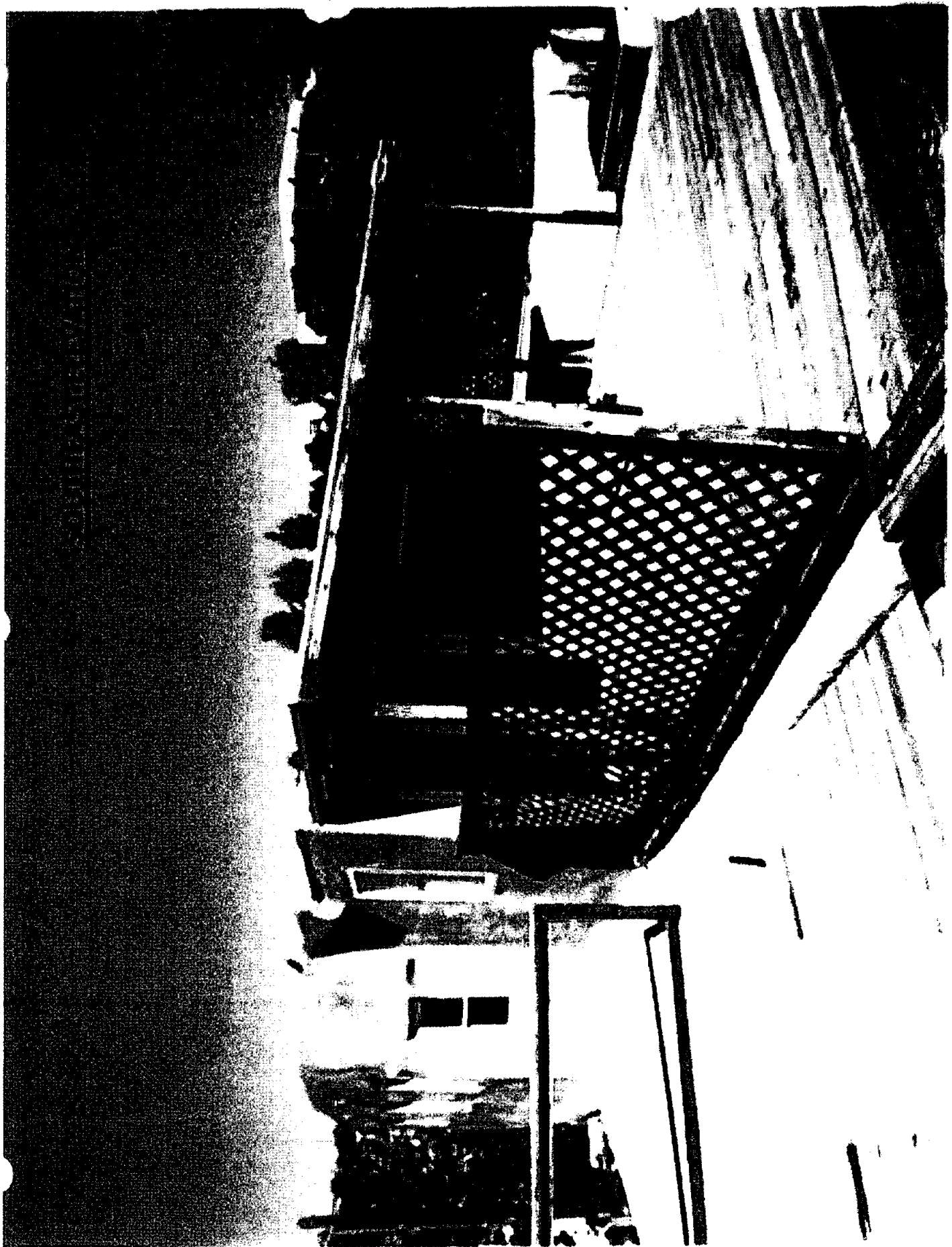






SOUTH ELEVATION - C (538 1/2 D)



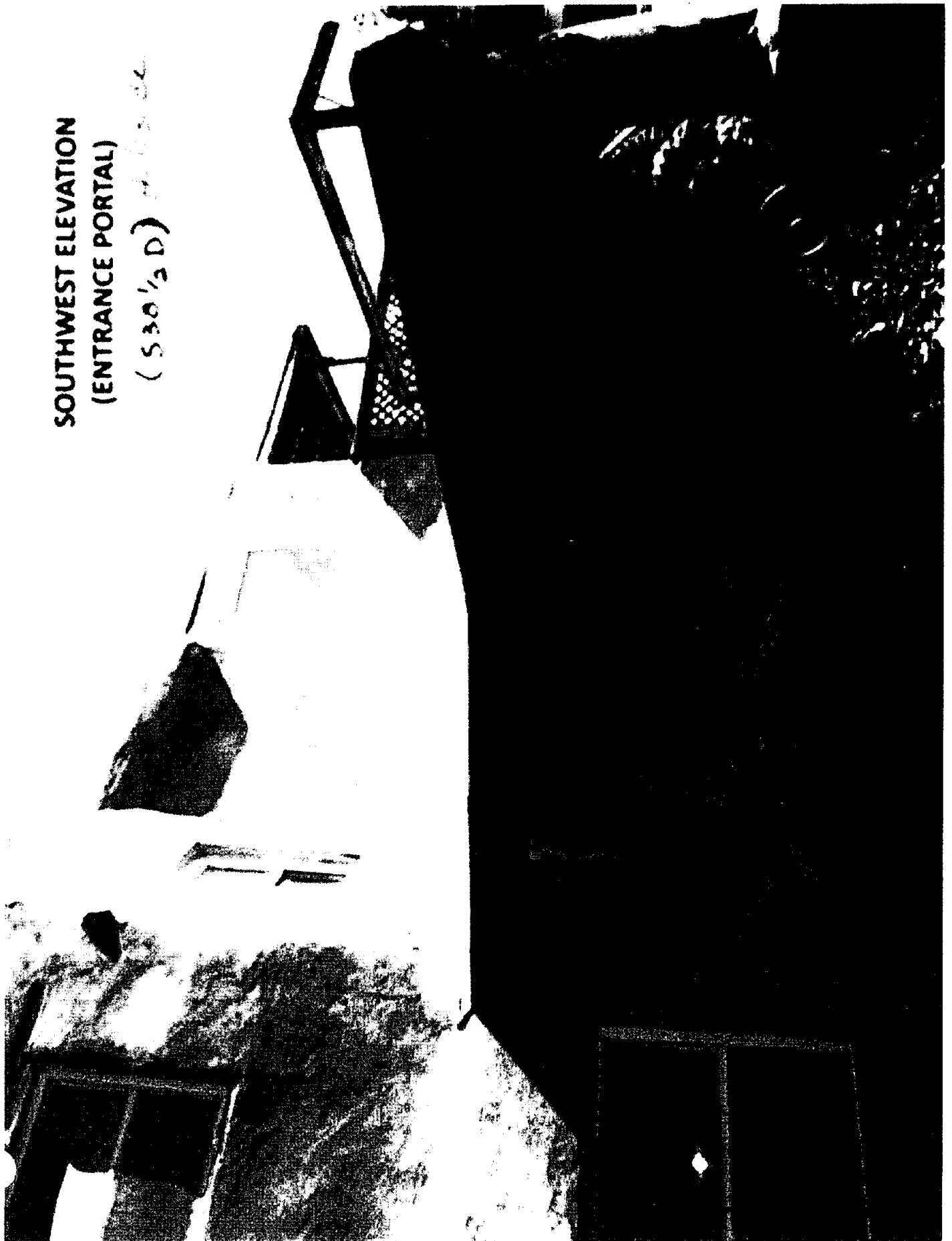


SOUTHWEST ELEVATION - A
(538'5 D) Hillside



SOUTHWEST ELEVATION
(ENTRANCE PORTAL)

(S30 1/2 D)





COMMON BOND PRESERVATION

January 20, 2016

Arminda Diaz
538-½ Hillside Avenue, Unit D
Santa Fe, NM 87501

Dear Arminda,

Thank you for getting in touch in regards to proposed construction activities at 547 Hillside Avenue (previously 538 ½ Hillside, Unit B) in Santa Fe, immediately adjacent to your property at 538 ½ Hillside Avenue, Unit D. I have completed limited archival research on the property and visited it twice. My thoughts and recommendations are below:

Property Status

The residence is located in the Downtown/Eastside historic district, at the top of slight hill north of Palace Avenue. It is in good condition and is surrounded by residential buildings of a similar nature. It was last surveyed in October of 1984, and was considered in excellent condition at that time. The house was likely built circa 1945, which put it outside of the fifty year eligibility rule at the time the district was created. It is considered a non-contributing resource by the City of Santa Fe. There is no determination of status on the 1984 survey form, although the house is certainly potentially eligible now that it has reached the approximate age of seventy years.

Looking at the 1984 survey form however, it is obvious that the house has been renovated fairly extensively since that time. Photos on the form were taken facing north/northeast, with the western and southern facades easily visible. It is obvious that this western wing of the house is two stories, with the more eastern wing shown in the second photo being only one story. This configuration of the house is similar today, but significant decorative details have since been replaced or removed. They include:

- Exposed vigas on the second floor of the western elevation
- A band of coursed stone on the exteriors of the western and southern elevations (dividing the first and second floors)
- Multi-paned casement windows (appear to be 8:8) with wood lintels
- A single-leaf wood and glass door composed of 15 lites with 12-lite sidelights

Because of the loss of these historic features, my professional opinion is that house should retain its status as a non-contributing resource. All windows on the southern elevation are now 1/1 sash windows with no lintels, and other windows include 1:1 casements. It appears the "front" door has been built over and other doors are now double-leaf glass with a single-pane. Unfortunately there is simply too much modern/replacement building fabric for the residence to retain its historic integrity.


Proposed Renovations

With the above in mind, I have examined the proposed renovations to the house and some recommendations are below. The general design adheres fairly closely to the Pueblo/Spanish Revival style, and it appears that there is an attempt to restore many of the multi-paned windows that originally existed. The inclusion of multi-pane windows on the southern elevation is to be commended, especially the 8:8 casements: these are nearly identical to the windows on that same elevation in the 1984 survey. Nevertheless, there are a few details of the design that are distressing. They include:

- The inclusion of multiple (three) windows on the western elevation that immediately faces the street. There are currently no windows on that elevation, nor were there in the 1984 survey. It is highly unlikely that windows ever existed on the façade and it would be preferable to keep it that way.
- The inclusion of two windows on the north elevation on the first level, especially the large 1/1 sash window. While there is no photo of the northern elevation on the survey form, I consider it highly unlikely that windows ever existed on this façade. If they did, they were likely small, square and multi-paned. If you examine the surrounding residences in the neighborhood, few if any have windows on their northern facades. The area was very likely a family compound (or families) that was built over a progression of years. Most windows and door existed on the southern and eastern elevations, with the northern and western elevations being solid adobe (or stucco) with few if any windows. This "cascading" building pattern would assure all residences received sunlight as well as privacy, despite their close proximity. Having only the single, smaller window on the northern elevation would be preferable.
- The choice of a Solomonic column veers the design towards the baroque. A simpler column for the entry portal would be preferable.
- It appears that all stonework will be removed from the exteriors of the house. This historic stonework is a highly significant decorative detail of the house and I highly encourage its retention or restoration.

I have attached the 1984 survey form, as well as two sets of elevations from the application package. I find the directional details of the photos in the packet to be different from the exterior drawings, which are also different from the floorplans. I have marked what I consider to be north, south etc. so that my intent is clear. Obviously the details of the renovation will be finalized by your neighbors and the city, but I hope the above recommendations are helpful in some manner. Please feel free to pass them on to any interested party, and let me know if I can assist in any capacity.

Sincerely,



Shannon L. Papin
Principal, Common Bond Preservation
slp@cbpreservation.com

505.982.4275
505.231.0285

Date: October 24, 2016

To: Ms. Cecilia Rios, Chair, Mr. Frank Katz, Vice Chair, and Members of the Historic Districts Review Board, City of Santa Fe

From: David Garrity & Edward Hobler
Plaza Walk Condominium Architectural Committee

Re: Case number H-15-104, 547 Hillside Avenue

We write to you as the Architecture Committee of the Plaza Walk Condominium Association to support the proposed exterior design of the renovations proposed for 547 Hillside Avenue (a.k.a. Condominium Unit B/C).

This has been a lengthy review process for us primarily due to the lack of clarity and ambiguity in the various drawings and failure to provide keys or annotations. We had a productive meeting this past August with John Clemens who showed us a slightly revised set of drawings. He presented new elevation drawings and those drawings being reused have been more carefully annotated with some of their details better identified. But of more importance to us, in his discussion he clarified his plans and made assurances to us of his intention to preserve the original adobe and stone exterior features of the building along with the hand wrought iron gate.

Mr. Clemens had also made major changes in the room layout of the second floor from the first plans that appear to make it more difficult to turn it into a standalone unit, which would violate an existing Zoning order to reduce condo unit numbers from four to three.

At our suggestion Mr. Clemens spent some time crafting a memo to describe exactly what in his drawings he actually proposes to do. We are pleased with the final result.

It is clear to us that he understands what existing materials, and design elements and overall style we are trying to maintain for the neighborhood as well as for the condominium, and that we require he preserve all original exterior traditional materials.

We approve the removal of the existing wooden anteroom/referred to as a portal, on the condition that the stone wall with hand wrought iron gate will be incorporated in the new design. It can be relocated a few feet if necessary.

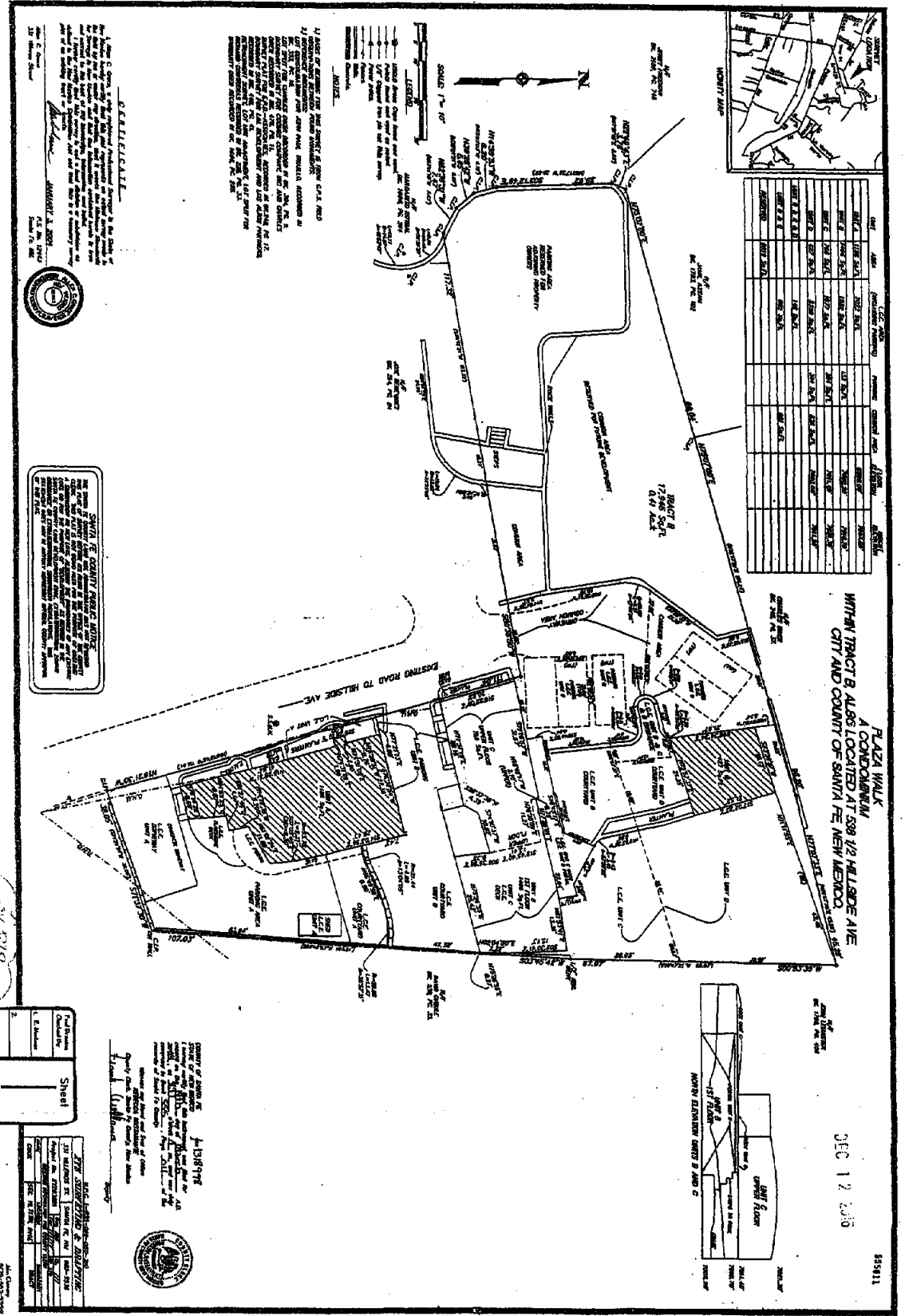
We approve the location of the heat pump condenser and the mechanicals room.

We have not seen the tear sheets of the windows he proposes, but we assume they are wood casements, true or simulated divided lights, with no cladding. The frames painted blue, the color tbd by HDRB. All are to be installed with a four-inch recess in radius edged openings.

Traditional stucco is to be used in a color harmonious with other condos as our docs require.

We ask that railings and other exterior woodwork conform to traditional Santa Fe style.

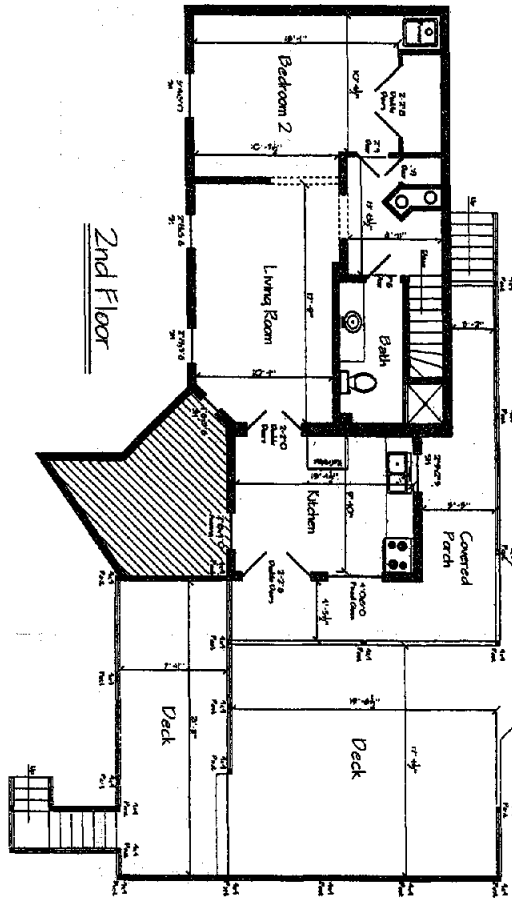
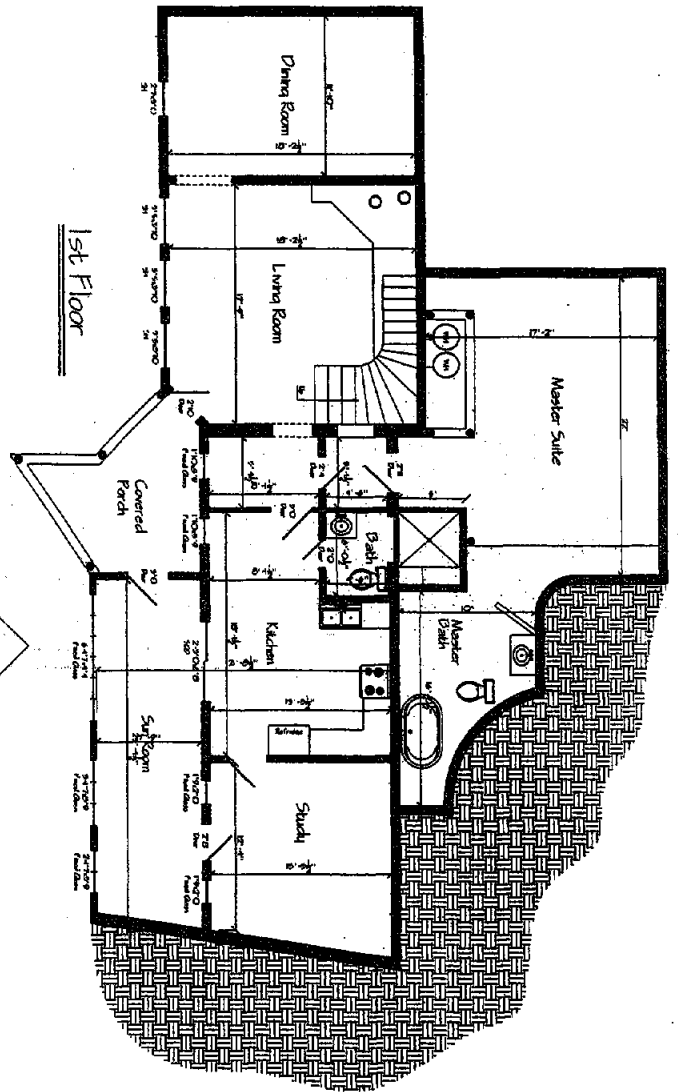
On the basis of style, materials, colors, etc.—which are really the central concerns of the HDRB—we are granting an approval of the exterior design. We reserve any issues of drainage, egress, structural quality, etc. for building permit review.



547 Hillside Ave.
Santa Fe, New Mexico

May 19, 2015
Site Plan

Ron Montoya Custom Designs
Residential Design and Drafting Services Fax 823-6487
8724 Alameda Park Drive NE, Suite G Albuquerque
(505) 823-6474 Cell: (505) 823-6777



Existing
Floor Plan

Scale 1/4" = 1'

Sheet	1
Of 10 Sheets	1

547 Hillside Ave.
Santa Fe, New Mexico

Nov. 16, 2016
Floor Plan

Ron Montoya Custom Designs
Residential Design and Drafting Services Fax 823-6487
8724 Alameda Park Drive N.E., Suite G Albuquerque
(505) 823-6474 Cell (505) 823-6777

Stair Section

NM 2009 International Residential Code
 Approved by the State of New Mexico
 Approved by the State of New Mexico

10'-0" Landing Width
 10'-0" Stair Width
 10'-0" Total Width

Weep Screeds

Weep screeds shall be installed in all exterior walls and foundations. The weep screed shall be a minimum of 1/2" thick and shall be installed in a continuous line along the exterior wall and foundation. The weep screed shall be installed in a continuous line along the exterior wall and foundation. The weep screed shall be installed in a continuous line along the exterior wall and foundation.

Notes

1. All exterior walls and foundations shall be finished with a minimum of 1/2" thick weep screed. The weep screed shall be installed in a continuous line along the exterior wall and foundation. The weep screed shall be installed in a continuous line along the exterior wall and foundation.

Handrail Profile

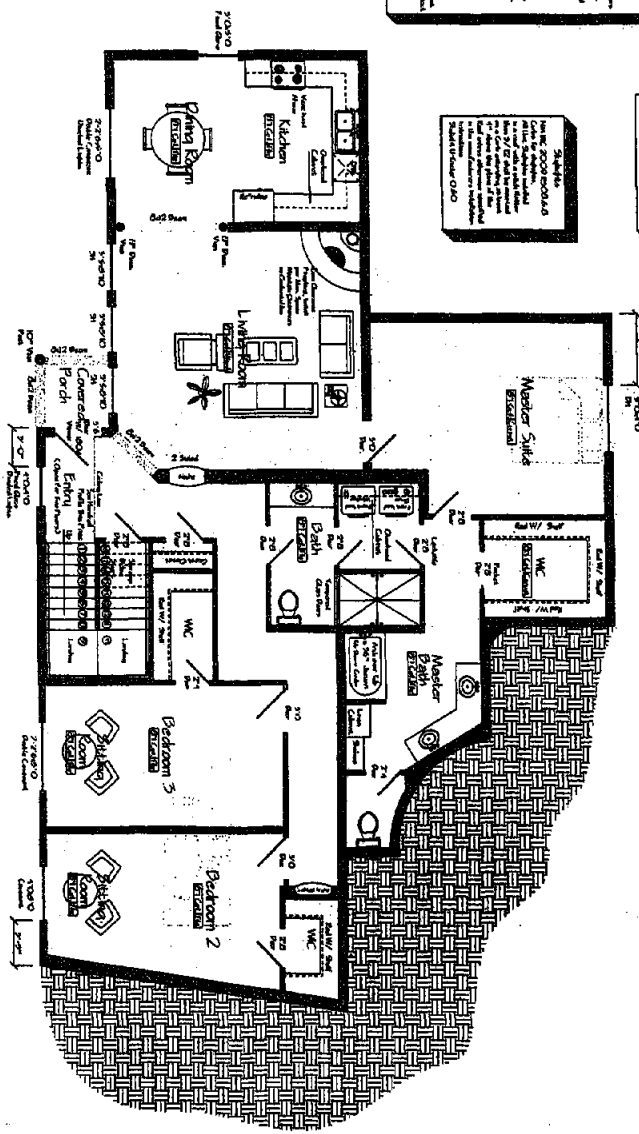
Handrail profile shall be installed in all exterior walls and foundations. The handrail profile shall be a minimum of 1/2" thick and shall be installed in a continuous line along the exterior wall and foundation. The handrail profile shall be installed in a continuous line along the exterior wall and foundation.

Notes

1. All exterior walls and foundations shall be finished with a minimum of 1/2" thick weep screed. The weep screed shall be installed in a continuous line along the exterior wall and foundation. The weep screed shall be installed in a continuous line along the exterior wall and foundation.

Notes

1. All exterior walls and foundations shall be finished with a minimum of 1/2" thick weep screed. The weep screed shall be installed in a continuous line along the exterior wall and foundation. The weep screed shall be installed in a continuous line along the exterior wall and foundation.



Notes

1. All exterior walls and foundations shall be finished with a minimum of 1/2" thick weep screed. The weep screed shall be installed in a continuous line along the exterior wall and foundation. The weep screed shall be installed in a continuous line along the exterior wall and foundation.

Notes

1. All exterior walls and foundations shall be finished with a minimum of 1/2" thick weep screed. The weep screed shall be installed in a continuous line along the exterior wall and foundation. The weep screed shall be installed in a continuous line along the exterior wall and foundation.

Notes

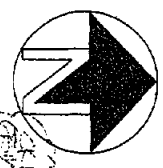
1. All exterior walls and foundations shall be finished with a minimum of 1/2" thick weep screed. The weep screed shall be installed in a continuous line along the exterior wall and foundation. The weep screed shall be installed in a continuous line along the exterior wall and foundation.

Notes

1. All exterior walls and foundations shall be finished with a minimum of 1/2" thick weep screed. The weep screed shall be installed in a continuous line along the exterior wall and foundation. The weep screed shall be installed in a continuous line along the exterior wall and foundation.

Building Material Schedule Table 402.2.1

Item	Description	Quantity	Unit
1	Concrete Foundation	100	sq. ft.
2	Concrete Slab	100	sq. ft.
3	Concrete Wall	100	sq. ft.
4	Concrete Ceiling	100	sq. ft.
5	Concrete Floor	100	sq. ft.
6	Concrete Stair	100	sq. ft.
7	Concrete Landing	100	sq. ft.
8	Concrete Balcony	100	sq. ft.
9	Concrete Deck	100	sq. ft.
10	Concrete Porch	100	sq. ft.
11	Concrete Driveway	100	sq. ft.
12	Concrete Walkway	100	sq. ft.
13	Concrete Pad	100	sq. ft.
14	Concrete Foundation	100	sq. ft.
15	Concrete Slab	100	sq. ft.
16	Concrete Wall	100	sq. ft.
17	Concrete Ceiling	100	sq. ft.
18	Concrete Floor	100	sq. ft.
19	Concrete Stair	100	sq. ft.
20	Concrete Landing	100	sq. ft.
21	Concrete Balcony	100	sq. ft.
22	Concrete Deck	100	sq. ft.
23	Concrete Porch	100	sq. ft.
24	Concrete Driveway	100	sq. ft.
25	Concrete Walkway	100	sq. ft.
26	Concrete Pad	100	sq. ft.



Proposed Floor Plan
 1st Floor
 Scale 1/4" = 1'

Sheet
 1 of 1
 CR16 Sheets

547 Hillside Ave.
 Santa Fe, New Mexico
 Nov. 16, 2016
 Floor Plan

Ron Montoya Custom Designs
 Residential Design and Drafting Services P.O. Box 825-6487
 8724 Alameda Park Drive N.E., Suite G Albuquerque
 (505) 825-6474 Cell: (505) 825-6777

WEEP SCREENS

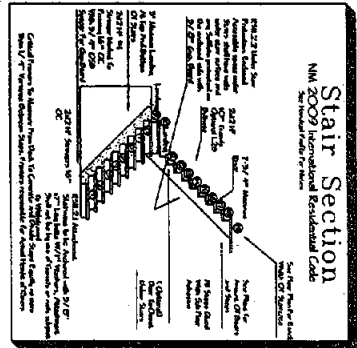
When a weep screen is used, it must be installed in the exterior wall of the building. The weep screen must be installed in the exterior wall of the building and must be installed in the exterior wall of the building. The weep screen must be installed in the exterior wall of the building and must be installed in the exterior wall of the building.

PRO'S DRAINAGE

When a weep screen is used, it must be installed in the exterior wall of the building. The weep screen must be installed in the exterior wall of the building and must be installed in the exterior wall of the building.

Notes 2

For the Stair Section, the Stair Section must be installed in the exterior wall of the building. The Stair Section must be installed in the exterior wall of the building and must be installed in the exterior wall of the building.



DEC 12 2016

1. Foundation	2. Foundation	3. Foundation	4. Foundation	5. Foundation	6. Foundation	7. Foundation	8. Foundation	9. Foundation	10. Foundation
1. Foundation	2. Foundation	3. Foundation	4. Foundation	5. Foundation	6. Foundation	7. Foundation	8. Foundation	9. Foundation	10. Foundation
1. Foundation	2. Foundation	3. Foundation	4. Foundation	5. Foundation	6. Foundation	7. Foundation	8. Foundation	9. Foundation	10. Foundation
1. Foundation	2. Foundation	3. Foundation	4. Foundation	5. Foundation	6. Foundation	7. Foundation	8. Foundation	9. Foundation	10. Foundation
1. Foundation	2. Foundation	3. Foundation	4. Foundation	5. Foundation	6. Foundation	7. Foundation	8. Foundation	9. Foundation	10. Foundation
1. Foundation	2. Foundation	3. Foundation	4. Foundation	5. Foundation	6. Foundation	7. Foundation	8. Foundation	9. Foundation	10. Foundation
1. Foundation	2. Foundation	3. Foundation	4. Foundation	5. Foundation	6. Foundation	7. Foundation	8. Foundation	9. Foundation	10. Foundation
1. Foundation	2. Foundation	3. Foundation	4. Foundation	5. Foundation	6. Foundation	7. Foundation	8. Foundation	9. Foundation	10. Foundation
1. Foundation	2. Foundation	3. Foundation	4. Foundation	5. Foundation	6. Foundation	7. Foundation	8. Foundation	9. Foundation	10. Foundation
1. Foundation	2. Foundation	3. Foundation	4. Foundation	5. Foundation	6. Foundation	7. Foundation	8. Foundation	9. Foundation	10. Foundation

Notes 1

For the Stair Section, the Stair Section must be installed in the exterior wall of the building. The Stair Section must be installed in the exterior wall of the building and must be installed in the exterior wall of the building.

Note:

For the Stair Section, the Stair Section must be installed in the exterior wall of the building. The Stair Section must be installed in the exterior wall of the building and must be installed in the exterior wall of the building.

Notes 1

For the Stair Section, the Stair Section must be installed in the exterior wall of the building. The Stair Section must be installed in the exterior wall of the building and must be installed in the exterior wall of the building.

Notes 1

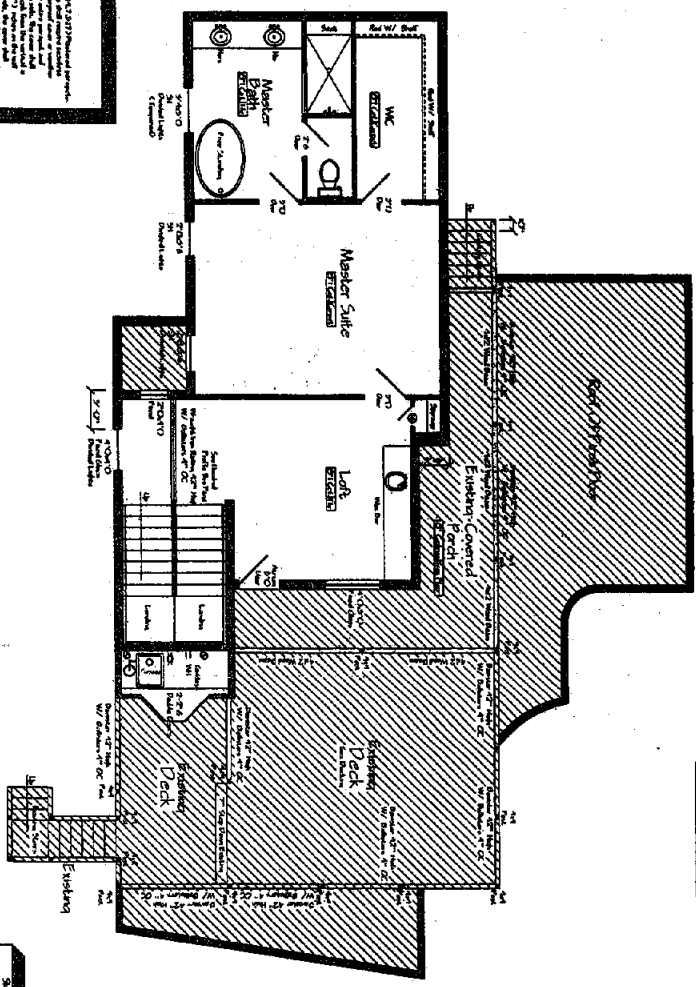
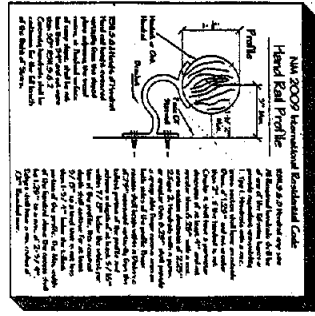
For the Stair Section, the Stair Section must be installed in the exterior wall of the building. The Stair Section must be installed in the exterior wall of the building and must be installed in the exterior wall of the building.

Notes 1

For the Stair Section, the Stair Section must be installed in the exterior wall of the building. The Stair Section must be installed in the exterior wall of the building and must be installed in the exterior wall of the building.

Notes 1

For the Stair Section, the Stair Section must be installed in the exterior wall of the building. The Stair Section must be installed in the exterior wall of the building and must be installed in the exterior wall of the building.



APR 14 2016

Proposed 2nd Floor

Scale 1/4" = 1'

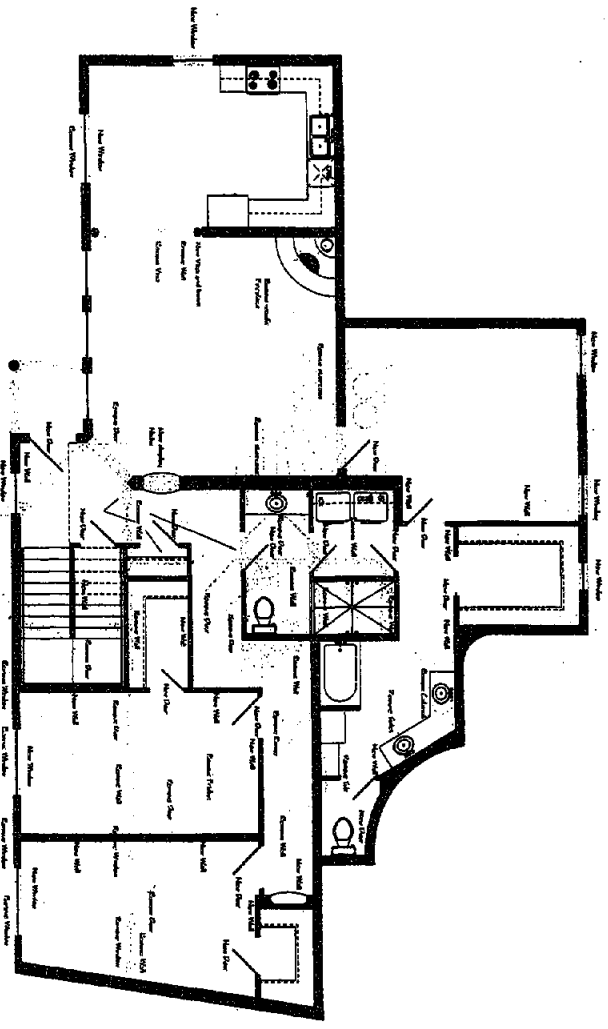
Sheet	1
Of 16 Sheets	

547 Hillside Ave.
Santa Fe, New Mexico

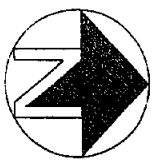
Nov. 16, 2016
2nd Floor Plan

Ron Montoya Custom Designs
Residential Design and Drafting Services Fax 825-6487
8724 Alameda Park Drive NE, Suite G Albuquerque
(505) 825-6474 Cell: (505) 825-6777

Scope of Work: To Remove dangerous staircase and rebuild a new staircase to new codes, to remodel with new walls Floor plan for a more efficient layout with new bedrooms and living spaces, To upgrade all cabinets and appliances, To shore and repair existing floor joists, to remove covered porch that is collapsing and replace with new porch, To upgrade heating and cooling system including creating new furnace Room, and general remodeling.



Legend	
WALL	Demolished Walls



Handwritten signature or initials.

Demo Plan
1st Floor

Sheet	7
Of 16 Sheets	

547 Hillside Ave.
Santa Fe, New Mexico

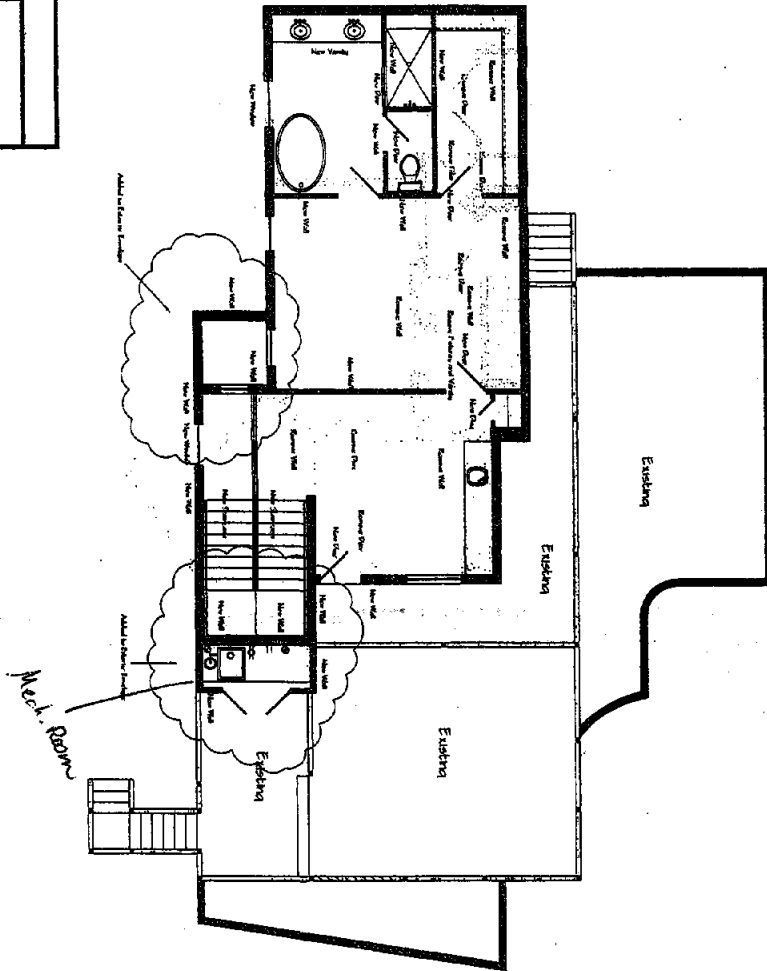
Nov. 16, 2016
Demolition Plan

Ron Montoya Custom Designs
Residential Design and Drafting Services P.O. Box 822-6487
8724 Alameda Park Drive N.E. Suite G Albuquerque
(505) 822-6474 Cell: (505) 822-6777

Scope of Work: To Remove dangerous staircase and rebuild a new staircase to new codes, to remodel with new walls Floor plan for a more efficient Layout with new bedrooms and living spaces, To upgrade all cabinets and appliances, To shore and repair existing floor joists, to remove covered porch that is collapsing and replace with new porch, To upgrade heating and cooling system including creating new furnace Room, and general remodeling



Legend	
	Existing Walls
	Demolished Walls



OK
11/22/16

Demo Plan

2nd Floor Scale 1/4" = 1'

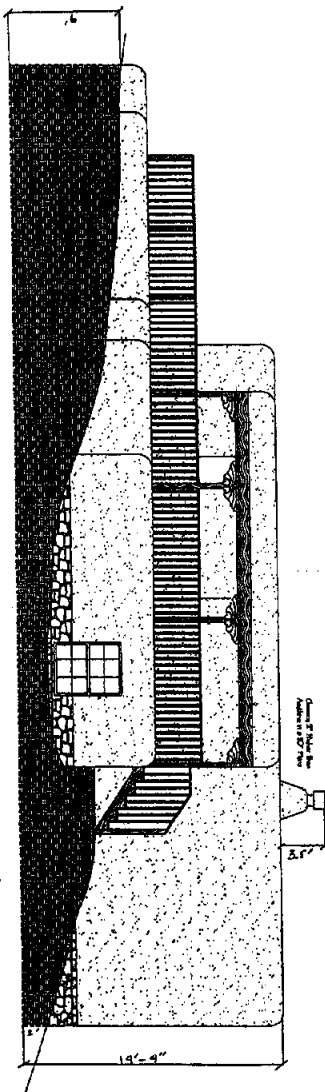
Sheet	00
1. E. Montoya	
2. R. Montoya	
3. C. Montoya	
4. D. Montoya	
5. F. Montoya	

547 Hillside Ave.
Santa Fe, New Mexico

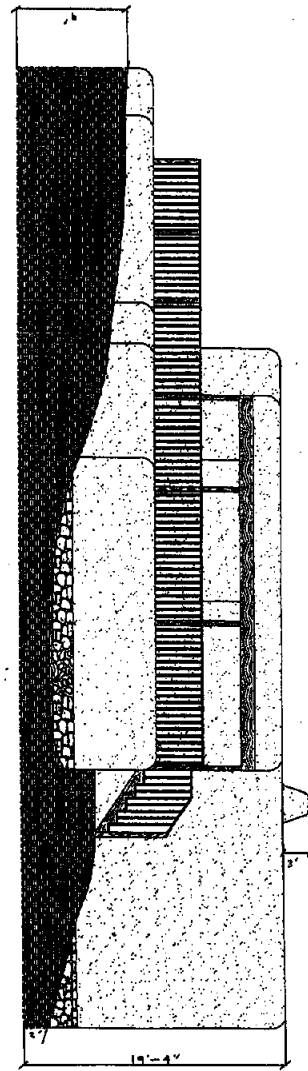
Nov. 16, 2016
Demolition Plan

Ron Montoya Custom Designs
Residential Design and Drafting Services Fax 823-6457
8724 Alameda Park Drive N.E. Suite G Albuquerque
(505) 823-6474 Cell. (505) 823-6777

Proposed North Elevation



Existing North Elevation



25
10/10/16

Elevations

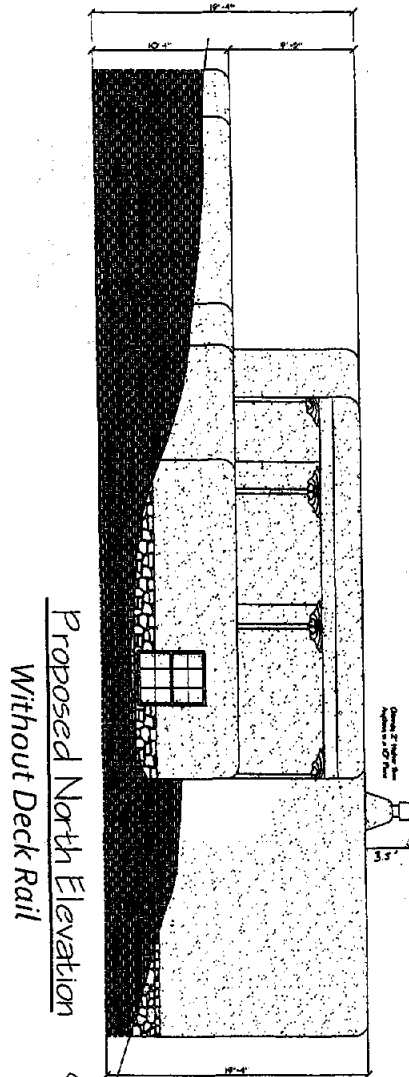
Scale 1/4" = 1'

Sheet	2
1. 8. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.	

547 Hillside Ave.
Santa Fe, New Mexico

June 1, 2016
Elevations

Ron Montoya Custom Designs
Residential Design and Drafting Services Fax 823-6487
8724 Alameda Park Drive N.E. Suite G Albuquerque
(505) 823-6474 Cell (505) 823-6777



OK
W/OK

Elevations

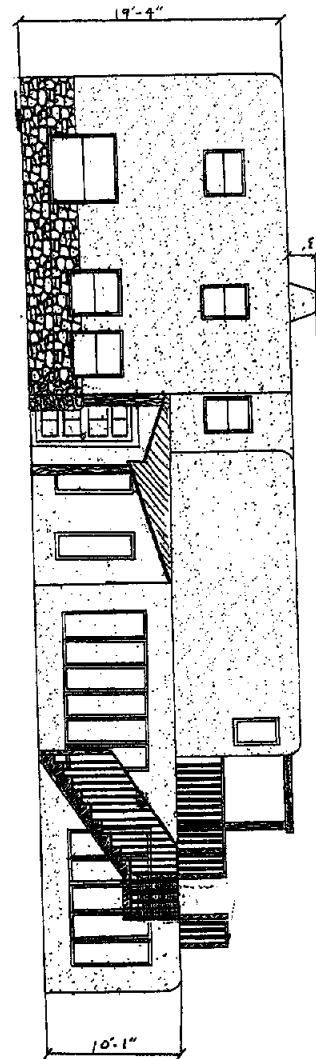
Scale 1/4" = 1'

Customer Comments	Sheet
1. 6. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.	2
OR 16. Sheets	

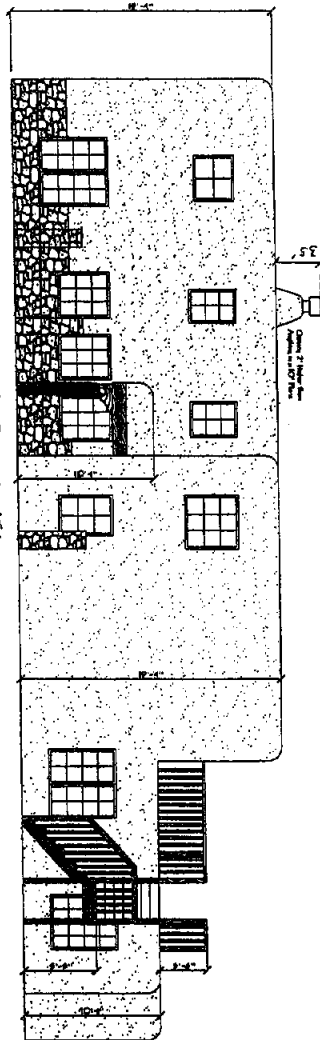
547 Hillside Ave.
Santa Fe, New Mexico

Nov. 16, 2016
Elevations

Ron Montoya Custom Designs
Residential Design and Drafting Services Fax: 823-6487
8724 Alameda Park Drive NE, Suite G Albuquerque
(505) 823-6474 Cell: (505) 823-6777



Existing South Elevation



Proposed South Elevation

OK
1/1/16

Elevations

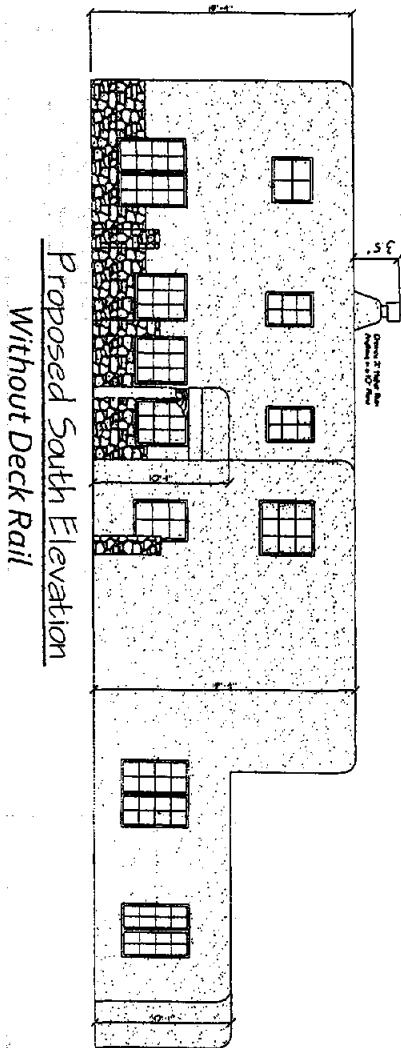
Scale 1/4" = 1'

Sheet	12
1. E. Elevation	
2. S. Elevation	
3. N. Elevation	
4. W. Elevation	
5. Section	
6. Details	
7. Foundation	
8. Roof	
9. Other	

547 Hillside Ave.
Santa Fe, New Mexico

June 1, 2016
Elevations

Ron Montoya Custom Designs
Residential Design and Drafting Services Fax 823-6487
8724 Alameda Park Drive NE, Suite G Albuquerque
(505) 823-6474 Cell (505) 823-6777



Proposed South Elevation
Without Deck Rail

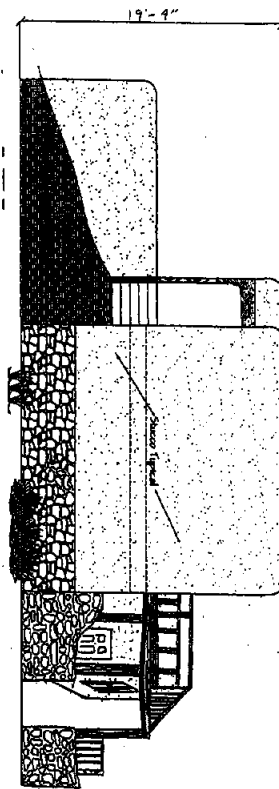
OK
12/1/16

Elevations
Scale 1/4" = 1'

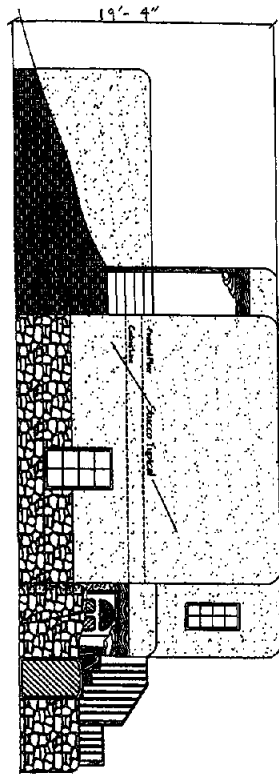
Sheet	2
Of 18 Sheets	

547 Hillside Ave.	Nov. 16, 2016
Santa Fe, New Mexico	Elevations

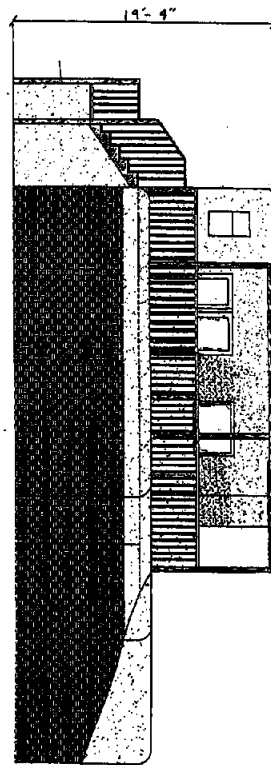
Ron Montoya Custom Designs	
Residential Design and Drafting Services Fax 823-6487	
8724 Alameda Park Drive N.E., Suite G Albuquerque	
(505) 823-6474	Cell. (505) 823-6777



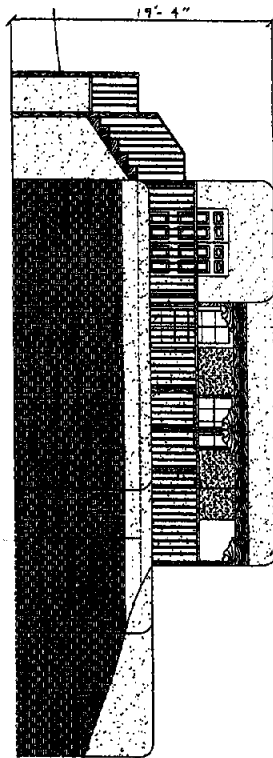
Existing West Elevation



Proposed West Elevation



Existing East Elevation



Proposed East Elevation

*OK
6/1/16*

Elevations

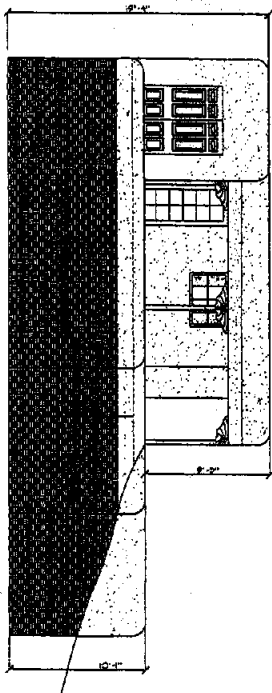
Scale 1/4" = 1'

Sheet	2
Drawn by	E. Montoya
Checked by	R. Montoya
Date	6/1/16

547 Hillside Ave.
Santa Fe, New Mexico

June 1, 2016
Elevations

Ron Montoya Custom Designs
Residential Design and Drafting Services Fax 823-6457
8724 Alameda Park Drive N.E., Suite G Albuquerque
(505) 823-6474 Cell: (505) 823-6777



Proposed East Elevation
Without Deck Rail

OK FZE
OF 11/16

Elevations

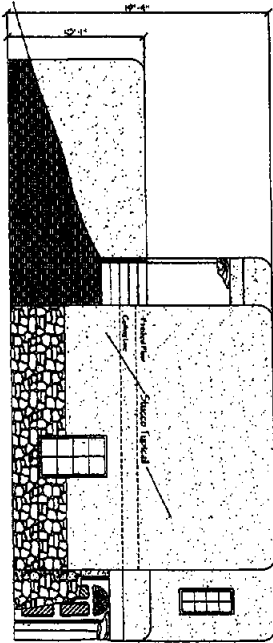
Scale 1/4" = 1'

Project Name	547 Hillside Ave.
Client Name	Santa Fe, New Mexico
Architect	Ron Montoya
Sheet	2
Of 16 Sheets	

547 Hillside Ave.
Santa Fe, New Mexico

Nov. 16, 2016
Elevations

Ron Montoya Custom Designs
Residential Design and Drafting Services Fax 825-6487
8724 Alameda Park Drive N.E. Suite G Albuquerque
(505) 825-6474 Cell: (505) 825-6777



Proposed West Elevation
Without Deck Rail

OK'd
05/16/16

Elevations

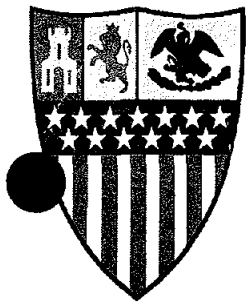
Scale 1/4" = 1'

Sheet	12
Final Drawing	
Check by	
2. Add-on	
01/10/2016	

John Chaves
972-343-7777
john@chavesdesign.com

547 Hillside Ave.	Nov. 16, 2016
Santa Fe, New Mexico	Elevations

Ron Montoya Custom Designs
Residential Design and Drafting Services Fax 823-6487
8724 Alameda Park Drive N.E. Suite G Albuquerque
(505) 823-6474 Cell: (505) 823 6777



City of Santa Fe, New Mexico

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

www.santafenm.gov

Javier M. Gonzales, Mayor

Councilors:

Signe I. Lindell, Mayor Pro Tem, Dist. 1

Renee Villarreal, Dist. 1

Peter N. Ives, Dist. 2

Joseph M. Maestas, Dist. 2

Carmichael A. Dominguez, Dist. 3

Chris Rivera, Dist. 3

Ronald S. Trujillo, Dist. 4

Mike Harris, Dist. 4

Project description: John Clemens, agent for Coyote Development Group LLC, owners, proposes to replace a portal and windows, construct a 36 sq. ft. addition and re-stucco on a non-contributing residential structure.

Case number: H-15-104

Project Type: HDRB

PROJECT LOCATION(S):

547 Hillside Avenue

PROJECT NAMES:

OW – John Clemens
Santa Fe NM 87501

228 S. St. Francis
505-8200-7000

AP – John Clemens
Santa Fe NM 87501

228 S. St. Francis
505-8200-7000

BOARD ACTION

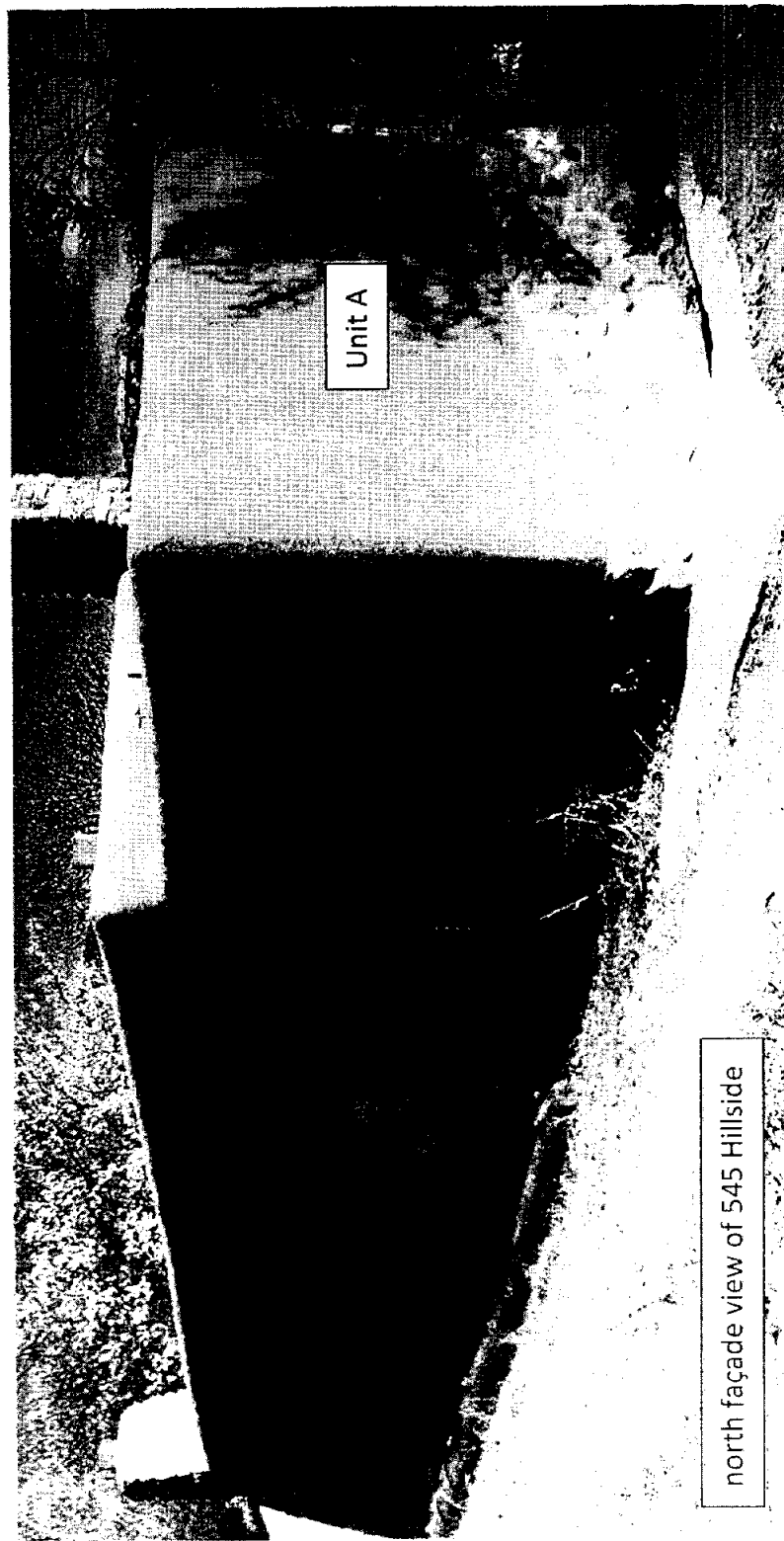
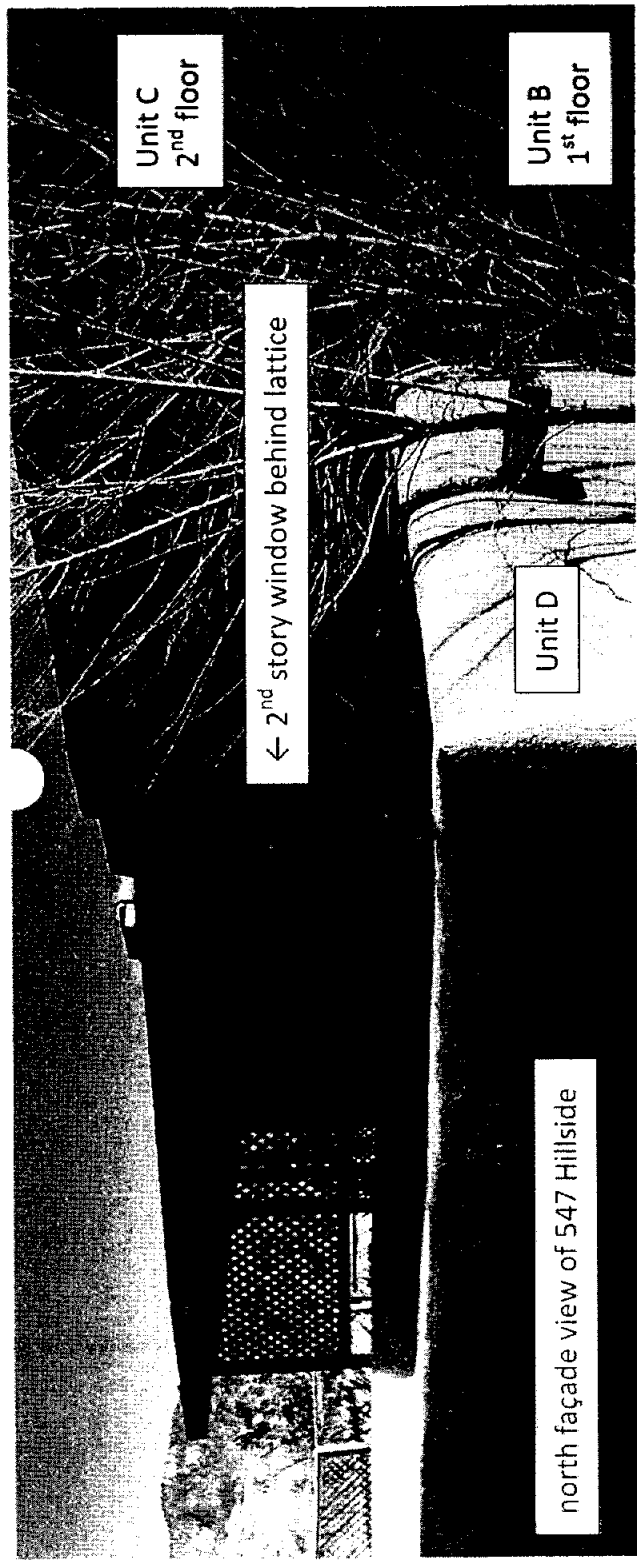
This is to certify that the Historic Districts Review Board (HDRB) acted on your request at their hearing on January 10, 2017. The decision of the Board was to approve the application as submitted with the condition that the location of the master bedroom egress window be approved by staff, on the north or west elevation, before a construction permit application is submitted. For further information please call 955-6605.

Sincerely,

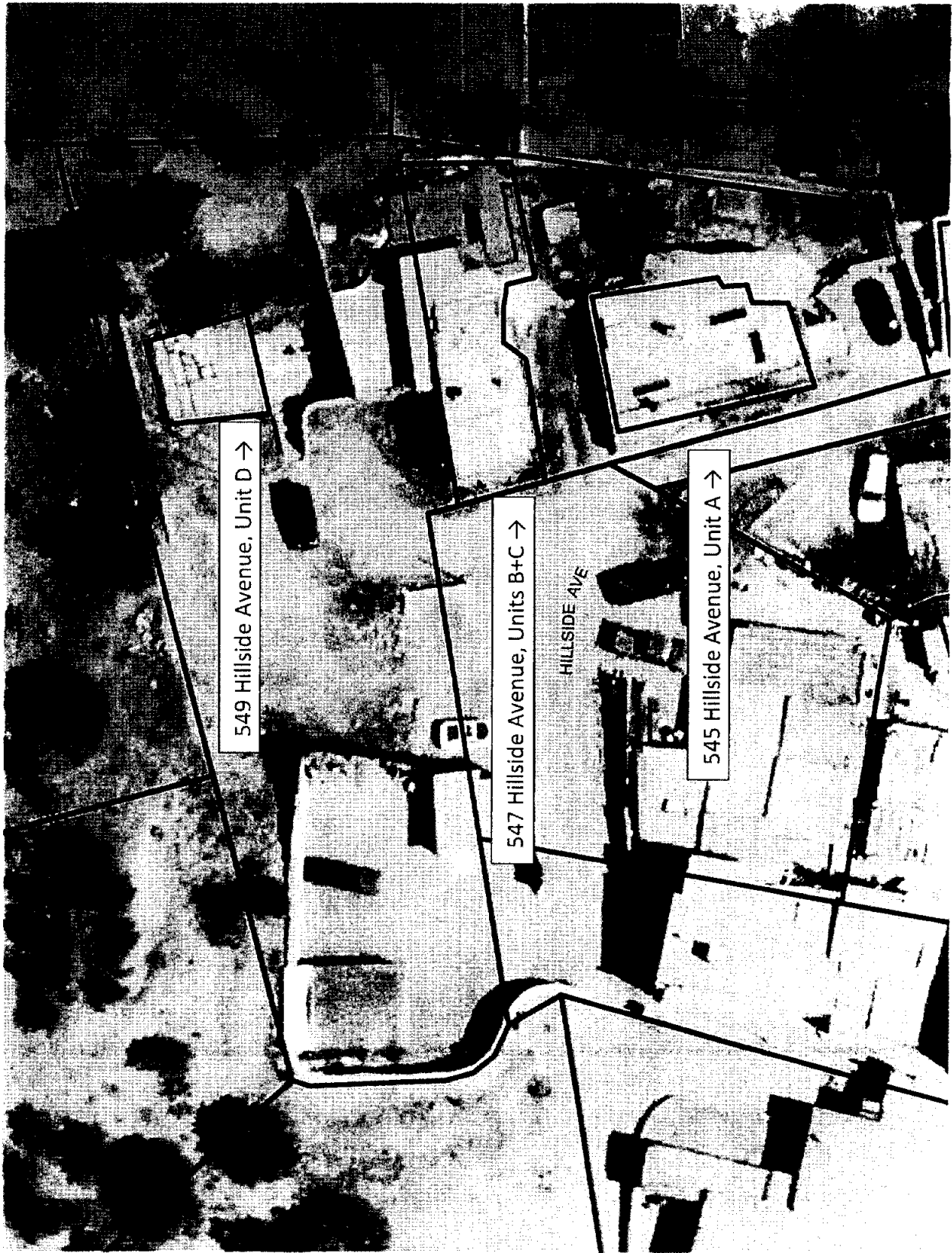
Nicole Ramirez Thomas
Planner Senior, Historic Preservation Division

NOTE: Applicant can use this action letter to apply for construction permit, but the permit shall not be released until the end of the appeal period which starts on the date of filing of the Findings and Conclusions in the City Clerk's office (SFCC 14-3.17(D)). Your permit will be denied if any changes on plans that were not approved by the HDRB or if conditions of approval are not met. Please attach copies of this letter to all sets when submitting for construction permits.





Aerial Photograph showing the extent of the Plaza Walk Condominium Association





HISTORIC DISTRICTS REVIEW BOARD APPLICATION

PROJECT LOCATION: 538 1/2 D Houside Ave.

HISTORIC DISTRICT: ☐ Downtown & Eastside ☐ Don Gaspar Area ☐ Westside-Guadalupe ☐
(from attached map) ☐ Historic Transition ☐ Historic Review ☐ Landmark (outside of historic districts) ☐

PROJECT PROPOSAL: DEMOL REPAIR PORTAL, INTERIOR REMODEL, NEW STAIRWAY, RESTROOMS

CONSTRUCTION COST: \$ 150,000

BASE FEE: \$ 750.00 + EXCEPTION: \$ 0 + POSTER: \$ 25.00 = TOTAL: \$ 775.00

(base fee = 1/2 of 1% of construction cost, not to exceed \$2,000 and not less than \$250)

(each exception has an additional fee of \$350) (\$25 per poster with one (1) poster per street frontage)

OWNER: COYOTE DEVELOPMENT GROUP LLC PHONE #:

OWNER MAILING ADDRESS: P.O. Box 2509

CITY, STATE, ZIP CODE: SANTA FE, NM 87504

EMAIL:

APPLICANT: JOSEPH MARTINEZ PHONE #: 505-929-0662

MAILING ADDRESS: P.O. Box 1717 SANTA CRUZ

CITY, STATE, ZIP CODE: SANTA CRUZ, N.M. 87567

EMAIL: Jjfmartinez1@yahoo.com

PREAPPLICATION MEETING: Date: 6.25.15 Case Planner: David Rasch

PRELIMINARY ZONING REVIEW: Date: 10.28.15 Planner: Zach Thomas

(You must schedule a meeting with Zoning Planner prior to the HDRB submittal deadline date: Worksheet will not be reviewed on the HDRB submittal deadline day/Preliminary Zoning Review Form must be submitted with proposal)

AFFIDAVIT TO AUTHORIZE AGENT (IF APPLICABLE)

I am,/We are the owner(s) and record title holder(s) of the property located at:

I/We authorize [Signature] to act as my/our agent to execute this application.

Signed: [Signature] Date: 7-14-2015

Signed: Date:

****ALL signatures on this page must be original signatures (no copies, no digital signatures)**



HISTORIC DISTRICTS REVIEW BOARD APPLICATION

PROJECT LOCATION: 547 HILLSIDE AVE.

HISTORIC DISTRICT: ☐ Downtown & Eastside ☐ Don Gaspar Area ☐ Westside-Guadalupe ☐
(from attached map) ☐ Historic Transition ☐ Historic Review ☐ Landmark (outside of historic districts) ☐

PROJECT PROPOSAL: _____

CONSTRUCTION COST: \$ _____

BASE FEE: \$ _____ + EXCEPTION: \$ _____ + POSTER: \$ _____ = TOTAL: \$ _____

(base fee = 1/2 of 1% of construction cost, not to exceed \$2,000 and not less than \$250)

(each exception has an additional fee of \$350) (\$25 per poster with one (1) poster per street frontage)

OWNER: _____ PHONE #: _____

OWNER MAILING ADDRESS: _____

CITY, STATE, ZIP CODE: _____

EMAIL: _____

APPLICANT: John Clemmons PHONE #: 820-7000 or

MAILING ADDRESS: 228 S. Saint Francis 463-5359

CITY, STATE, ZIP CODE: Santa Fe New Mexico 87501

EMAIL: John@santafe logic.com

PREAPPLICATION MEETING: Date: 4.27.16 Case Planner: David Rasch

PRELIMINARY ZONING REVIEW: Date: _____ Planner: _____

(You must schedule a meeting with a zoning planner prior to the HDRB submittal deadline date: Worksheet will not be reviewed on the HDRB submittal deadline day/Preliminary Zoning Review Form must be submitted with proposal)

AFFIDAVIT TO AUTHORIZE AGENT (IF APPLICABLE)

I am,/We are the owner(s) and record title holder(s) of the property located at: _____

I/We authorize John Clemmons to act as my/our agent to execute this application.

Signed: [Signature] Date: 4-27-2016

Signed: _____ Date: _____

****ALL signatures on this page must be original signatures (no copies, no digital signatures)**

Address: 538 1/2 D Hillside

Hearing Date: Nov 24, 2015 Posters: 1

I have received the public notice poster(s) and I agree to post notice of the proposed project on the site fifteen (15) days prior to the Historic Districts Review Board hearing. I am aware that a decision of the HDRB may be appealed by any aggrieved party within fifteen (15) days of the adoption of Findings and Conclusions.

Joseph Martinez
Signature of Applicant/Owner

Date

10.28.2015

JOSEPH MARTINEZ
Printed Name Applicant/Owner

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

DR Notification Poster 11001.431475
ix 25.00 25.00

Payer Name: LYNN SCOTT

SubTotal:
Total:

25.00
25.00

-H Visa Card
/000.101551

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

DR Application 11001.431445 750.00
ix 750.00 11001.431475
PDR Notification Poster 25.00 25.00

Payer Name: DOS CHICAS LLC

775.00
775.00

Address: 547 HILLSIDE

Hearing Date: 1/10/17

Posters Required: 1

Posters Picked Up: 0

Will be Using Posters already own: 1 Yes

I have received the public notice poster(s) and I agree to post notice of the proposed project on the site fifteen (15) days prior to the Historic Districts Review Board hearing. I am aware that a decision of the HDRB may be appealed by any aggrieved party within fifteen (15) days of the adoption of Findings and Conclusions.


Signature of Applicant/Owner

12/12/16
Date

John Clemens
Printed Name Applicant/Owner

Address: 547 HILLSIDE AVE

Hearing Date: MAY 24 - 2016

Posters Required: 1

Posters Picked Up: 1

Will be Using Posters already own: 1 Yes

I have received the public notice poster(s) and I agree to post notice of the proposed project on the site fifteen (15) days prior to the Historic Districts Review Board hearing. I am aware that a decision of the HDRB may be appealed by any aggrieved party within fifteen (15) days of the adoption of Findings and Conclusions.


Signature of Applicant/Owner

4/27/2016
Date

Lynn G-Scott
Printed Name Applicant/Owner

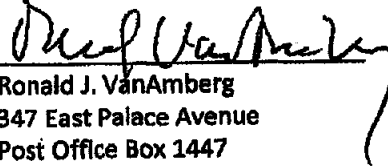
IN THE MATTER OF THE APPEAL OF CASE # H-15-104 (547 HILLSIDE AVENUE)

APPLICANT'S WITNESS LIST

1. John Clemens. Mr. Clemens is expected to testify about the nature of the project, that the formal findings and conclusions of the HDRB are their final decision and that condominium issues raised by Appellant are not issues relevant to these proceedings.

VANAMBERG ROGERS, YEPA,
ABEITA & GOMEZ, LLP

By:


Ronald J. VanAmberg
347 East Palace Avenue
Post Office Box 1447
Santa Fe, New Mexico 87504-1447
(505) 988-8979
(505) 983-7508 (fax)
rvanamberg@nmlawgroup.com

Attorney for Applicant

RECEIVED

APR 3 2017

Land Use Dept.



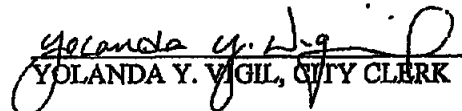
City of Santa Fe Notice of Public Hearing

Notice is hereby given that the Governing Body of the City of Santa Fe will hold a public hearing at their regular meeting on Wednesday, May 10, 2017, at 7:00 p.m. at the City Council Chambers at City Hall, 200 Lincoln Avenue to consider the following request:

Case #2017-09. Appeal of the Historic Districts Review Board's Decision on January 24, 2017, Concerning the Proposed Remodel of the Residence at 547 Hillside Ave. (formerly 538 ½ Hillside Ave.) in the Downtown and Eastside Historic District as Case #H-15-104. Arminda Diaz, Neighbor, Requests that the Governing Body Rescind the Board's Decision Which Allowed the Historic Preservation Division to Approve an Egress Window.

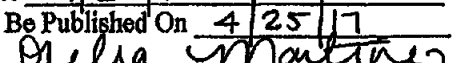
Any and all interested parties are invited to attend the public hearing and will be heard prior to the Governing Body taking action. The full agenda and the packet of material for this public hearing will be available on Friday (evening), May 5, 2017 at the City's website, <http://www.santafenm.gov> (Click on Departments -> City Clerk -> Weekly Meeting List). Written letters in support of one of the parties or other relevant documents may be submitted in writing to the City Land Use Director at City Hall, 200 Lincoln Avenue by 12 o'clock noon on the 10th day preceding the appeal hearing.

DATED AT SANTA FE, NEW MEXICO THIS 24th DAY OF APRIL, 2017.


YOLANDA Y. VIGIL, CITY CLERK

DATE DELIVERED: April 24, 2017
DATE PUBLISHED: April 25, 2017

The Santa Fe New Mexican to mail affidavit of publication to City Historic Preservation Division, P.O. Box 909, Santa Fe, New Mexico 87504. Applicant shall deliver a second copy of the affidavit of publication to Historic Preservation Division case manager on the same day.

Received by *The Santa Fe New Mexican* on
Date 4/24/17
To Be Published On 4/25/17
By 
The Santa Fe New Mexican (signature)

Self-Affirmed Affidavit

I, (name) ARMANDO DIAZ (and title/entity if applicable), on this 25 day of MARCH, 2017 hereby affirm under penalty of perjury under the laws of the State of New Mexico, and pursuant to Rule 1-011 NMRA, that all statements contained in this affidavit are true and correct, according to my personal knowledge and belief:

1. I affirm that I mailed the appeal notice to the applicant and to all required neighborhood associations at least 15 calendar days before the Appeal hearing on April 12, 2017, as required by the Santa Fe City Code.
2. I hereby appoint OLIVER NETBURN (HUSBAND) (name & relationship) to serve as my agent at the appeal hearing before the City of Santa Fe Governing Body for case no. 2017-09, on April 12, 2017.

Further affiant sayeth not.

/s/

(name [and title/entity if applicable])

SANTA FE NEW MEXICAN

LEGAL #82391

City of Santa Fe
Notice of Public
Hearing

Notice is hereby given that the Governing Body of the City of Santa Fe will hold a public hearing at their regular meeting on Wednesday, April 22, 2017, at 7:00 p.m. at the City Council Chambers at City Hall, 200 Lincoln Avenue to consider the following request:

Case #2017-09. Appeal of the Historic District Review Board's decision on January 24, 2017, concerning the proposed remodel of the residence at 647 Hillside Ave. (formerly 438 1/2 Hillside Ave.) in the Downtown Eastside Historic District as Case #H-15-104. Arminda Diaz, neighbor, requests that the governing body rescind the board's decision which allowed the Historic Preservation Division to approve an egress window.

Any and all interested parties are invited to attend the public hearing and will be heard prior to the Governing Body taking action. The full agenda and the packet of material for this public hearing will be available on Friday (evening), April 7, 2017 at the City's website, <http://www.santafenm.gov> (Click on Departments > City Clerk > Weekly Meeting List). Written letters in support of one of the parties or other relevant documents may be submitted in writing to the City Land Use Director at City Hall, 200 Lincoln Avenue by 12 o'clock noon on the 10th day preceding the appeal hearing.

DATED AT SANTA FE,
NEW MEXICO THIS
24TH DAY OF MARCH,
2017.

/s/ Yolanda Y. Vigil
City Clerk

Published in the Santa Fe New Mexican on March 28, 2017.

Ad Proof / Order Confirmation / Invoice

Account Number

27668

Ad Order Number

0000193356

CITY HISTORIC PRESERVATION DIVISION,

Appellant's Submittal Package

Case No. 2017-09

Appellant's Name: Arminda Diaz
Agent: Oliver Netburn
Subject of Appeal: Appeal of the Historic Districts Review Board Decision on January 24, 2017, concerning the proposed remodel of a residence in the Downtown and Eastside Historic District under Case No. H-15-104
Property Subject to Appeal: 547 Hillside Avenue

Table of Contents

	Page No.
Witness List.....	3
Alternative Design Solutions.....	4
Letter from Historic Consultant (Common Bond Preservation).....	7
Existing Limited Common Element.....	10

Witness List

Name: Oliver Netburn
Basis of Testimony: Husband of Appellant (Agent)
Summary of Testimony: Oliver will present the basis of the appeal and provide a response to the Land Use Development staff report and recommendation.

Name: Arminda Diaz
Basis of Testimony: Neighboring property owner (Appellant)
Summary of Testimony: Arminda will discuss her relationship to the property, including her interest in the Condominium Association and her future intentions with the property, as well as her relationship to the City of Santa Fe. Arminda will also introduce alternative solutions which would be code-compliant and preserve her property rights.

Name: Jeremy Jones
Basis of Testimony: Attorney for the property owner
Summary of Testimony: Jeremy will discuss the properties rights afforded Arminda and the restrictions and obligations of all Condominium Association members which would be effected by installation of the egress window using her courtyard.

Name: Greg Allegretti
Basis of Testimony: Santa Fe-based architect, Principal Architect of Allegretti Architects
Summary of Testimony: Greg will discuss applicable building and fire code provisions and alternative design solutions which would be consistent with the Downtown and Eastside Design Standards and compliant with relevant building codes.

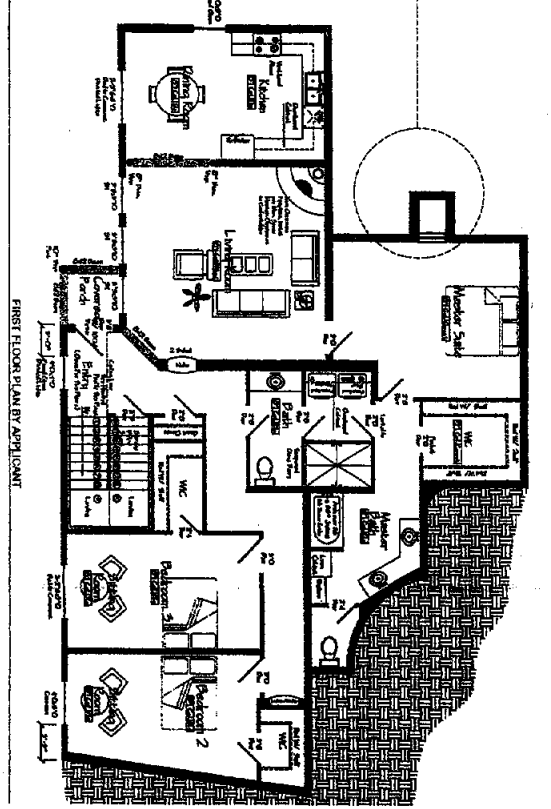
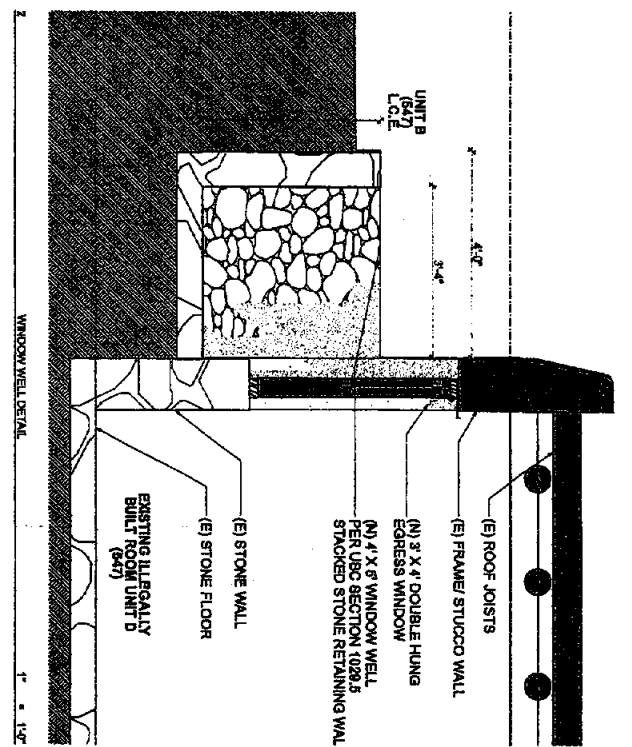
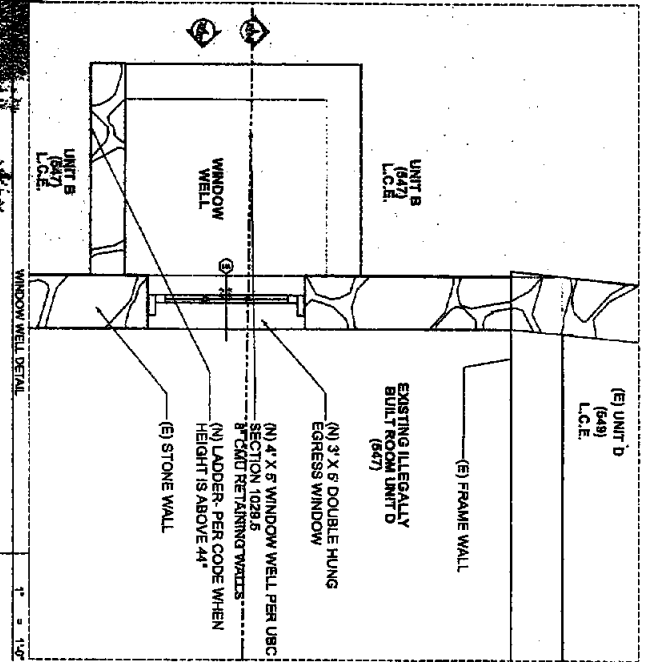
Name: Jim Hays
Basis of Testimony: Santa Fe-based contractor and developer, President of Hays Associates, Inc.
Summary of Testimony: Jim will discuss the feasible of alternative design solutions.

Name: Wendy Kapp
Basis of Testimony: Property Manager
Summary of Testimony: Wendy will discuss her relationship with Arminda and Arminda's interest and dedication to her property.

Name: Sande Deitch
Basis of Testimony: Friend of the property owner, Santa Fe resident
Summary of Testimony: Sande will discuss her relationship with Arminda and Arminda's longstanding commitment to Santa Fe.

Alternative Design Solutions

The two alternative design solutions presented are code-compliant, consistent with the Downtown and Eastside Design Standards and substantially in line with the Historic Design Review Board reviewed. Both alternatives could be approved to satisfy egress requirements while not interfering with the existing covenants and agreements established within the Condominium Association.

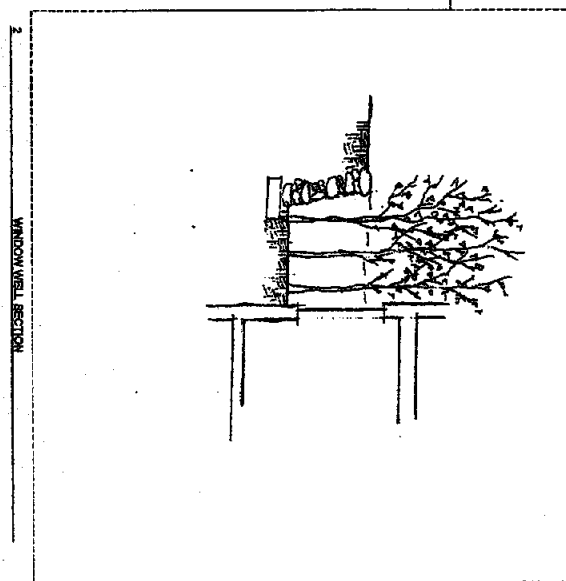
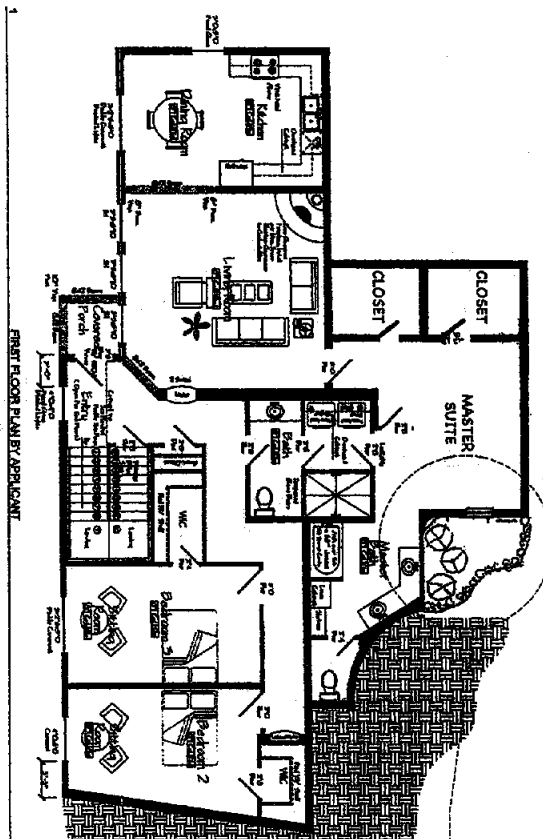


547 Hillside Ave (538 1/2 B)
CASE NO. 2017-09

PAGE 6
WINDOW WELL

CASE NO 2017-09

CASE NO. 2017-09



Letter from Historic Consultant

Shannon L. Papin, Principal at Common Bond Preservation, provided a letter dated January 20, 2016 indicating no objection to the overall project but itemized four design elements which were of concern, including the inclusion of windows on the north elevation. Specifically, Ms. Papin stated:

The inclusion of two windows on the north elevation on the first level, especially the large 1/1 sash window. While there is no photo of the northern elevation on the survey form, I consider it highly unlikely that windows ever existed on this façade. If they did, they were likely small, square and multi-paned. If you examine the surrounding residences in the neighborhood, few if any have windows on their northern facades. The area was very likely a family compound (or families) that was built over a progression of years. Most windows and door [sic] existed on the southern and eastern elevations, with the northern and western elevations being solid adobe (or stucco) with few if any windows. This "cascading" building pattern would assure all residences received sunlight as well as privacy, despite their close proximity. Having only the single, smaller window on the northern elevation would be preferable.

Note: No window ever existed on the north elevation at the first level as that portion of the building did not exist until constructed without permits or approvals around 2006.

Shannon L. Papin is identified on the City of Santa Fe List of Approved Archaeologists and Historians which is regulated by Section 14-2.7 of the Land Development Code.



January 20, 2016

Arminda Diaz
538-½ Hillside Avenue, Unit D
Santa Fe, NM 87501

Dear Arminda,

Thank you for getting in touch in regards to proposed construction activities at 547 Hillside Avenue (previously 538 ½ Hillside, Unit B) in Santa Fe, immediately adjacent to your property at 538 ½ Hillside Avenue, Unit D. I have completed limited archival research on the property and visited it twice. My thoughts and recommendations are below:

Property Status

The residence is located in the Downtown/Eastside historic district, at the top of slight hill north of Palace Avenue. It is in good condition and is surrounded by residential buildings of a similar nature. It was last surveyed in October of 1984, and was considered in excellent condition at that time. The house was likely built circa 1945, which put it outside of the fifty year eligibility rule at the time the district was created. It is considered a non-contributing resource by the City of Santa Fe. There is no determination of status on the 1984 survey form, although the house is certainly potentially eligible now that it has reached the approximate age of seventy years.

Looking at the 1984 survey form however, it is obvious that the house has been renovated fairly extensively since that time. Photos on the form were taken facing north/northeast, with the western and southern facades easily visible. It is obvious that this western wing of the house is two stories, with the more eastern wing shown in the second photo being only one story. This configuration of the house is similar today, but significant decorative details have since been replaced or removed. They include:

- Exposed vigas on the second floor of the western elevation
- A band of coursed stone on the exteriors of the western and southern elevations (dividing the first and second floors)
- Multi-paned casement windows (appear to be 8:8) with wood lintels
- A single-leaf wood and glass door composed of 15 lites with 12-lite sidelights

Because of the loss of these historic features, my professional opinion is that house should retain its status as a non-contributing resource. All windows on the southern elevation are now 1/1 sash windows with no lintels, and other windows include 1:1 casements. It appears the "front" door has been built over and other doors are now double-leaf glass with a single-pane. Unfortunately there is simply too much modern/replacement building fabric for the residence to retain its historic integrity.

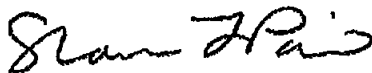
Proposed Renovations

With the above in mind, I have examined the proposed renovations to the house and some recommendations are below. The general design adheres fairly closely to the Pueblo/Spanish Revival style, and it appears that there is an attempt to restore many of the multi-paned windows that originally existed. The inclusion of multi-pane windows on the southern elevation is to be commended, especially the 8:8 casements: these are nearly identical to the windows on that same elevation in the 1984 survey. Nevertheless, there are a few details of the design that are distressing. They include:

- The inclusion of multiple (three) windows on the western elevation that immediately faces the street. There are currently no windows on that elevation, nor were there in the 1984 survey. It is highly unlikely that windows ever existed on the façade and it would be preferable to keep it that way.
- The inclusion of two windows on the north elevation on the first level, especially the large 1/1 sash window. While there is no photo of the northern elevation on the survey form, I consider it highly unlikely that windows ever existed on this façade. If they did, they were likely small, square and multi-paned. If you examine the surrounding residences in the neighborhood, few if any have windows on their northern facades. The area was very likely a family compound (or families) that was built over a progression of years. Most windows and door existed on the southern and eastern elevations, with the northern and western elevations being solid adobe (or stucco) with few if any windows. This "cascading" building pattern would assure all residences received sunlight as well as privacy, despite their close proximity. Having only the single, smaller window on the northern elevation would be preferable.
- The choice of a Solomonian column veers the design towards the baroque. A simpler column for the entry portal would be preferable.
- It appears that all stonework will be removed from the exteriors of the house. This historic stonework is a highly significant decorative detail of the house and I highly encourage its retention or restoration.

I have attached the 1984 survey form, as well as two sets of elevations from the application package. I find the directional details of the photos in the packet to be different from the exterior drawings, which are also different from the floorplans. I have marked what I consider to be north, south etc. so that my intent is clear. Obviously the details of the renovation will be finalized by your neighbors and the city, but I hope the above recommendations are helpful in some manner. Please feel free to pass them on to any interested party, and let me know if I can assist in any capacity.

Sincerely,



Shannon L. Papin
Principal, Common Bond Preservation
slp@cbppreservation.com

505.982.4275
505.231.0285

Existing Limited Common Element

The Third Amended Plat Map identifies the existing limited common element for the neighboring property at 549 Hillside Avenue.

Diagram showing the North Elevation of Unit 8. The elevation includes a large window labeled "UPPER FLOOR" and a smaller window labeled "LOWER FLOOR". Dimensions are indicated: 10'0" for the upper floor window, 10'0" for the lower floor window, and 10'0" for the total height. The text "NORTH ELEVATION UNIT 8" is written vertically along the left side.

DOES "TALK BACK." CONSIDERABLE EVIDENCE TO THE EFFECT THAT HE IS RECORDED AS DOUBTLESS ALTHOUGH, RECENTLY HAD RECOVERED AND CHARGES AS SHOWN HEREON TO HAVE B. 5 AND A AND TO THE CHADWICK AREAS AND LIMITED CHADWICK AREAS ASSOCIATED WITH THE CLATSOP COUNTY. HIS ALIBI/HISTORY ALSO REFLECTS CHARGES OWNED BY SPECIAL AGENT OF DISTRICT COURT CASE 0-101-CF-5508-00706 DATED VS. COWLEY, DOB: 06/24/1970

1400 G. Street
201 (Hollywood) Street

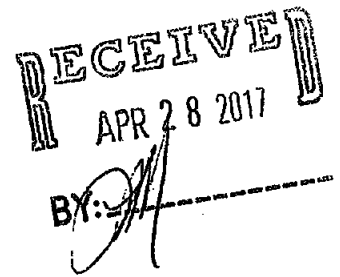
NOVEMBER 19, 1978

415. 76. 1243
Studio 7A, Mkt.

SANTA FE COUNTY PLACES NOTICE
THE SANTA FE COUNTY LAND USE DEPARTMENT HAS BEEN REOPENED
ON MAY 1 OF NEXT MONTH AND IS PLANNING TO HOLD THE COUNTY
CLERK AND PLAT DEPARTMENT MEETING ON MAY 2ND AT THE COUNTY
ADMINISTRATIVE CENTER, 100 N. 1ST ST., SANTA FE, NM 87501.
A REPRESENTATIVE FOR NEW 100% OF THE COUNTY'S LAND USE
COMMISSIONERS WILL BE PRESENT. ALL MEMBERS OF THE
LAND USE COMMISSION ARE REQUESTED TO ATTEND. THE MEETING
WILL BE HELD AT 10:00 AM. THE MEETING WILL BE HELD IN THE
SANTA FE COUNTY LAND USE DEPARTMENT, 100 N. 1ST ST., SANTA FE,
NM 87501. THE MEETING WILL BE HELD IN THE COUNTY CLERK'S
OFFICE, 100 N. 1ST ST., SANTA FE, NM 87501. THE MEETING
WILL BE HELD IN THE COUNTY CLERK'S OFFICE, 100 N. 1ST ST.,
SANTA FE, NM 87501. THE MEETING WILL BE HELD IN THE
COUNTY CLERK'S OFFICE, 100 N. 1ST ST., SANTA FE, NM 87501.
OF THE PLAT

LTS SURVEILLING & DETAILING					
SUN WILMOT ST.	SANTA FE AVE	WET-5538			
PROBING Hrs. AT 7:00 AM	1st REG	13			
SEARCHED	INDEXED	11			
CHECKED	FILED	11			
COOK	SEC. 19, 71 IN. HIGH	DOLBY			

April 27, 17



Arminda Diaz
549 Hillside Ave
Santa Fe NM 87501

Dear Mr. Rasch,

Included herein is our final submittal for Case No. 2017-09. We have also sent a copy to the applicant. In addition, we have also enclosed the mailing affidavit which also includes my appointment of my husband, Oliver Netburn, to serve as my agent during the hearing.

Please let me know if there is anything else we need to do prior to the hearing.

Thank you!

Arminda

310-995-1941

A handwritten signature in black ink, appearing to be "Arminda", written over the printed name.

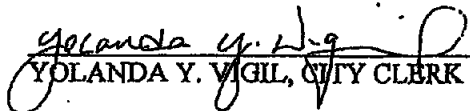
City of Santa Fe Notice of Public Hearing

Notice is hereby given that the Governing Body of the City of Santa Fe will hold a public hearing at their regular meeting on Wednesday, May 10, 2017, at 7:00 p.m. at the City Council Chambers at City Hall, 200 Lincoln Avenue to consider the following request:

Case #2017-09. Appeal of the Historic Districts Review Board's Decision on January 24, 2017, Concerning the Proposed Remodel of the Residence at 547 Hillside Ave. (formerly 538 ½ Hillside Ave.) in the Downtown and Eastside Historic District as Case #H-15-104. Arminda Diaz, Neighbor, Requests that the Governing Body Rescind the Board's Decision Which Allowed the Historic Preservation Division to Approve an Egress Window.

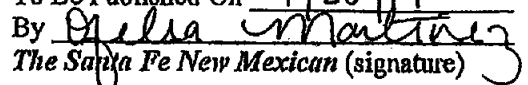
Any and all interested parties are invited to attend the public hearing and will be heard prior to the Governing Body taking action. The full agenda and the packet of material for this public hearing will be available on Friday (evening), May 5, 2017 at the City's website, <http://www.santafenm.gov> (Click on Departments -> City Clerk -> Weekly Meeting List). Written letters in support of one of the parties or other relevant documents may be submitted in writing to the City Land Use Director at City Hall, 200 Lincoln Avenue by 12 o'clock noon on the 10th day preceding the appeal hearing.

DATED AT SANTA FE, NEW MEXICO THIS 24th DAY OF APRIL, 2017.


YOLANDA Y. VIGIL, CITY CLERK

DATE DELIVERED: April 24, 2017
DATE PUBLISHED: April 25, 2017

The Santa Fe New Mexican to mail affidavit of publication to City Historic Preservation Division, P.O. Box 909, Santa Fe, New Mexico 87504. Applicant shall deliver a second copy of the affidavit of publication to Historic Preservation Division case manager on the same day.

Received by *The Santa Fe New Mexican* on
Date 4/24/17
To Be Published On 4/25/17
By 
The Santa Fe New Mexican (signature)

Self-Affirmed Affidavit

I, (name) ARMANDO DIAZ (and title/entity if applicable), on this 27 day of APRIL, 2017 hereby affirm under penalty of perjury under the laws of the State of New Mexico, and pursuant to Rule 1-011 NMRA, that all statements contained in this affidavit are true and correct, according to my personal knowledge and belief:

1. I affirm that I mailed the appeal notice to the applicant and to all required neighborhood associations at least 15 calendar days before the Appeal hearing on April 12, 2017, as required by the Santa Fe City Code.
2. I hereby appoint OLIVER WETBURN (HUSBAND) (role & relationship) to serve as my agent at the appeal hearing before the City of Santa Fe Governing Body for case no. 2017-09, on April 12, 2017.

Further affiant sayeth not

/s/ [Signature]
(name [and title/entity if applicable])

Appellant's Submittal Package

Case No. 2017-09

Appellant's Name: Arminda Diaz
Agent: Oliver Netburn
Subject of Appeal: Appeal of the Historic Districts Review Board Decision on January 24, 2017, concerning the proposed remodel of a residence in the Downtown and Eastside Historic District under Case No. H-15-104
Property Subject to Appeal: 547 Hillside Avenue

Table of Contents

	Page No.
Witness List.....	2
Plat Maps.....	3
Alternative Design Solutions.....	7
Letter from Historic Consultant (Common Bond Preservation)	12
Letter from Jeremy R. Jones (attorney for Arminda Diaz)	15

Witness List

Name: Oliver Netburn
Basis of Testimony: Husband of Appellant (Agent)
Summary of Testimony: Oliver will present the basis of the appeal and provide a response to the Land Use Development staff report and recommendation.

Name: Arminda Diaz
Basis of Testimony: Neighboring property owner (Appellant)
Summary of Testimony: Arminda will discuss her relationship to the property, including her interest in the Condominium Association and her future intentions with the property, as well as her relationship to the City of Santa Fe. Arminda will also introduce alternative solutions which would be code-compliant and preserve her property rights.

Name: Rachel Winston
Basis of Testimony: Attorney for the property owner
Summary of Testimony: Rachel will discuss the properties rights afforded Arminda and the restrictions and obligations of all Condominium Association members which would be affected by installation of the egress window using her courtyard. Rachel will also discuss the validity of the document submitted purporting to be from the Condominium Association Architectural Committee

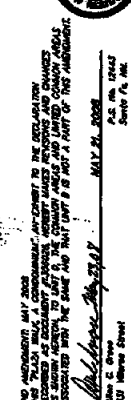
Name: Greg Allegretti
Basis of Testimony: Santa Fe-based architect, Principal Architect of Allegretti Architects
Summary of Testimony: Greg will discuss applicable building and fire code provisions and alternative design solutions which would be consistent with the Downtown and Eastside Design Standards and compliant with relevant building codes.

Name: Wendy Kapp
Basis of Testimony: Property Manager
Summary of Testimony: Wendy will discuss her relationship with Arminda and Arminda's interest and dedication to her property.

Name: Sande Deitch
Basis of Testimony: Friend of the property owner, Santa Fe resident
Summary of Testimony: Sande will discuss her relationship with Arminda and Arminda's longstanding commitment to Santa Fe.

Plat Maps

Attached are the 2004 and 2011 "Third Amended" Plat Maps. The applicant submitted and the City staff accepted the outdated 2004 Plat which grossly misrepresent the existing conditions. Specifically, 2004 Plat Map does not include the unpermitted addition that is part of the instant application. Instead, the 2011 "Third Amended" Plat Map (see attached) is Plat Map of record and includes the unpermitted addition that is part of the instant application. The use of the 2004 Map and its misrepresentation of the existing conditions can lead one to believe that the proposed window at issue is, in fact, not situated directly on the lot line, but instead located 10s of feet away from the lot line. This misrepresentation has not only aesthetic implications (the window being less than 20 feet from my front door), more importantly, it is fraught with legal implications in terms fire/life safety and fire code compliance and a taking of my property.

[illegible][illegible]

CFR71C47F

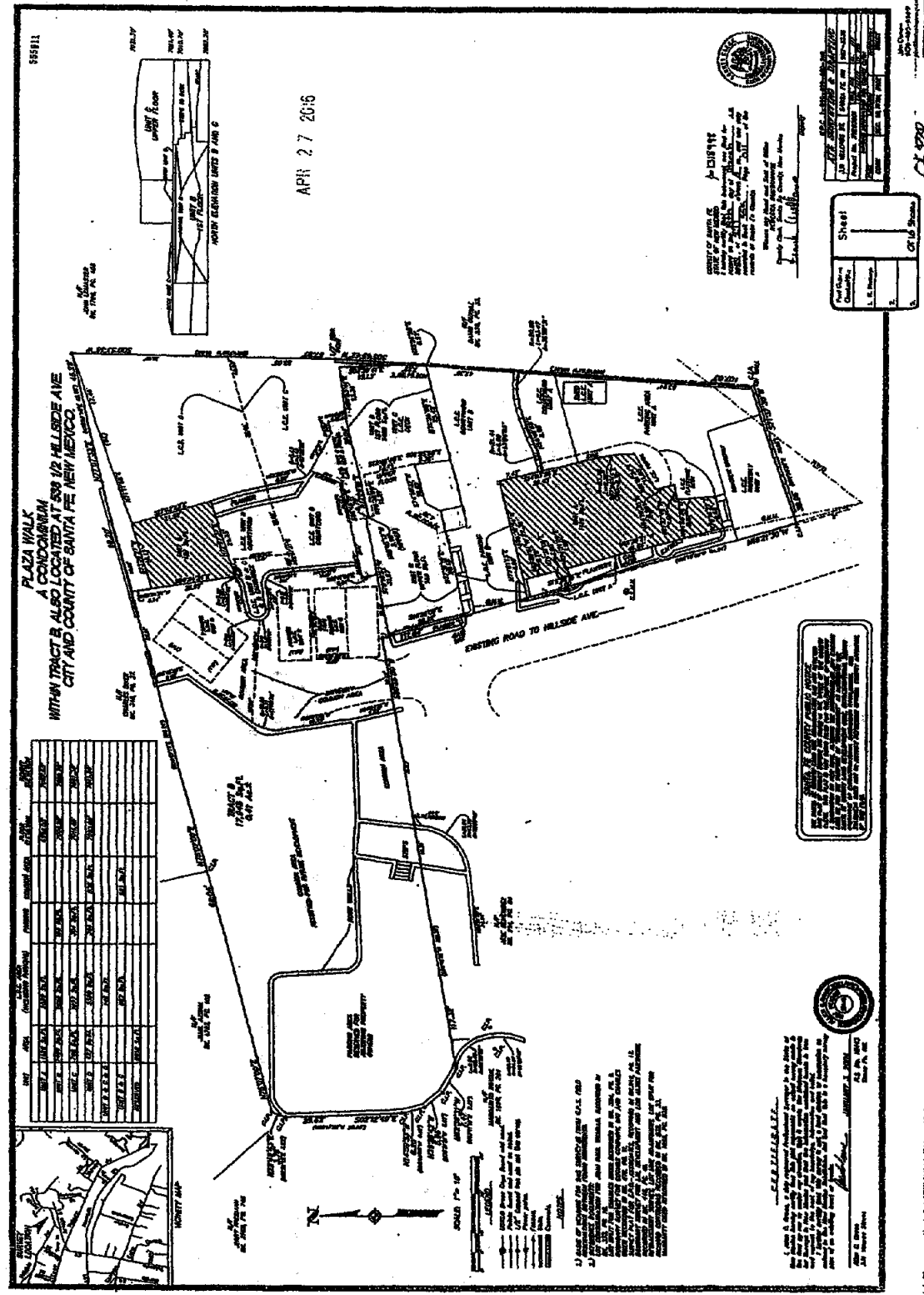
1. Alan C. Owen, a duly registered Probationary Sergeant in the State of New Mexico merely certifies that the jail costs for inmate room and board are not to be paid by any agency, but are the responsibility of the inmate. He does not certify that the inmate is not a resident of the State of New Mexico. He is not concerned in the least of any business, transaction, or deal.
I further certify that the compensation paid consists of the remuneration appropriate to position. 41-7000 of the New Mexico Compensation Act.

Walter Hoot May 28, 1943

Alan C. Owen P.E. No. 12543

[illegible][illegible]

5381/2 B Hillside Ave.
 Santa Fe, New Mexico
 May 19, 2015
 Site Plan



Ron Montoya Custom Designs
 Residential Design and Drafting Services
 8724 Alameda Park Drive NE, Suite G Albuquerque
 (505) 825-6474 Cell: (505) 825-6474

Alternative Design Solutions

The attached letter and exhibits from Hays Associates, Inc. provides two alternative design solutions which are code-compliant, consistent with the Downtown and Eastside Design Standards and substantially in line with the Historic Design Review Board reviewed. Both alternatives could be approved to satisfy egress requirements while not interfering with the existing covenants and agreements established within the Condominium Association.



April 24, 2017

Ms. Arminda Diaz
2253 Moore Street
Los Angeles, California 90039

Re: Case #H-15-104
547 Hillside Avenue

Dear Ms. Diaz,

It is my understanding that you are trying to help your prospective neighbor, Mr. Clemens, solve his problem of egress from a proposed bedroom in the plans he has submitted to the City for approval of improvements to property at 547 Hillside Avenue.

In as much as Mr. Katz's motion regarding the application is "to accept staff recommendations and approve the application *with the exception of the egress window and simply not approve that part of the application and hope that it gets amicably resolved . . .*", your suggestion may help resolve the issue.

As noted in other exhibits, the egress proposed by Mr. Clemens would require an easement from you to permit use of your courtyard, as well as having other detrimental impacts on your use of this space. As it is a "Limited Common Element" assigned to your unit, it is clear that Mr. Clemens would benefit from an alternative solution.

I have considered potential alternative egress options for Mr. Clemens property, based on the attached drawings you have provided. While I have not been able to fully inspect the area of construction, it appears that, while not necessarily an easy solution, either concept is viable. Cutting into the existing stone wall involves several unknowns, so I have assumed that it would be removed in the area of the window(s) through the parapet, though this may not be necessary. I also assumed a concrete collar to stabilize the opening prior to installing the window.

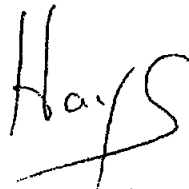
It appears to me that the additional cost of locating a window in one of the two locations you suggest, as compared to the unacceptable location on your courtyard wall, would be about \$10,000. The estimate is based on the likely additional costs for excavation, demolition, concrete work, and temporary support of the existing roof structure, as well as cleanup, administrative costs, a Contractor's Fee, and Gross Receipts Tax. This seems a fairly nominal amount in the context of what the entire project will cost.

We have not assessed the cost of items which would be similar if the window were installed in the north wall, such as the cost of the window itself, stucco and plastering work. A roof over the window well would help with drainage from the window well, and we have provided an allowance for that. Not being more familiar with the surrounding grades, it is not clear where the small amount of water falling into the window well would be directed. However, I note that there is no apparent drain for the water in your courtyard, and it apparently just soaks in rapidly to the existing soils, which appear to have origins as the bottom of an arroyo.

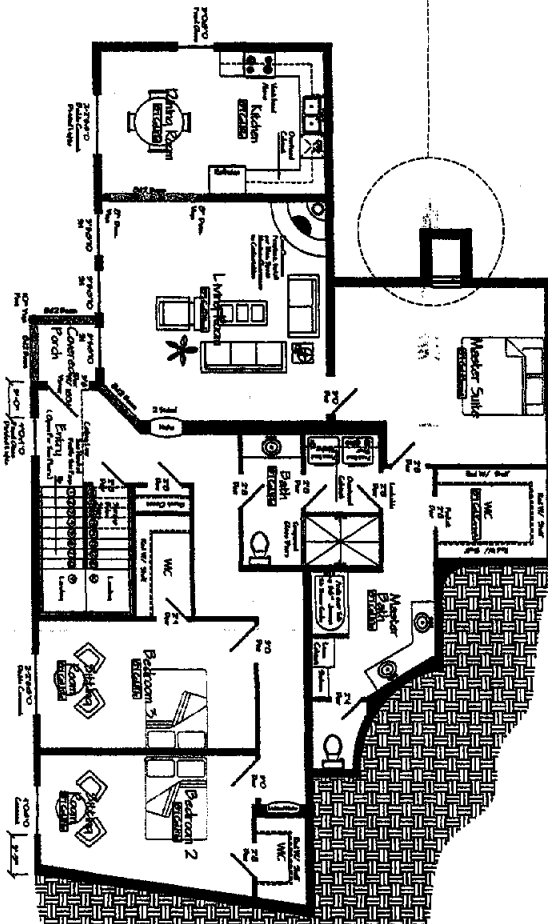
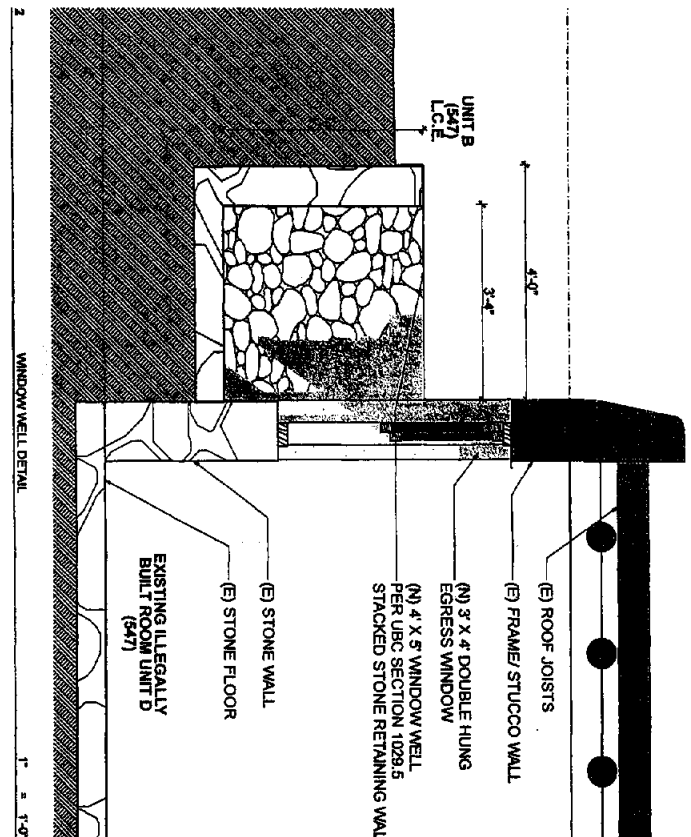
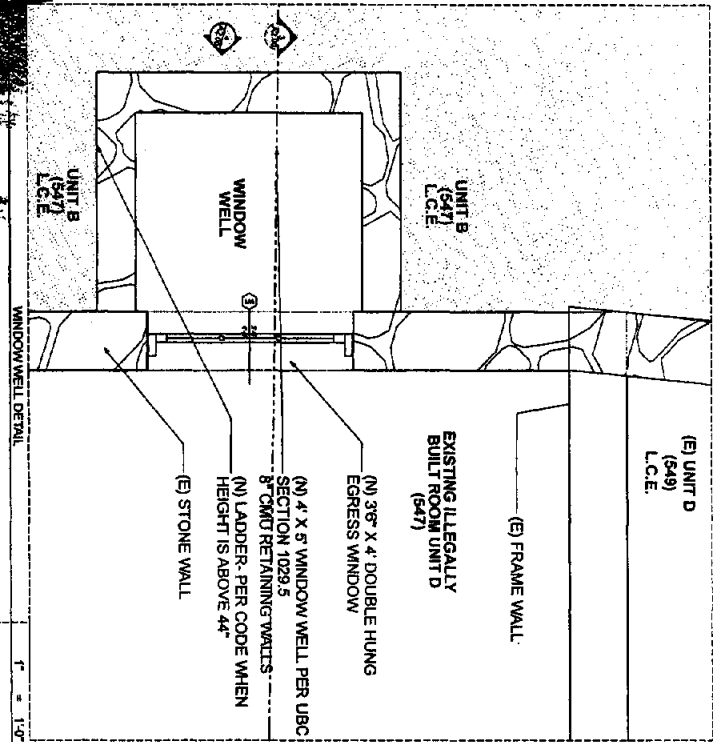
I hope that this information is useful to you, and can help move Mr. Clemens's project forward. I expect everyone would like to see the property at 547 Hillside updated and upgraded.

Jim Hays
President

Hays Associates, Inc.

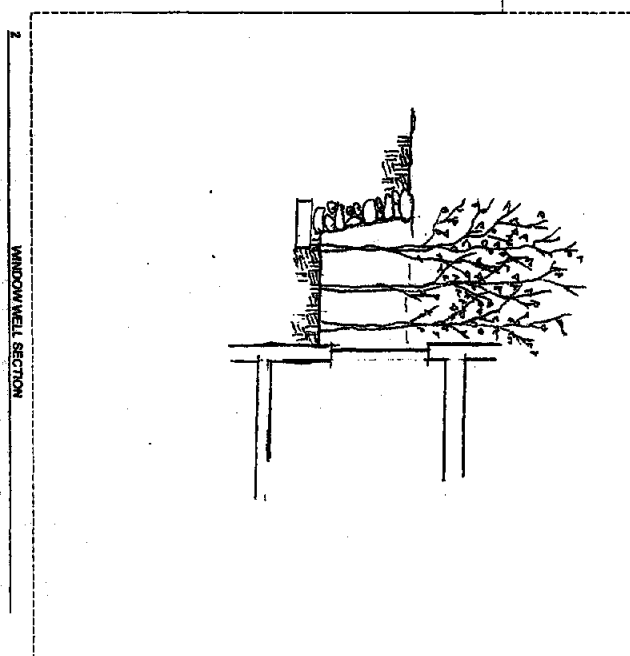
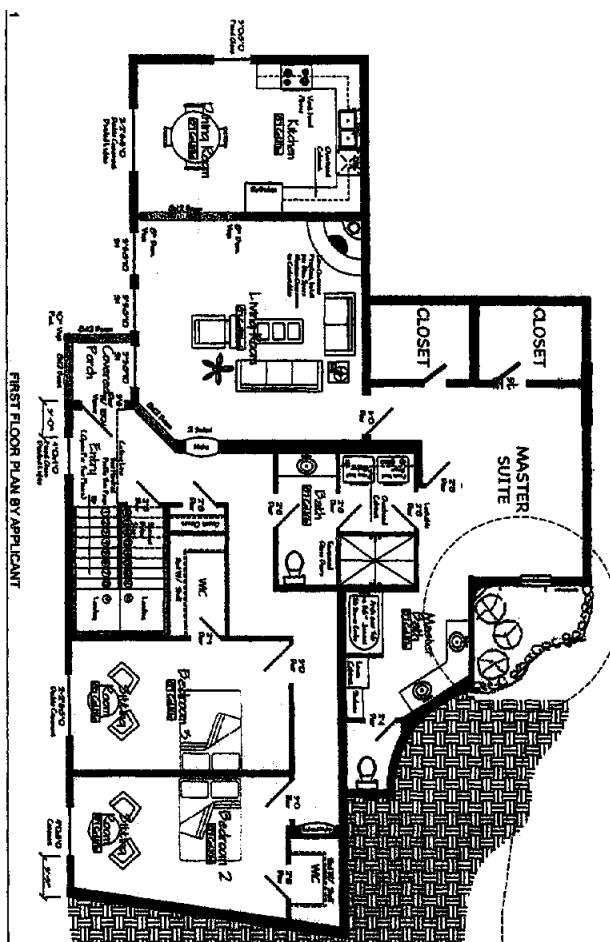


Enclosures



547 Hillside Ave (538 1/2 B)

CASE NO. 2017-09



Letter from Historic Consultant

Shannon L. Papin, Principal at Common Bond Preservation, provided a letter dated January 20, 2016 indicating no objection to the overall project but itemized four design elements which were of concern, including the inclusion of windows on the north elevation. Specifically, Ms. Papin stated:

The inclusion of two windows on the north elevation on the first level, especially the large 1/1 sash window. While there is no photo of the northern elevation on the survey form, I consider it highly unlikely that windows ever existed on this façade. If they did, they were likely small, square and multi-paned. If you examine the surrounding residences in the neighborhood, few if any have windows on their northern facades. The area was very likely a family compound (or families) that was built over a progression of years. Most windows and door [sic] existed on the southern and eastern elevations, with the northern and western elevations being solid adobe (or stucco) with few if any windows. This "cascading" building pattern would assure all residences received sunlight as well as privacy, despite their close proximity. Having only the single, smaller window on the northern elevation would be preferable.

Note: No window ever existed on the north elevation at the first level as that portion of the building did not exist until constructed without permits or approvals around 2006.

Shannon L. Papin is identified on the City of Santa Fe List of Approved Archaeologists and Historians which is regulated by Section 14-2.7 of the Land Development Code.

Based on the expert analysis provided by Ms. Papin, the Governing Body may deny the inclusion of the proposed window on the north elevation as such a window would not be consistent with the Downtown and Eastside Design Standards or the Old Santa Fe Style.



COMMON BOND PRESERVATION

January 20, 2016

Arminda Diaz
538-½ Hillside Avenue, Unit D
Santa Fe, NM 87501

Dear Arminda,

Thank you for getting in touch in regards to proposed construction activities at 547 Hillside Avenue (previously 538 ½ Hillside, Unit B) in Santa Fe, immediately adjacent to your property at 538 ½ Hillside Avenue, Unit D. I have completed limited archival research on the property and visited it twice. My thoughts and recommendations are below:

Property Status

The residence is located in the Downtown/Eastside historic district, at the top of slight hill north of Palace Avenue . It is in good condition and is surrounded by residential buildings of a similar nature. It was last surveyed in October of 1984, and was considered in excellent condition at that time. The house was likely built circa 1945, which put it outside of the fifty year eligibility rule at the time the district was created. It is considered a non-contributing resource by the City of Santa Fe. There is no determination of status on the 1984 survey form, although the house is certainly potentially eligible now that it has reached the approximate age of seventy years.

Looking at the 1984 survey form however, it is obvious that the house has been renovated fairly extensively since that time. Photos on the form were taken facing north/northeast, with the western and southern facades easily visible. It is obvious that this western wing of the house is two stories, with the more eastern wing shown in the second photo being only one story. This configuration of the house is similar today, but significant decorative details have since been replaced or removed. They include:

- Exposed vigas on the second floor of the western elevation
- A band of coursed stone on the exteriors of the western and southern elevations (dividing the first and second floors)
- Multi-paned casement windows (appear to be 8:8) with wood lintels
- A single-leaf wood and glass door composed of 15 lites with 12-lite sidelights

Because of the loss of these historic features, my professional opinion is that house should retain its status as a non-contributing resource. All windows on the southern elevation are now 1/1 sash windows with no lintels, and other windows include 1:1 casements. It appears the "front" door has been built over and other doors are now double-leaf glass with a single-pane. Unfortunately there is simply too much modern/replacement building fabric for the residence to retain its historic integrity.

Proposed Renovations

With the above in mind, I have examined the proposed renovations to the house and some recommendations are below. The general design adheres fairly closely to the Pueblo/Spanish Revival style, and it appears that there is an attempt to restore many of the multi-paned windows that originally existed. The inclusion of multi-pane windows on the southern elevation is to be commended, especially the 8:8 casements: these are nearly identical to the windows on that same elevation in the 1984 survey. Nevertheless, there are a few details of the design that are distressing. They include:

- The inclusion of multiple (three) windows on the western elevation that immediately faces the street. There are currently no windows on that elevation, nor were there in the 1984 survey. It is highly unlikely that windows ever existed on the façade and it would be preferable to keep it that way.
- The inclusion of two windows on the north elevation on the first level, especially the large 1/1 sash window. While there is no photo of the northern elevation on the survey form, I consider it highly unlikely that windows ever existed on this façade. If they did, they were likely small, square and multi-paned. If you examine the surrounding residences in the neighborhood, few if any have windows on their northern facades. The area was very likely a family compound (or families) that was built over a progression of years. Most windows and door existed on the southern and eastern elevations, with the northern and western elevations being solid adobe (or stucco) with few if any windows. This "cascading" building pattern would assure all residences received sunlight as well as privacy, despite their close proximity. Having only the single, smaller window on the northern elevation would be preferable.
- The choice of a Solomonic column veers the design towards the baroque. A simpler column for the entry portal would be preferable.
- It appears that all stonework will be removed from the exteriors of the house. This historic stonework is a highly significant decorative detail of the house and I highly encourage its retention or restoration.

I have attached the 1984 survey form, as well as two sets of elevations from the application package. I find the directional details of the photos in the packet to be different from the exterior drawings, which are also different from the floorplans. I have marked what I consider to be north, south etc. so that my intent is clear. Obviously the details of the renovation will be finalized by your neighbors and the city, but I hope the above recommendations are helpful in some manner. Please feel free to pass them on to any interested party, and let me know if I can assist in any capacity.

Sincerely,



Shannon L. Papin
Principal, Common Bond Preservation
slp@cbpreservation.com

505.982.4275
505.231.0285

Letter from Jeremy R. Jones

In this letter, dated November 18, 2016, Jeremy R. Jones calls attention to the applicant and other members of the Condominium Association that the Architectural Committee of the Condominium Association did not properly approve the proposed project as required by the New Mexico Condominium Act or the Association Bylaws and that placing the proposed egress window along the north elevation would violate the terms of the New Mexico Condominium Act and the Association Bylaws. The letter from Mr. David Garrity and Mr. Edward Hobler, dated October 24, 2016 and included in the Staff Report for the January 10, 2017 HDRB hearing, was not sanctioned by the Architectural Committee. At the time of the initial hearing, the HDRB was advised that the Architectural Committee had in fact approved the proposed project, however this is not the case.



STREET ADDRESS
200 WEST MARCY STREET
SUITE 129
SANTA FE, NM 87501

MAILING ADDRESS
POST OFFICE BOX 1984
SANTA FE, NM 87504-1984

t 505.982.4676
f 505.988.7029

www.SommerUdall.com
Sommer, Udall, Sutin, Hardwick & Hyatt, P.A.

Kenneth Bateman
Eric M. Sommer
Jack N. Hardwick
Cullen Hallmark

Kurt A. Sommer
Jeremy R. Jones
Mark Kriendler Nelson
Jacqueline Berg

Joseph P. Walsh
Patrick D. Barry
Lisa G. Adelman
Brian Parrish

Of Counsel to the Law Firm
Robert P. Worcester
Janet McL. McKay
J. Michael Hyatt

Joseph A. Sommer
(1922 - 2006)
Kimball R. Udall
Retired

November 18, 2016

*Via E-mail (where indicated),
and U.S. First-Class Mail*

Logic Real Estate
John Clemens
228 S. St. Francis Dr.
Santa Fe, NM 87501
john@hisrealtygroup.com
john@santafelogic.com

Steven B. Cook
P.O. Box 9216
Santa Fe, NM 87504
plazawalksfe@yahoo.com

West End Properties, Inc.
c/o Edward Hobler and David Garrity
545 Hillside Ave.
Santa Fe, NM 87501-2250
dgarrity@westendprops.com
ehobler@westendprops.com

Re: The Plaza Walk Condominium (the "Condominium")

Dear Messrs. Clemens, Cook, Hobler, and Garrity:

Please be advised that this firm represents Ms. Arminda Diaz, the owner of Unit D within the Condominium. Please direct all future correspondence to Ms. Diaz to my attention. If you email me, you must call me to confirm that I have received your email as our firewall sometimes prevents me from receiving emails from certain servers.

First of all, I am seeking clarity as to who exactly owns Unit B of the Condominium. Having reviewed the correspondence that my client provided to me, along with the governing documents of the Condominium, the Plaza Walk Unit Owners Association, Inc. (the "Association") bylaws and the land records, it appears that Mr. Cook remains the record owner of Unit B. However, I note that Mr. Clemens appears to be seeking approval from the Association for certain improvements to Unit B.

This issue aside, the purpose of this letter is to let you all know that Ms. Diaz objects to the architectural plans that were submitted to the Association for approval. If permitting, modification, or any work in furtherance of the plans submitted starts on Unit B, Ms. Diaz will take appropriate action to cease such activity. The New Mexico Condominium Act (the "Act") at NMSA 47-7B-11 requires that any improvements or alterations to the exterior of a unit are prohibited without Association approval. The Association Bylaws, Article III, Section 1, provides that there are three members of the board, all of whom must be unit owners. According to the New Mexico Secretary of State, Ms. Diaz is a member of the Board and that is her understanding as well. According to Article III, Section 15, the Architectural Control Committee consists of the members of the Board and they must exercise their authority with unanimity. By this letter, Ms. Diaz hereby demands that that all of you immediately cease and desist from any and all acts or omissions inconsistent with the governing documents of the Condominium or applicable law.

Ms. Diaz's objections to any and all alterations to Unit B is based upon the fact that Unit B, in its current condition, is not a conforming unit within the Condominium. Before the Association can even consider alterations to Unit B, certain amendments must be made to the Condominium Declaration, the survey of the Condominium, all of which need to occur consistent with the Bylaws of the Association, i.e., by duly noticed meetings of the Board and/or member of the Association, as the case may be. The current physical condition of the Condominium is inconsistent with its governing documents and the Condominium surveys. Ms. Diaz is open to, and frankly urges, a meeting with all unit owners to discuss how to cooperate in bringing the Condominium into compliance with applicable law and its governing documents.

In her capacity as owner of Unit D, Ms. Diaz objects to alterations to Unit B that are inconsistent with her right of exclusive use to the Limited Common Elements appurtenant to her unit. According to the Condominium Declaration a "Limited Common Element" means a portion of the Common Elements allocated by this Declaration or the Act for the exclusive use of one Unit." Declaration, Art. I, § 1.2(g) (emphasis added). According to the Act, NMSA 1978, Section 47-7A-3(P), a "limited common element" means a portion of the common elements allocated by the declaration or by operation of Section B and D of Section 14 [47-7B-2 NMSA 1978] of the Condominium Act for the exclusive use of one or more but fewer than all of the unit." (Emphasis added.) The Act further provides that "the owner of the Unit to which a Limited Common Element has been allocated, must consent to any alteration of the right to exclusive use." See NMSA 1978, § 47-7B-8(A) ("That allocation [, of a Limited Common Element,] shall not be altered without the consent of the unit owners whose units are affected."). So, to the extent the proposed alterations to Unit B include a window for egress through Ms. Diaz's courtyard, which is clearly a Limited Common Element, appurtenant to Unit D, that would alter her right to the exclusive use of Unit D's Limited Common Element in this case and would require her express consent. In addition, the Condominium Declaration, Article IV, Section 4.1(e) expressly prohibits alterations that would "reduce the value of... a unit...". Placing a bedroom window facing Ms. Diaz's private courtyard would, without a doubt, reduce the value of her

John Clemens
Steve Cook
David Garrity
Ed Hobler
November 18, 2016
Page 3

unit. Furthermore, the Condominium Declaration, Article IV, Section 4.1(q) prohibits any unit owner from engaging in any conduct that violates any other unit owners use and enjoyment of their unit. Clearly, the use and enjoyment of one's unit includes appurtenances thereto, like limited common elements. Without a doubt, by permitting the owner of Unit B to place a bedroom window facing directly into Ms. Diaz's private courtyard violates her use and enjoyment thereof is most certainly offensive.

If you have documents or other interpretations of the Condominium's governing documents and the Bylaws that you believe support the seemingly unilateral approval that Messrs. Hobler and Garrity are purporting to give to the owner of Unit B to proceed with alterations, then I ask that you provide me with an explanation.

Notwithstanding the above, and as I have stated, if the members of the Association would like to engage in a productive discussion as to how they may uniformly address the issues with this Condominium in a fair and equitable manner, Ms. Diaz and I are all ears. Instead of engaging in litigation to resolve these issues, I would rather my involvement in this matter and interaction with all of you will result in some meeting of the minds as to how we may all work together to see to it that this Condominium is brought into compliance with applicable law and its governing documents in a mutually beneficial and agreeable manner.

In this regard, I look forward to hearing from each of you in response to this letter no later than December 5, 2016. If I do not hear from you, and efforts to modify or alter Unit B continue, we will take appropriate legal action on behalf of our client.

Very truly yours,



Jeremy R. Jones

cc: Client (via email)

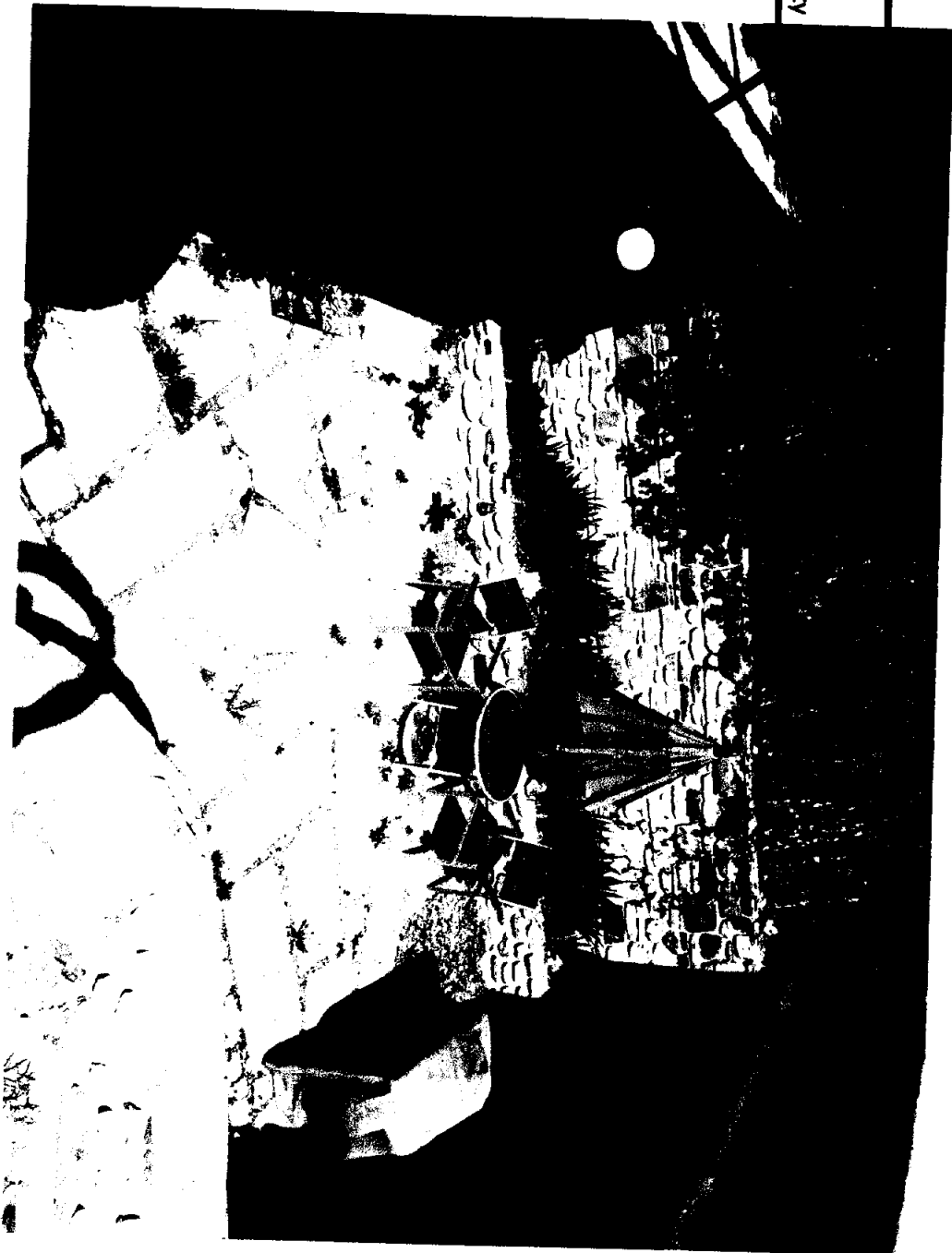
14134-001

The Governing Body could move to remand back to the Board for further findings.

MOTION: I move to vacate the Board's decision & remand back to the Board for further action in accordance with the direction of the Governing Body, and make further findings regarding whether and how the proposed window is harmonious.

Exhibit "3"

549 Hillside Avenue
Neighboring property



547 Hillside Ave.
Subject property

Exhibit "4"

Board Minutes

been properly met.

[REDACTED]
[REDACTED]
[REDACTED] and Staff can approve it if it is substantially in line with what the Board is seeing. Member Boniface seconded the motion.

Member Biedscheid clarified that it is egress on the north elevation. Member Katz agreed and the motion passed by unanimous voice vote.

2. **Case #H-08-054. 530 Camino del Monte Sol. Downtown & Eastside Historic District.** Lisa Roach, agent for Robert and Kris Barrie, owners, proposes to construct 1,700 sq. ft. of additions, a 3'4" yardwall, and replace doors on a contributing residential structure. An exception is requested to exceed the 50% footprint standard (Section 14-5.2(D)(2)(d)). (Nicole Ramirez Thomas)

Ms. Ramirez Thomas presented the Staff Report as follows:

BACKGROUND & SUMMARY:

530 Camino del Monte Sol is a Spanish Pueblo Revival style residential structure which is designated contributing to the Downtown and East Side Historic District. The east elevation and a portion of the south elevation of the house are primary. The date of construction of the original house is 1928 and modifications to the property occurred in the 1950s, 1960s, and more recently in the 2000s. The original house may have been designed and built by artist Frank Applegate.

In 2004 the Board approved the addition of 773 square feet of roofed area to the house for a kitchen and portal. The addition was added to a non-primary elevation (the north elevation) with an exception to place a portal closer than 10 feet from the primary (east) elevation of the home. At the time of the 2004 case a non-historic garage to the west elevation of the property was included in the overall calculation of the increase in the footprint of the house. The total footprint increase of the property including the garage and the addition was 49% of the historic footprint.

In the HCPI form there are two garages noted on the footprint. The original garage was enclosed and incorporated into the footprint of the house in the 1950s or 1960s. A new garage, the garage sited as non-historic in 2004, was built in the 1960s. The garage is assumed to have a construction pre-1967 as the garage was in existence prior to the purchase of the home by Mrs. Kathryn Seeler Jones in 1969. The garage also is characteristic of those built in the late 1950s and 1960s as it is a narrow single car garage with a wood panel door and a flat roof. The history of the garage now makes the garage footprint part of the



CITY COUNCIL MEETING OF
May 10, 2017
BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION
BY MEMBERS OF THE GOVERNING BODY

Mayor Javier Gonzales		
Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION ADOPTING ADMINISTRATIVE PROCEDURES FOR NATIVE AMERICAN ARTS OR CRAFTS DISTRICT.	Arts Commission – 6/12/17 Finance Committee - 6/19/17 City Council – 6/28/17
Councilor Carmichael Dominguez		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Mike Harris		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Peter Ives		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Signe Lindell		
Co-Sponsors	Title	Tentative Committee Schedule
Ives	AN ORDINANCE AMENDING SUBSECTION 14-6.3(B)(2)(c) SFCC 1987 TO REGULATE PARKING OR STORAGE OF SPECIFIED NONCOMMERCIAL VEHICLES WITHIN RESIDENTIALLY ZONED DISTRICTS.	Planning Commission – 5/18/17 Public Works Committee – 5/30/17 City Council – request to publish – 5/31/17 Finance Committee – 6/19/17 City Council – public hearing – 6/28/17
Gonzales Villarreal Harris Ives	A RESOLUTION IN SUPPORT OF NATIONAL GUN VIOLENCE AWARENESS DAY ON JUNE 2, 2017.	City Council – 5/31/17

Councilor Joseph Maestas		
Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION AMENDING RESOLUTION NO. 2010-64 REGARDING THE BICYCLE AND TRAIL ADVISORY COMMITTEE TO PERMIT A RESIDENT OF SANTA FE COUNTY TO SERVE ON THE COMMITTEE.	Bicycle and Trails Advisory Committee - 5/17/17 Finance Committee - 6/5/17 City Council - 6/14/17
	A RESOLUTION EXPRESSING THE GOVERNING BODY'S RESPECTFUL REQUEST TO THE SANTA FE COUNTY COMMISSION FOR A DELAY IN ACTION ON THEIR PROPOSED COUNTY-WIDE GROSS RECEIPTS TAX INCREASE PENDING THE OUTCOME OF THE PLANNED JOINT CITY COUNCIL/COUNTY COMMISSION MEETING IN JUNE, 2017 TO FULLY ADDRESS THE ISSUE.	
Councilor Chris Rivera		
Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION PROCLAIMING SEVERE OR EXTREME DROUGHT CONDITIONS MAY EXIST IN THE CITY OF SANTA FE; IMPOSING FIRE RESTRICTIONS; RESTRICTING THE SALE OR USE OF CERTAIN FIREWORKS WITHIN THE CITY OF SANTA FE BETWEEN JUNE 6 AND JULY 4, 2017; AND PROHIBITING OTHER FIRE HAZARD ACTIVITIES.	City Council – 5/31/17
Councilor Ron Trujillo		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Renee Villarreal		
Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION SPONSORING THE INAUGURAL “TAKE A KID FOR A HIKE DAY”, A FREE COMMUNITY EVENT, ON JUNE 17, 2017.	Public Works Committee - 5/30/17 Finance Committee – 6/5/17 City Council - 6/14/17

Introduced legislation will be posted on the City Attorney's website, under legislative services. If you would like to review the legislation prior to that time or you would like to be a co-sponsor, please contact Jesse Guillen, (505) 955-6518, jbg Guillen@santafenm.gov or Rebecca Seligman at (505) 955-6501, rxseligman@santafenm.gov.

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2017-__**

3 **INTRODUCED BY:**

4
5 Councilor Joseph M. Maestas

6 Councilor Peter N. Ives

7
8
9
10 **A RESOLUTION**

11 **AMENDING RESOLUTION NO. 2010-64 REGARDING THE BICYCLE AND TRAIL**
12 **ADVISORY COMMITTEE TO PERMIT A RESIDENT OF SANTA FE COUNTY TO**
13 **SERVE ON THE COMMITTEE.**

14
15 **WHEREAS**, the Governing Body updated the Bicycle and Trail Advisory Committee on
16 August 11, 2010 by adopting Resolution No. 2010-64 authorizing subcommittees; and

17 **WHEREAS**, Santa Fe's bicycle and pedestrian trails are used by city and county
18 residents alike; and

19 **WHEREAS**, it is the desire of the Governing Body to include the voice of a Santa Fe
20 county resident in the future of city bicycle and pedestrian trails.

21 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
22 **CITY OF SANTA FE** that the Membership of the Bicycle and Trail Advisory Committee is
23 amended to read:

24 **Section 5. MEMBERSHIP:** The Committee shall consist of a member of the City
25 Council who shall also serve as its chair, along with eight members of the public, of whom seven

1 shall be residents of the city and one who may be a resident of Santa Fe county, with
2 recommendations from the City Council to be made to the Mayor, and who will appoint the
3 committee with a balance of recreational, commuter, biking, pedestrian, youth and neighborhood
4 groups users with Council approval. The chair may appoint subcommittees, as needed, to study
5 in-depth the responsibilities assigned to the Committee and to present such information to the
6 Committee. The subcommittees shall be made up of no more than four members of the
7 Committee and three interested members of the public. The subcommittees shall engage solely in
8 investigating and assembling facts for the Committee, shall only be advisory in nature and shall
9 not formulate public policy on behalf of the Committee.

10 PASSED, APPROVED, and ADOPTED this ____ day of _____, 2017.

11
12 _____
13 JAVIER M. GONZALES, MAYOR
14

15 ATTEST:

16
17 _____
18 YOLANDA Y. VIGIL, CITY CLERK

19 APPROVED AS TO FORM:

20
21 _____
22 KELLEY A. BRENNAN, CITY ATTORNEY
23
24

25 *M/Legislation/Resolutions 2017/Bicycle and Trail Advisory – County Member*

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2017-__**

3 **INTRODUCED BY:**

4
5 Mayor Javier M. Gonzales

6 Councilor Peter N. Ives
7
8
9

10 **A RESOLUTION**

11 **ADOPTING ADMINISTRATIVE PROCEDURES FOR NATIVE AMERICAN ARTS OR**
12 **CRAFTS DISTRICT.**
13

14 **WHEREAS**, on October 26, 2016 the Governing Body adopted Ordinance 2016-38
15 which established a Native American Arts or Crafts District (NAACD) and establishing
16 regulations for sale of arts and crafts advertised as Native American within the District, and
17 voluntary participation outside the District; and

18 **WHEREAS**, city staff has developed administrative procedures for the Native American
19 Arts or Crafts District; and

20 **WHEREAS**, these administrative procedures are designed to streamline and clarify the
21 requirements and procedures for complying with the ordinance as adopted by the Governing
22 Body; and

23 **WHEREAS**, the map of the approved Native American Arts or Crafts District is attached
24 hereto as Exhibit A, the Native American Arts or Crafts District application is attached hereto as
25 Exhibit B, and the proposed administrative procedures are attached hereto as Exhibit C.

1 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
2 **CITY OF SANTA FE** that the administrative procedures for the Native American Arts or Crafts
3 District are hereby adopted

4 PASSED, APPROVED AND ADOPTED this _____ day of _____, 2017.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JAVIER M. GONZALES, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

KELLEY A. BRENNAN, CITY ATTORNEY

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2017-__

INTRODUCED BY:

Councilor Signe I. Lindell

Mayor Javier M. Gonzales

Councilor Renee D. Villarreal

Councilor Mike Harris

Councilor Peter N. Ives

A RESOLUTION

IN SUPPORT OF NATIONAL GUN VIOLENCE AWARENESS DAY ON JUNE 2, 2017.

WHEREAS, every day, 48 children and teens are shot in murders, assaults, suicides and suicide attempts, unintentional shootings, and police intervention – of those 48, seven die from gun violence and 41 are shot but survive the ordeal (Brady Campaign); and

WHEREAS, every day 297 people in the United States are shot in murders, assaults, suicides and suicide attempts, unintentional shootings, and police intervention, of which 91 die and 208 are shot but survive the ordeal (Brady Campaign); and

WHEREAS, every year 32,51 people die in the United States as a result of gun violence – 11,294 are murdered, 19,992 kill themselves, 561 are killed unintentionally, 414 are killed by police intervention (Brady Campaign); and

WHEREAS, Americans are 25 times more likely to be murdered with guns than people in other developed countries; and

WHEREAS, the Violence Policy Center has found that for every on justifiable homicide by firearm in the United States, 44 criminal homicides occurred by firearm, and does not take into

1 account lives lost due to suicide and accidental shootings; and

2 **WHEREAS**, a study by Charles Branas in the American Journal of Public Health in
3 2009 found that individuals in possession of a gun were 4.5 times more likely to be shot in an
4 assault than those not in possession; and

5 **WHEREAS**, New Mexico has some of the weakest gun violence prevention laws in the
6 country and some of the worst incidents of gun violence; and

7 **WHEREAS**, according to the Center for Disease Control (CDC), New Mexico is the 8th
8 worst state for gun violence, with a death rate 55% higher than the national rate; and

9 **WHEREAS**, from 2010-2014 firearms death mortality rates were the third leading cause
10 of death in New Mexico (CDC); and

11 **WHEREAS**, from 2010-2014 firearm suicide was the third leading cause of death among
12 individuals 10-64 years of age and the second leading cause of death among adults 65 years and
13 older in New Mexico (NM IBIS); and

14 **WHEREAS**, from 2010-2014 in New Mexico assault firearm injury ER visits increased
15 138% and unintentional firearm injury increased by 53%; (NM IBIS) and

16 **WHEREAS**, in 2015, 339 people were shot and killed in New Mexico, a 16.4% increase
17 from the year before (NM IBIS); and

18 **WHEREAS**, protecting public safety in the communities they serve is a mayors' highest
19 responsibility; and

20 **WHEREAS**, by increasing awareness of this issue and showing national leaders that
21 there is public support for increased background checks for firearm purchases, and support for a
22 renewal of the assault weapons ban, the public can counter the influence pro-gun groups have on
23 our nationally elected leaders; and

24 **WHEREAS**, municipalities around the country will commemorate National Gun
25 Violence Awareness Day by bathing local landmarks in orange light, or recognizing the

1 importance of the day in other meaningful ways; and

2 **WHEREAS**, in 2015 68 mayors and over 150 organizations participated in National Gun
3 Violence Awareness Day, a movement to bring national awareness of the need to reform our gun
4 laws; and

5 **WHEREAS**, the Governing Body adopted Resolution 2016-41 in support of National
6 Gun Violence Awareness Day, which included events at the Plaza on the evening of June 2, 2016;
7 and

8 **WHEREAS**, the 2017 National Gun Violence Awareness Day is Friday, June 2, 2017,
9 with associated events held on Saturday, June 3, 2017

10 **WHEREAS**, all citizens are encouraged to show their support for the 2017 National Gun
11 Violence Awareness Day by donning orange on Saturday, June 3, 2017 be it a shirt, tie, pin or
12 button; and

13 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
14 **CITY OF SANTA FE** that the Governing Body is in full support of National Gun Violence
15 Awareness Day on Friday, June 2, 2017 and associated activities on Saturday, June 3, 2017; and
16 expresses its support for enhanced background checks on all sales of firearms within the United
17 States.

18 PASSED, APPROVED AND ADOPTED this ____ day of _____, 2017.

19
20
21 _____
22 JAVIER M. GONZALES, MAYOR
23
24
25

1 ATTEST:

2
3 _____
4 YOLANDA Y. VIGIL, CITY CLERK

5 APPROVED AS TO FORM:

6
7 _____
8 KELLEY A. BRENNAN, CITY ATTORNEY

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25 *M/Legislation/Resolutions 2017/National Gun Violence Awareness Day*

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2017-____

INTRODUCED BY:

Councilor Renee Villarreal

Councilor Peter Ives

A RESOLUTION

SPONSORING THE INAUGURAL "TAKE A KID FOR A HIKE DAY", A FREE COMMUNITY EVENT, ON JUNE 17, 2017.

WHEREAS, it is the desire of the Governing Body to sponsor and encourage parents and youth to participate in local outdoor events; and

WHEREAS, there are over 100 miles of wilderness trails accessible throughout the city of Santa Fe; and

WHEREAS, on Saturday, June 17, 2017, the initial "Take a Kid for a Hike Day", is scheduled as a free community event; and

WHEREAS, it is recognized hiking is great exercise because it is easy to adjust to any level of fitness; and

WHEREAS, hiking offers numerous benefits for both the body and the mind; and

WHEREAS, the event will encourage local parents and their youngsters to get outdoors to experience an adventure in the Santa Fe area; and

WHEREAS, the hike will be a guided 1.2-mile hike off Hyde Park Road at no cost to

Exhibit "10"

participants.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE their desire to recognize and sponsor the “Take a Kid for a Hike Day” on June 17, 2017 as a community event.

PASSED, APPROVED and ADOPTED this _____ day of _____, 2017

JAVIER M. GONZALES, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

KELLEY A. BRENNAN, CITY ATTORNEY

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2017-__**

3 **INTRODUCED BY:**

4
5 Councilor Christopher M. Rivera

6 Councilor Peter N. Ives

7
8
9
10 **A RESOLUTION**

11 **PROCLAIMING SEVERE OR EXTREME DROUGHT CONDITIONS MAY EXIST IN**
12 **THE CITY OF SANTA FE; IMPOSING FIRE RESTRICTIONS; RESTRICTING THE**
13 **SALE OR USE OF CERTAIN FIREWORKS WITHIN THE CITY OF SANTA FE**
14 **BETWEEN JUNE 6 AND JULY 4, 2017; AND PROHIBITING OTHER FIRE HAZARD**
15 **ACTIVITIES.**

16
17 **WHEREAS**, the danger of range fires, grass fires, forest fires and structure fires may be
18 very high or extremely high in and around the City of Santa Fe in the near future; and

19 **WHEREAS**, the weather in Santa Fe may become dry and windy and contribute to very
20 high or extremely high fire risk, and it is predicted that the windy and dry weather will continue
21 into the coming weeks, causing progressively worsening fire conditions; and

22 **WHEREAS**, due to recent low winter, United States forest service data indicates very
23 high or extreme fire danger will soon exist; and

24 **WHEREAS**, it is anticipated that drought conditions will be present for the foreseeable
25 future; and

1 **WHEREAS**, the probability of ignition of materials likely to serve as fuel for fire is
2 presently extremely high in the city of Santa Fe; and

3 **WHEREAS**, the City of Santa Fe fire department has responded to wildland fires which
4 have threatened structures and homes in the City of Santa Fe, and

5 **WHEREAS**, if the city experiences a fire that burns out of control in the watershed, 40%
6 of the city's water resources are at serious risk of complete loss or substantially reduced capacity;
7 and

8 **WHEREAS**, if the city experiences a fire that burns out of control in populated areas, it
9 may be necessary to evacuate and relocate affected residents; and

10 **WHEREAS**, pursuant to N.M. Stat. Ann. Section 60-2C-8.1, the governing body of a
11 municipality is authorized to restrict the sale or use of fireworks within the boundaries of the
12 municipality if severe or extreme drought conditions exist.

13 **NOW THEREFORE BE IT PROCLAIMED BY THE GOVERNING BODY OF**
14 **THE CITY OF SANTA FE:**

15 **Section 1.** This resolution shall be deemed a proclamation within the meaning of
16 Section 60-2C-8.1 NMSA 1978 and Section 12-3.9 SFCC 1987.

17 **Section 2.** As per Section 60-2C-8.1 NMSA 1978, the governing body anticipates
18 severe or extreme drought conditions may exist within the boundaries of the city of Santa Fe
19 based upon current drought indices published by the national weather service and other relevant
20 information supplied by the United States forest service.

21 **Section 3.** The governing body restricts the sale or use of dangerous fireworks, as
22 defined by Section 12-3.1(A) SFCC 1987, for thirty (30) days between June 6 and July 4, 2017 to
23 the maximum extent possible permitted in Section 60-2C-8.1 NMSA 1978.

24 A. The sale or use of the following fireworks is specifically prohibited
25 within the city limits:

- 1 (1) aerial devices:
- 2 (a) aerial spinners;
- 3 (b) helicopters;
- 4 (c) mines;
- 5 (d) missile-type rockets;
- 6 (e) roman candles;
- 7 (f) shells; and
- 8 (g) stick-type rockets;
- 9 (2) ground audible devices:
- 10 (a) chasers; and
- 11 (b) firecrackers.

12 B. All fireworks within any lands covered wholly or in part by timber, brush
13 or native grass are prohibited.

14 **Section 4.** An exception to the above restrictions are public displays of fireworks in
15 strict conformance with the requirements and conditions set forth in Section 12-3.3 SFCC 1987
16 and as approved by the city of Santa Fe fire chief.

17 **Section 5.** Pursuant to Section 12-3.9 SFCC 1987:

18 A. Any individual, firm, partnership or other entity found in violation of the
19 above restrictions shall be deemed guilty of a misdemeanor and shall be punished by
20 imprisonment for up to ninety (90) days or a fine not to exceed five hundred dollars
21 (\$500), or both.

22 B. Each and every occasion on which this section is violated shall be
23 considered a separate offense.

24 **BE IT FURTHER RESOLVED** that:

1 **Section 1.** Due to severe or extreme drought conditions and wildland fire conditions
2 that may exist in the near future, the Governing Body hereby prohibits the following activities for
3 thirty (30) days beginning June 6 and ending July 5, in accordance with the International Fire
4 Code® as adopted by §12-2.1 SFCC 1987:

- 5 A. Open burning, including campfires, bonfires, pit barbecues;
- 6 B. Burning of weeds, trash, or other vegetation;
- 7 C. Using charcoal barbecue grills in public parks and recreation areas;
- 8 D. Smoking in public parks, recreation areas, or on any public trail; and
- 9 E. Using any motorized all terrain vehicle or motorcycles on city owned
10 open space, parks, trails, or other recreational areas, except for the Motocross Track
11 located off of the 599 Relief Route.

12 Charcoal barbecuing at a residential structure is permitted if the fire is closely monitored and fire-
13 extinguishing equipment, such as a garden hose or fire extinguisher, is readily available.

14 **Section 2.** Pursuant to Section 1-3.1 SFCC 1987:

15 A. Any individual, firm, partnership or other entity found in violation of the
16 above restrictions shall be deemed guilty of a misdemeanor and shall be punished by
17 imprisonment for up to ninety (90) days or a fine not to exceed five hundred dollars
18 (\$500), or both.

19 B. Each and every occasion on which this section is violated shall be
20 considered a separate offense.

21 **BE IT FURTHER RESOLVED** that the Governing Body recognizes that Section 60-
22 2C-8.1 NMSA 1978 only allows municipalities to adopt fire restrictions for 30 days at a time and
23 no less than 20 days prior to a holiday for which fireworks may be sold. Therefore, to ensure that
24 there will be no lapse in the fire restrictions imposed by this resolution, the Governing Body may
25 impose these fire restrictions at any subsequent meeting date hereafter to ensure that such fire

1 restrictions are in place during extreme or severe drought conditions and wildland fire conditions.

2 PASSED, APPROVED AND ADOPTED this ____ day of _____, 2017.

3
4 _____
5 JAVIER M. GONZALES, MAYOR

6 ATTEST:

7
8 _____
9 YOLANDA Y. VIGIL, CITY CLERK

10 APPROVED AS TO FORM:

11
12 _____
13 KELLEY A. BRENNAN, CITY ATTORNEY