



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
APRIL 10, 2013  
CITY COUNCIL CHAMBERS

**AFTERNOON SESSION – 5:00 P.M.**

CITY CLERK'S OFFICE

DATE 4-5-13 TIME 4:10 pm

SERVED BY

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 – March 27, 2013
9. PRESENTATIONS
  - a) Employee of the Month for April 2013 – Gerald George, Well System Operator, Public Utilities Department. (5 minutes)
  - b) Muchas Gracias – 2013 Santa Fe High School and Capital High School Wrestling Individual Placements. (5 minutes)
  - c) Proclamation – April 22, 2013 – “Earth Day 2013”. (Katherine Mortimer) (5 minutes)
  - d) Proclamation – April 2013 – City of Santa Fe’s Fair Housing Month. (Kym Dicome) (5 minutes)
10. CONSENT CALENDAR
  - a) Request for Approval of Amendment No. 2 to Lease Agreement – Within Burro Alley to Allow for Adjustment to Lease Premises and Allow for Sale and Consumption of Alcoholic Beverages Within Lease Premises; Majed Hamdouni dba Burro Alley Café. (Edward Vigil)
  - b) Bid No. 13/11/B – Santa Fe Trail Bus Shelters for Transit Division; Meridian Contracting, Inc. (Mary MacDonald)



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- c) Request for Approval of Grant Application and Award – Airfield Pavement Marking for Santa Fe Municipal Airport; New Mexico Department of Transportation Aviation Division. (Jim Montman)
- d) Request for Approval of Procurement Under State Price Agreement – Pavement Marking Materials for Traffic Engineering Division; 3M Company. (Rick Devine)
- e) Request for Approval of Amendment No. 6 to Legal Services Agreement – Qwest Corporation v. City of Santa Fe Matter (Federal Case); Cuddy & McCarthy, LLP. (Kelley Brennan)
  - 1) Request for Approval of Budget Increase – Insurance Claims Fund.
- f) Request for Approval of Amendment No. 1 to Legal Services Agreement – Qwest Corporation v. City of Santa Fe Matter (State Case); Cuddy & McCarthy, LLP. (Kelley Brennan)
- g) Request for Approval of Findings of Fact and Conclusions of Law for Case #2013-08, Appeal of the January 8, 2013 Decision of the Historic Districts Review Board in Case #H-12-101 Designating the Building at 401 Old Taos Highway in the Downtown and Eastside Historic District as Contributing and the West Elevation and the Western Portion of the South Elevation as Primary Facades. (Kelley Brennan)
- h) CONSIDERATION OF RESOLUTION NO. 2013-\_\_\_\_. (Councilor Rivera, Councilor Trujillo, Councilor Dimas and Councilor Bushee)  
A Resolution Relating to the Health, Safety and Welfare of the Residents of the City of Santa Fe; Encouraging Santa Fe Businesses that Sell Firearms to Include a Trigger Lock with Every Firearm Sold and Encouraging Gun Owners to Keep Trigger Locks on all Firearms in Their Possession and Stored Safely Away from Children. (Chief Rael)
- i) CONSIDERATION OF RESOLUTION NO. 2013-\_\_\_\_. (Councilor Rivera, Councilor Dimas and Councilor Bushee)  
A Resolution Relating to the 2013/2014 Budget; Directing the City Manager to Explore the Options for Expanding the City of Santa Fe Legislative Services Office During the 2013/2014 Budget Process and Provide Such Options to the Governing Body for Consideration. (Melissa Byers)



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- j) Request to Publish Notice of Public Hearing on May 8, 2013:
- 1) Bill NO. 2013-17: An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Gross Receipts Tax Refunding Revenue Bonds, Series 2013A in an Aggregate Principal Amount of \$12,135,000 for the Purpose of Defraying the Cost of Refunding, Paying and Discharging Certain Maturities of the Outstanding City of Santa Fe, New Mexico Gross Receipts Tax Improvement Revenue Bonds, Series 2006; Providing that the Bonds Will Be Payable and Collectible from the Gross Receipts Tax Revenues Distributed to the City; Establishing the Form, Terms, Manner of Execution and Other Details of the Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement and an Escrow Agreement; Providing for Redemption of the Series 2006 Bonds; Approving Certain Other Agreements and Documents in Connection with the Bonds; Ratifying Action Previously Taken in Connection with the Bonds; Repealing all Ordinances in Conflict Herewith; and Related Matters. (Helene Hausman)
  - 2) Bill NO. 2013-18: An Ordinance Authorizing the Issuance and Sale of the City of Santa Fe, New Mexico Subordinate Lien Gross Receipts Tax Refunding Revenue Bonds, Series 2013B in an Aggregate Principal Amount of \$14,195,000 for the Purpose of Defraying the Cost of Refunding, Paying and Discharging the City's Outstanding New Mexico Finance Authority Loan (Parking Structure) Dated March 28, 2006, Providing that the Bonds Will Be Payable and Collectible from the Gross Receipts Tax Revenues Distributed to the City; Establishing the Form, Terms, Manner of Execution and Other Details of the Bonds; Authorizing the Execution and Delivery of a Bond Purchase Agreement; Providing for Prepayment of the NMFA Loan; Approving Certain Other Agreements and Documents in Connection with the Bonds; Ratifying Action Previously Taken in Connection with the Bonds; Repealing all Ordinances in Conflict Herewith; and Related Matters. (Helene Hausman)



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REGULAR MEETING OF  
THE GOVERNING BODY  
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CITY COUNCIL CHAMBERS

- 3) City of Santa Fe Five (5) Year Consolidated Plan 2013-2017 and the 2013 Annual Action Plan. (Kym Dicome)
    - a) Request for Approval of 2013 Community Development Block Grant Contracts (CDBG) for the Following Contractors: (Kym Dicome)
      - Homewise Down Payment Assistance
      - Habitat for Humanity Down Payment Assistance
      - SFC Housing Trust Down Payment Assistance
      - Girl's Inc. Facility Improvements
      - SFC Housing Trust Stagecoach Inn
      - Youthworks, Inc.
      - Youth Shelters
      - SFPS Adelante Program
      - Kitchen Angels
  - 4) Bill NO. 2013-19: An Ordinance Relating to the City of Santa Fe Fire Department; Amending Section 2-10.3 SFCC 1987 to Grant the Fire Chief the Full Authority to Sign Agreements with Landowners for the Purpose of Implementing Fire Hazard Mitigation Activities. (Councilor Trujillo and Councilor Bushee) (Greg Gallegos) **Note: This Title May be Amended in Accordance With the Amendments Provided in the Packet.**
  - 5) Bill NO. 2013-20: An Ordinance Relating to Requirements for City Contractors; Amending the City of Santa Fe Purchasing Manual to Establish a New Provision to Prohibit Discrimination. (Councilor Bushee and Councilor Ives) (Jamison Barkley)
- 11) Request to Publish Notice of Public Hearing on May 8, 2013:
- Bill NO. 2013-21: An Ordinance Relating to Benefits for Domestic Partners; Creating a New Section 19-3.8 SFCC 1987 to Require that the City of Santa Fe Provide Domestic Partner Benefits for All Full-Time Permanent Employees of the City of Santa Fe. (Councilor Bushee) (Jamison Barkley) **Note: This Title May be Amended in Accordance With the Amendments Provided in the Packet.**



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
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12. CONSIDERATION OF RESOLUTION NO. 2013-\_\_\_\_. (Councilor Wurzburger)  
A Resolution Supporting the Conversion of Santa Fe Civic Housing Authority Public Housing Units to Long Term Section 8 Contracts Under the Federal Resident Assistance Demonstration (RAD) Program. (Alexandra Ladd)
13. CONSIDERATION OF RESOLUTION NO. 2013-\_\_\_\_. (Councilor Bushee)  
A Resolution Recognizing the Life Saving Work Done by New Mexico Donor Services and Proclaiming April 2013 as Donate Life Month. (Melissa Byers)
14. Request for Approval of the Governing Body to Authorize the City Manager to Seek Information from the Department of Taxation and Revenue Pursuant to NMSA 1978, 7-1-8.9 Relating to Qwest Corporation and/or CenturyLink, Their Wholesale Customers, and Other Such Taxpayers About Whom the City has Questions Regarding Their Reported Gross Receipts. (Marcos Martinez)
15. MATTERS FROM THE CITY MANAGER
16. MATTERS FROM THE CITY ATTORNEY
17. MATTERS FROM THE CITY CLERK
18. 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  
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APRIL 10, 2013  
CITY COUNCIL CHAMBERS

## H. PUBLIC HEARINGS:

- 1) **CONSIDERATION OF BILL NO. 2013-16: ADOPTION OF ORDINANCE NO. 2013-\_\_\_\_\_.** (Councilor Dominguez and Councilor Calvert)  
An Ordinance Relating to the Land Development Code, Airport Road Overlay District, Section 14-5.5(C) SFCC 1987; Creating a New Subsection 14-5.5(C)(6)(I) to Include a Provision for Commercial Recycling Containers; Amending Subsection 14-5.5(C)(12)(c) to Clarify the Applicability of Existing Building-Mounted Outdoor Advertising of Alcoholic Beverages, to Clarify the Packaging of Alcoholic Beverages of Eight Ounces or Less and Establishing the Effective Date of Such Packaging Provisions; and Making Such Other Stylistic or Grammatical Changes That Are Necessary. (Matthew O'Reilly)
- 2) **Case #2013-14 – Appeal.** Sommer Karnes & Associates LLP, Agent for Greg and Kay Crouch, Appeals the January 22, 2013 Decision of the Historic Districts Review Board in Case #H-12-077 Denying Their Application to Remove Portions of a Stone Retaining Wall to Create Two Parking Spaces at 1148 Camino San Acacio on a Non-Contributing Property in the Downtown and Eastside Historic District as Primary Facades. (Kelley Brennan)

## I. ADJOURN

**Pursuant to the Governing Body Procedural Rules, in the event any agenda items have not been addressed, the meeting should be reconvened at 7:00 p.m., the following day and shall be adjourned not later than 12:00 a.m. Agenda items, not considered prior to 11:30 p.m., shall be considered when the meeting is reconvened or tabled for a subsequent meeting.**

**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 955-6520, five (5) days prior to meeting date.

**SUMMARY INDEX  
SANTA FE CITY COUNCIL MEETING  
April 10, 2013**

<b><u>ITEM</u></b>	<b><u>ACTION</u></b>	<b><u>PAGE #</u></b>
<b><u>AFTERNOON SESSION</u></b>		
<b>CALL TO ORDER AND ROLL CALL</b>	<b>Quorum</b>	<b>1</b>
<b>APPROVAL OF AGENDA</b>	<b>Approved</b>	<b>1</b>
<b>APPROVAL OF CONSENT CALENDAR</b>	<b>Approved [amended]</b>	<b>2</b>
<b>CONSENT CALENDAR LISTING</b>		<b>2-4</b>
<b>APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – MARCH 27, 2013</b>	<b>Approved [amended]</b>	<b>4-5</b>
<b><u>PRESENTATIONS</u></b>		
<b>EMPLOYEE OF THE MONTH FOR APRIL 2013 – GERALD GEORGE</b>		<b>5</b>
<b>MUCHAS GRACIAS – 2013 SANTA FE HIGH SCHOOL AND CAPITAL HIGH SCHOOL WRESTLING INDIVIDUAL PLACEMENTS</b>		<b>5-6</b>
<b>PROCLAMATION – APRIL 22, 2013 – “EARTH DAY 2013”</b>		<b>6-8</b>
<b>PROCLAMATION – APRIL 2013 – CITY OF SANTA FE’S FAIR HOUSING MONTH</b>		<b>8</b>
<b><u>CONSENT CALENDAR DISCUSSION</u></b>		
<b>REQUEST FOR APPROVAL OF GRANT APPLICATION AND AWARD – AIRFIELD PAVEMENT MARKING FOR SANTA FE MUNICIPAL AIRPORT; NEW MEXICO DEPARTMENT OF TRANSPORTATION AVIATION DIVISION</b>	<b>Approved</b>	<b>8</b>

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
REQUEST FOR APPROVAL OF AMENDMENT NO. 6 TO LEGAL SERVICES AGREEMENT – QWEST CORPORATION V. CITY OF SANTA FE MATTER (FEDERAL CASE); CUDDY & McCARTHY, LLP.	Approved	8-9
REQUEST FOR APPROVAL OF BUDGET INCREASE – INSURANCE CLAIMS FUND	Approved	8-9
REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO LEGAL SERVICES AGREEMENT – QWEST CORPORATION V. CITY OF SANTA FE MATTER (STATE CASE); CUDDY & McCARTHY, LLP	Approved	9
***** END OF CONSENT CALENDAR DISCUSSION *****		
REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON MAY 8, 2013: BILL NO. 2013-21: AN ORDINANCE RELATING TO BENEFITS FOR DOMESTIC PARTNERS; CREATING A NEW SECTION 19-3.8 SFCC 1980 REQUIRE THAT THE CITY OF SANTA FE PROVIDE DOMESTIC PARTNER BENEFITS FOR ALL FULL-TIME PERMANENT EMPLOYEES OF THE CITY OF SANTA FE. NOTE: THIS TITLE MAY BE AMENDED IN ACCORDANCE WITH THE AMENDMENTS PROVIDED IN THE PACKET	Approved	9-11
CONSIDERATION OF RESOLUTION NO. 2013-40. A RESOLUTION SUPPORTING THE CONVERSION OF SANTA FE CIVIC HOUSING AUTHORITY PUBLIC HOUSING UNITS TO LONG TERM SECTION 8 CONTRACTS UNDER THE FEDERAL RESIDENT ASSISTANCE DEMONSTRATION (RAD) PROGRAM	Adopted [amended]	11-20
CONSIDERATION OF RESOLUTION NO. 2013-41. A RESOLUTION RECOGNIZING THE LIFE SAVING WORK DONE BY NEW MEXICO DONOR SERVICES AND PROCLAIMING APRIL 2013 AS DONATE LIFE MONTH	Adopted	20-22



<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
REQUEST FOR APPROVAL OF THE GOVERNING BODY TO AUTHORIZE THE CITY MANAGER TO SEEK INFORMATION FROM THE DEPARTMENT OF TAXATION AND REVENUE, PURSUANT TO NMSA 1978, §7-1-8.9 RELATING TO QWEST CORPORATION AND/OR CENTURYLINK, THEIR WHOLESALE CUSTOMERS, AND OTHER SUCH TAXPAYERS ABOUT WHOM THE CITY HAS QUESTIONS REGARDING THEIR REPORTED GROSS RECEIPTS	Approved	22
MATTERS FROM THE CITY MANAGER	Information	22
MATTERS FROM THE CITY ATTORNEY	None	22
MATTERS FROM THE CITY CLERK	None	23
<u>EVENING SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	24
PETITIONS FROM THE FLOOR		24-33
APPOINTMENTS	None	33
<u>PUBLIC HEARINGS</u>		
CONSIDERATION OF BILL NO. 2013-15: ADOPTION OF ORDINANCE NO. 2013-17. AN ORDINANCE RELATING TO THE LAND DEVELOPMENT CODE, AIRPORT ROAD OVERLAY DISTRICT, SECTION 14-5.5(C) SFCC 1987P; CREATING A NEW SUBSECTION 14-5.5(C)(6)(I) TO INCLUDE A PROVISION FOR COMMERCIAL RECYCLING CONTAINERS; AMENDING SUBSECTION 14-5.5(C)(12)(c) TO CLARIFY THE APPLICABILITY OF EXISTING BUILDING-MOUNTED OUTDOOR ADVERTISING OF ALCOHOLIC BEVERAGES, TO CLARIFY THE PACKAGING OF ALCOHOLIC BEVERAGES OF EIGHT OUNCES OR LESS AND ESTABLISHING THE EFFECTIVE DATE OF SUCH PACKAGING PROVISIONS; AND MAKING SUCH OTHER STYLISTIC OR GRAMMATICAL CHANGES THAT ARE NECESSARY	Approved w/amendment	34

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<b>CASE #2013-14. APPEAL. SOMMER, KARNES &amp; ASSOCIATES, LLP, AGENT FOR GREG AND KAY CROUCH, APPEALS THE JANUARY 22, 2013 DECISION OF THE HISTORIC DISTRICTS REVIEW BOARD IN CASE #H-12-077, DENYING THEIR APPLICATION TO REMOVE PORTIONS OF A STONE RETAINING WALL TO CREATE TWO PARKING SPACES AT 1148 CAMINO ACACIO ON A NON-CONTRIBUTING PROPERTY IN THE DOWNTOWN AND EASTSIDE HISTORIC DISTRICT AS PRIMARY FAÇADES.</b>	<b>Appeal granted</b>	<b>35-38</b>
<b>COMMUNICATIONS FROM THE GOVERNING BODY</b>		<b>30-40</b>
<b>ADJOURN</b>		<b>40</b>

**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
April 10, 2013**

**AFTERNOON SESSION**

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Acting Mayor, Councilor Patti J. Bushee, on Wednesday, April 10, 2013, 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 Patti J. Bushee, Acting Mayor  
Councilor Christopher Calvert  
Councilor Bill Dimas  
Councilor Peter N. Ives  
Councilor Christopher M. Rivera  
Councilor Ronald S. Trujillo

**Members Excused**

Mayor David Coss  
Councilor Rebecca Wurzbarger, Mayor Pro-Tem  
Councilor Carmichael A. Dominguez

**Others Attending**

Robert Romero, City Manager  
Geno Zamora, City Attorney  
Yolanda Y. Vigil, City Clerk  
Melessia Helberg, Council Stenographer

**6. APPROVAL OF AGENDA**

**MOTION:** Councilor Rivera moved, seconded by Councilor Calvert, to approve the agenda as amended.

**VOTE:** The motion was approved on a voice vote with Councilors Bushee, Calvert, Dimas, Ives, Rivera and Trujillo voting in favor of the motion and none against.

## **7. APPROVAL OF CONSENT CALENDAR**

**MOTION:** Councilor Calvert moved, seconded by Councilor Dimas, to approve the following Consent Calendar, as amended.

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera, and Councilor Trujillo.

**Against:** None.

- a) **REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO LEASE AGREEMENT – WITHIN BURRO ALLEY TO ALLOW FOR ADJUSTMENT TO LEASE PREMISES AND ALLOW FOR SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN LEASE PREMISES; MAJED HAMDOUNI D/B/A BURRO ALLEN CAFÉ. (EDWARD VIGIL)**
- b) **BID NO. 13/11/B – SANTA FE TRAIL BUS SHELTERS FOR TRANSIT DIVISION; MERIDIAN CONTRACTING, INC. (MARY MacDONALD)**
- c) *[Removed for discussion by Councilor Trujillo]*
- d) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – PAVEMENT MARKING MATERIALS FOR TRAFFIC ENGINEERING DIVISION; 3M COMPANY. (RICK DEVINE)**
- e) *[Removed for discussion by Councilor Ives]*
- f) *[Removed for discussion by Councilor Ives]*
- g) **REQUEST FOR APPROVAL OF FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR CASE #2013-08, APPEAL OF THE JANUARY 8, 2013, DECISION OF THE HISTORIC DISTRICTS REVIEW BOARD IN CASE #H-12-101, DESIGNATING THE BUILDING AT 401 OLD TAOS HIGHWAY IN THE DOWNTOWN AND EASTSIDE HISTORIC DISTRICT AS CONTRIBUTING AND THE WEST ELEVATION AND THE WESTERN PORTION OF THE SOUTH ELEVATION AS PRIMARY FAÇADES. (KELLEY BRENNAN)**

- h) CONSIDERATION OF RESOLUTION NO. 2013-38 (COUNCILOR RIVERA, COUNCILOR TRUJILLO, COUNCILOR DIMAS AND COUNCILOR BUSHEE AND COUNCILOR IVES. A RESOLUTION RELATING TO THE HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF THE CITY OF SANTA FE; ENCOURAGING SANTA FE BUSINESSES THAT SELL FIREARMS TO INCLUDE A TRIGGER LOCK WITH EVERY FIREARM SOLD AND ENCOURAGING GUN OWNERS TO KEEP TRIGGER LOCKS ON ALL FIREARMS IN THEIR POSSESSION AND STORED SAFELY AWAY FROM CHILDREN. (CHIEF RAEI)**
- i) CONSIDERATION OF RESOLUTION NO. 2013-39 (COUNCILOR RIVERA, COUNCILOR DIMAS AND COUNCILOR BUSHEE). A RESOLUTION RELATING TO THE 2013/2014 BUDGET; DIRECTING THE CITY MANAGER TO EXPLORE THE OPTIONS FOR EXPANDING THE CITY OF SANTA FE LEGISLATIVE SERVICES OFFICE DURING THE 2013/2014 BUDGET PROCESS AND PROVIDE SUCH OPTIONS TO THE GOVERNING BODY FOR CONSIDERATION. (MELISSA BYERS**
- j) REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON MAY 8, 2013:**

  - 1) BILL NO. 2013-17: AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2013A IN AN AGGREGATE PRINCIPAL AMOUNT OF \$12,135,000 FOR THE PURPOSE OF DEFRAYING THE COST OF REFUNDING, PAYING AND DISCHARGING THE OUTSTANDING CITY OF SANTA FE, NEW MEXICO GROSS RECEIPTS TAX IMPROVEMENT REVENUE BONDS, SERIES 2006; PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE GROSS RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY; ESTABLISHING THE FORM, TERMS, MANNER OF EXECUTION AND OTHER DETAILS OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT AND AN ESCROW AGREEMENT; PROVIDING FOR REDEMPTION OF THE SERIES 2006 BONDS; APPROVING CERTAIN OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND RELATED MATTERS. (HELENE HAUSMAN).**
  - 2) BILL NO. 2013-18: AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF SANTA FE, NEW MEXICO SUBORDINATE LIEN GROSS RECEIPTS TAX REFUNDING REVENUE BONDS, SERIES 2013B IN AN AGGREGATE PRINCIPAL AMOUNT OF \$14,195,000 FOR THE PURPOSE OF DEFRAYING THE COST OF REFUNDING, PAYING AND DISCHARGING THE CITY'S OUTSTANDING NEW MEXICO FINANCE AUTHORITY LOAN (PARKING STRUCTURE) DATED MARCH 28, 2006, PROVIDING THAT THE BONDS WILL BE PAYABLE AND COLLECTIBLE FROM THE GROSS**

RECEIPTS TAX REVENUES DISTRIBUTED TO THE CITY; ESTABLISHING THE FORM, TERMS, MANNER OF EXECUTION AND OTHER DETAILS OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT; PROVIDING FOR PREPAYMENT OF THE NMFA LOAN; APPROVING CERTAIN OTHER AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE BONDS; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION WITH THE BONDS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND RELATED MATTERS. (HELENE HAUSMAN).

- 3) CITY OF SANTA FE FIVE (5) YEAR CONSOLIDATED PLAN 2013-2017 AND THE 2013 ANNUAL ACTION PLAN. (KYM DICOME)
  - a) REQUEST FOR APPROVAL OF 2013 COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACTS (CDBG) FOR THE FOLLOWING CONTRACTORS:
    - HOMEWISE DOWN PAYMENT ASSISTANCE
    - HABITAT FOR HUMANITY DOWN PAYMENT ASSISTANCE
    - SFC HOUSING TRUST DOWN PAYMENT ASSISTANCE
    - GIRL'S INC. FACILITY IMPROVEMENTS
    - SFC HOUSING TRUST STAGECOACH INN
    - YOUTHWORKS, INC.
    - YOUTH SHELTERS
    - SFPS ADELANTE PROGRAM
    - KITCHEN ANGELS(KYM DICOME)
- 4) BILL NO. 2013-19: AN ORDINANCE RELATING TO THE CITY OF SANTA FE FIRE DEPARTMENT; AMENDING SECTION 2-10.3 SFCC 1987, TO GRANT THE FIRE CHIEF THE FULL AUTHORITY TO SIGN AGREEMENTS WITH LANDOWNERS FOR THE PURPOSE OF IMPLEMENTING FIRE HAZARD MITIGATION ACTIVITIES (COUNCILOR TRUJILLO AND COUNCILOR BUSHEE). (GREG GALLEGOS). NOTE: THIS TITLE MAY BE AMENDED IN ACCORDANCE WITH THE AMENDMENTS PROVIDED IN THE PACKET.
- 5) BILL NO. 2013-20: AN ORDINANCE RELATING TO REQUIREMENTS FOR CITY CONTRACTORS; AMENDING THE CITY OF SANTA FE PURCHASING MANUAL TO ESTABLISH A NEW PROVISION TO PROHIBIT DISCRIMINATION. (COUNCILOR BUSHEE AND COUNCILOR IVES). (JAMISON BARKLEY)

**8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – MARCH 27, 2013**

A copy of page 59 of the minutes correcting the vote is incorporated herewith to these minutes as Exhibit "1."

A copy of a *Verbatim Transcript of requested portions of Item #H(6) relating to telecommunications facilities and the Marcy Street Tower* from the Council meeting of March 27, 2013, is incorporated herewith to these minutes as Exhibit "2."

Yolanda Vigil, City Clerk, asked to incorporate a change on page 59 of the minutes to correct the vote, and to incorporate a verbatim transcript of Item H(6) requested by Arthur Firstenberg, as part of the approval of these minutes.

**MOTION:** Councilor Rivera moved, seconded by Councilor Dimas, to approve the minutes of the Regular City Council meeting of March 27, 2013, with changes and additions.

**VOTE:** The motion was approved on a voice vote with Councilors Bushee, Calvert, Dimas, Ives, Rivera, and Trujillo voting in favor of the motion and none against.

## **9. PRESENTATIONS**

### **a) EMPLOYEE OF THE MONTH FOR APRIL 2013 – GERALD GEORGE**

Acting Mayor Bushee read the nomination of Gerald George into the record, and presented him with a certificate and a check for \$100.00.

Acting Mayor Bushee, on behalf of the Governing Body, congratulated Mr. George for his outstanding service to the City.

Councilor Trujillo said he has known Mr. George for many years, noted they attended school together, and he is an outstanding citizen in the community and outstanding employee for the City.

### **b) MUCHAS GRACIAS – 2013 SANTA FE HIGH SCHOOL AND CAPITAL HIGH SCHOOL WRESTLING INDIVIDUAL PLACEMENTS.**

Acting Mayor Bushee, assisted by Councilors Dimas and Calvert presented muchas certificates to the following members of the Santa Fe High School wrestling team for individual placement at the State Wrestling Tournament:

Adrian George	1 <sup>st</sup> place – 113 lb. Category
Alex George	2 <sup>nd</sup> place – 138 lb. Category
Jonah Schmeltz	3 <sup>rd</sup> place – 182 lb. Category
Anthony Maestas	3 <sup>rd</sup> place – 192 lb. Category

The wrestling Coach said they are in the process of rebuilding and recruiting. He asked the public to support all athletics in Santa Fe schools – elementary, middle and high school.

Acting Mayor Bushee, assisted by Councilors Dimas and Calvert, presented muchas certificates to the following members of the Capital High School wrestling team for individual placement at the State Wrestling Tournament:

Jose Tapia      1<sup>st</sup> place – 106 lb. weight Category  
Gilbert Mancha 1<sup>st</sup> place – 106 lb. weight Category  
Isaiah Anaya    1<sup>st</sup> place – 138 lb. weight Category.  
Ernesto Sal     1<sup>st</sup> place – 145 lb. weight Category  
Jacob Esquibel 3<sup>rd</sup> place – 182 lb. weight Category

Councilor Dimas congratulated Jose Tapia, noting he is an 8<sup>th</sup> grader at Capshaw Middle School, as well as being Councilor Dominguez's nephew. He said Councilor Dominguez couldn't be here this evening, and asked him to say a few words about Jose's accomplishment. He listed the accomplishments of Jose as an 8<sup>th</sup> grader: 2<sup>nd</sup> place in [inaudible] in Oklahoma, 1<sup>st</sup> place Rocky Mountain Nationals in Colorado, and 2<sup>nd</sup> place at the National High School Coaches Association Tournament in Virginia Beach.

Councilor Dimas said Councilor Dominguez wants Jose to know how proud of him he is and he looks forwards to his future accomplishments, noting he comes from a wrestling family. He congratulated Jose and wished him continued success.

The wrestling Coach said this is a young tough team, with only one Senior, and finished in the top 5 at the State Tournament. He said next year they hope to bring home the State Championship. He is very proud of these young men for wrestling all year long, and thanked them for their efforts.

**c)      PROCLAMATION – APRIL 22, 2013 – "EARTH DAY 2013" (KATHERINE MORTIMER).**

Acting Mayor Bushee, assisted by Councilor Calvert and Councilor Ives, read a proclamation into the record, declaring April 22, 2013, as Earth Day 2013, and presented a copy to Ms. Mortimer.

Councilor Ives said this is something we can all come together and celebrate, noting Santa Fe participates actively. He will be introducing a Resolution for voluntary water conservation later this evening.

Councilor Calvert urged everyone to celebrate Earth day on April 22<sup>nd</sup>, as well as to commit to do one thing during the year and forever, which will have meaning for everyone.

Ms. Padilla talked about the planned events, including the Earth Day Celebration on Saturday, April 20<sup>th</sup>, at Genoveva Chavez Community Center from 9:30 a.m. to 2:00 p.m., with a lot of different events. They also will be distributing recycling bins. They will be distributing recycling bins on Monday, April 22<sup>nd</sup>, at the Santa Fe Community College, as well as information on Earth Day and environmental protection. On Saturday, April 24<sup>th</sup>, is Global Services Day at Earth Care in Santa Rosa, 9:00 a.m. to 3:00 p.m. On Saturday, April 27<sup>th</sup>, there will be the Great American Cleanup – Annual Spring Cleanup and Keep Santa Fe Beautiful will be there. On April 27<sup>th</sup> there also will be the Sustainable Santa Fe Awards



Ceremony. On April 27<sup>th</sup> and 28<sup>th</sup>, the New Mexico Solar Energy Association Solar Fiesta will be held at the Community College, 10:00 a.m. to 4:00 p.m. These are just a few of the events during the week.

Ms. Mortimer announced the winners of the 2013 Sustainable Santa Fe Awards;

Community Outreach – Solarize the Roundhouse, student effort to get solar panels on top of the roundhouse.

Environmental Advocate – Citizens Climate Lobby

Environmental Justice – 2012 Traditional Agricultural and Sustainable Living Conference

Food Systems – Gaia Gardens, local herb and garden

Water Conservation – Santa Fe Public Schools Water Conservation Program

Renewable Energy and Energy Efficiency – Solarmont Coal Installations in a collaboration between New Energy Economy and Positive Solar – including one on a City Fire Station.

Affordable Green Building – Pinon Homewise thirty-nine home housing development on Pinon Ridge which pushed beyond the requirements under the Green Building Code for affordable homes.

General Green Building – 205 West Cordova Road – an example of how to push the envelope in the green building category.

Climate Adaption – Queen Bee Collective – developing pollinators and other things to keep the environment going and adapt to the effects of climate change.

Green Economic Development – The Green Lodging Initiative, a local initiative piloted in Santa Fe with 14 hotels to green our lodging here.

Low Carbon Transportation – Charge Point Charge Station on the side of Positive Energy by Whole Foods, where cars can plug in to recharge.

Waste Reduction – Water Buffalo, a program to have water at events but have no waste, no bottles, no plastic cups.

Green Journalism – Occupy New Mexico organization, which got information out to the public on sustainability issues.

Use Lead Project – IAIA Student Sustainability Group.

Responding to Acting Mayor Bushee, Ms. Mortimer said the awards ceremony is Saturday, April 27, 2013, 6:00 to 7:00 p.m., at the Eldorado Hotel. It is open to the public. Each winner will have a table with information about their projects. There will be *hor de oeuvres* and a no-host bar.

**d) PROCLAMATION – APRIL 2013 – CITY OF SANTA FE'S FAIR HOUSING MONTH (KYM DICOME)**

Acting Mayor Bushee read the proclamation into the record declaring April 2013 as the City of Santa Fe's Fair Housing Month.

Ms. Dicome said when it talks about the ordinances, those are on the website, noting HUD just announced it has a SmartPhone App that can be downloaded to file a HUD complaint if you have one, and that's exciting.

**CONSENT CALENDAR DISCUSSION**

**10(c) REQUEST FOR APPROVAL OF GRANT APPLICATION AND AWARD – AIRFIELD PAVEMENT MARKING FOR SANTA FE MUNICIPAL AIRPORT; NEW MEXICO DEPARTMENT OF TRANSPORTATION AVIATION DIVISION. (JIM MONTMAN)**

**Disclosure:** Councilor Trujillo said, "The only reason I pulled this is to let everyone know I do work for the New Mexico Department of Transportation. I do not work for the Aviation Division, so I will move for approval of this."

**MOTION:** Councilor Trujillo moved, seconded by Councilor Calvert, to approve this request.

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera, and Councilor Trujillo.

**Against:** None.

**10(e) REQUEST FOR APPROVAL OF AMENDMENT NO. 6 TO LEGAL SERVICES AGREEMENT – QWEST CORPORATION V. CITY OF SANTA FE MATTER (FEDERAL CASE); CUDDY & MCCARTHY, LLP. (KELLEY BRENNAN)**  
**1) REQUEST FOR APPROVAL OF BUDGET INCREASE – INSURANCE CLAIMS FUND.**

**Disclosure:** Councilor Ives recused himself from participating in Items 10(e) and (f), and left the Council Chambers.

**MOTION:** Councilor Calvert moved, seconded by Councilor Rivera, to approve this request.

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Rivera, and Councilor Trujillo.

**Against:** None.

**Recused:** Councilor Ives.

**10 (f) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO LEGAL SERVICES AGREEMENT – QWEST CORPORATION V. CITY OF SANTA FE MATTER (STATE CASE); CUDDY & McCARTHY, LLP. (KELLEY BRENNAN)**

**Disclosure:** Councilor Ives recused himself from participating in Items 10(e) and (f), and left the Council Chambers.

**MOTION:** Councilor Calvert moved, seconded by Councilor Rivera, to approve this request.

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**Recused:** Councilor Ives,

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**END OF CONSENT CALENDAR DISCUSSION**

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**11. REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON MAY 8, 2013: BILL NO. 2013-21: AN ORDINANCE RELATING TO BENEFITS FOR DOMESTIC PARTNERS; CREATING A NEW SECTION 19-3.8 SFCC 1980 REQUIRE THAT THE CITY OF SANTA FE PROVIDE DOMESTIC PARTNER BENEFITS FOR ALL FULL-TIME PERMANENT EMPLOYEES OF THE CITY OF SANTA FE (COUNCILOR BUSHEE). (JAMISON BARKLEY) NOTE: THIS TITLE MAY BE AMENDED IN ACCORDANCE WITH THE AMENDMENTS PROVIDED IN THE PACKET.**

Acting Mayor Bushee said Councilor Rivera had follow up questions from earlier discussions.

Mr. Zamora said, "Included in your packet, there is a Memo dated April 5, 2013, which explains the substitute proposed Ordinance, that the substitute proposed Ordinance fixed two issues that were raised in Committee. One, clarifying that domestic partner benefits would be provided to all City of Santa Fe employees who are eligible to receive benefits, so the employee has to be eligible to receive benefits in the first place. There are some employment statuses that do not make you eligible for benefits. Number 2, the second clarification is that the child dependents of the non-employee domestic partner will be included for benefit eligibility coverage."

Councilor Bushee said the questions brought up in Finance were regarding new fiscal impacts, and the life insurance policy.

Councilor Rivera said it appears there are 57 employees that qualify for domestic partnership, and Ms. Gage said that is correct.

Councilor Rivera said of the 57, it is estimated that only 37 would try to qualify dependent children under this.

Ms. Gage said it potentially would add children to the coverage, noting that is based on the current demographics – number of covered members, number of employees covering children and the percentage of actual claims.

Councilor Rivera asked if these are actual numbers or estimates, and Ms. Gage said they are estimates.

Councilor Rivera asked if she is estimating 1 or 2 children per domestic couple.

Ms. Gage said they are estimating one at this point, and using 37 to account for about half of the 57.

Councilor Rivera said then the cost of \$67,000 is a fairly close estimate, but it could go up, and Ms. Gage said this is correct.

Councilor Rivera asked, if the partnership were to dissolve, would the children still be able to maintain benefits.

Ms. Gage said no. She said, "If the domestic partnership dissolves, the child of the non-employee domestic partner would no longer be covered under the City's insurance."

Councilor Rivera asked what happens if City employee decide to leave the City, but want to maintain their insurance.

Ms. Gage said if the employee leaves, the employee is eligible for COBRA coverage.

Councilor Rivera said but that wouldn't apply in this situation.

Ms. Gage said, "No. Domestic partners and the children of domestic partners would not be eligible for continuation coverage, based on the way the COBRA law defines a spouse.

Councilor Rivera said it says, "Life insurance and voluntary whole life, awaiting a response." He asked if we have heard anything yet.

Ms. Gage said, "Yes we have. We received confirmation that both our life insurance and voluntary whole life policy, would cover the domestic partner and children of the domestic partner.

Councilor Rivera asked what would happen in those situations if the domestic partnership were to be dissolved.

Ms. Gage said, "Again. For the life insurance, they can apply for continuation coverage with the life insurance company, but it would be different than COBRA."

Councilor Bushee said this has been the City's practice for more than a decade, and this is codifying that practice, and amplifying it to a slight degree. She said it is important that we went through this exercise and asked questions about dependent coverage and the life insurance coverage. She said throughout this decade, insurance policies and companies have grown in terms of offerings.

**MOTION:** Councilor Calvert moved, seconded by Councilor Trujillo, to approve this request.

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**12. CONSIDERATION OF RESOLUTION NO. 2013-40 (COUNCILOR WURZBURGER AND COUNCILOR CALVERT). A RESOLUTION SUPPORTING THE CONVERSION OF SANTA FE CIVIC HOUSING AUTHORITY PUBLIC HOUSING UNITS TO LONG TERM SECTION 8 CONTRACTS UNDER THE FEDERAL RESIDENT ASSISTANCE DEMONSTRATION (RAD) PROGRAM. (ALEXANDRA LADD)**

Alexandra Ladd presented information regarding this matter from the information in the Council packet.

*The Council commented and asked questions as follows:*

- Councilor Calvert said on page 2, line 6 of the Resolution, it says, "...estimates that the RAD Program will bring \$10,000,000 of construction funding into Santa Fe and create 100-200 jobs for the two years of the project's duration.." He asked how much of that is local.

Ms. Ladd said typically with projects of this size, the general contractor isn't from Santa Fe, but probably 70% of the subcontractors are from Santa Fe.

Ed Romero, Director, said, "What you'll find in a project like this, because of the bonding nature of the requirements to guarantee the project, the general contractor has to have deep pockets. What we have done in the past is we worked with the contractor, encouraging him to use local subcontractors. In some cases they have somewhere between 40-70% local contractors. Almost all of the employees for the subcontractors are local, meaning within 60 miles from here in Albuquerque. Our architect is local. Surveyors are local. We tend to try to use local banks on the construction. I don't know how that is going to play out."

- Councilor Calvert said he would encourage him to get as many of the subs to be local, and his definition of local is Santa Fe County. He thinks it would help the economy more, if they used a more narrow definition of local. He appreciates what he has done on West Alameda, commenting hopefully the projects will incorporate energy efficiency and green technologies which were used on the West Alameda project.

Mr. Romero said, "We do anticipate trying to achieve as high a LEEDS score as possible, or green communities. Right now, we're working our way through that process. It will be a little more difficult, because on this project there are 120 units we're rehabbing and 20 new units. It's always easier to build new units to a greener level, but we're going to be as green as possible."

- Councilor Calvert asked to be added as a sponsor of this bill.

**MOTION:** Councilor Calvert moved, seconded by Councilor Ives, to adopt Resolution 2013-40.

**DISCUSSION:** Councilor Ives noted the Resolution says the Governing Body supports the conversion of public housing units to long term Section 8 contracts. He asked if that is sufficient for our purposes here, or do we actually have to approve them, noting a statement of support is different from an approval in his mind.

Mr. Romero said, "There were 3 requirements coming out of the Albuquerque HUD office, as well as the national office. The HUD office just wanted to know that City Councilors were aware of the process and what we're taking on. We will be coming back to you for lease approvals, because we will have a lease and sublease for approval as we move forward."

Councilor Ives asked if there will be changes in eligibility in converting public housing units to long term Section 8 contracts under the RAD, or if people currently in such units will be compelled to move or change their status in any way.

Mr. Romero said, "In our review, we haven't seen any instance where they would not be eligible. There will be a process in which some people may become over-incomed while they lived with us, and they may be required to either take a voucher and move elsewhere. We don't see anybody currently living with us that is that situation, but those Income levels are fairly high, around \$50,000 per year. If you go above that

level, we may be required to find a different type unit that you income-qualify for. The vast majority of our clients are 30% AMI, 30% income, in the \$12,000 to \$20,000 [range]. It will be seamless for those clients."

Councilor Ives asked if we do have people whose income level was too high as a result of the conversion, what is the plan, if any, with regards to those people.

Mr. Romero said at this point, we could give them a voucher to assist them at rent in any location in the City. Most likely, they would drop off the process, because they would be paying 90-100% of their rent already. A voucher calculates your rent, and we pay a portion of your rent based on your income – you would pay 30% of your rent.

Councilor Ives is glad we know of no one who would be affected in that way. He would like to hear if we had anybody that fell into that category.

Mr. Romero said, "You will hear about it, because we will be relocating some residents, and relocation is a very difficult process. People don't like to move. The first phase is a family phase, and we will be coming to you with two more phases on our Senior complexes as well. We will be relocating people from our Cerro Gordo site, because the requirements are pretty extensive on the 24 units up there. The other units will be a week, two weeks, some a month. So that relocation is not significant. But any time you're moving people to a different location, in the middle of the school year, any of those kinds of things, it does get rather touchy. We are going to see people who are unhappy. Hopefully, they will see that the end product that they move back into a unit with new kitchens, new bathrooms, new heating systems. Those kinds of things."

Responding to Councilor Ives, Ms. Ladd asked if he is asking for a report once the process moves forward.

Councilor Ives said yes, he wants to know the impacts of the conversion, especially on Seniors, and Ms. Ladd said she will provide a report.

Councilor Rivera asked if the \$10,000,000 is for all of the Santa Fe Civic Housing Authority units within the City limits.

Mr. Romero said, "It is for the families we have within the City limits. There's 120 units that basically are 2, 3, 4 and 5 bedroom units that house our family size. We also have, on top of those 120 units, we have 237 units that are senior units that are mostly 1 and a few 2 bedroom units. We will be coming in, hopefully, November/December with a couple more applications to HUD asking to convert those particular projects into this RAD process as well. Eventually we want to be 100% site based vouchers and have no public housing units in our stock."

Ms. Ladd said, "If I may add, on the WHEREAS that starts on line 4 which talks about the first phase, the 119 units and 20 new units, I think one change we'll make to the Resolution is to include the second and third phases in that language so we don't also have to do another resolution for those phases as they come through. We were focused on the project and moving forward immediately, and then we thought

well, let's do the Resolution for the whole thing, and then the leases will come forward as the projects get approved."

Acting Mayor Bushee asked Ms. Ladd if she wants to amend the Resolution tonight.

Ms. Ladd it would be more specific if we added something to the effect that the second and third phases will incorporate an additional 237 senior units.

Acting Mayor Bushee asked Ms. Ladd to work out the language with Ms. Brennan and Ms. Byers right now, and then tell us where you want to insert it in the resolution, because she will have to come back if this isn't done tonight.

Councilor Rivera said Cerro Gordo is specifically named here and asked if it is the first phase of spending the money.

Mr. Romero said, "We will be kind of attacking it at each of one of our sites at the same time. What will happen with Cerro Gordo, is that we will close the sites. Our plan is to provide those residents with vouchers, relocate them with the right to return at some point. We're working our way through Historic right now and through zoning. Our desire is to add 7 units up there, to also add 504 type units up there which is very difficult because of the terrain. So, we are working through that process. We should have those units down for about a year to 14 months or so, come back and those units will be rehabbed and 7 more units will be located at that site. We have some units that built on Senda de Valles out in Las Acequias, both in 1993. The rehab at those sites will be fairly simple because the building techniques that were employed at that time are significantly better than what was done in 1963, 1973, when some of our other stock was built. So, it's really hard to give you an exact.... some of our units we will be in and out of them in two weeks to three weeks, but that only makes up about 30 of our units. The Hopewell-Mann site, we will be in probably a month to two on each unit. Cerro Gordo, we'll be up there for a year to 14 months."

Councilor Rivera asked if the intention to complete projects before moving to the next, or does that depend on the scope of work.

Mr. Romero said, "Our practice would be to try and complete as much as possible. In some of our phases, we would be coming back to do the landscaping, that type of work. Most likely, our practice will be to work around vacant units that we will have at the time we have stopped housing people. We are going to fix those vacant units up to use as relocation units. We move them to relocation units, fix their unit and move them back and move forward. We're going to take advantage of opportunities in every one of those locations to try and make that happen. So, I don't know that we will be able to accomplish the whole project in particular locations at the same time, because we won't have enough vacancies, and we don't necessarily want to move someone from Las Acequias up to Cerro Gordo and then fix their unit. We would like to keep them as close as possible to their unit."

Councilor Rivera asked, if they have the option to return but they are not eligible, if the voucher is the only method of getting them relocated, or are there programs to help them find some place which is affordable.



Mr. Romero said, "Our voucher system is the best location, because it gives everybody a 2012 dollar in the market value so they can go to any apartment complex, or any private landlord to work out a deal. So, we believe there is not a better system for helping them to relocate." He said the staff stands ready to help them through the process, and there will be no cost to the resident whatsoever, no utility set up fees and such. He said if they choose to live with a family member during that time, they will be eligible for a stipend. He said they are trying to be as flexible as possible to give the residents the best option they feel works for them.

Councilor Trujillo asked what is the biggest need in Santa Fe right now – family or seniors.

Mr. Romero said there is a huge demand for family units right now, noting the senior units have been a little over-built over the last 4-5 years. He said if you ask MFA or the studies, they've dropped us from a priority County because we have done 4-5 tax credit projects over the last 5 years. In the last round, there were no Santa Fe County project applications. He said they are seeing a huge demand for two-bedroom units in the affordable category. He believes there are sufficient units currently to accommodate our needs.

Councilor Trujillo asked if the 30 new units will be family units.

Mr. Romero said all of the 30 new units will be two-bedroom, targeting families. He said they may be adding some units targeting seniors specifically in the Alta Vista and Luisa projects.

Councilor Ives asked if the Section 8 contracts are individual dwelling place contracts.

Mr. Romero said there are two types of Section 8 contracts. One is called a Housing Choice voucher that is driven by the individual. We give you a voucher with a list of landlords that accept those contracts, and you go talk with them, find a unit and sign an agreement. We then write a check on behalf of you to your landlord once a month. This particular project will be a site-based voucher. Once you get to the top of the list, you live at our sites for two years, and 10% or 50 units per month can choose to convert the site based voucher and transfer into the Housing Choice Voucher Program. They could leave our property and then go to another property within the City, or even the United States, noting the vouchers are transferrable around the United States.

Councilor Ives said he may have some additional requests, but he doesn't need to cover them here.

Chair Bushee said, "Yolanda, I'm sensing this never went to Committee. Is there a timing issue here, because there are a lot of questions, and I'm wondering why this couldn't go to Public Works or Finance to fully vet this."

Councilor Rivera said it doesn't appear that this went to the Public Works or Finance Committees, and asked the reason.

Ms. Ladd said, "I believe it was considered a statement of support that didn't have any financial implications at this stage, whereas the leases will be public hearings and go through all the committees, but of course we can take it back."

Councilor Rivera asked, once the actual work starts, if it will have to go to Public Works or Finance, maybe both, but this is just a statement changing it to a Section 8.

Ms. Ladd said, as Mr. Romero explained, HUD just wants to know that the City Council is aware of this project coming down the line and supports the concept and end result.

Councilor Rivera said displacing people from their home is a pretty big deal, and asked if they will have an opportunity to be heard before anything happens – is this the plan.

Mr. Romero said prior to the application process, we have to meet with our resident counsels and residents 3 times. He said they took votes, and found 70-30% of families want to move forward, and in the Seniors it was 60-40%. He said they have counselors that work with people individually to help them through this process, but the families overwhelmingly wanted the work done.

Councilor Trujillo asked how the process was done for the West Alameda project.

Mr. Romero when they did the West Alameda project, it was 90-10% because people wanted out. He said that side, unfortunately had more severe problems. He said everybody showed up the day they opened for vouchers, got their voucher and were somewhere else within a month. He said Cerro Gordo is a pretty place to live, and a lot more people want to come back. He said people develop their lives where they are and tend to not want to move somewhere else. He anticipates 50-60% of the people will come back to Cerro Gordo.

Councilor Rivera said he is okay with the concept. He said, "It sounds like there is more to it than just moving to a Section 8. It sounds like we are approving some scope of work in what I'm reading here. I don't know if it's too late to have public hearings on this with those residents that would be affected."

Melissa Byers said, "The Resolution, like Alexandra said, is just a Resolution of support for the project. However, each of these leases have to be adopted through an ordinance. Therefore, as the lease process and the ordinance go through the committee review process, ultimately there will be a public hearing at City Council to approve each of the leases through the adoption of an ordinance."

Councilor Ives asked if people would be moved before those leases come back to Council – what is the timing on that.

Mr. Romero said, "The timing on this particular project is, what we will have to do, is we have to get our plans in place, from our architects. We make sure we can get all the zoning requirements we need, then we get a contractor lined up for the contract, then, we go to apply for tax credits. We won't be in tax credits at MFA or downtown asking for those tax credits on this project until at least September. During that time frame, we will be working through the leases and trying to get that set up. Nobody will be relocated until

we are actually awarded tax credits and are ready to break ground, which we anticipate should be somewhere around November through March of next year."

Councilor Ives said, "It would be fun to have a timeline of the various items that are coming, and I appreciate that it will come back here before anybody does get moved."

Acting Mayor Bushee said we went through the experience with the West Alameda people. She said before anything else happens, any more leases, how many of those people came back to West Alameda. She wants to know, particularly in senior housing, that people who were living in a residence in the vicinity would go to the front of line, in terms of getting back in the facility. I don't know if you have answers to those questions now."

Mr. Romero said, "When we finished the West Alameda project, we went back to all of our original clients and asked them if they wanted to come back. I want to say that roughly 30% of them came back. They were living in other places. We gave them the option. We were going to help them void their lease if they wanted out of their lease. We worked with them in many ways. A lot of their clients were just happy where they went. The clients that moved in were similar clients, similar incomes, similar circumstances at West Alameda, so it's kind of like a rental property. People move and then they move somewhere else that they find more desirable for their lifestyle, whatever it is, and they just chose not to come back. But they all had the first option. We held units for them until they made their decision, and when they made their decision not to come back, then we opened it to other clients."

Councilor Bushee said when you remodeled over there, fewer units for a certain income level were created, if she isn't mistaken. She said, "I just want, again, to know that the ratio of available units for folks in the lowest of the income brackets will not be reduced."

Mr. Romero said, "One hidden secret about the West Alameda deal was, it wasn't fewer units for those low income people, it was actually more. We put in 28 public housing units at the site, but we got 104 vouchers. So when we took down 110 units, we ended up with closer to 140 similar, 30% AMI units at the West Alameda site. In this particular site, what will happen is, that all of the units that are public housing that target the rents that we have currently will be preserved. And we will be adding another 30 units that are 60% AMI, so clients in the \$30,000 to \$40,000 range would be eligible to live in those."

Acting Mayor Bushee asked if this will be the case with these projects.

Mr. Romero said, "That's the case with these projects. All of these units will be transferred over into another.... with the exception of police officer units. We believe strongly in having police officer presence in all of our sites. One of the deals in this particular project, under public housing, I had an exception so I could house a police officer in one of these units. What HUD is telling us is, you can do that, but you have to take it out through a *de minimis* reduction. So we have to take those units off line in order to keep them as police officer units, which we feel is very important to the project that we're proposing today."

Acting Mayor Bushee said she agrees, but she wants to make sure that we aren't losing any housing opportunities. She said, "It's always been my understanding that Section 8 vouchers are not growing, but shrinking."

Mr. Romero said they are shrinking, but we did get 104 out of that project and \$750,000 in revenue that comes recurring to the City out of the West Alameda project, which is really nice.

Ms. Ladd said, "I will also add there's a Section 8 voucher which is tenant based subsidy and there is a Section 8 Property Subsidy, so these properties are covered under the Section 8 Property Subsidy."

Councilor Bushee said, "And they're not going to shrink."

Mr. Romero said, "Under the property budget, we run a site on Camino Consuelo, behind the Lota Burger off Cerrillos Road. That site has been with us since 1973, on a contract. And to give you an example, the difference between being on a public housing subsidy and a project contract, the project contract at that site pays us \$600 a month because we have debt on it as well. When there is a problem with the national budget, we get \$600. What they tell us is you can't put in for your cost of living increase this year, because we're having issues. In public housing, historically, we've been funded somewhere between 70-90%. We got 100% in the last 5 years, which was 2012. And when they gave us 100%, our housing authority for 100 of its subsidy withheld on us, so they didn't fund us for \$1 million in 2012 because they felt that our reserves were too high."

Mr. Romero continued, "From a pure business perspective, the longer we stay in public housing, the less advocates we have that actually fund public housing. There is no advocate for public housing. There's advocates for project based accounting for vouchers, but there doesn't seem to be a strong push for public housing at the national level that say we should fund it at this particular level. We get about \$300 subsidy in public housing. We get \$600 per unit in the voucher program. And then, they hit us with an 80% reduction. That's why we're really pushing this is, we think this really gives us a very stable... because I have a contract with HUD. Now HUD has to honor my contract, not provide me subsidy to help me through the year."

Acting Mayor Bushee said, "Again, I'm just looking to see that the stock is not shrinking, because the problems are growing."

Mr. Romero said, "No stock shrinkage. There will be an increase in stock, actually."

Councilor Dimas asked how many police officers are living on site now.

Mr. Romero said currently there are 6 police officers living on site in Santa Fe, noting there are 4-5 in the other jurisdictions in which they operate.

*Councilor Dimas's question here is inaudible because his microphone was turned off.*

Mr. Romero said they would have the same 6 at this point, but they may be able to put some police officers in the senior projects. He said generally they like having them in areas where there is a higher problem with crime and issues, noting they don't have those in the senior projects right now.

Chair Bushee said she has a question for Mr. Zamora. She said the legislation she submitted, the night the CWA was repealed asks that contractors to the City try, to the best of their ability, to supply 100% local work force. She asked, "Would Ed's leases fall under that category."

Mr. Zamora said, "That is something I'll have to look into and understand the relationships better, who the parties to the leases are, with the obligations pursuant to the lessor."

Acting Mayor Bushee said, "I don't need an answer tonight, but I need you to look into that. I also need you to look into where my, I guess it's an ordinance, where it went. So just, fair warning, that's been moving through the system slowly, apparently."

Mr. Zamora said he will follow up.

Councilor Calvert noted that this is being funded with federal dollars and asked if the 100% local requirement would be applicable to that kind of situation.

Mr. Zamora said, "That's part of the more information. We need to learn what funds are involved, what parties are involved, and various things can change the answer."

Acting Mayor Bushee said, "So, sorry we had so many questions for you, but I guess next time we'll learn to send any Resolution we can, if we can, through committee."

Councilor Calvert said he thought it was time sensitive. He asked Ms. Ladd if her amendment is ready.

**FRIENDLY AMENDMENT:** Ms. Ladd said the proposed amendment is on page 2, line 2, as follows: "WHEREAS, the RAD Program, which is part of the Obama administration's comprehensive strategy to preserve public and HUD-assisted housing will facilitate the renovation and rebuilding of 199 public housing units and the construction of 30 new units in Santa Fe, rented to residents earning less than 50% of the area median income in the first phase, and an additional 237 senior units in phases 2 and 3; and..."

**DISCUSSION ON THE FRIENDLY AMENDMENT:** Acting Mayor Bushee asked Mr. Zamora if there is a problem with the amendment, given the caption, noting it is just supporting the conversion of Santa Fe Civic Housing Authority public units into long term Section 8. She said, "It's just being more specific for another phase."

Mr. Zamora said, "It seems to be encompassed within the broader type."

**THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS.**

**VOTE:** The motion, as amended, was approved on the following Roll Call vote:

**For:** Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**13. CONSIDERATION OF RESOLUTION NO. 2013-41 (COUNCILOR BUSHEE, AND COUNCILOR DIMAS, RIVERA, IVES, CALVERT AND TRUJILLO). A RESOLUTION RECOGNIZING THE LIFE SAVING WORK DONE BY NEW MEXICO DONOR SERVICES AND PROCLAIMING APRIL 2013 AS DONATE LIFE MONTH. (MELISSA BYERS)**

Acting Mayor Bushee said would like to hear from the people in attendance for this Resolution. She limited remarks to two minutes.

**Kim Muller, Santa Fe County, volunteer with New Mexico Donate Life**, said she received a kidney transplant in November 2012, receiving a kidney from a local resident, who works for the State and is a single mother of two. She said she had been on the donor list for a year and a half before that. She thinks it is important to raise awareness, noting New Mexico has 62% of eligible donors. She is bringing more awareness about living donations to people who need kidneys and a liver. She hopes to get 15 years from her donated kidney. She said if you aren't a donor to please think about it. She expressed appreciation to Councilor Bushee for introducing the Resolution. She said you can become a donor when you renew your drivers license, or you can do it on line which gives you the option to exclude certain things if you would like.

**Mark Rodriguez** said 18 months ago tomorrow he had a double lung transplant. At that time, he had only 8% lung function and was doubtful about how much more he could handle. He said the next day he got his call which truly was a miracle. He said the doctors told him they had no idea how he was alive. He said he had great support from his friends, family and the community and his faith in God, which kept him focused and grounded. He said, "The fact that you're recognizing this is a big deal. Santa Fe County is one of the lowest on the list for registering for organ donation." He said we want to get these numbers up. He said one donor can save up to 8 lives and have impact on others through eyes, tissue and other thing. He said his donor saved 6 people from death. He said there isn't a transplant center in new Mexico and his goal is to start a transplant support center to get through this. He said he didn't know anybody who had a lung transplant, and a lot he was learning was coming from books. This is his motivation to set up a support network for people going through transplant surgery and for post transplant people. He said his goal is to mentor as many pre-transplant patients as possible, and he is working to set that up. He said when you register as a donor, you get a heart on your drivers license, and it is a lifestyle, because you have to take care of your body for your organs to be viable for donation. He said raising awareness is so important. He thanked the Governing Body for recognizing this on a community level.

Acting Mayor Bushee said both Mr. Rodriguez and Ms. Muller look fit and healthy, and she is grateful they brought this to our attention. She said the City has a media department, and we can put them in touch with that staff to help to promote this on the local government station. She asked them to stay in touch with her and to let her know where she can be of assistance in their efforts.

Mr. Rodriguez thanked the Governing Body for the opportunity to speak today, commenting without his transplant he wouldn't be here today. He said he got his transplant in Colorado and they do a lot in Colorado in this regard, and he would like to get some of those things going in New Mexico.

Ms. Mueller said the only transplants done in New Mexico are kidney transplants.

Councilor Trujillo asked to be added as a sponsor. He said he has known Mark for many years since high school, commenting Mark was and is a great basketball player, noting he is part of the "Rodriguez Clan and anybody knows the Rodriguezes in Northern New Mexico, they bleed basketball." He is glad to see him still playing basketball.

Mr. Rodriguez said since he has had his transplant he has been able to resume some of the things he did as a young person. He went to the Transplant Games of America last July in Grand Rapids, Michigan, noting he was the only male from New Mexico and he was promoting Santa Fe and the State of New Mexico as much as possible.

**MOTION:** Councilor Trujillo moved, seconded by Councilor Dimas, to adopt Resolution No 2013-41.

**DISCUSSION:** Councilors Dimas said it is good to see Mark, commenting he was unaware that he had had a transplant, and asked to be added as a sponsor.

Councilor Ives asked to be added as a cosponsor of the Resolution, noting "many of us up here have a heart on our licenses."

Mr. Rodriguez thanked the Governing Body, commenting that donors are truly heroes who save lives and families.

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**Explaining his vote:** Councilor Calvert said, "Yes, and add me as a cosponsor."

**Explaining his vote:** Councilor Rivera said, "Yes, and please add me as a cosponsor."

Acting Mayor Bushee asked Ms. Vigil to speak with Mayor Coss and Councilors Dominguez and Wurzbarger to see if they would like to sign on as cosponsors as well.

**14. REQUEST FOR APPROVAL OF THE GOVERNING BODY TO AUTHORIZE THE CITY MANAGER TO SEEK INFORMATION FROM THE DEPARTMENT OF TAXATION AND REVENUE, PURSUANT TO NMSA 1978, §7-1-8.9 RELATING TO QWEST CORPORATION AND/OR CENTURYLINK, THEIR WHOLESALE CUSTOMERS, AND OTHER SUCH TAXPAYERS ABOUT WHOM THE CITY HAS QUESTIONS REGARDING THEIR REPORTED GROSS RECEIPTS. (MARCOS MARTINEZ)**

**Disclosure:** Councilor Ives recused himself from participating in this agenda item, and left the Council Chambers.

Kelley Brennan said this is a straightforward item, noting the City has statutory authority to seek information directly from Taxation & Revenue, noting they have been able to obtain some information through discovery, and they would like to verify it. She said the statute provides that the City needs to authorize an employee to make that request, and so staff is requesting that the Governing Body authorize the City Manager to make that request.

**MOTION:** Councilor Calvert moved, seconded by Councilor Dimas, to approve this request.

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**Recused:** Councilor Ives.

**15. MATTERS FROM THE CITY MANAGER**

Robert Romero said the budget hearings are scheduled for April 22, 23 and 25, 2013.

**16. MATTERS FROM THE CITY ATTORNEY**

There were no matters from the City Attorney.



**17. MATTERS FROM THE CITY CLERK**

There were no matters from the City Clerk.

**Acting Mayor Bushee moved Item #18 Communications from the Governing Body  
to the end of the Evening Agenda**

**END OF AFTERNOON SESSION AT 6:30 P.M.**

## **EVENING SESSION**

### **A. CALL TO ORDER AND ROLL CALL**

The Evening Session was called to order by Councilor Patti J. Bushee, Acting Mayor, at approximately 7:15 p.m. Following the Pledge of Allegiance, salute to the New Mexico Flag, and Invocation, Roll Call indicated the presence of a quorum as follows:

#### **Members Present**

Councilor Patti J. Bushee  
Councilor Christopher Calvert  
Councilor Bill Dimas  
Councilor Peter N. Ives  
Councilor Christopher M. Rivera  
Councilor Ronald S. Trujillo

#### **Members Excused**

Mayor David Coss  
Councilor Rebecca Wurzbarger, Mayor Pro-Tem  
Councilor Carmichael A. Dominguez

#### **Others Attending**

Robert P. Romero, City Manager  
Geno Zamora, City Attorney  
Yolanda Y. Vigil, City Clerk  
Melessia Helberg, Council Stenographer

### **F. PETITIONS FROM THE FLOOR**

A letter dated April 9, 2013, from David McQuarie, Advocate, 2997 Calle Cerrada, to Robert Romero, PE, is incorporated herewith to these minutes as Exhibit "3."

Each person was given 2 minutes to petition the Governing Body.

**David McQuarie** said he is here to talk about the annual budget, with the hope that staff will include the transition plan funding, at least partially, in the upcoming budget as required. He distributed a copy or a letter to Robert Romero [Exhibit "3"]. He noted the 3<sup>rd</sup> paragraph, which is required by the US DOJ. He said staff has yet to be forthcoming with the Mayor's Committee on Disabilities, following through on questions asked. He said there was a recent incident where there was an ADA which was appealed and the City Manager answered in the letter very briefly, dismissing it by saying it isn't an issue. He asked since when the City Bus System isn't an issue with the City .

**Monica Steinhoff, 1298 Lejano Lane**, said she spoke two weeks ago, but felt she had to come again. She has two points about the Hotel Santa Fe and the cell tower which is now encased and hidden. She said Hotel Santa Fe gets \$30,000 a month to put up a cell tower. She said the economy is difficult right now, so we're hearing, because AT&T has obstacles to putting up a tower at Burger King, they are now looking at Canyon Road. She said it's not right that one business will affect a neighborhood and get that much money. She said it is an unbelievable amount of money and hundreds of businesses will be impacted. She suggests two things. One the City slow down and don't let them activate those towers until there is a statement made about what is already occurring in that neighborhood and other neighborhoods. She said the technology has a lot of room for improvement, but because of greed, it has been incorporated much too fast. She said the fiberoptics were supposed to go underground. She said the telephone pole that caused the fire in the Jemez was cell. She said there are 12-16 wires on these telephone poles, with wires hanging everywhere which is a terrible safety issue. There are two kinds of microwaves, one are pulsating and the others are smooth. We have primary the pulsating ones which are much worse for the human body and the animals and the environment. Third, with regard to technology. She said all of the cell phone companies should use the same technologies so we don't have to have 3-4 times as much. She would like the Council to look into these, and hear the status of the court case against the Hotel and whether the city is monitoring what is happening in neighborhoods around the state. She said it creates a bad atmosphere and tourists won't if we have a bad atmosphere, commenting we depend on tourism.

**Stefanie Beninato, P.O. Box 1601**, said she is here to thank the City Council and City Manager for finally doing something about the drain in front of her house. However, the box was only increased by 50%, and previously could contain a 20 year flood, and now it will contain a 30 year flood. She said the City did a study that showed that 50 year flood came down the street in 2011. She would assume the same type of 50 year flood came down in 2012. She understands there is to be a third phase to take out the berm, a piece of asphalt, take out some of the suspension and put in a grate at West Santa Fe Avenue. She is urging the City to please go forward with the third part of the improvement at that intersection, get rid of the berm so it can handle the 50 year flood capacity that comes down that street pretty regularly in August. She said the other thing, she wants to ask that the City Attorney contact her to consider settlement talks because we are in a threatened litigation mode, since she had to put in the notice of tort claim. She said they did negotiate with the Railyard to avoid a lawsuit, and she hopes the Council will urge the City Attorney to sit and talk to her about compensating her for the damage. Because of a recent Supreme Court case, she believes the City will be found negligent if we have to go forward since 2002 there is a problem with that drain and you did nothing about it.

**Jose Vasquez, Santa Fe**, said he wants to address the Council about the issue of same sex marriage. He was here two weeks ago, and more of the people in this room were led to believe that the issue wouldn't be discussed and they went home. So we invited them back tonight, so you can see their faces and hear their stories. He said, "I've dealt with this community. I know what it's like to counsel a child whose father has left him for another man. I've seen the pain that comes from same sex relationships, and it's not pretty. But the real issue here tonight is this – you don't have standing to address the issue the way that you have. The laws of New Mexico are created in another chamber. It's

called the New Mexico State Legislature. What you have is two attorneys saying yes, that's the right thing to do. And you have a manipulating Mayor that sent these people home two weeks ago. Well I want you to know that 3% of the population isn't allowed to wag the dog. These good people know what marriage is about. It is about clinging together. It's about raising a family, the framework the very solidity of our society is based on the issue of having a man and a woman married. One last thing, if you looked into New Mexico law, beyond the first paragraph that your attorney gave you, you would find reference after reference to man/woman wife/husband. It's right there Councilor, [Statute section] 40-01-02, 40-01-03, mentions husband and wife, and we're here to proclaim that to you tonight."

**Duncan Lanham, Santa Fe**, said it is out of love, not hate, that he opposes the Resolution on same sex marriage. The most loving thing a person can do is to leave someone out of an evil or sinful way, or to teach them not to enter into a evil or a sinful life style in the first place. He said, "God's loving word, tells us that man should not lie with a man and woman should not lie with a woman. That that is what is called sodomy, and sodomy is wrong. Sodomy is sinful. Sodomy is knowingly rejecting God's loving desire for his creation which is that marriage is to be between a man and a woman. If this Resolution that is being considered is passed, it will allow marriage to be between a man and a woman, or between a woman and a woman or a man and a man, and that is simply putting a political stamp of approval on sodomy, which is absolutely abominable. It sends a terrible message to society. We should never condone sodomy. It is evil. It is absolutely wrong to try to camouflage evil or sodomy by calling it a legitimate marriage. It's just a camouflage. And so I request from the bottom of my heart that this Resolution not be passed, because it would otherwise be putting the stamp of Santa Fe's approval on sodomy. Thank you."

**Gilbert Pino, lifelong resident of Santa Fe**. Mr. Pino said he was born on Delgado and has lived here all of his life. He said his Grandfather was the first Police Chief, noting all of his ancestors are from Santa Fe. He said, "I stand before you, and I don't understand. It's really difficult for me to think that I have to stand here and defend marriage. It's unbelievable to me as to why the Council would bring up the Resolution as they did. I've been married 51 years, raised 5 children, and to me, marriage is a sacrament and is very sacred. And to try to change it to something it's not, I don't understand. It affects children. We had an incident a while ago, we were out there and discussing it and about to pray. A couple came and said that that we were hate mongers, or to that effect. It's not just because you stand up here on something doesn't mean you hate. Most of us, a good many of us, I do, I have a lot of family members that are gay and I truly care for them. I feel for them. I feel for their struggles. When it comes to marriage, it's not marriage. And as an example, it confuses children. One of our family members went to Massachusetts got married, came back. My son was trying to explain it to his granddaughter that his relative had gotten married, and the first thing she said was, oh my gosh, who wore the dress. It wasn't a put-down, it was just innocent. An innocent child was thinking that it was between a man and woman, as it should be. I am really sorry I have to stand before you, the City Council, that is supposed to be the leadership of Santa Fe, the City of Holy Faith. And that's all I have to say. Thank you."

**Marsha Vasquez, Santa Fe**, said she comes before the Council, not as clergy. She used to be a marketing professor at a big university in California. She said, "I speak to you as City Councilors who have to get votes. And I want to say that we have a lot of people here that are the tip of the iceberg that are people who will reserve their vote for the 97% and do not want to change the laws of New Mexico when you don't have the power to do that and make Santa Fe look silly. Anyway, that's just an aside. People say it's not against the law for County Clerks to have two applicants of the same sex to fill out an application. The Constitution doesn't say they shouldn't, but the Constitution doesn't say that you shouldn't take tattooed skin and make lampshades out of it. There are a lot of things that aren't in the Constitution that everybody knows are not what you do. So just the fact that it's not in the Constitution isn't enough of a reason for the City Council of Santa Fe to be giving this message to the County Clerk. I'm sorry to not be giving you pleasantries, but that's the way it is. God bless you all."

**Ron Sebesta, Pastor, Light at Mission Viejo Church**, said he would like to share his thought on the proposed Resolution by the Mayor and Council. I am opposed to it. He said, "I would like to begin by quoting a statement by Joseph Backholm, and the statement is this, that 'natural marriage flows from the laws of nature. It is not a uniquely valuable relationship, because people gathered in their caves, ions ago and launched a campaign to stigmatize people attracted to the same sex. Marriage between a man and a woman is uniquely valuable, because we are a gendered species. It is a biological reality that every child has a mom and dad. The fact that it is ideal for children to have both parents in their lives flows from nature and not from hatred of non-parents.' This Resolution, if it passes, may assuage the guilt and the conscience that comes from sin for a period of time. But like the fading fig leaves of Eden, it won't last, because the policies and resolutions and laws of men will never negate the laws of God. Our guilt and shame cannot be legislated, medicated or counseled. It must be forgiven, and Jesus alone has the authority to forgive our sins and restore peace to our troubled souls. As a pastor and as a Christian, I will never compromise what his word has to say. Now I know that we all journey through life together, and each of us have choices to make. And sometimes we make good choices, and sometimes we make bad choices, but the bottom line is that there is a consequence for all the choices we make, whether they are good or bad. The Bible says that whosoever chooses this lifestyle will never see the kingdom of God, and for that, I am deeply saddened. Thank you."

**Abbie Collins** a resident of Santa Fe for more than 40 years, and said she objects to the redefinition of marriage. She has gay friends, and believes, as part of the human community, we should have obvious rights. We should be able to will each money. We should be able to visit loved ones in the hospital and so on, noting this is clear compassion and common sense. She said, "When it comes to redefining marriage, I have to draw the line, not only as a Christian, well basically as a Christian, I wonder what's going to happen later. Let's say this legalized all over the country, which is where many of us see this going. What happens to those of use who in good conscience disagree. For example, let's say it's legal, and then it's mandated in the schools that children be taught that this is the norm, when it's not the norm. It's a small percentage in the country that have that lifestyle. Am I going to be called hateful because I believe differently. Am I going to be persecuted because I believe differently. What happens to

the Bible. Is it going to be redefined as hate literature. I know the homosexual community has a new Bible called the Queen James version. Is that going to be the only one allowed. That may sound absurd, but where is this going. If we redefine marriage, will parents who teach their children biblical truth be considered unfit parents, and will those parents then perhaps lose their children. I think there are a lot of valid concerns that follow on the heels of a possible redefinition of marriage, and for that reason, I'm very much against it. Thank you very much."

**Sheila Reining** said she will be brief. She said, "I'll just say simply, I'm heterosexual and Catholic. I'm a single woman, and I go to mass a lot and I think, okay so I'm taught that this lifestyle of cohabitation, sex outside of marriage, gay marriage is not in conjunction with the church teaching. Again, that's not my opinion. It's the teaching of the Church. So, if you're Catholic and Christian and sitting on the Council, how can you leave your faith in the pew, and then come out and represent the State of New Mexico honestly. I don't understand that perspective. The teaching of the church that marriage is between a man and a woman. I don't make the laws. The canon of law also stipulates, Canon No. 5, that if in fact, you support gay marriage, you can't be receiving holy communion, let the priests address that. And this urgency to have this implemented, this so quickly. We have teenagers out in the streets, we have sick people that need far more attention than gay marriage. I don't know what the urgency is, this incredible outcry to have people of the same sex married. [inaudible]. And also where are my civil rights. If your permit this law, how are you going to protect me from persecution, and we certainly have to have it in the school. [inaudible] If you permit the law, how is that going to affect children today and textbook reform. It's already in the textbooks and it hasn't even been approved. And I really would like these answers before this ever gets passed. And certainly we don't want to discriminate. I feel as a single Catholic, we're discriminated against. And where is my first Amendment rights. I think these considerations are a priority for the State of New Mexico, and I'm a long term resident. I think we need to reconsider our value system, especially if you're questioning Catholics. Thank you."

**Joe Cieszinski** said laws are supposed to be for the common good. We have no smoking laws, no speeding laws. We're not against speeders or smokers, but their Individual rights are not supposed to supercede the well being of society. He said, "I think this law that we're concerned about, this referendum, is all about me so to speak. It's all about me as a same sex couple. I have nothing against same sex people. I let two homosexual people stay at my house, and other too who are heterosexual, when they needed a place to stay. I lent one a bunch of money that I've never gotten back. I don't think I'm coming from an angle of dislike. I'm coming from an angle of what is good for society. This law, this referendum, if it is not good for society we should not do it. We should not pass it. We should not consider it, even if we have friends or relatives or something else. What would we have done 150 years ago if we had a friend who owned a slave or a family member who owned a slave. Would we say, I'm not going to step out, I'm not going to be faithful to God because I have a family member... There's a survey by guy named Wagneress. This was a huge survey, over 3,000 children of same sex couples. This is the biggest that's ever been done. The University of Texas was accused of being biased. They hired people to look at it, and they said it's not biased. But the study found that children of same sex parents were generally less

healthy physically and emotionally, more depressed, more likely to choose and espouse their partner, more likely to have more sex partners, more likely to reflect negatively on their childhood, 3½ times more likely to be unemployed, 4 times likelier to be on public assistance, more likely to have been arrested, more likely to have pled guilty to minor criminal offenses, smoke pot, thought about suicide during the previous year. Grown children of lesbian mother are 11 times more likely to have been touched sexually inappropriately by a parent or other adult. Is this what we want. Is that what you want to institutionalize. Is this a stabilizing factor, dysfunctional political marriage. Please don't. Please don't."

*Councilor Calvert arrived at the meeting*

**Aaron Aragon** said he is a citizen of Santa Fe. One of his main concerns with homosexual marriage is how will it affect his freedom of religion. He said, "Can you, as City Councilors guarantee, that by supporting one group, you do not infringe on the rights of another. If you cannot, then these issues are clearly not for the City Council. I would also like to say, there is such an intolerance growing among the gay community, and disagreement with their beliefs or lifestyle is not an act of hate. Disagreement is not hate. We can work together for better solutions. But redefining a society is not the solution. I am also concerned because City-wide emails are being sent out promoting the gay agenda as a political issue. Unless the City is willing to open up their email system to all political agendas, this wrong. Some of the rhetoric that's being said about Patti and Mayor Coss is that the reason Mayor Coss has endorsed the gay community is because he fears he will lose his job to Patti Bushee. That's what's being said in our community. These political agendas between Mayor or any member of City Council shouldn't redefine a society. Dirty politics between the council members and the Mayor are not a means for redefinition. Are you prepared to deal with redefining religious freedoms. Are you prepared to deal with the backlash of not thinking of all the avenues. Thank you."

**Alice Garcia, Santa Fe**, said she and her husband raised a large family and have many grandchildren, several adults. She said, "I realize a Resolution isn't a law, and I think we all need to remember that. It is an opinion of this group of this City. And I am thankful that I live in the City Different and I am thankful that this is the City of Holy Faith, and a holy faith can only be established on a holy god. Yes, I am a believer, but I love family. And if one of my children came and said I am gay, I would still love them in my heart. But I would tell them that is not God's best for them. And if they gave me the opportunity I would hear them and help them so they would find their [inaudible] and their best life they can live. Because I don't think there has been a greater joy for me, and I have had many, than to raise a family, and raise them to be self sufficient and help society. And I would just ask you all to dare to be different in this City Different, and to consider the culture in this City. Because I do believe that you want to do the best. And I, myself don't understand, like this older gentleman, I don't understand the gender confusion, but I still, and even my gay friends, I would pray that they would find the very best ahead. Thank you for listening to us."

**Fr. Terry Brennan, Alicia Street**, said, "The speaker before Alice raised a very important point by saying, does this City Council want to do anything that would infringe or take away the rights of anybody in the City, and I daresay I don't think the City would want to do that. But please consider what would absolutely happen if this Resolution were passed and then acted upon. I think we all know about the case that was filed against a photographer for not consenting to photograph a gay wedding here in New Mexico. And that case went to the Court of Appeals, and the law was sustained, and the photographer was found guilty of not participating in the gay marriage by taking photographs. I'm a Catholic Priest, obviously, but I'm licensed in New Mexico to perform religious and non-religious weddings. In fact, I have performed non-religious weddings when asked to do so, even at the hospital, where two people wanted to get married. I asked the Bishop, he said of course, you're able to perform marriages in New Mexico, you are licensed to do so. So therefore, if a gay couple were to ask me to perform a gay non-religious wedding, as the law now stands, if I refuse, I would be found guilty, just as the photographer was. My religious objections would not protect me at all, as it did not protect the photographer. I would be forced to perform that wedding, or I would be subjected to a lawsuit or worse. So the arbitrary action that the City is contemplating taking, would have an adverse effect on me and any other person would be required then to perform the wedding or suffer the consequences. Therefore, there are innocent people who would be forced to do things against their conscience, or possibly lose their license to perform wedding in New Mexico. Thank you."

**John Robb**, said he is here because he loves Santa Fe, although he now lives in Albuquerque, and said friends invited him to share his opinion this evening, and thanked the Governing Body for listening. He said, "I think the first reason I'm concerned about this Resolution, is just to ask the question, why should the City Council be doing this, when the State Legislature has declined to pursue it, the Governor has declined to pursue it, and we still don't know what the Supreme Court thinks about the matter. Are those the right places for such a discussion to take place. Secondly, for thousands of years, marriage has been between one man and one woman for procreation purposes, and this has been affirmed by the U.S. Supreme Court in 1971 in the case of *Baker v. Nelson*, that this is a unique social institution that needs to be upheld, and of course, all cultures and nations around the world would agree with this. The practice of millions of human beings over thousands of years ought to be something we take very seriously, rather than suddenly make a Resolution to redefine marriage. Another issue is that civil unions enable gays to have civil rights, presently."

Mr. Robb continued, "And so really gay marriage as I understand it, is chiefly about getting the rest of society to validate this. To approve of it, to support it. And so, 2-3% are asking the rest of us to validate this life style. And many of us have problems with it. One law professor said that it is really not a civil right, and to conflate it with inter-racial marriage is misleading. He says, 'The unifying characteristics of the protected classes within the Civil Rights Act of 1964, include a history of long-standing, widespread discrimination, economic disadvantage and immutable characteristics. Sexual orientation does not meet any of the 3 objective criteria shared by the historically protected Civil Rights categories. Another point is that the institution of marriage is already under attack. About 50% end in divorce, and where same sex marriage has been tried, as in Scandinavia, it has resulted often in single parent families, in which 60% in



Denmark are born out of wedlock. Babies are born out of wedlock and more than 50% in Sweden and Norway now are born out of wedlock. Finally, and probably the most important is the harm of children and their future, and therefore, our society. If children are not protected so they can prosper and do well, the future of our society is in doubt, and one of the other speakers has highlighted some of those concerns, as to how children will suffer if you make this decision. Thank you."

**Marcella Melendez, President, Catholic Coalition of New Mexico**, said she was born in New Mexico 71 years ago. Unfortunately, she had to leave New Mexico to work and was gone for 45 years, but her hope was to return. She returned 9 years ago. She said, "I've always known, and I'm sure everybody who grew up in New Mexico knows, that New Mexico is known for our families, La Familia. That is like the epitome. We couldn't imagine not treasuring La Familia. And we have a real good reason for that. The family has proven to be there when no one else is. We've always had strong families, but of course now days, they are trying to break apart which is a tragedy. We will not do anything that will further the breaking up of families. We should do the opposite. We should do everything in our power to reinforce families, to help families. What should be happening here is brainstorming. How can we strengthen our families again, not how we can further destroy families or weaken them. One thing that became real noticeable to me, was the last time we were here to discuss this during Holy Week. Every Catholic, being that this is the City of Holy Faith and the fact that there are many Catholics here, we know there is no holier time of the week than Holy Week. And to even be discussing this is appalling. 100 years ago, when New Mexico became a State, I'm sure that nobody even thought about debating this, or discussing this. There was no need for it. We all knew, everybody knew what a marriage was. So be standing here discussing it should give us a red light. Something is wrong. We really need to get back to what works. In my day, we didn't have convalescent homes. Our parents and grandparents were taken care of at home. Our children were taken care of at home. Whatever it takes to get back to a strong family, that's what we need to be doing here. So please, I ask each one of you to not support this Resolution. Thank you."

**Christina Sosaya** said, "I also opposed gay marriage. I was born and raised here in Santa Fe, the City Different, the City of the Holy Faith. I am also Catholic. And I'm not going to say very much, because I am also a strong Catholic and I am sad for the children that are going to be, if this passes, I think the children will suffer and we will suffer. And I hope you will consider not going through with this. Thank you."

**Gilbert Martinez**, said he was born and raised here, and is the son of Fidel and Vicenta Martinez, known as the honeymooners, because they showed what marriage was like. He said, "They were always doing things for other people, always welcoming people, always feeding people, and treating people well, because that's the way Santa Fe is. It's the City of Holy Faith and it welcomes everybody. Unfortunately, things have changed over the years, and now everyone wants to change Santa Fe. They want to change marriage. They want to change the definition of marriage. That's wrong. Changing the definition of marriage is wrong because God created marriage. We have no right to do that. We have the Bible. The Bible is the basic instruction. We can't just do what we think. My father was a very religious man, always praying. His father would say he was praying for his family. Until recently, I didn't realize that he was

talking about the Church family. The Church family is being threatened every single day. My faith is being threatened and it's wrong. My mother is still alive today. She's 102 years old and she keeps asking, why am I here. I know why she's here. She is a prayer warrior." He said this is still Easter Week which is a holy time. It's a shame to have to discuss this. This is wrong. I want you all to know that. And for those of you who vote for it, my prayers for you. Thank you very much for your time. Please reconsider. This is definitely all wrong."

**Carol Harmon, Edgewood**, said, "We need to go back to the 1970's when we had the sexual revolution, sex, drugs and rock and roll, and in the word revolution is revolt. We have all the liberals, the college students, Woodstockers, feminists. We wanted to have unlimited sex, drugs, rock and roll media with no limits no boundaries. Marriage was a boundary, and they worked very hard to destroy it. They wanted no rights and no wrongs, sleep with anyone you want, take away the guilty conscience. And the conscience and shame tells you when you're doing wrong and discourages the behavior. So this period started the destruction of the family and normal male/female relationships. And we've got Hollywood and the feminists – all men are bad, you're all oppressors, you just beat on women. You're stupid, you're idiots. And the feminist lie, you need a man, you can just sleep with whoever you want, have as many kids as you want. The results, the fruit of the tree, with the heterosexuals, 40% of babies are born to unwed mothers which leads to poverty. In a few more years, half of the entire population of the United States will be born to unwed mothers. That's a major crisis. This is all because of the sexual promiscuity of the 1960's/1970's. The homosexuals, 2.1 million cases of AIDS in 30 years, 1 million dead, 1.1 million living. Heterosexuals and homosexuals, 20 million new cases of venereal diseases every year. There is a billion people with venereal disease. This is the fruit of the tree of promiscuity."

Ms. Harmon continued, "Now we want to change the definition of marriage, the people who destroyed it now want to get married because the LGBT were in with that feminist movement. It got decriminalized and removed from the psychiatric books. So now these people have come up with new words. Birth identity. Okay your gender and sex is determined by your hormones, estrogen if you are a female, testosterone if you're a male, your genes, your XY chromosomes and your genitalia. And we have a people now going, 'I'm a man. You have to look at me as a man.' It doesn't matter what all the medical and scientific has to say, you can choose and deny your gender. I guess this is gender identity. It's nonsense. Even if... that whole thing was a lie. It's a woman who had a mastectomy, took testosterone, looked like a man. When she wanted a baby, she quit taking the testosterone, birthed 3 babies, but she wants her kids to know she's their dad. She's their mother. She physically birthed them. So all this change of names and meanings and words is utter nonsense. And I will not believe it. A man walks into a women's dressing room, I'm going to spray you with Mace, because I do not believe you are a woman because you say you're a woman. I'm sorry."

Acting Mayor Bushee told Ms. Harmon her time is up, and she has gone past the two minutes which was allowed.

**Edmund Galpert** said he has lived in Santa Fe for 20 years. He said, "I also find it appalling that we're having this conversation, but for a different reason than I've heard expressed over the course of the evening. I see an issue here that is simply one group of people wanting to deny a right to another group of people. The supporters of this bill just want to create unity. They're not trying to deny anybody else's rights, they just want to be seen as equal. Whereas 'these' people just want to create more barriers, more borders, more separation. It doesn't matter, like families, I can think of families that do not have children. I think we all can. I think a lot of the arguments that have been proposed so far are really easy to look around and take to a dead end. And I hope, as a City, we can really pave a way of understanding and tolerance that is wide-spread. Please, I'm begging you. I didn't hear anybody supporting this bill tonight. I heard when it was proposed, there was a lot of support and it was great, but I haven't heard anybody supporting this bill tonight, and it actually moved me off the road on my home to come over here and voice support for this bill. Please don't let good people have to be even more alienated than they already are. Please. Thank you again for your time. That's all I have to say."

**Laurie Robb, Albuquerque**, said, "I just want to say, especially in reference to the fellow that was just here, that I think the majority of people sitting here do not want to alienate themselves from the gay community. I know in my case, in my neighborhood in Albuquerque, we have some people who are lesbians right across the street, and we've made a point to have them over for dinner. My son takes care of their house when they are away. We have a great relationship. That doesn't mean I condone their behavior, but I love them as individuals. We truly are good friends. And so I think it's important to consider that we're not trying to alienate people. I think one of the things that I find most disturbing is when the gay community is trying to get their recognition for same sex marriage by saying it is their civil right. And I would urge you as Councilors to do some research on civil rights. I know several people have talked about that tonight. But, it's been interesting to me, that when you talk to people from the black community who are authorities, they will say, 'We don't understand why they're trying to hijack our civil right movement. This is coming from the black community, folks, and that the gay community is trying to hijack their civil rights for their experience. So please consider. This is not a civil right, and I'd urge you to do some research on this.'"

## **G. APPOINTMENTS**

There were no appointments.

## H. PUBLIC HEARINGS

- 1) **CONSIDERATION OF BILL NO. 2013-15: ADOPTION OF ORDINANCE NO. 2013-17 (COUNCILOR DOMINGUEZ AND COUNCILOR CALVERT). AN ORDINANCE RELATING TO THE LAND DEVELOPMENT CODE, AIRPORT ROAD OVERLAY DISTRICT, SECTION 14-5.5(C) SFCC 1987P; CREATING A NEW SUBSECTION 14-5.5(C)(6)(I) TO INCLUDE A PROVISION FOR COMMERCIAL RECYCLING CONTAINERS; AMENDING SUBSECTION 14-5.5(C)(12)(c) TO CLARIFY THE APPLICABILITY OF EXISTING BUILDING-MOUNTED OUTDOOR ADVERTISING OF ALCOHOLIC BEVERAGES, TO CLARIFY THE PACKAGING OF ALCOHOLIC BEVERAGES OF EIGHT OUNCES OR LESS AND ESTABLISHING THE EFFECTIVE DATE OF SUCH PACKAGING PROVISIONS; AND MAKING SUCH OTHER STYLISTIC OR GRAMMATICAL CHANGES THAT ARE NECESSARY. (MATTHEW O'REILLY)**

Matthew O'Reilly said he believes everyone on the Governing Body seen this bill already, or he can make a short presentation, or we can go to questions if you would like.

Acting Mayor Bushee asked if the Committee would just like for this matter to go the public hearing, and the members of the Governing Body nodded assent.

### **Public Hearing**

There was no one speaking for or against this request.

### **The Public Hearing was closed**

**MOTION:** Councilor Calvert moved, seconded by Councilor Dimas, to adopt Ordinance No. 2013-17 as presented, with the amendment that is in the packet.

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, and Councilor Trujillo.

**Against:** None.

**Absent for the vote:** Councilor Rivera.

**2) CASE #2013-14. APPEAL. SOMMER, KARNES & ASSOCIATES, LLP, AGENT FOR GREG AND KAY CROUCH, APPEALS THE JANUARY 22, 2013 DECISION OF THE HISTORIC DISTRICTS REVIEW BOARD IN CASE #H-12-077, DENYING THEIR APPLICATION TO REMOVE PORTIONS OF A STONE RETAINING WALL TO CREATE TWO PARKING SPACES AT 1148 CAMINO ACACIO ON A NON-CONTRIBUTING PROPERTY IN THE DOWNTOWN AND EASTSIDE HISTORIC DISTRICT AS PRIMARY FAÇADES.**

A copy of a Memorandum prepared April 1, 2013, for the April 10, 2013 City Council Hearing, with attachments, to Members of the Governing Body, from Kelley Brennan, Assistant City Attorney, is incorporated herewith to these minutes as Exhibit "4."

Three color photographs used by David Rasch in his presentation, entered for the record by David Rasch, are incorporated herewith collectively to these minutes as Exhibit "5."

A letter dated April 8, 2013, to the Santa Fe City Council from George Tafoya, regarding Appeal of HDRB Decision – Case #H-12-077, 1148 Camino San Acacia, entered for the record by Karl Sommer, Esq., Attorney for the Appellants, is incorporated herewith to these minutes as Exhibit "6."

Ms. Brennan said, "This is actually a fairly straightforward case. The property in question is located on San Acacio in the Historic Downtown and Eastside District. The Applicant is proposing to remove a stone wall to create two street level parking spaces, because of safety issues with the driveway in winter. There's a house located behind their house."

Ms. Brennan continued, "Staff advised them that because the wall was historic, they would need an exception to remove historic material. They applied for an exception. The exception was denied by the H-Board, based on the exception criteria. However, the rule about removal historic material applies only to significant or contributing buildings. This is a non-contributing property."

Ms. Brennan continued, "Staff was in error. The Board's decision was based solely on the exception criteria. And staff had originally recommended approval. The City Attorney's Office recommends that the Council grant this Appeal as applied for, and recommended by Historic staff, or in the alternative remand it to the H-Board. And I stand for questions."

Acting Mayor Bushee asked, for clarification, what was the staff error.

Ms. Brennan said, "Advising the Applicant that they needed an exception to remove the historic wall material. They did not."

Acting Mayor Bushee asked if anyone at the H-Board meeting pointed out the error, or was there nobody there to do that.

Ms. Brennan said she didn't attend the meeting and it was not caught by staff at the time.

Councilor Rivera said he read in the packet, that some of the concerns the H-Board had was they didn't think the full amount of the wall needed to be removed to create the two parking places. He asked the total amount of wall that would need to be removed to create these two spaces.

Ms. Brennan said Mr. Rasch has 3 pictures, and what he will show you will help clarify that for you.

Mr. Rasch used the overhead to show the photographs in Exhibit "5." Please see Exhibit "5" for more specific information. He said, "This is the property in question. The stone wall is right along the street, goes up the drive a little bit, and then there is a stuccoed stone wall. The amount of wall that would need to be removed to create two parking spaces is about 25 feet perhaps. The option the Board was thinking about was only taking out some of the side wall and parking behind it, but that would cause the driveway to be even steeper than it is beyond the parking area."

Mr. Rasch continued, "I also wanted to show you other adjacent properties just so you get an idea of what the streetscape is like. This is the south side of San Acacia. All the properties are uphill from the street and the property directly to the west, they do have at street grade parking, as well as the driveway that goes to the back of the house. And the property to the east of the subject property has no parking in front of the building. Their parking is up behind the house, but then one more property away, there is again street-grade parking. So we do have both types of street frontages on this street. That's all I needed to point out. Thank you."

## **Public Hearing**

### **Presentation by the Appellant**

**Karl Sommer, Agent for the Appellant was sworn.** Mr. Sommer said, "I'm here on behalf of the owners of the property, Mr. and Ms. Crouch. They couldn't be here, they'll be here tomorrow or the day after, unfortunately they couldn't be here tonight. Mr. and Mrs. Crouch have gone to great lengths to design this sensitively. The property was built by the family that lives behind them, the Tafoyas. It was build by their father. That family supports this, because they use the driveway as well. They know the Crouches and the approach that they've taken to this has been very sensitive."

Mr. Sommer continued, "In your packet you have a letter from Mr. Tafoya whose father built this house, who supports this and has concerns about the driveway as it is right now and its safety. I think that the issue is pretty straightforward, pretty simple. The Board mis-applied the law. I don't think they did so maliciously or otherwise, it just was a mistake, and the regulations don't prohibit this. And this is not out of character with the neighborhood. The Crouches would request that the Council uphold the appeal and that would have the effect of granting the application that they have in front of the H-Board. I don't have anything more to add. I could answer any questions you have. I'd be glad to."

### **Speaking to the request**

There was no one speaking for or against this request.

### **The Public Hearing was closed**

**MOTION:** Councilor Calvert moved, seconded by Councilor Dimas, to uphold/grant the appeal, directing staff to draft the Findings of Fact and Conclusions of Law reflecting this decision, and especially the fact that the wall is neither significant nor contributing, and therefore an exception was not required, and since the decision was grounded solely on the Applicant's failure to meet the exception criteria, it should be vacated.

**DISCUSSION:** Councilor Trujillo asked when we actually found this mistake.

Ms. Brennan said when the Appeal was filed.

Councilor Trujillo asked if she is saying that the wall was not historic.

Ms. Brennan said, "The wall appears to be old, but there was no verification that it was historic. It could not be documented, but it appeared to be very old and was treated as historic material. And that's why the mistake was made. It was assumed to be historic which happens when we can verify that it's old, but we can't tell if it's 50 years old or 49 years old."

Councilor Trujillo said he is glad we caught this error, and expressed concern about others we didn't catch.

Councilor Ives asked about walls as ancillary structures related to residences. He asked, when considering a particular parcel of property, do we find walls to have a contributing nature, even though we don't find a residence to be contributing, or do we find walls to be significant if ever we don't find residences that are significant.

Ms. Brennan said, "Typically, if a wall is noteworthy and is verified as old, it might have a status applied to it. Status can be applied to structures and not just to dwelling units. However, it's not common. There are some very distinct walls in the City which I think we would all recognize, and we would understand status being applied to them. This one was not documentable. It certainly did not appear to have any unique or distinct qualities. And the property on which it rests is non-contributing."

Ms. Brennan continued, "The other issue that arises with walls is sometime the ownership of the walls is difficult to document. And because the owner has to be noticed and involved in the process, an applicant for an improvement or alteration on a house might not own the wall. So there is a certain degree of care applied to treating the wall as part of the property and giving it a status. And also there is a consciousness that walls get taken down, added to, removed. So I think it's only certain walls to which status might be applied."

Councilor Ives asked if there are examples where walls have been found to be contributing, even though a residence is not. He said the H-Board, if it were to review it again, might make different determinations specifically with regard to the wall as opposed to the residence in the instance. He said, "I'm certainly satisfied in this instance, based on what you've said about the nature and character of the wall, that this would not be one of those instances, so I have no problem approving the Appeal, and he would echo the comments that we should capture them before we get to this point."

Mr. O'Reilly said, "I want to make it clear this was a staff error. This was not an error of the H-Board. This was a Land Use Department staff that made this error. Staff brings about 200 cases to the H-Board every year and makes about 200 administrative decisions. It was an honest mistake by staff, but not the H-Board."

Acting Mayor Bushee said, "I would comment as a mason's daughter that walls are very important, and this one is still standing, but I understand it is a non-contributing structure, so I think we know where this is going."

Councilor Rivera said Mr. Sommer said the actual builder of the wall was Mr. Tafoya.

Mr. Sommer said it was built by his father, and he lives at the end of the driveway at the back.

Councilor Rivera asked if Mr. Tafoya was okay with this.

Mr. Sommer noted the letter in the packet from Mr. Tafoya supporting the wall removal [Exhibit "6"].

Councilor Rivera said his father-in-law grew up in the same area and built many walls around his property, and went to the arroyos and collected river rock and built thick walls with his bare hands. He said anytime anyone has thought about taking them down, there was a huge upheaval. However, if Mr. Tafoya is okay with this, then he is okay with it as well.

Mr. Sommer read Mr. Tafoya's letter into the record. Please see Exhibit "6" for the text of the letter.

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

**For:** Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera and Councilor Trujillo.

**Against:** None.



## **17. COMMUNICATIONS FROM THE GOVERNING BODY**

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of April 1, 2013, is incorporated herewith to these minutes as Exhibit "7."

### **Councilor Dimas**

Councilor Dimas wished his mother a very Happy Birthday, who will be 88 years old on Friday.

### **Councilor Calvert**

Councilor Calvert said he and his wife are traveling to New York this weekend and his wife will be singing at Carnegie Hall on Monday, and he wishes her all the best and "break a leg."

### **Councilor Rivera**

Councilor Rivera wished his daughter Samantha a Happy Birthday, noting she will be 16 years old on April 20<sup>th</sup>. He attended a birthday party this past weekend at Robert Ochoa's house, noting Mr. Ochoa is his uncle, and used to be on the School Board. He said Mr. Ochoa's mother, Sadie Ochoa, turned 100 on April 5th.

Councilor Rivera introduced a Resolution proclaiming severe or extreme drought conditions in the City of Santa Fe and restricting the sale or use of fireworks within the City of Santa Fe and prohibiting other fire hazard activities. A copy of the Resolution was not available at the time of introduction.

### **Councilor Ives**

Councilor Ives introduced a Resolution in support of a "Water Conservation Campaign focusing on voluntary outdoor irrigation." He said this is the first of a number of measures which will be coming forward from the Water Conservation Committee. A copy of the Resolution was not available at the time of introduction.

### **Councilor Bushee**

Acting Mayor Bushee said she is not taking over the Mayor's job, noting the Mayor is attending a wedding out of state, and will be back for the next meeting.

Councilor Bushee introduced the following:

1. A Resolution endorsing the elimination of fares for certain special event transit services provided by the City of Santa Fe and funded by the North Central Regional Transit District ("NCRTD"), in accordance with the NCRTD's Fare Free Service Policy. A copy of the Resolution was not available at the time of introduction.
2. An Ordinance relating to fair pay for women; creating a new Article 28-2 SFCC 1987, to prohibit wage discrimination based on an employee's sex; providing penalties. A copy of the Resolution was not available at the time of introduction.

**Councilor Trujillo**

Councilor Trujillo had no communications.

**I. ADJOURN**

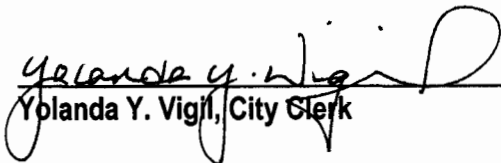
The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 8:30 p.m.

**Approved by:**



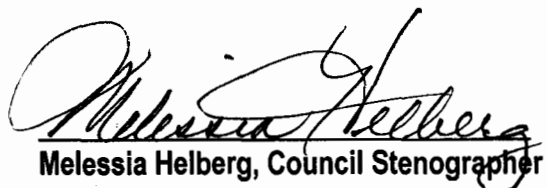
**Mayor David Coss**

**ATTESTED TO:**



Yolanda Y. Vigil, City Clerk

**Respectfully submitted:**



Melessia Helberg, Council Stenographer

Mr. O'Reilly said, "To try to get to your question, in a different way, Geno. Generally in the non-conforming section of the Code, we don't require that non-conformities be removed, but we don't allow them to be expanded. So if there were, say, certain antennas on a non-conforming tower, and someone wanted to swap them out, let's say there were 4 huge antennas and they wanted to replace them with 5 very much smaller antennas, we would probably consider that not an expansion of the non-conformity, because it improves the situation. So I don't want to say, flat out, that we wouldn't allow new antennas, but we would want to see that those antennas improve the situation and do not expand the non-conformity. And so, that's part of what we would look at. It also calls for that in the Telecommunications Ordinance specifically as well. Again, I would also say, this particular section could be removed and looked at separately, if there is enough concern about this particular part of the bill, or if there is heartache with this particular section going away, or this particular change on a section of the bill going away." He apologized that Ms. Brennan is not in attendance.

**VOTE:** The motion, as amended, was approved on the following Roll Call vote:

**For:** Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera and Councilor Trujillo.

**Against:** None.

**I. ADJOURN**

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 10:15 p.m.

**Approved by:**

\_\_\_\_\_  
**Mayor David Coss**

**ATTESTED TO:**

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

*Exhibit "1"*

VERBATIM TRANSCRIPT OF REQUESTED PORTIONS  
OF ITEM #H(6) RELATING TO  
TELECOMMUNICATIONS FACILITIES AND THE MARCY STREET TOWER  
City Council Meeting  
March 27, 2013

\*\*\*\*\*

MAYOR

COSS: Councilor Calvert, Councilor Ives.

COUNCILOR

CALVERT: Yes. So, could you clarify on the 14-10.1(c) non-conforming telecommunication facilities, what that that minor fix is.

GREG

SMITH: Okay. Thank you. Councilor Calvert. There is... how much explanation... there's about four parts to the non-conforming regulations in 14-10. The first rule is new construction meets new standards. Second rule is if it's legally nonconforming you can keep it until it dies a natural death, falls down on its own, but you can't expand it. There is also a provision that if a part of your building or structure is non-conforming and you modify that part of your structure, you can't put it back in a non-conforming way. There are a couple of special points. There is a special provision with regard to signs currently, which says that each sign is considered an individual, non-conforming structure. So that, for example, somebody can't say, well I don't have to take down my non-conforming sign, because it's part of the building that's worth a million dollars, and so it's not sixty-six and two-thirds damaged and so on and so forth. In effect, that approach to treating signs is almost always more restrictive than if it was not there. The language that we are proposing to add, applies that same provision to telecommunication towers and antennas. It would prevent someone from claiming that, with regard to replacement of non-conforming uses, his telecommunication antenna was part of a larger building. And so all that it does is just say that when and if a telecommunication antenna or tower itself becomes non-conforming, it's treated individually, solely by a facility, rather than as part of the bigger structure that it might be attached to.

CALVERT: Then if it's free-standing, then this doesn't apply at all. I mean, as part of a larger structure. I mean, in other words, if it's a free-standing tower not attached to a building, then this applies without that condition about being part of, you know, attached to a structure or part of a larger structure.

SMITH: You can hypothesize that there would be a situation where perhaps the tower itself is non-conforming, but the antennas might not have been, although that's getting pretty strange situations to think about that.

Public Hearing

Speaking to the request

MAYOR

COSS: All right. This is a public hearing. Anyone to address the Council. Please come forward. Let's do 2 minutes, Yolanda. You don't need to be sworn in, because it's just an Ordinance.

ERIC

SCHULTZ: Thanks Mayor, City Council members. My name is Eric Schultz. I'm actually a resident in Tesuque, but my family does own property in Santa Fe. I'm speaking because of concern about this section of this Ordinance, that Councilor Calvert asked about, pertaining to telecommunication facilities. And we heard from Mr. Smith, I believe his name is, that he said the section in question could pertain in a, what he described as a kind of far fetched hypothetical situation, to a tower that was a non-conforming structure, and that the additional antennas would be considered separate structures. My concern is, that it is my understanding that the radio tower on Marcy Street at the location called Radio Plaza is a non-conforming structure in the City of Santa Fe. And the concern is that this part of the ordinance could allow, well, it's my understanding that as a non-conforming structure it cannot be modified. It cannot be enlarged. And that one could argue that adding antennas to it would be a modification, a significant modification, and that this part of the Ordinance in question would be a way around that, because it would be saying new antennas are not part of the actual non-conforming structure so they don't cause that structure to be altered. In other words, they don't challenge its status as a non-conforming structure, which is allowed to exist on the condition that it not be modified. So, I think the situation may not be as hypothetical and far fetched as Mr. Smith suggests, and that it might be worthy of further clarification, because it could open a door to perhaps widespread and unlimited additions of telecommunications antennas to existing non-conforming structures. Thank you.

DAVIE

STEUBEN: Mr. Mayor, Councilors, my name David Steuben. I've lived in Santa Fe 37 years, and I'm here to support Mr. Schultz's statement. I watched over the long period of development of the City Historical Codes and the way that it established rules and regulations to reserve the ambiance of our City and I really appreciate it. This City government has done a marvelous job about this. And I'm concerned about this tower and it being modified. It's probably the ugliest structure in downtown Santa Fe. If you're on a hill outside the City, and you look, one thing you see is this radio tower, and I really wouldn't like to see more antennas sprouting from it. I think it would be awful. So thank you and I hope you have a nice evening.

MAYOR

COSS: Thank you very much, sir.

AUDREY

WHITESIDES: Hi. I'm Audrey Whitesides, and I'm just here to say that I don't want the tower expansion. I would like the law to be, you know, the Ordinance, everything to be worded, so the tower people aren't able to expand the towers.

MAYOR

COSS: Okay then, the Hearing is closed. Councilor Calvert

CALVERT: If I may ask either Greg or Matt to clarify, my understanding with the Marcy Street [tower], is it is a non-conforming structure. Is that correct.

SMITH: Mayor and Council, I would be hesitant to give a specific opinion as to the non-conforming status on that particular tower without consulting with the legal staff. In part, because there is a provision in the telecommunications regulations that say that towers as old as the Marcy tower are not subject to those regulations. So, I'm not sure that I would be comfortable in saying specifically that it is conforming or non-conforming, without getting some details on that tower. I would say that the current general provisions with regard to non-conforming structures say that you may make conforming additions to non-conforming structures. And I don't think that what we are discussing tonight would change that general provision. But again, with regard to any particular tower, any particular existing or future antennas, I would want to review the facts with the City Attorney's office before I advised the Council.

CALVERT: Okay, let me back up and say, I won't give a specific tower, but say we have a non-conforming tower, because that's what this provision applies to, right, that we're talking about. It's a non-conforming structure, it could be a building, it could be a tower, it could be whatever, right.

SMITH: That's correct. Any towers or antennas.....

CALVERT: If it were a tower, would... I mean my understanding is that you could take an antenna off and put a new one on, but you could not necessarily add more antennas. Is that correct.

SMITH: I think generally that is going to be true. Generally it's true. But if you got approval for an antenna under the current Telecommunications Ordinance, and all but just a very few of the antennas that exist in the City are in that category, then, a new antenna is the one that wasn't there before. And you can in kind without any special approval under the current regulations. It's hard for me to envision a scenario, I can't say 100% categorically, I'm not aware of a scenario where a tower would be non-conforming and there would be any way to add an antenna that was.... I'm not sure I know of a way that you could add an antenna

to a non-conforming tower, let me put it that way.

CALVERT: So with that Mayor, I'll move for approval with the extraction of Section 32.

COUNCILOR  
TRUJILLO: Second.

MAYOR  
COSS: A motion and a second. Councilor Bushee, or Matt.

MATTHEW  
O'REILLY: Mayors, Councilors, just to clarify does that include the proposed amendments that are in the packet.

MAYOR  
COSS: Yes.

YOLANDA  
VIGIL: And the one on the desk.

MAYOR  
COSS: Councilor Bushee.

O'REILLY: And the one that's on the desk, Yolanda.

CALVERT: Yes.

COUNCILOR  
BUSHEE: Then we don't need to remove the tower piece and have any further discussions. No. Okay. I still never understood how that tower got in there in the first place. Is it grandfathered into historic status now, or something.

SMITH: The permits issued by staff for additional equipment attached to the tower, my understanding was that permits were issued before the telecommunication regulations were adopted by the City Council in 1998.

BUSHEE: I mean, it didn't fall under any Historic Zoning, nothing.

O'REILLY: Mayor, Councilors, the telecommunications Ordinance passed a couple of years ago, lays down some guidelines for how telecommunication facilities are approved. It also deals somewhat with existing telecommunication facilities. And I think that's why Greg was hesitant to say whether this tower, all of the tower, pieces of the tower, or antennas of the tower are absolutely non-conforming or not. And part of it has to do with dates of construction and esthetic impacts of things. So, I am also hesitant to say exactly anything

about the Marcy Street tower, without the Assistant City Attorney who we look to for these kinds of questions and that's Kelley Brennan. As you know the Telecommunications Ordinance is complicated.

BUSHEE: No, I guess I wondered didn't the H-laws kick in for that one.

O'REILLY: Mayor, Councilors, a new tower that was to be created in an Historic District, for instance the one you may have read about in the paper that may be proposed to be built at the Burger King, would have to go in front of the Historic Districts Review Board for approval. This tower, I believe, predated all of that.

BUSHEE: Yeah. We're going to [inaudible] it soon. Right.

MAYOR  
COSS: Geno.

GENO  
ZAMORA: Mayor, members of the Governing Body, if I may, I also agree with Mr. O'Reilly that Kelly Brennan is the expert in telecommunications issues. But one thing to keep in mind as you consider this section, is the newly adopted Telecommunications Ordinance, or two years old, which encourages collocation. So, if you're going to be putting restrictions on putting additional antennas on existing towers, it may create more applications for more towers, is the first thing. The second thing is that we have already faced lawsuits regarding the changing out of transmitters, antennas, etc., when you're converting from 3G to 4G. And I would just avoid us... I would advise that we avoid contributing to potential litigation against the City when equipment gets changed out on a tower.

CALVERT: Geno, on that point, I was addressing this, not in terms of existing towers, but in terms of non-conforming towers, okay. Because this is what this section is about, is non-conforming uses, okay. So, I'm not talking about existing towers, because I understand that provision, and I think I was specific saying that my understanding was, as long as it was a swap-out, that it was okay. But adding more antennas to a non-conforming tower would not necessarily be allowed. That's a.. I think it's a distinction from what you just said.

ZAMORA: Mayor, Councilor Calvert, you are correct. There is a clear distinction between that. Going back to my first point, I would just like the Council to remain mindful of the policy passed in the Telecommunication Ordinance, whether it's a conforming or non-conforming tower, existing or non-existing tower, a policy of having collocation where possible. So if there is a non-conforming tower proposed in the future, rather than having another tower proposed, the policy of the Telecommunication Ordinance, would be considering collocation on the tower, whether it's conforming or non-conforming.

O'REILLY: Mayor, Council, to try and get at your question Councilor, in a different way, Geno.



Generally in the non-conforming section of the Code, we don't require that non-conformities be removed, but we don't allow them to be expanded. So if there were, say certain antennas on a tower, a non-conforming tower, and someone wanted to swap them out, let's say there were 4 huge antennas and they wanted to replace them with 5 very much smaller antennas, we would probably consider that not an expansion of the non-conformity, because esthetically it improves the situation. So I don't want to say, flat out, that we wouldn't allow new antennas, but we would want to see that those antennas improve the situation and do not expand the non-conformity. And so that's part of what we would look at. And that, I believe, is... it also calls for that in the Telecommunications Ordinance specifically as well. Again, I would also say that this section of the bill could be removed and considered separately, if there's enough concern about this particular part of the bill, or if there is enough heartache with this particular section going away, or this particular change on this section of the bill going away.

MAYOR

COSS: Okay.

O'REILLY: Again, I apologize that Ms. Brennan isn't here right now. She could certainly address these issues better than I.

MAYOR

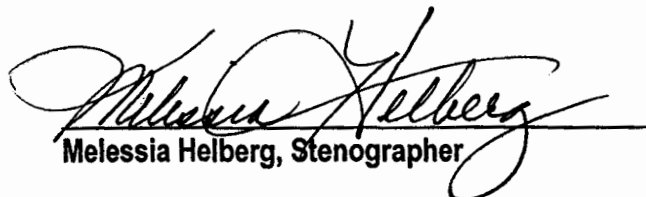
COSS: All right, we have a motion and a second, roll call Yolanda.

**VOTE:** The motion, as amended, was approved on the following Roll Call vote:

**For:** Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives, Councilor Rivera and Councilor Trujillo

**Against:** None.

*I certify that this is a true and accurate transcript of the requested portions of Agenda Item H(6), relating to telecommunications facilities and the Marcy Street Tower, in the Evening Session of the City Council meeting on March 27, 2013.*

  
Melessia Helberg, Stenographer

2997 Calle Cerrada  
Santa Fe, NM 87505-5393  
April 9, 2013

Mr. Robert Romero PE  
Santa Fe City Manager  
City of Santa Fe  
PO Box 909  
Santa Fe, NM 87504-0909

The Americans with Disabilities Act (ADA), mandates that each municipality maintain a comprehensive and up-to-date Transition Plan of all programs. Thus the Governing Body adopted resolution 2011-72.

The current 2011 Transition Plan update is and always has been incomplete. When the RFP was drafted, it was with the understanding that it would be limited due to funding availability at the time. Therefore only a sampling of public programs would be included for the chosen consultant to review. It was further understood that staff would then complete the required barrier assessment survey utilizing the consultant's previous reviews as guidelines. Thus in preparation for this action, the consultant interviewed various City Departments in-order to assess needs and offer training.

The consultant reminded the staff that the City will continue to plan for a biannual "ADA Transition Planning Budget." This is budget will be in addition to and separate from funds required for Programs.

It is the US DOJ's view that compliance with 28 CFR 35.150(a), like compliance with the corresponding provisions of the section 504 regulations for public programs, would in most cases not result in undue financial and administrative burdens on the City. In determining whether financial and administrative burdens are undue, all City resources available for use in the funding and operation of the said service, program, or activity should be considered. The burden of proving that compliance with paragraph (a) of 28 CFR 35.150 would fundamentally alter the nature of a service, program, or activity would result in undue financial and administrative burdens rests with the City.

The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. The intention is that the determination must be made by a high level official, no lower than a Department head, having budgetary authority and responsibility for making spending decisions. Thus as required by the US DOJ, you, Robert, were identified as the official representative for the implementation and should be able to seek/acquire funding for barrier mitigation work over the City's Transition planning period. As such, please respond in writing, to the following enumerated issues.

*Exhibit "3"*

First, when is the proposed target date as to when the staff will complete the 2011 Transition Plan update? Note: It is ludicrous for one individual to be expected to conduct surveys for all department- ie: Fire, Police, Land Use, Public Works, etc. Also high public volume programs- ie: all trails, the Convention Center, bus stops, Railyard etc. must be included.

Second, what is the dollar amount being requested as a proposed budget item for the 2013/2014 Transition Plans? Are there going to be any restrictions, if so what?

Third, when is the required annual progress report on barrier mitigation to be submitted City Council be made public?

Fourth, will the City accessibility sites be audited for compatibility by persons of disability? It is suggested that these audits be subject to verification by non-staff personnel.

Fifth, if the time period of the Transition Plan is longer than one year, identify the mitigation goals for each incomplete program on an annual basis.

Your written response, in a timely manner, should be transmitted to the Governing Body. I request a copy of this response.

If you have questions, please contact me at (505) 471-5785 as I do not have email.

Thank You

  
Dave McQuarie  
Advocate

cc: Governing Body



# City of Santa Fe, New Mexico

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

David Coss, Mayor

Councilors:

Rebecca Wurzbarger, Mayor Pro Tem, Dist. 2

Patti J. Bushee, Dist. 1

Chris Calvert, Dist. 1

Peter N. Ives, Dist. 2

Carmichael A. Dominguez, Dist. 3

Christopher M. Rivera, Dist. 3

Bill Dimas, Dist. 4

Ronald S. Trujillo, Dist. 4

## Memorandum

To: Members of the Governing Body

Via: Geno Zamora  
City Attorney

From: Kelley Brennan *KJB*  
Assistant City Attorney

Re: Appeal of Greg and Kay Crouch from the  
January 22, 2013 Decision of the Historic Districts Review Board  
in Case #H-12-077 Denying an Application for an Exception  
to Remove Historic Material at 1148 Camino San Acacio  
Case No. 2013-14

Date: April 1, 2013 for the April 10, 2013 Meeting of the Governing Body

### I. The Appeal

On February 26, 2013 Karl Sommer, for Sommer Karnes & Associates LLP, on behalf of Greg and Kay Crouch (Appellants) filed a Verified Appeal Petition (Petition) appealing the January 22, 2013 decision (the Decision) of the Historic Districts Review Board (HDRB) denying the Appellants application (Application) to remove 25 linear feet of a stone retaining wall (the Wall) and lower the height of another section of the Wall to create two parking spaces with a conforming sight triangle (Project) at street grade at 1148 Camino San Acacio (Property). A copy of the Petition is attached as **Exhibit A**.

### II. History of the Case

The Property is located in the Downtown and Eastside Historic District (District) and is improved with a single-family residence designated as non-contributing to the District. Although the Wall appears to be 50 years old or older, it does not have a designated status. HDRB staff erroneously advised the Appellants that an exception to Santa Fe City Code (SFCC)

*Exhibit "4"*

§14-5.2(D)(1)(a) would be required to permit the removal of historic material. However, §14-5.2(D)(1)(a) prohibits the removal of historic materials only in the case of “...*additions or alterations to structures that have been declared significant or contributing in any historic district...*” Thus, since the Wall has not been designated as significant or contributing, an exception was not required.

The HDRB held two hearings on the Application, the first, on October 23, 2012 (the First Hearing) and the second on January 22, 2013 (the Second Hearing). HDRB staff provided the HDRB with a report (Staff Report) briefly describing the Application and recommending that the HDRB approve the Application as complying with applicable design standards and meeting the exception criteria to remove historic material. A copy of the Staff Report is attached as **Exhibit B**.

The HDRB postponed the matter at the conclusion of the First Hearing to allow the Appellants to obtain preliminary zoning approval for the Project. The HDRB denied the Application at the Second Hearing on the grounds that the Appellants had “...*not met the standards for the exception to remove historic material...*” and that it was not “...*necessary to remove as much historic material as the [Appellants'] plan propose[d]*.” Copies of the relevant portion of the minutes of the First Hearing and the Second Hearing are attached as **Exhibit C** and **Exhibit D** respectively. Findings of Fact and Conclusions of Law embodying the Decision were adopted by the HDRB on September 11, 2012 (Findings). The Findings (Item #12-0822) are attached as **Exhibit E**.

### III. Basis of Appeal

The Appellants point out that an exception was not required for the removal of historic material because the Wall has not been designated by the HDRB as significant or contributing. They add that the sole basis for the denial of the Application was that they had not met the exception criteria and that the goals of the Project could be accomplished without the removal of as much historic material as Appellants proposed.

### IV. Relief Sought

The Appellant asks the Governing Body to vacate the Decision and approve the Application.

### V. Issues Raised by the Appeal; Analysis

Pursuant to SFCC §14-3.17(A)(2)(a), an appeal may be filed “...to contest noncompliance of a final action with Chapter 14...”. The Decision was a final action under SFCC §14-3.17(A)(1)(b) that did not comply with SFCC §14-5.2(D)(1)(a), which requires an exception to remove historic material only if the structure is significant or contributing. The Wall is neither significant nor contributing and therefore an exception was not required. Since the Decision was grounded solely on the Appellants’ failure to meet the exception criteria, it should be vacated.

## **VI. Conclusion**

The City Attorney's Office recommends that the Governing Body grant the appeal and approve the Application and direct staff to draft findings of fact and conclusions of law reflecting its decision.

In the alternative, the Governing Body may choose to remand the Application to the HDRB for its review in accordance with SFCC standards requirements.



LUD Use Only

Time Filed: 11:30 AM  
Fee paid: \$ 100.00  
Receipt attached: )

RECEIVED

(date stamp)

FEB 26 2013

LAND USE DEPARTMENT

VERIFIED APPEAL  
PETITION

Can #2013-14

**\*\*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: Crouch Greg & Kay  
Last First M.I.  
Address: 1148 CAMINO SAN ACACIO  
Street Address Suite/Unit #  
SANTA FE NM 87505  
City State ZIP Code  
Phone: (214) 450-8914 E-mail Address: KAY@CROUCHENVIRONMENTAL.COM  
Additional Appellant Names: \_\_\_\_\_

Correspondence Directed to: ☐ Appellant ☒ Agent ☐ Both

Agent Authorization (if applicable)

I/We: Greg and Kay Crouch  
authorize Karl Sommer to act as my/our agent to execute this application.  
Signed: \_\_\_\_\_ Date: 2/22/13  
Signed: Kay Crouch Date: 2/22/13

Subject of Appeal

Project Name: \_\_\_\_\_  
Applicant or Owner Name: Greg and Kay Crouch  
Location of Subject Site: 1148 CAMINO SAN ACACIO  
Case Number: 14-12-077 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):

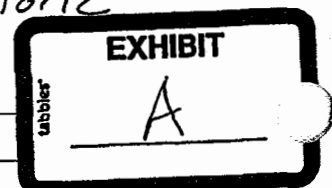
Appellant is the Applicant (B)(1)

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

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

DENIAL of Application for exception to REMOVE HISTORIC MATERIAL

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



**Description of Harm**

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

SEE ATTACHMENT

**Explain the Basis for Appeal**

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

SEE ATTACHMENT

**Signature and Verification**

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

Appellant Signature:

*[Signature]*

Date:

2/22/13

Agent Signature:

*[Signature]*  
Karl H. Som

Date:

2/25/13

State of New Mexico )

) ss.

County of Santa Fe )

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

Petitioner/s:

*[Signature]*

Signature

*[Signature]*

Signature

Greg Crouch

Print Name

Kay Crouch

Print Name

Subscribed and sworn to before me this 22<sup>nd</sup> day of FEBRUARY, 2013.

NOTARY PUBLIC

My commission expires:

5/3/15





# SOMMER KARNES & ASSOCIATES LLP

**Mailing Address**  
Post Office Box 2476  
Santa Fe, New Mexico 87504-2476

**Street Address**  
200 West Marcy Street, Suite 133  
Santa Fe, New Mexico 87501

Telephone: (505) 989.3800  
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Karl H. Sommer, Attorney at Law  
khs@sommer-assoc.com  
Joseph M. Karnes, Attorney at Law  
jmk@sommer-assoc.com

Mychal L. Delgado, Certified Paralegal  
mld@sommer-assoc.com

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

February 25, 2013

Santa Fe City Council  
200 Lincoln Avenue  
Santa Fe, NM 87504-0909

Re: Appeal of HDRB Decision – Case # H-12-077  
1148 Camino San Acacio

Dear Councilors:

On behalf of appellants Greg and Kay Crouch, this letter supplements and addresses questions set forth on the appeal form regarding the grounds for the appeal and request that you overturn the HDRB's denial of this application.

*Description of Harm – Described the harm that would result to you from the action appealed from.*

The Crouches' non-contributing house is located above Camino San Acacio and is currently accessed via a steep north-facing dirt driveway. In winter, vehicular access is often difficult and a times impossible. The Crouches desire to eliminate this condition by creating two parking spaces at street level. This will necessitate removal of about 25' of stone retaining wall and to lowering another section of the same wall. Denial of the application would result in continuation of the existing driveway condition, and continued harm to the owners and visitors to the Crouches' home relating to the difficult access.

The Crouches have the support and consent of their adjacent neighbors to the south, who share the existing driveway and share the Crouches' concern that the current driveway access to the Crouch property is untenable in winter.

*Explain the Basis for Appeal. Please detail the basis for Appeal here (be specific).*

Staff reviewed the application and recommended its approval, because it complies with Section 14-5.2(D)(9) of the General Design Standards and (E), Downtown and Eastside Historic District. Staff also determined that the application meets the exception criteria to remove historic material under Section 14-5.2(D)(1)(a).

## Sommer, Karnes & Associates, LLP

February 26, 2013

Page 2 of 3

Staff determined that the existing retaining wall, a portion of which is proposed to be removed, is of unknown origin, with local stone laid in irregular courses with heavy mortar joints, topped with woven wire. Staff could not determine the age of the wall but assumed it to be historic.

In denying the application, the only ground stated by the HDRB was that the applicant has not met the standards for the exception to remove historic material and that the maker of the motion (Board member Frank Katz) in his opinion did not believe it to be necessary to remove as much historic material as the application proposed. The section referenced in the staff report and relied upon by the movant has no application to the subject property, and therefore, the basis stated for denial of the application was erroneous and contrary to law. The Code contains no restriction on removal of historic material in relation to a noncontributing structure.

Section 14-5.2(D)(1)(a) states:

### (D) General Design Standards for All H Districts

In any review of proposed additions or alterations to *structures* that have been declared significant or contributing in any historic district or a *landmark* in any part of the *city*, the following standards shall be met:

#### (1) General

(a) The status of a significant, contributing, or *landmark structure* shall be retained and preserved. If a proposed alteration will cause a *structure* to lose its significant, contributing, or *landmark* status, the *application* shall be denied. The removal of historic materials or alteration of architectural features and spaces that embody the status shall be prohibited.

The proposed alteration to the existing retaining wall on the subject property does not involve a structure that has been declared significant or contributing or a landmark. Rather, house is noncontributing to the Downtown and Eastside Historic District. The wall has not been specifically designated with any status.

The removal of historic materials cannot "embody" a status that does not exist. Further, the reference to removal of historic materials expressly applies only to structures that have been declared significant, contributing or landmark. Subsection D has no general application to noncontributing structures within the District and contains no limit on the

## Sommer, Karnes & Associates, LLP

February 26, 2013

Page 3 of 3

amount of historic material that can be removed in such cases. Rather, where the section applies, it prohibits such removal. Regardless, the section has no application to the present application.

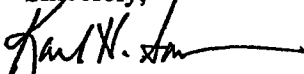
The HDRB's apparent assumption that section 14-5.2(D)(1)(a) applied because the house is designated significant or contributing is an incorrect determination of the facts. Because the application does not involve a structure that has been declared significant or contributing, the section relied upon by the HDRB in denying the application is inapplicable. As a result, the HDRB's decision that the application violated this ordinance is contrary to law.

### Conclusion

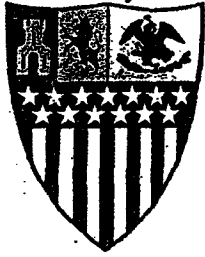
Staff properly determined that the application complies with all applicable sections of the Historic Overlay District. The basis of the HDRB decision was grounded on an incorrect determination of the facts that led to a misapplication of the Code.

The Crouches have expended great effort and expense to design a project that will improve safe access to their home and be in harmony with the surrounding area. Based on the foregoing, they request that you overturn the HDRB decision to deny their application.

Sincerely,



Karl Sommer



# City of Santa Fe, New Mexico

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

[www.santafenm.gov](http://www.santafenm.gov)

David Coss, Mayor

## Councilors:

Rebecca Wurzbarger, Mayor Pro Tem, Dist. 2

Patti J. Bushee, Dist. 1

Chris Calvert, Dist. 1

Peter N. Ives, Dist. 2

Carmichael A. Dominguez, Dist. 3

Christopher M. Rivera, Dist. 3

Bill Dimas, Dist. 4

Ronald S. Trujillo, Dist. 4

Project description: Proposes to remove approximately 25' of stone retaining street wall and lower another section of the same wall to create two parking spaces in front of this non-contributing house. An exception is requested to remove historic material (Section 14-5.2(d)(2)(d)).

Project number: 12-120077

Case number: H-12-077

Project type: HDRB

PROJECT LOCATION(S): 1148 Camino San Acacio

## PROJECT NAMES:

OW – Greg & Kay Crouch  
Santa Fe, NM 87505

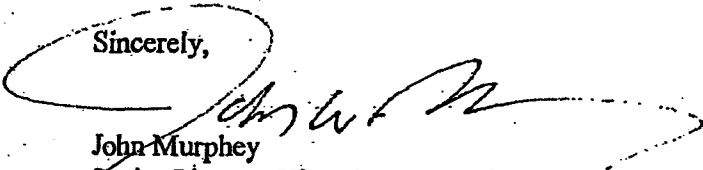
1148 Camino San Acacio  
214-450-8914

AP – Same as Above

## BOARD ACTION

This is to certify that the Historic Districts Review Board (HDRB) at their hearing on January 22, 2013, acted on the above referenced case. The decision of the Board was to deny your application as submitted. For further information please call 955-6605.

Sincerely,

  
John Murphey  
Senior Planner, 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 Clerks 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 permit.

City of Santa Fe  
Cashiers Office  
Santa Fe, NM 87504  
(505)955-4333

02/26/2013 11:36:01 AM  
Your cashier was LEONA  
B002201113056 T32

Development Review  
SOMMER, KARNES & ASSOC  
11001.431470

\$100.00

Total

\$100.00

Check  
4524

\$100.00

Change

\$0.00

Thank you!



## **CITY OF SANTA FE, NEW MEXICO**

**Project description:** Proposes to remove approximately 25' of stone retaining street wall and lower another section of the same wall to create two parking spaces in front of this non-contributing house. An exception is requested to remove historic material (Section 14-5.2(D)(2)(d)).

**Project Number:** 12-120077  
**Case number:** H-12-077  
**Project Type:** HDRB

**PROJECT LOCATION (S):** 1148 Camino San Acacio

**PROJECT NAMES:**

OW – Greg & Kay Crouch  
Santa Fe, NM 87505

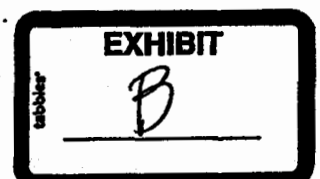
1148 Camino San Acacio  
214-450-8914

AP – Same as Above

**PROJECT DATA:**

HISTORIC DISTRICT  
HISTORIC BUILDING STATUS  
PUBLICLY VISIBLE FACADE-EAST  
PUBLICLY VISIBLE FACADE-NORTH  
PUBLICLY VISIBLE FACADE-SOUTH  
PUBLICLY VISIBLE FACADE-WEST  
HISTORIC DISTRICT INVENTORY NUMBER  
YEAR OF CONSTRUCTION  
PROJECT TYPE (NEW, ADD, ETC.)  
USE, EXISTING  
USE, PROPOSE  
HISTORIC BUILDING NAME

Downtown & Eastside  
Non-Contributing  
Yes  
Yes  
No  
No  
H-908  
c. 1940's  
Remodel  
Residential  
Residential  
NA



# City of Santa Fe, New Mexico

## memo

DATE: January 22, 2013  
TO: Historic Districts Review Board Members  
John Murphey, Senior Planner, Historic Preservation  
FROM: David Rasch, Planner Supervisor, Historic Preservation DR

CASE # H-12-077

Address: 1148 Camino San Acacio  
Historic Status: Noncontributing  
Historic District: Downtown and 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: Exception response

### STAFF RECOMMENDATION:

Staff recommends approval of this application, as it complies with Section 14-5.2 (D)(9), General Design Standards (Height, Pitch, Scale and Massing), and (E), Downtown and Eastside Historic District. Staff additionally believes the applicant has met the exception to remove historic material under Section 14-5.2 (D)(1)(a).

## **BACKGROUND & SUMMARY:**

Sitting on a rise above the road, 1148 Camino San Acacio is an approximately 1,440 sq. ft. single-story house exhibiting a vernacular interpretation of the Spanish-Pueblo Revival style. Constructed in the 1940s, the house has experienced alterations, including the introduction of a pitched roof in the 1960s. In 2010, the Board permitted the current applicant to build an addition and a portal and to remove the pitched roof (H-10-008). The house is noncontributing to the Downtown and Eastside Historic District.

*The Board postponed the current case at the October 23, 2012 hearing, due to the fact that a portion of the retaining walls required safety railing, which was not included as part of the project.*

## **Project**

In order to avoid parking on a steep driveway during the winter, the applicant proposes constructing two parking spaces at street level.

This will necessitate removing approximately 23' of stone retaining along the street and lowering another section of the same wall to the east, and removing a separate section of rock wall paralleling the driveway.

The existing retaining wall is made of local stone laid in irregular courses with heavy mortar joints. The wall is topped with woven wire. Because its origin is unknown, and its design and construction appear historic, the applicant requested an exception to remove sections of the wall (see below).

The proposed 453 sq. ft. parking pad will require cutting into the slope. The surrounding soil will be retained by stuccoed concrete block walls, with the rear (south) wall reaching 6'-0" in height. Due to code, the top of this wall will be capped with a 3'-0"-high coyote fence; its poles will have irregular tops; its assembly will face toward the house.

Concrete steps will lead from the pad to the house. The required hand railing will be of a rusted wrought-iron design the Board previously approved for the house as part of the 2008 case.

Concrete retaining walls will continue in stepped fashion along the east side of the driveway. Similar 3'-0"-high coyote fence will be placed along the side retaining wall, where required.

The walls will be stuccoed with El Rey "Desert Rose, a color the Board approved for the earlier remodeling project.

Existing bands of rock rip-rap along the slope will remain in place.

## **Exceptions**

An exception is requested to remove historic material under Section 14-5.2 (D)(1)(a).

### **(b) (i) Do Not Damage the Character of the District:**

The "Non-Contributing" residence occupied by the Applicant at 1148 Camino San Acacio was constructed in the mid-1960s by a Mr. Tafoya (now deceased). My existing two-car garage was



constructed in the late 1960s. It is reasonable to assume that the stonewall that serves as the front wall to the yard was constructed during that same period. A number of other wall construction materials have been utilized by my neighbors. The neighbor on the west side of my home uses a stucco covered wall to separate his front yard from Camino San Acacio, and my neighbors on the east side uses a combination of gravel, and rocks. Further east, my neighbors use Railroad Ties to separate their front yards from the street.

The Character of front-wall construction in my area is not consistent, but the most common wall type is Stucco for the walls separating the street from my neighbor's front yards.

***Staff response: The type of street-level parking proposed is an infrequent treatment along the streetscape. Most houses are set above grade with parking on the side or to the rear of the dwelling. However, some house, such as 1152 Camino San Acacio, present a similar street-level parking pad but situated at the foot of a small slope requiring little retaining work. The proposed project will change the character of the immediate streetscape but will not damage the character of the historic district.***

**(b) (ii) Are Required to prevent hardship to the Applicant or an injury to the public welfare:**

The proposed activity is to construct two one-car parking spaces at street level. This construction will require that an existing stone wall shall be partially removed for two reasons:

A. The sole purpose for requesting this construction is for SAFETY. Safety for my family and for the Tafoya family (we share the driveway). Our shared driveway is extremely steep, and during the winter months it becomes so icy that Mr. Tafoya and I have both lost control of our automobiles as we descended the driveway towards Camino San Acacio. He and I have both skidded down the driveway into the middle of the street. Last winter Mr. Tafoya skidded into an automobile as it drove along the street, causing an accident. I have been lucky in that so far, no cars have been on the street as I skidded into the middle of the street.

Sooner or later, I am afraid that someone will be seriously injured as an out-of-control vehicle skids into the street. Many pedestrians also walk along the street, and I am very worried that one of our cars will run over someone.

B. The Applicant must lower the existing wall to meet current sight-distances that are required by the City of Santa Fe. The sight-distance requirement will enable street traffic and individuals utilizing the proposed two-car parking area to SAFELY observe vehicular traffic as it drives along Camino San Acacio and as vehicles enter and exit the parking spaces. The existing wall is approximately 4'7" high (above street elevation), and an impediment to the safe observation of traffic moving along Camino San Acacio as automobiles attempt to safely use the existing driveway at 1148 Camino San Acacio. Cars attempting to enter Camino San Acacio from the driveway must allow their automobiles to partially drive into the street before traffic can be safely observed, and this is dangerous.

C. A portion of the existing stone wall (approximately 25 feet) abutting Camino San Acacio will be replaced by a stucco-covered wall that perfectly matches the existing stucco walls that parallel the western side of my residence (and that also perfectly match the stucco covering my residence). The new stucco wall is proposed so that the end

result of this new construction will be a uniformly stuccoed home with matching exterior walls.

D. The original stone wall that will remain will be lowered to an elevation of 3-feet above the street elevation to meet current sight-distance requirements, but otherwise will be the same as before the construction began.

***Staff agrees that part of the response addresses a seasonally hazardous condition that presents a hardship for the applicant.***

**(b) (iii) Strengthen the unique heterogeneous character of the City by providing a full range of design options to ensure that residents can continue to reside within the Historic Districts:**

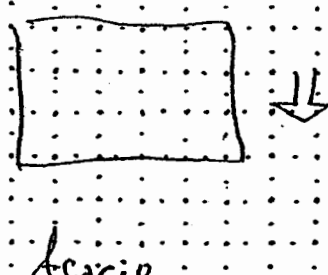

A. I believe that the proposed construction will easily comply with the current heterogeneous character of the City because several of my neighbors both east and west of my residence have street level parking spaces that are virtually identical to what I have proposed.

***Staff agrees with this statement.***

In the main, staff believes the applicant has met the exception.

## NEW MEXICO HISTORIC BUILDING INVENTORY FORM

H908

building threatened? yes	surveyed date 27-6-83 by mb	county Santa Fe	ID no. 0516 00405
field map Santa Fe, New Mexico	number 1	UTM reference zone 12 13	easting northing
location description 1148 San Acacio		city/town Santa Fe	
		<del>land grant/reservation</del>	
building name		legal description t17 N 3 range 10 E 4 sec 30 NE 1/2 SW 1/2	
film roll by mb no. 18	negative nos. 5	loc. of neg. HPB	plan shape 
		date of construction Postwar estimate _____ actual source	
		use present <u>residential</u> other _____	
		historic <u>residential</u> other _____	
		condition ____ excellent <input checked="" type="checkbox"/> good ____ fair _____ deteriorating	
style Sp. Pueblo Vernacular	foundation material Not vis	degree of remodeling <input checked="" type="checkbox"/> minor _____ moderate _____ major	
	wall material/surface Stucco	describe:	
architectural features		surroundings <u>Residential</u>	
		relationship to surroundings <input checked="" type="checkbox"/> similar _____ not similar	
		district potential ____ yes <input checked="" type="checkbox"/> no	
		significance ____ eligible _____ of <input checked="" type="checkbox"/> none	
		if eligible, interest _____ why?	
comments wall hedge landscaping stone curb old set-back acacia		associated buildings? _____ yes what type? _____	
		if inventoried, list ID nos. _____	
		see back? _____ yes	



A. Shadow line indicates existence  
of a retaining wall



1960



# Preliminary Zoning Review Worksheet

City of Santa Fe Land Use Department

Review  
for Jan 22,  
2013 Hearing

## To Be Completed By Applicant:

Date Submitted: <u>Greg &amp; Kay Crouch</u>	Site Address: <u>1148 Camino San Acacia</u>
Property Owner of Record: <u>same</u>	Proposed Construction Description: <u>Excavate to create</u>
Applicant/Agent Name: <u>—</u>	<u>2 parking spaces with</u>
Contact Person Phone Number: <u>281-450-8914</u>	TOTAL ROOF AREA: <u>—</u>

NOTE: Preliminary zoning reviews are provided as a courtesy and are intended to address general zoning compliance issues. Applicants are advised to do an independent search of applicable zoning ordinances and to research documents related to property history which may affect permitting. Additionally, applicants are advised to contact appropriate City Staff with questions related to Terrain management, building, fire, water budget, Sangre de Cristo, wastewater, and other development codes which may affect permitting.

BASED ON INFORMATION PRESENTED ON APPLICATION DATE, THIS REVIEW DOES NOT GRANT ZONING APPROVAL AT THE TIME OF BUILDING PERMIT. FINAL ZONING APPROVAL WILL BE GRANTED ONCE ALL COMPLIANCE WITH ZONING HAS BEEN MET.

☒ OWNER ☐ APPLICANT ☐ AGENT

DATE

Zoning District: R-5

Overlay: ☒ Historic Downtown = Eastside

- ☐ Arts and Crafts
- ☐ Escarpment\*
- ☐ Flood Zone\*
- ☐ Cerrillos Road Corridor
- ☐ Other: —

Lot Coverage: — % No change  
☐ Open Space Required: —

Setbacks: No change

Proposed Front: Minimum

2nd Front? —

Proposed Rear: Minimum

Proposed Sides: L — R — Minimum: —

### Zoning Submittal Requirements:

- ☒ Legal Lot of Record ☒ Development Plan ☐ Building Plans
- ☒ Existing Site Plan ☒ Proposed Site Plan ☒ Elevations

### Supplemental Zoning Submittals:

- ☐ Zero Lot Line Affidavit

Access and Visibility: ☐ Arterial or Collector\*

☒ Visibility Triangle Required See below

Use of Structure: ☒ Residential

☐ Commercial Type of Use: —

Terrain: ☐ 30% slopes NA

Height: Proposed —

Maximum Height: — or NA

☐ Regulated by Historic Districts Ordinance

☐ Regulated by Escarpment District

Parking Spaces: See below

Proposed — Accessible\*\* —

Minimum: —

Bicycle Parking\*\*: NA

Proposed: — Minimum: —

\* Requires an additional review conducted by Technical Review or Traffic Engineering Division to ensure compliance. \*\* Commercial Requirement

## To Be Completed By City Staff:

### Additional Agency Review if Applicable:

☐ Escarpment Approval by — Date: 1/1/

☐ Flood Plain Approval by — Date: 1/1/

☒ Traffic Engineering Approval by R. Montoya Date: 3/27/12

Notes: Exist. wall @ st. line must be lowered to 3' within 15'

### Zoning Approval:

☒ Preliminary Approval ☐ with conditions ☐ Rejected

Comments/Conditions: 6' max. wall ht w. slope back to edge of porch stabilize bank w. rock plating. Final review @ bldg permit.

REVIEWER: Tamara Baer with RB Zaxus DATE: 10/25/12

Rev. 4-12

\*\*\*Note: If approved, please stamp and initial each page of plan set.\*\*\*



City of Santa Fe  
Public Works Department  
Permit to Access Public Right-of-way

APPLICANT NAME GREG AND KAY CROUCH

ACCESS PERMIT NUMBER 12-03-19

IN ACCORDANCE WITH THE SUBMITTED APPLICATION, AND CONDITIONS  
NOTED BELOW, PERMISSION IS HEREBY GRANTED FOR ACCESS TO PUBLIC  
RIGHT-OF-WAY FOR THE FOLLOWING LOCATION:

SITE ADDRESS OR LOT NO 1148 Camino San Acacio

NAME OF SUBDIVISION (IF APPLICABLE) \_\_\_\_\_

THE WORK IS TO COMMENCE ON OR ABOUT March 27, 2012

THIS PERMIT EXPIRES September 27, 2012

CONDITIONS NOTED:

*This Permit provides legal access from private property onto a public right-of-way and is governed by the requirements of City Code Chapter 23 – Construction and Maintenance of Curb, Gutter, and Sidewalk (where applicable). All Conditions and restrictions required by law shall be complied with, and failure to comply with the conditions of this permit shall result in revocation of this permit and the reconstruction of any nonconforming driveway to City of Santa Fe standards at the property owner's expense.*

Prior to commencing construction, the property owner shall contact the Streets & Drainage Maintenance Division located at 1142 Siler Road (955-3000) regarding the need for a Right-of-way Excavation & Restoration Permit; and the Planning and Land Use Department located at 200 Lincoln Avenue (955-6955) regarding the need for a building permit. This permit does not constitute review and approval of Americans with Disabilities Act (ADA) requirements.

Approved Per Exhibit A and Exhibit B.

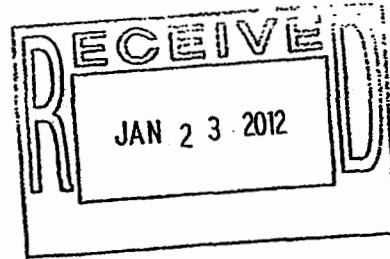
REVIEWED AND SIGNED BY Robert B. Morley DATE 03/27/2012

DRIVEWAY INSPECTED BY \_\_\_\_\_ DATE \_\_\_\_\_

FEE PAID \$100.00 RECEIPT # 6909

January 18, 2012

Mr. David Rasch  
Supervising Planner  
CITY OF SANTA FE  
P.O. Box 909  
Santa Fe, NM 87505



Dear mr. Rasch:

**RE: Construction of a parking area at street level**

This letter is submitted to you as a part of the **Historical Design Review Board Application Packet**. The purpose of this request is to construct an automobile parking area in front of my house that is at street level.

I share my driveway with Mr. George Tafoya, a long-time Santa Fe resident. The driveway is unusually steep, and during the winter months, it is virtually impassable because it is so steep and slippery. On numerous occasions he and I have lost control of our cars and skidded down the driveway into the middle of Camino San Acacio. Recently, Mr. Tafoya lost control of his car, skidding down the driveway where he collided with a car that was traversing Camino San Acacio. Fortunately, no one was hurt. Basically, we are afraid that someone will be seriously injured by skidding into oncoming traffic.

I request that I be permitted to construct a parking area at street level so that during the icy months in winter both Mr. Tafoya and I can safely park our cars near our houses without worrying that we might skid into anyone. This is a safety issue for us, and I hope you will approve this request.

Thank you so much for your kind consideration, and please call me if you have any questions. My cell phone is (281) 450-8914, and my email is [greg@crouchenvironmental.com](mailto:greg@crouchenvironmental.com).

Best Regards,

Greg Crouch

**MURPHEY, JOHN W.**

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**From:** Greg Crouch <greg@crouchenvironmental.com>  
**Sent:** Wednesday, January 16, 2013 8:37 AM  
**To:** MURPHEY, JOHN W.  
**Cc:** Kay Crouch  
**Subject:** Proposed fencing for the two-space parking at 1148 Camino San Acacio, Santa Fe, NM

Hi John:

I hope the weather isn't too cold in Santa Fe. It has been very cold here in Houston (mid-30s – but with 100% humidity it is really cold!!!). I will be flying back to Santa Fe this coming Sunday, so if I need to drop by your office just let me know.

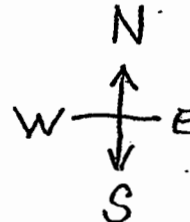
As to your request, here goes:

The proposed two-car parking spaces located at 1148 Camino San Acacio will have a coyote fence installed above the planned stucco wall that will outline the parking area. The coyote fence will be no less than 3.0-feet above the stucco walls (back and side sections), and the metal framing for the coyote fence will be shielded from the street by the actual irregularly topped, latilla fencing. In addition, the Crouches will retain the existing wire fencing that currently abuts Camino San Acacio, if possible. However, please keep in mind that in order to establish the prescribed sight-distance requirements of the City, I have been mandated (in the street access permit) to lower the height of the current stone wall to an elevation that is no higher than 3.0-feet above the street level of Camino San Acacio.

Thanks so much!!! Greg







POINT AS NOTED

METER

IC METER

TER

FENCE

Y POLE & OVERHEAD LINES

IMATE LIMITS  
4Y/ ROAD

N/F  
WALPIN & MELUGIN  
Bk. 2320, Pg. 27-28

13' INGRESS, EGRESS  
ACCESS & UTILITY  
EASEMENT

N/F  
TRUJILLO  
Bk. 321, Pg. 701

1-1/2" IP  
DISTURBED

BLOCK  
WALL

DIRT/GRAVEL  
DRIVE

CAMINO SAN ACACIO  
DIRT/GRAVEL ROAD

ROCK RETAINING  
WALL &  
WIRE FENCE

STEPS

PORTAL

RESIDENCE  
1148 CAMINO  
SAN ACACIO

PARCEL "A"  
0.248 Ac. ±

GARAGE

CHAIN LINK  
FENCE

1/2" RBR  
PS 12656

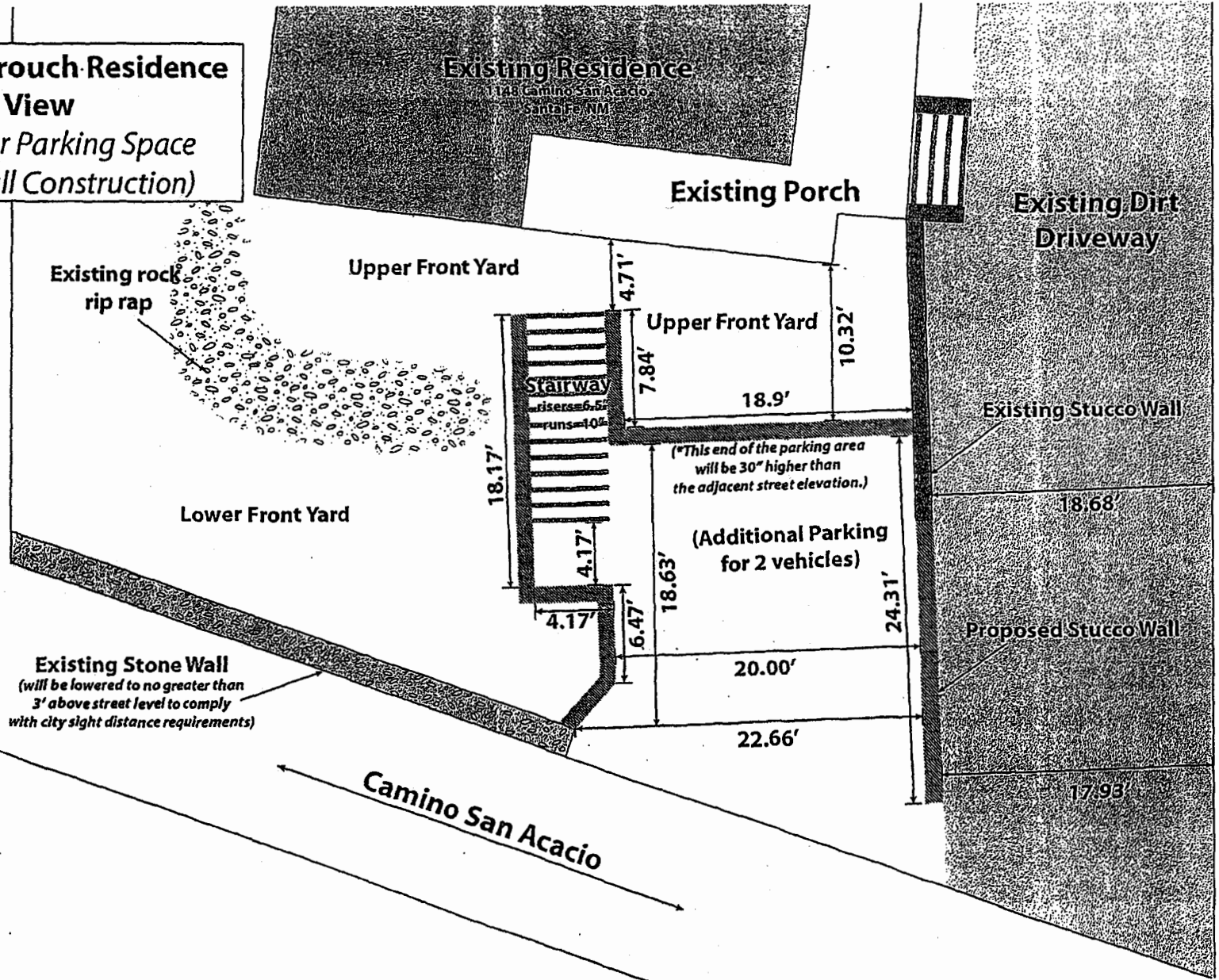
1/2" RBR  
PS 12656

1/2" RBR  
PS 1265

Bk.

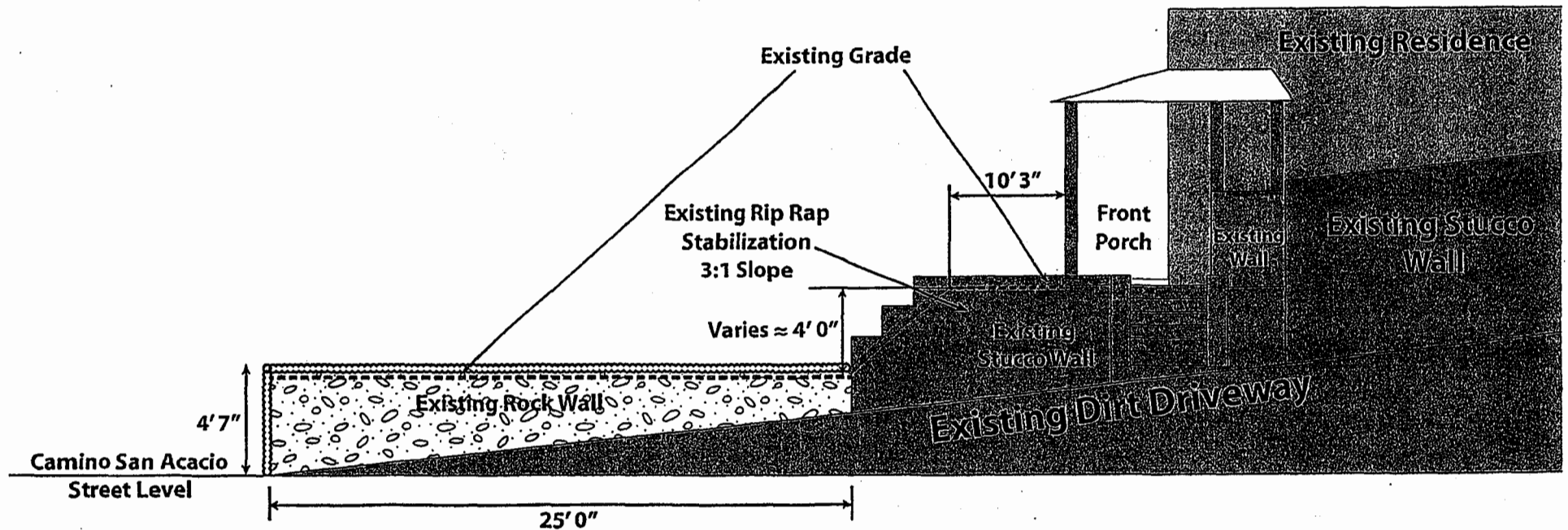
**Greg and Kay Crouch Residence**  
**Plan View**  
 (Proposed 2-Car Parking Space  
 and Stucco Wall Construction)

For January 22, 2013  
 Meeting



For January 22, 2013  
Hearing

# Existing Condition (No Street Level Parking)

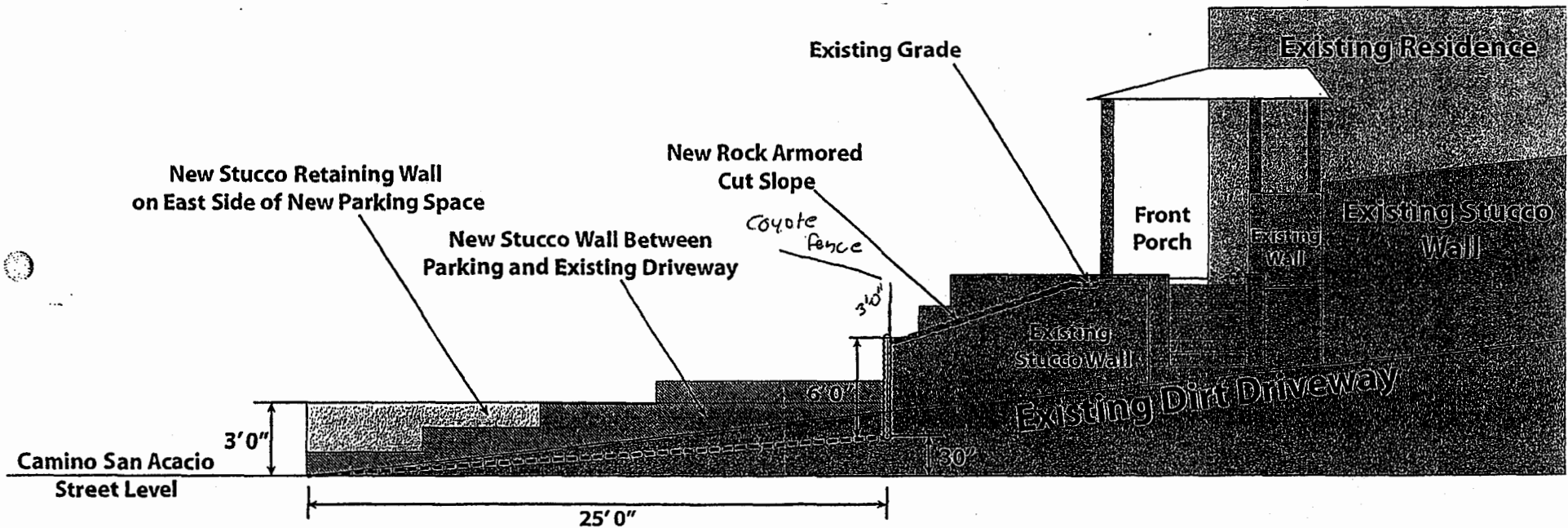


Scale: 1" = 4'

1148 Camino San Acacio  
Greg and Kay Crouch Residence

For January 22, 2013  
Hearings

# Proposed Condition (2-Car Parking Space at Street Level)



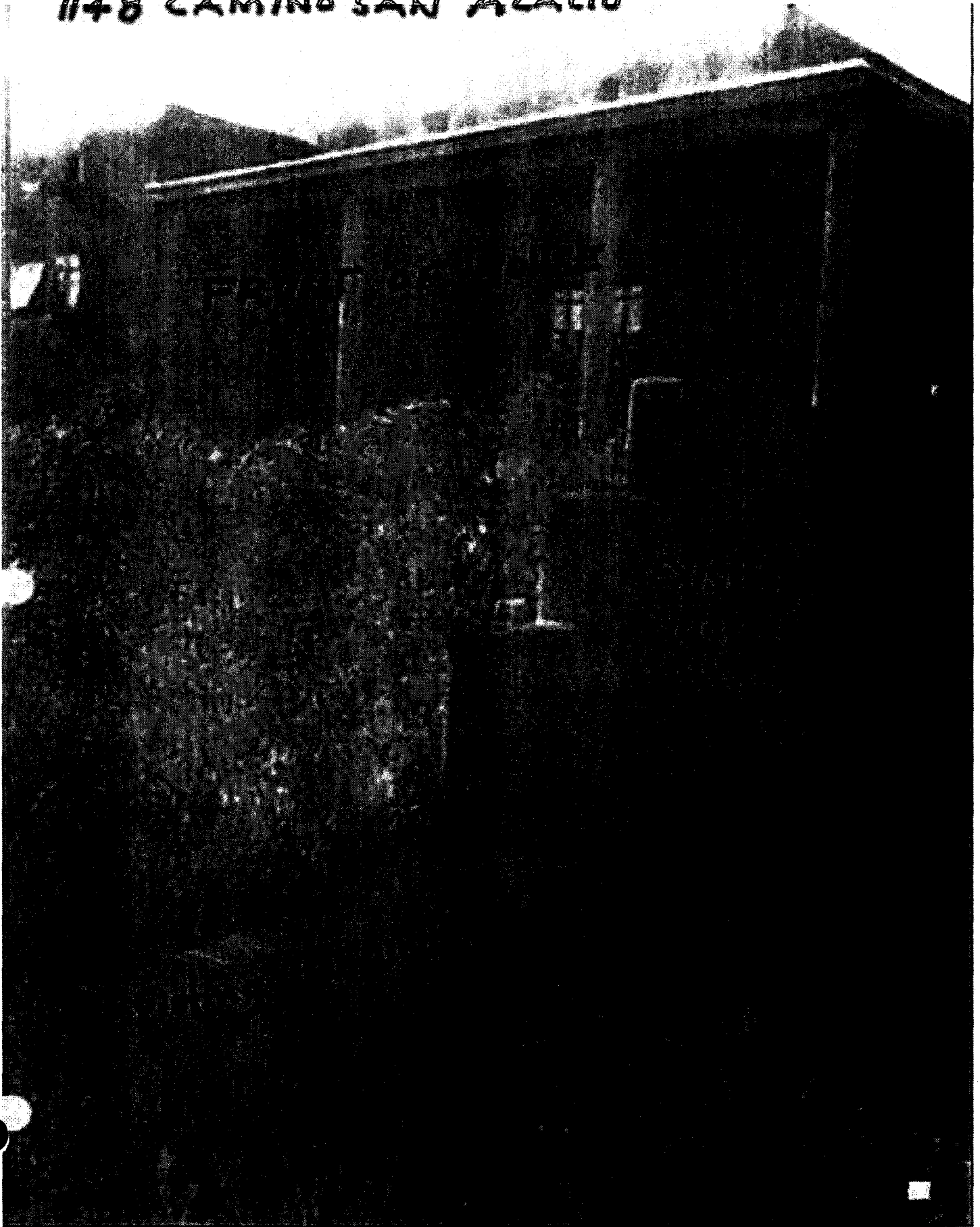
## NOTE:

1. Handrails will be installed on the steps leading from the front yard down to the 2-car parking space.
2. Handrails will be placed on the proposed 6-foot high retaining wall, and on top of the 3-foot high retaining wall located along the east side of the proposed parking space.

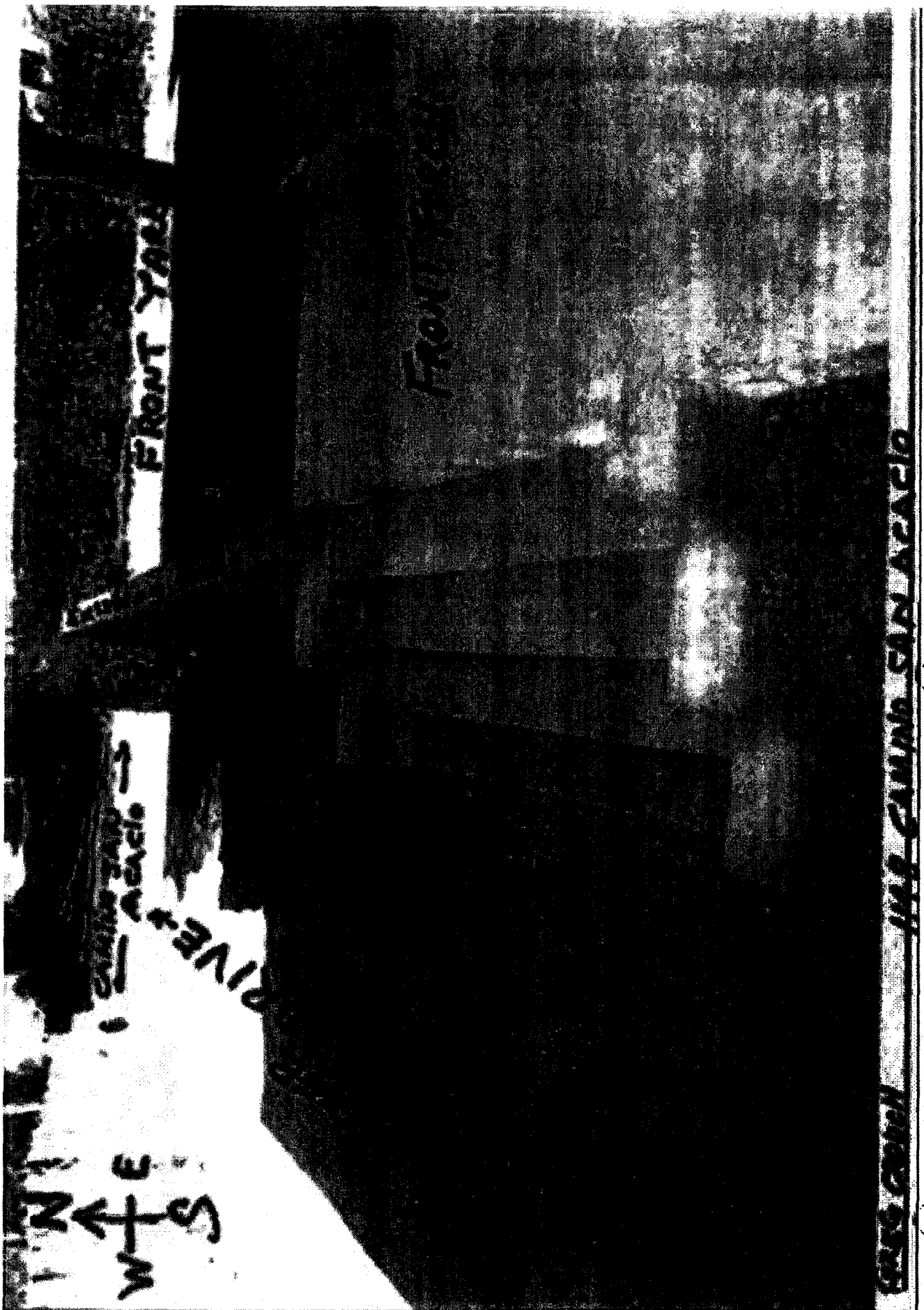
Scale: 1" = 4'

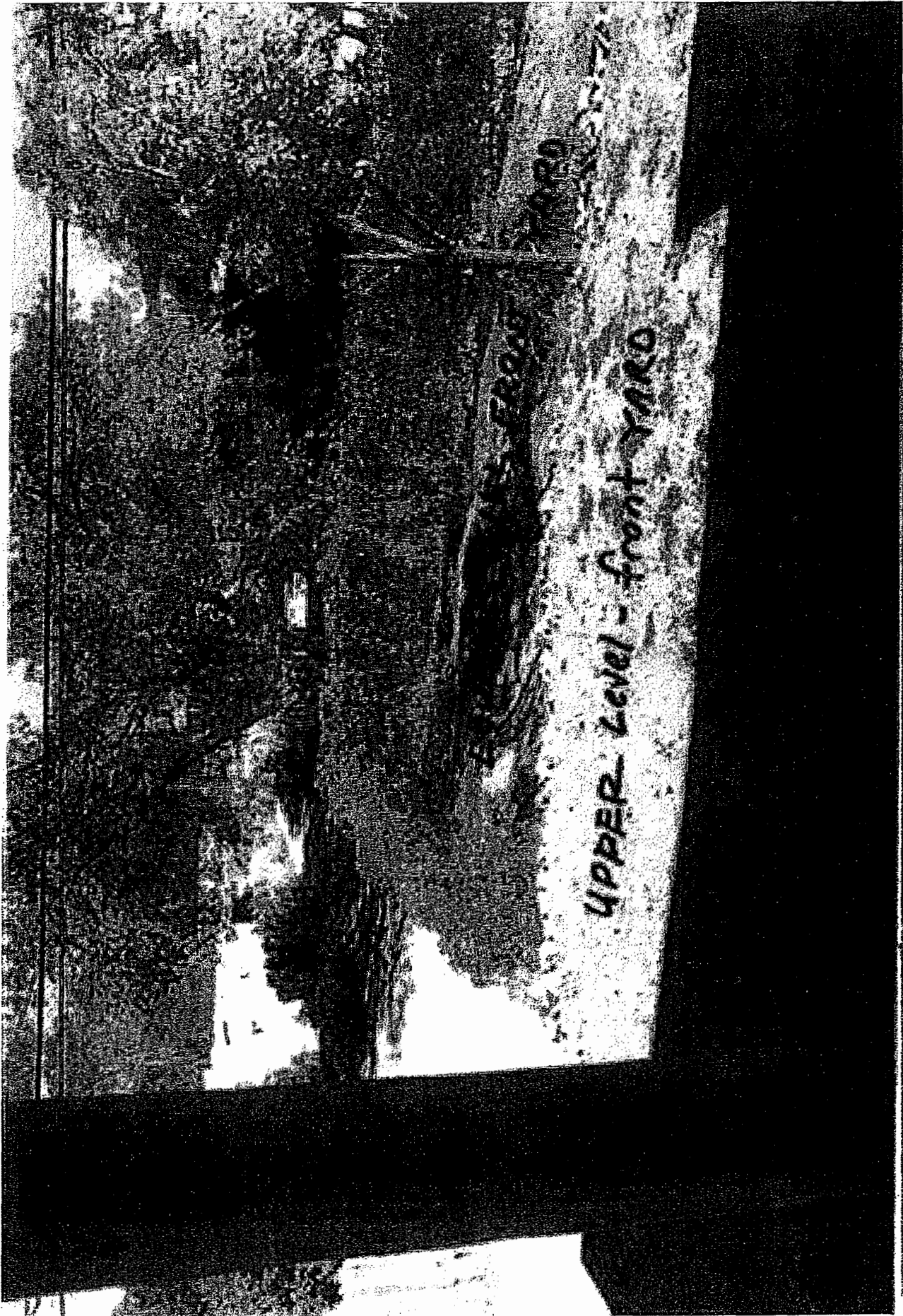
1148 Camino San Acacio  
Greg and Kay Crouch Residence

1148 CAMINO SAN ACACIO



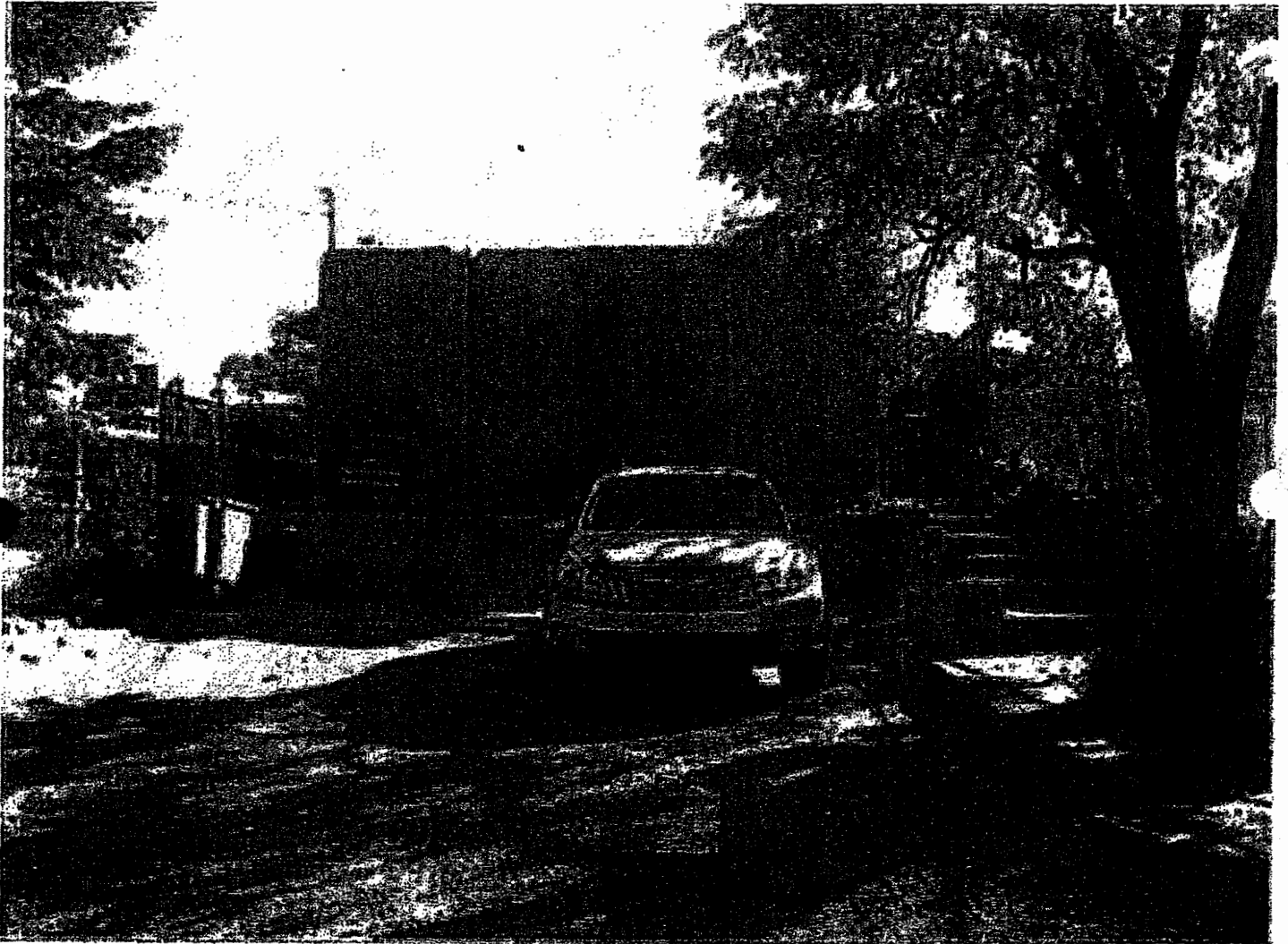






VIEW FROM FRONT PORCH  
— 1148 CAMINO SAN ACACIO —

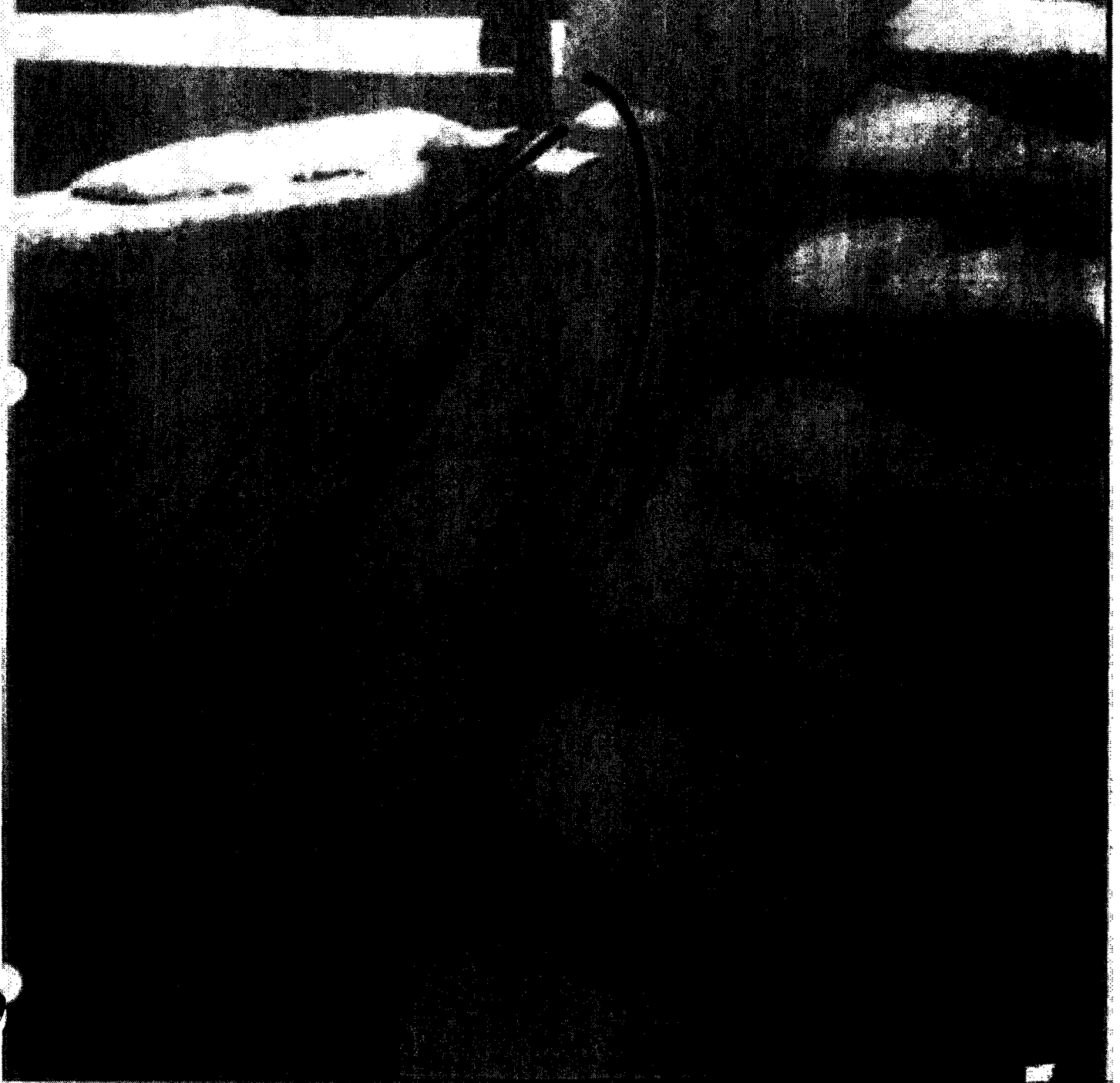




1152 Camino San Acacio

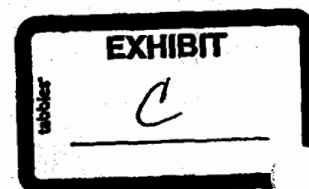
10/2/12

Proposed railing previously  
approved by Board for  
use at property



**SUMMARY INDEX**  
**HISTORIC DISTRICTS REVIEW BOARD**  
October 23, 2012

<b><u>ITEM</u></b>	<b><u>ACTION TAKEN</u></b>	<b><u>PAGE(S)</u></b>
Approval of Agenda	Approved as presented	1-2
Approval of Minutes September 25, 2012	Approved as amended	2
Communications	Reported	2
Findings of Fact & Conclusions of Law	Approved as presented	2-3
Business from the Floor	None	3
Action Items		
1. <u>Case #H 05-179</u> 257-269 Las Colinas Drive	Approved as recommended	3-5
2. <u>Case #H-10-012</u> Santa Fé River Parkway	Approved with conditions	6-7
3. <u>Case #H-11-117</u> 621 Old Santa Fé Trail	Postponed to November 13	7
4. <u>Case #H-09-012</u> 526 Galisteo Street	Approved with conditions	8-14
5. <u>Case #H-12-079</u> 556 East Coronado Road	Approved with condition	14-17
6. <u>Case #H-12-080</u> 1677 Cerro Gordo Road #9	Approved as recommended	17-18
7. <u>Case #H-12-082</u> 923 Acequia Madre	Approved with conditions	18-19
8. <u>Case #H-12-083</u> 616 East Alameda D	Approved with conditions	20-22
9. <u>Case #H-12-077</u> 1148 Camino San Acacio	Postponed to November 13	22-26



Mr. Peterson said he decided on Cascade Blue.

Ms. Rios asked for the stucco color.

Mr. Petersen said it would be Adobe.

Chair Woods commented on the window mullion pattern that the panes became horizontal - long and skinny. She suggested instead of two over four to have two over two to create vertical panes. It was more traditional with vertical orientation.

Mr. Peterson agreed to change it.

Mr. Acton noted on the double hung windows it looked like two over two was best and on the casements he could have two over three.

Mr. Peterson shared his window quote with the Board.

There were no speakers from the public regarding this case.

Chair Woods said they got it right on the quote. On the living room, it was six over six double hung and she would suggest just one mullion there. Mr. Peterson agreed.

**Mr. Acton moved to approve Case #H-12-083 with conditions that the cladding and stucco be Cascade Blue and Adobe; that the double hung windows be 2 over 2 and the casements 2 over 3. Ms. Rios seconded the motion and it passed by unanimous voice vote.**

- 9. Case #H-12-077 - 1148 Camino San Acacio.** Downtown & Eastside Historic District. Greg and Kay Crouch, owners, propose to remove approximately 25' of stone retaining street wall and lower another section of the same wall to create two parking spaces in front of this noncontributing house. An exception is requested to remove historic material (Section 14-5.2 (D) (1) (a)). (John Murphey)

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

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

Sitting on a rise above the road, 1148 Camino San Acacio is an approximately 1,440 sq. ft. single-story house exhibiting a vernacular interpretation of the Spanish-Pueblo Revival style. Constructed in the 1940s, the house has experienced alterations, including the introduction of a pitched roof in the 1960s. In 2010, the Board permitted the current applicant to build an addition and a portal and to remove the pitched roof (H-10-008). The house is noncontributing to the Downtown and Eastside Historic District.

## Project

In order to avoid parking on a steep driveway during the winter, the applicant proposes constructing two parking spaces at street level.

This will necessitate removing approximately 25' of stone retaining wall along the street and lowering another section of the same wall to the east, and removing a separate section of rock wall paralleling the driveway.

The existing retaining wall is made of local stone laid in irregular courses with heavy mortar joints. The wall is topped with woven wire fence. Because its origin is unknown, and its design and construction appear historic, the applicant requested an exception to remove sections of the wall (see below).

The proposed 480 sq. ft. parking pad will require cutting into the slope. The surrounding soil will be retained by stuccoed concrete block walls (about 3.25'). Concrete steps will lead from the pad to the house. Concrete retaining walls will continue in stepped fashion along the east side of the driveway. The walls will be stuccoed with El Rey "Desert Rose, the color the Board approved for the earlier remodeling project.

## Exceptions

An exception is requested to remove historic material under Section 14-5.2 (D)(1)(a).

### (b) (i) Do Not Damage the Character of the District:

The "Non-Contributing" residence occupied by the Applicant at 1148 Camino San Acacio was constructed in the mid-1960s by a Mr. Tafoya (now deceased). My existing two-car garage was constructed in the late 1960s. It is reasonable to assume that the stonewall that serves as the front wall to the yard was constructed during that same period. A number of other wall construction materials have been utilized by my neighbors. The neighbor on the west side of my home uses a stucco covered wall to separate his front yard from Camino San Acacio, and my neighbors on the east side uses a combination of gravel, and rocks. Further east, my neighbors use Railroad Ties to separate their front yards from the street.

The Character of front-wall construction in my area is not consistent, but the most common wall type is Stucco for the walls separating the street from my neighbor's front yards.

***Staff response: The type of street-level parking proposed is not a common treatment along the streetscape. Most houses are set above grade with parking on the side or to the rear of the dwelling. The house at 1152 Camino San Acacio presents a similar street-level parking pad but is situated at the foot of a small slope requiring little retaining. The proposed project will change the character of the immediate streetscape but will not damage the character of the historic district.***

### (b) (ii) Are Required to prevent hardship to the Applicant or an injury to the public

**welfare:**

The proposed activity is to construct two one-car parking spaces at street level. This construction will require that an existing stone wall shall be partially removed for two reasons:

A. The sole purpose for requesting this construction is for SAFETY. Safety for my family and for the Tafoya family (we share the driveway). Our shared driveway is extremely steep, and during the winter months it becomes so icy that Mr. Tafoya and I have both lost control of our automobiles as we descended the driveway towards Camino San Acacio. He and I have both skidded down the driveway into the middle of the street. Last winter Mr. Tafoya skidded into an automobile as it drove along the street, causing an accident. I have been lucky in that so far, no cars have been on the street as I skidded into the middle of the street.

Sooner or later, I am afraid that someone will be seriously injured as an out-of-control vehicle skids into the street. Many pedestrians also walk along the street, and I am very worried that one of our cars will run over someone.

B. The Applicant must lower the existing wall to meet current sight-distances that are required by the City of Santa Fé. The sight-distance requirement will enable street traffic and individuals utilizing the proposed two-car parking area to SAFELY observe vehicular traffic as it drives along Camino San Acacio and as vehicles enter and exit the parking spaces. The existing wall is approximately 4'7" high (above street elevation), and an impediment to the safe observation of traffic moving along Camino San Acacio as automobiles attempt to safely use the existing driveway at 1148 Camino San Acacio. Cars attempting to enter Camino San Acacio from the driveway must allow their automobiles to partially drive into the street before traffic can be safely observed, and this is dangerous.

C. A portion of the existing stone wall (approximately 25 feet) abutting Camino San Acacio will be replaced by a stucco-covered wall that perfectly matches the existing stucco walls that parallel the western side of my residence (and that also perfectly match the stucco covering my residence). The new stucco wall is proposed so that the end result of this new construction will be a uniformly stuccoed home with matching exterior walls.

D. The original stone wall that will remain will be lowered to an elevation of 3-feet above the street elevation to meet current sight-distance requirements, but otherwise will be the same as before the construction began.

***Staff agrees that part of the response addresses a seasonally hazardous condition that presents a hardship to the applicant.***

**(b) (iii) Strengthen the unique heterogeneous character of the City by providing a full range of design options to ensure that residents can continue to reside within the Historic Districts:**

A. I believe that the proposed construction will easily comply with the current heterogeneous character of the City because several of my neighbors both east and west of my residence have street level parking spaces that are virtually identical to what I have proposed.

*Staff agrees with this statement.*

In the main, staff believes the applicant has met the exception.

**STAFF RECOMMENDATION:**

Staff recommends approval of this application, as it complies with Section 14-5.2 (D)(9), General Design Standards (Height, Pitch, Scale and Massing), and (E), Downtown and Eastside Historic District. Staff additionally believes the applicant has met the exception to remove historic material under Section 14-5.2 (D)(1)(a).

Present and sworn was Mr. Greg Crouch, 1148 Camino San Acacio, who thought the drawings were self-explanatory. The only reason he was doing the project was for safety. The neighbor was T-boned last winter. So they were doing the parking space.

Chair Woods asked him to point out the height of the walls.

Mr. Crouch said the existing wall was about 4' 7" above the street. The retaining above that was 4' more. So it was 8'-9'. The excavated part was roughly 8.5'.

Mr. Rasch said zoning passed it and they looked at it twice.

Mr. Acton asked for the length.

Mr. Crouch said it was 25' from the curb and they were cutting into the slope about 21'.

Mr. Acton asked if he was sloping the driveway up. Mr. Crouch agreed.

Mr. Acton said sloping it about 30" more would help lessen the height of that retaining wall.

Mr. Crouch agreed and was more than happy to do it. That would reduce height by two feet.

Chair Woods liked it. She asked if he was changing the rock rip-rap.

Mr. Crouch said that was done when the house was added onto. The excess was placed in his and neighbor's front yard. It was stable and hasn't moved. The reason for the wall is to make sure it doesn't move.

Chair Woods considered it an unorthodox approach.

Mr. Crouch said it had been there for three years.

Chair Woods didn't understand how he could build that wall without taking the rip-rap out.

Mr. Crouch said the contractor agreed to move it and put it back out.

Mr. Katz asked if he could use the stone from the front wall. Mr. Crouch agreed.

Dr. Kantner asked why he couldn't just put the fill in back of the wall.

Mr. Crouch said that would be okay too. He was happy to do that or use stone out of the existing wall. He just wanted a safe place to park his car.

Mr. Rasch asked Ms. Brennan to comment.

Ms. Brennan said retaining walls were not to exceed six feet so she suggested postponing this to make sure zoning could approve it.

Chair Woods explained that whether zoning missed it or not, the retaining wall exceeds the maximum allowed by the City. So the Board needs to postpone it to make sure the applicant could get specific approval from the zoning department.

Mr. Crouch said they could excavate behind that at the maximum allowable height.

Ms. Brennan said the slope also has to be approved so it should go back to zoning to make sure.

Chair Woods said the Board could not approve something that was not appropriate.

Dr. Kantner moved to postpone Case #H-12-077 to November 13. Ms. Walker seconded the motion and it passed by unanimous voice vote.

Mr. Crouch said he would be out of the country so maybe it could be postponed until he came back.

Chair Woods agreed that could happen as well. And he didn't have to be the person that comes. She explained the strictness of zoning.

10. **Case #H-12-078 - 545 Canyon Road.** Downtown & Eastside Historic District. Elaine Bergman and Graciela Tomé, agents for Historic Santa Fé Foundation, owners, propose to reconstruct historic fence to the maximum allowable height of 8'. An exception is requested to remove historic material (Section 14-5.2 (D) (1) (a)). (David Rasch)



**SUMMARY INDEX**  
**HISTORIC DISTRICTS REVIEW BOARD**  
January 22, 2013

<b><u>ITEM</u></b>	<b><u>ACTION TAKEN</u></b>	<b><u>PAGE(S)</u></b>
Approval of Agenda	Approved as presented	1-2
Approval of Minutes January 8, 2013	Approved as amended	2
Communications	Reported	2
Findings of Fact & Conclusions of Law	Approved as amended	2-3
Business from the Floor	None	3
Action Items		
1. <u>Case #H-12-090</u> 435 San Antonio Street	Approved as recommended	3-6
2. <u>Case #H-12-077</u> 1148 Camino San Acacio	Denied	7-15
3. <u>Case #H-12-097B</u> 704 Camino Lejo	Approved with conditions	16-22
4. <u>Case #H-13-002</u> 318 Delgado Street	Downgraded status	22-23
5. <u>Case #H-13-003</u> 206 McKenzie Street	Designated Contributing	23-29
6. <u>Case #H-13-001</u> 707 Don Gaspar Avenue	Approved as recommended	29-32
Matters from the Board	Discussion	33-34
Adjournment	Adjourned at 8:00 p.m.	34



Mr. Trujillo said he lowered the carport 10 inches.

Mr. Acton looked at its relationship with shed roof and noted it was just below the fascia so it was okay.

Mr. Trujillo said from the last meeting he had tried to meet all of the Board's requirements and he thought it made especially the entry an improvement and helped the project.

Mr. Katz was still puzzled by having brick on the wall on San Antonio.

Mr. Trujillo said there was brick on the house. The client felt it should be more Territorial style. The house was more Territorial style.

Mr. Katz said on the proposed east elevation by where the cars go was a note about hidden rope light system. He asked what that was.

Mr. Trujillo said it would be hidden at the perimeter. It will just illuminate the path and not the sky. It was safety on the path at night.

Ms. Mather asked him to describe the planking. It just seemed to be straight boards of pine.

Mr. Trujillo brought samples of the wood and of the steel for the project and briefly described it.

There were no speakers from the public regarding this case.

Chair Woods asked him about changing the planking to vertical. She asked if there was any horizontal planking in that neighborhood.

Mr. Trujillo said he eliminated all horizontal planking because most in the neighborhood was vertical.

Chair Woods was concerned about the mix of pueblo elements and territorial elements.

**Ms. Walker moved to approve Case #H-12-090 per staff recommendations. Mr. Acton seconded the motion and it passed by unanimous voice vote.**

- 2. Case #H-12-077. 1148 Camino San Acacio. Downtown & Eastside Historic District. Greg and Kay Crouch, owners, propose to remove approximately 25' of stone retaining street wall and lower another section of the same wall to create two parking spaces in front of this noncontributing house. An exception is requested to remove historic material (Section 14-5.2 (D)(1)(a)). (John Murphey).**

At the request of the applicant, this portion of the meeting is transcribed in verbatim format.

CHAIR WOODS:

Our next case is 1148 Camino San Acacio. Case #H-12-077. May we have a staff report please?

MR. MURPHEY

Sitting on a rise above the road, 1148 Camino San Acacio is an approximately 1,440 sq. ft. single-story house exhibiting a vernacular interpretation of the Spanish-Pueblo Revival style. Constructed in the 1940s, the house has experienced alterations, including the introduction of a pitched roof in the 1960s. In 2010, the Board permitted the current applicant to build an addition and a portal and to remove the pitched roof (H-10-008). The house is noncontributing to the Downtown and Eastside Historic District.

The Board postponed the current case at the October 23, 2012 hearing, due to the fact that a portion of the retaining walls required safety railing, which was not included as part of the project.

In order to avoid parking on a steep driveway during the winter, the applicant proposes constructing two parking spaces at street level.

This will necessitate removing approximately 23' of stone retaining wall along the street and lowering another section of the same wall to the east, and removing a separate section of rock wall paralleling the driveway.

The existing retaining wall is made of local stone laid in irregular courses with heavy mortar joints. The wall is topped with woven wire.

Because its origin is unknown, and its design and construction appear

to be historic, the applicant requested an exception to remove sections of the wall. His answers are below.

The proposed 453 sq. ft. parking pad will require cutting into the slope. The surrounding soil will be retained by stuccoed concrete block walls, with the rear south wall reaching 6'-0" in height. And this was the problem last time. Due to code, the top of this wall will be capped – and I should specify and you should have as a condition potentially of your approval that the coyote fence will be behind the wall and not on top of it. It is a three foot high coyote fence; its poles will have irregular tops; its assembly will face toward the house.

Concrete steps will lead from the pad to the house. The required hand railing will be of a rusted wrought-iron design that you approved in the previous 2008 case.

Concrete retaining walls will continue in stepped fashion along the east side of the driveway. Similar 3' high coyote fence will be placed along the side retaining wall, where they are required.

The walls will be stuccoed with El Rey "Desert Rose," a color the Board approved for the earlier remodeling project. And a little bit confusing before was the rip-rap. It is existing and will remain along the slope where it's not affected by this project.

Staff recommends approval of this application, as it complies with Section 14-5.2 (D)(9), General Design Standards, and (E), Downtown

and Eastside Historic District. Staff additionally believes the applicant has met the exception to remove historic material under Section 14-5.2 (D)(1)(a).

CHAIR WOODS

Is there any question for staff? Can the applicant come forward please and be sworn in? Thank you.

MR. BOAZ

Good evening. Please state your name and address.

MR. CROUCH

Greg Crouch, 1148 Camino San Acacio.

MR. BOAZ

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

MR. CROUCH

I do.

CHAIR WOODS

Do you have anything you wish to add to staff's report?

MR. CROUCH

No. The last time I was here you asked that I go and meet with the City Engineer about the slope behind the retaining wall. I did. And I altered the design to meet her approval and that's kind of where we are. So I think I've done everything you would like me to do.

CHAIR WOODS

And do you have any problems setting the... as staff requested, setting the coyote fence back at least two feet as opposed to being right on top of wall?

MR. CROUCH

No.

CHAIR WOODS

Yes, Karen. Go right ahead.

MS. WALKER

Mr. Crouch, have you looked at what could possibly be a less expensive alternative method, which would be... because you mentioned your neighbor up above you has problems. Your location of parking down below won't solve his problems. When we were looking at it today during the field trip and it is north facing and obviously well today.

MR. CROUCH

Yes.

MS. WALKER

What about when he curls up the drive, paving it? Maybe your neighbor would join in the cost. And it's all done.

MR. CROUCH

My personal opinion is that over time that would be fairly expensive. And my neighbor is a great guy but he is limited financially and I'm not sure he could participate.

MS. WALKER

Well let's get to the second half of that. Why do you think it would cost more over half the time?

MR. CROUCH

Well, I brought this up some time ago and was told that the cost of that was going to be expensive to install in that the long-term maintenance and electrical issues would be expensive. So for that reason, I dropped it as an issue.

MS. WALKER

Okay. Because in that neighborhood are a lot of heated renovation driveways and one was down under brick which was quite beautiful and it has been very successful. So I just wondered if you had looked into it.

MR. CROUCH

I did and I don't think it's appropriate for this particular house.

MR. KATZ

I am concerned about the removal of historic material and feel that sometimes that needs to be done but it should be minimized. And I wondered if you had considered the possibility of rather than had two head-in parking areas, leave - on your design there - leave the wall on the right side, on the west side where it is - go up the driveway - and just have two parallel places - get rid of a little bit of the wall on the east side so it would be like a drive that you would go in and then go back out. And you would not have to go up the hill very much and you wouldn't have to remove but a smaller amount of the wall. Would that possibility be ...?

MR. CROUCH

I did consider that. You know the driveway is pretty darned steep, even beginning at the roadway and to create a driveway where I pull into existing driveway that goes up the hill and then cant east or left in this drawing I think would be fairly unwieldy.

MR. KATZ

From the photos that are in the ... our materials, and from what we looked at today, it did not seem... Yeah... and it did not seem... right there to get rid of this side of the wall...

MR. CROUCH

Right.

MR. KATZ

And just go up hill just a little bit right there and then your cars would be behind the wall and much nicer for the street and preserving the material.

MR. CROUCH

Right. I think that's a pretty steep grade and the only way for me to really make that user friendly, I'm going to have to cut an awful lot of that driveway down so that your car isn't canted at like a twenty-five or thirty degree angle when it's in the parking space.

MR. KATZ

I would presume that when you get beyond the wall there it would flatten out and then you'd go in and turn and would go up the hill a little bit to about the level of just to the right of the sign there. And that's not so high.

MR. CROUCH

Well, you've thrown me a curve here. Of course I haven't really thought about that. I will think about it. But I am concerned that it's going to be awkward.

CHAIR WOODS

Any more questions?

MR. KATZ

No. Thank you.

CHAIR WOODS

Anyone from the public wish to speak concerning this project?

[There were no speakers from the public concerning this project.]

CHAIR WOODS

What are the wishes of the Board?

MS. MATHER

Regarding Case #H-12-077, I move for approval per staff recommendations and I also cite that the applicant has met the exception criteria on pages three, four and five.

CHAIR WOODS

Is there a second?

MS. WALKER

Second.

CHAIR WOODS

Okay. Go ahead Karen.



MS. WALKER	And did you like to add that the coyote fence be two feet behind the wall? The other one on top of that.
MS. MATHER	Yes, please.
CHAIR WOODS	Anyone else? All in favor?
MS. MATHER	Aye.
MS. WALKER	Aye.
CHAIR WOODS	All opposed?
MR. KATZ	No.
MR. ACTON	No.
DR. KANTNER	No.
CHAIR WOODS	And I will... I can vote, yes. So I will vote to make it a tie from the motion. And so what does that mean?
MR. RASCH	New motion. That one died for lack of a majority.
MR. KATZ	I would move to deny the application on the basis of the fact that the applicant has not met the standards for the exception to remove historic material. I don't believe that it is necessary to remove as much historical material as his plan proposes.
CHAIR WOODS	Is there a second?
MR. ACTON	Second.
CHAIR WOODS	Any discussion? All in favor?
MR. KATZ	Aye.
MR. ACTON	Aye.

DR. KANTNER	Aye.
CHAIR WOODS	All opposed?
MS. MATHER	Opposed.
MS. WALKER	Opposed.
CHAIR WOODS	Okay. You have been denied on this one.
MR. CROUCH	May I make a statement?
CHAIR WOODS	Sure.
MR. CROUCH	Well, let me just say, the only reason I am doing this... it will be a fairly expensive proposition... is because I believe this is a serious hazard to myself and my neighbor as well as people driving up and down Camino San Acacio. Last year he T-boned a car when he lost control and skidded out of control down the driveway. And it has happened to me twice as well. And believe me I'd rather not spend the money on doing this. And I think I've complied with everything you all have asked and, because I think it is such a serious health and safety issue, I'm surprised that you are turning me down.
CHAIR WOODS	I think we can't... We can open this up for discussion if somebody would like to reconsider the motion.
MR. KATZ	I would just like to perhaps explain my vote. I appreciate your concern about the safety issue. And I, too, live on a steep driveway and I know whereof you speak. You are not helping your neighbor at all. He's still going to have the same problem. That's why I really think you should

consider the idea of hot water coils under a paved driveway. That I think would cost you less to begin with and be safer for you and your neighbor.

CHAIR WOODS

We've already voted on this and if you wish to give the applicant some direction, David, will you help him out please on where you go from here. David will speak to you after. Thank you.

MR. CROUCH

Thank you.

[This is the end of the verbatim portion of these minutes.]

3. Case #H-12-097B. 704 Camino Lejo. Historic Review District. Studio S.W. Architects, agent for The Wheelwright Museum, owners, propose to construct a 4,363 sq. ft. addition to a maximum height of approximately 26'4" and perform other site improvements. Two exceptions are requested to exceed the maximum allowable height (Section 14- 5.2(D)(9) and (D)(2)(e)) and to exceed the 50% footprint rule (Section 14-5.2(D)(2)(d)). (David Rasch)

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

**BACKGROUND & SUMMARY:**

704 Camino Lejo, known as the Wheelwright Museum of the American Indian, was designed by William Penhallow Henderson and constructed in 1937. The design of the structure was modeled after a Navajo hogan and it is distinctive within Santa Fe. Additionally, important local/regional persons, Mary Cabot Wheelwright and Hastiin Klah, a Navajo medicine man, were the institution's founders. Minor alterations, including the 1967 stairwell addition on the rear west area, have not distracted from the original historic integrity. The Museum was placed on the New Mexico State Register of Cultural Properties on October 5, 1990 and on the National Register of Historic Places on December 18, 1990. The property is listed as significant to the Historic Review Historic District.

On December 11, 2012, the HDRB postponed action pending redesign that reduces the height and massing among other details.

Now, the applicant proposes to remodel the property with the following two items.

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

ITEM # 13-0086

Case # H-12-077

Address – 1148 Camino San Acacio

Owner/Applicant's Name – Greg and Kay Crouch

Agent's Name – Greg and Kay Crouch

THIS MATTER came before the Historic Districts Review Board (Board) for hearing on January 22, 2013, upon the application (Application) of Greg and Kay Crouch, agent/owners.

Sitting on a rise above the road, 1148 Camino San Acacio is an approximately 1,440 sq. ft. single-story house exhibiting a vernacular interpretation of the Spanish-Pueblo Revival style. Constructed in the 1940s, the house has experienced alterations, including the introduction of a pitched roof in the 1960s. In 2010, the Board permitted the current applicant to build an addition and a portal and to remove the pitched roof (H-10-008). The house is noncontributing to the Downtown and Eastside Historic District.

The applicant requested a review of a project (Project) to remove approximately 25' of stone retaining street wall and lower another section of the same wall, as well as remove a stone wall parallel to the driveway, to create two parking spaces in front the house at street grade. Applicant stated in his application that "[t]he sole purpose for requesting this construction is for SAFETY. Safety for my family and for the Tafoya family (we share the driveway)." An exception was requested to remove historic material (Section 14-5.2 (D)(1)(a)). The Board postponed the case at the October 23, 2012 hearing, due to the fact that underlying code would require a portion of the proposed retaining wall to have safety railing, which was not included as part of the project application.

At the second hearing, Applicant was asked about alternatives that would not require the removal of historic material. The first alternative proposed was installing heating coils under pavement in the driveway to prevent the problem of dangerous icy conditions not only for the Applicant, but also for his neighbor behind him. Applicant said he had looked into it but was told that it would be expensive. He also acknowledged that the proposed project "will be a fairly expensive proposition." He did not present comparative costs of the extensive grading necessary for his proposal vs. paving and heating coils. A second alternative proposed was to have two parking spaces just south of the historic wall that would require removing substantially less historic material and less grading. Applicant replied that he had not considered that alternative.

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

FINDINGS OF FACT

1. Board heard testimony from Board staff and the Applicant.
2. Zoning staff has determined the Application meets underlying zoning standards.




3. Board staff presented the case.
4. Board staff recommended approval of the Application, finding it complied with Section 14-5.2 (D)(9), General Design Standards (Height, Pitch, Scale and Massing), and (E), Downtown and Eastside Historic District.
5. Board staff additionally opined that the applicant had met the exception to remove historic material under Section 14-5.2 (D)(1)(a), but noted with regard to the character of the district that "the type of street-level parking proposed is not a common treatment along the streetscape. Most houses are set above grade with parking on the side or to the rear of the dwelling. The house at 1152 Camino San Acacio presents a similar street-level parking pad, but is situated at the foot of a small slope requiring little retaining. The proposed project will change the character of the immediate streetscape. . . ."
6. Board found that when the Applicant was asked about alternatives to what was proposed in the Application that would either require the removal of no historic material and would also help solve the dangerous condition for his neighbor or would require the removal of less historic material and be less out of character with the streetscape, Applicant failed to show that either alternative would not work.
7. The Board found that Applicant failed to meet the criteria for the exception to remove historic material in that (a) either proposed alternative would be less damaging to the character of the historic district in that no comparably steep site has a deep cut for parking as Applicant's proposal requires and (b) the paving alternative would, in fact, be more likely to "prevent a hardship to the applicant or an injury to the public welfare" since Applicant's proposal does not remove the potential for hardship or danger to public welfare for his neighbor as the paving and heating coils would.
8. Property is located in the Downtown and Eastside Historic District and is subject to the requirements of the following sections of the Santa Fe Land Development Code: Section 14-5.2 (E) Downtown and Eastside Historic District.
9. Under Sections 14-5.2(A)(1)(b) and (c), 14-2.7(A)(1), and 14-2.7(A)(3), the Board has the 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.
10. 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.

#### CONCLUSIONS OF LAW

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

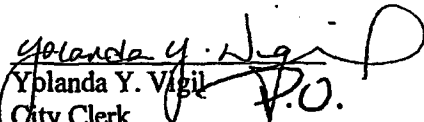
The Board finds that on the state of the record in front of it the applicant did not meet the exception to remove historic material under Section 14-5.2 (D)(1)(a). The Board additionally denies the project, finding it not in compliance with Section 14-5.2 (D)(9), General Design Standards (Height, Pitch, Scale and Massing), and (E), Downtown and Eastside Historic District.

IT IS SO ORDERED ON THIS 12<sup>th</sup> DAY OF FEBRUARY 2013 THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.

  
Sharon Woods  
Chair

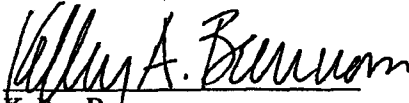
2/12/13  
Date:

FILED

  
Yolanda Y. Vigil  
City Clerk

2/15/13  
Date:

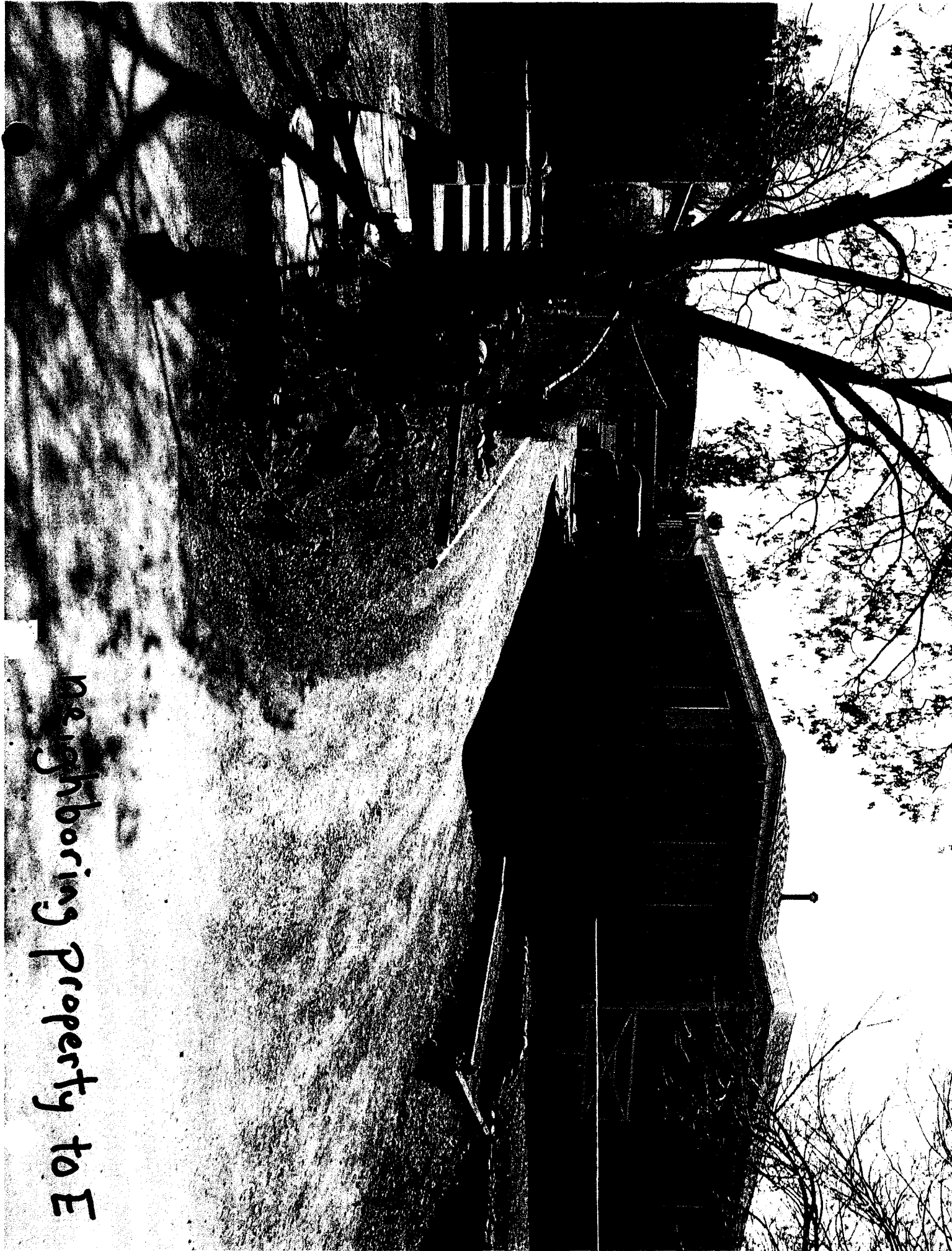
APPROVED AS TO FORM

  
Kelley Brennan  
Assistant City Attorney

2/12/13  
Date:

1148 Cam San Acacio

Exhibit "5"



Neighboring Property to E



neighboring property to W



April 8, 2013

Santa Fe City Council  
200 Lincoln Avenue  
Santa Fe, NM 87504-0909

Re: Appeal of HDRB Decision – Case # H-12-077  
1148 Camino San Acacio

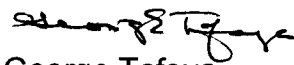
Dear Councilors:

My family owns and lives on the property next to and uphill from the property owned by Greg and Kay Crouch. The Crouch's house was once owned by my family and I care for this property greatly.

We currently share the same driveway, which is north facing and as you can imagine, can be quite slippery in winter. I have spoken with the Crouches about their proposal to build two parking spaces at street level and support their proposal, as I know it will make their lives easier and will not have any negative effect on us or the neighborhood.

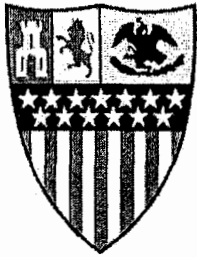
We ask that you approve the application so that Greg and Kay can carry out this project before winter time.

Sincerely,

 4-8-13  
George Tafoya



*Exhibit "6"*



**FINANCE COMMITTEE MEETING OF  
APRIL 1, 2013  
BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION  
BY MEMBERS OF THE GOVERNING BODY**

<b>Mayor David Coss</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
<b>Councilor Patti Bushee</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
	A RESOLUTION ENDORSING THE ELIMINATION OF FARES FOR CERTAIN SPECIAL EVENT TRANSIT SERVICES PROVIDED BY THE CITY OF SANTA FE AND FUNDED BY THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT ("NCRTD"), IN ACCORDANCE WITH THE NCRTD'S FARE FREE SERVICE POLICY.	Public Works – 4/22/13 Finance – 4/29/13 Council – 5/8/13
	AN ORDINANCE RELATING TO FAIR PAY FOR WOMEN; CREATING A NEW ARTICLE 28-2 SFCC 1987 TO PROHIBIT WAGE DISCRIMINATION BASED ON AN EMPLOYEE'S SEX; PROVIDING PENALTIES.	Finance – 4/29/13 Council (request to publish) – 5/8/13 Council (public hearing) – 6/12/13
<b>Councilor Chris Calvert</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
<b>Councilor Bill Dimas</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
<b>Councilor Carmichael Dominguez</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
<b>Councilor Peter Ives</b>		
	A RESOLUTION IN SUPPORT OF "A WATER CONSERVATION CAMPAIGN FOCUSING ON VOLUNTARY OUTDOOR IRRIGATION".	Public Utilities – 5/1/13 Finance – 5/20/13 Council – 5/29/13

<b>Councilor Chris Rivera</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
Calvert	A RESOLUTION PROCLAIMING SEVERE OR EXTREME DROUGHT CONDITIONS IN THE CITY OF SANTA FE AND RESTRICTING THE SALE OR USE OF FIREWORKS WITHIN THE CITY OF SANTA FE AND PROHIBITING OTHER FIRE HAZARD ACTIVITIES.	Public Safety – 4/16/13 Council – 4/24/13
<b>Councilor Ron Trujillo</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
<b>Councilor Wurzbarger</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>

Introduced legislation will be posted on the City Attorney's website, under legislative services (<http://www.santafenm.gov/index.asp?nid=320>). If you would like to review the legislation prior to that time or you would like to be a co-sponsor, please contact Melissa Byers, (505)955-6518, [mdbyers@santafenm.gov](mailto:mdbyers@santafenm.gov).