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

Case #2020-1601-HDRB
Address – 100 E Water Street
Agent’s Name – Lloyd and Associates Architects
Owner/Applicant’s Name – City of Santa Fe


BACKGROUND

100 East Water Street is a municipal parking lot with an approximately 1,350 sq. ft. pay booth, porte cochere / vehicle entry gateway, and a bathroom. The structure is designated as non-contributing to the Downtown and Eastside Historic District. The pay booth and vehicular gateways were built in the mid-to-late 1960s, and the bathroom addition was constructed around 1972, both exhibiting simplified Spanish-Pueblo Revival style.

In December of 2018, the applicant proposed demolition of the existing entry structure and bathroom addition and construction of a new, freestanding public bathroom facility near the northwest corner of the parcel. The HDRB approved the design of the new bathroom structure (case H-18-137) with minor revisions as well as partial demolition of the entry structure, limited to the non-historic portions of the building.

Now, the applicant proposes the following:
1. Construct an approximately 1,400 square foot public restroom facility with tourism information booth at the northeast corner of the parcel. The structure will feature Spanish-Pueblo Revival details, including rounded massing stuccoed to match the adjacent building, round wooden posts, vigas, and corbels, and divided light windows and doors. A large portal with low-pitch shed roof comprises the western side of the structure, surrounding the small tourist information kiosk. The restroom structure will reach a height of 16 feet at the highest massing, stepping down to 14 feet at the street frontage, and the tourism kiosk will be 12 feet high.

2. Demolish the entry structure in its entirety, including both historic and non-historic portions of the structure. Although its structural stability is adequate, the structure has minimal architectural character, and more than half of the footprint is non-historic. It contributes very little to the streetscape and has no notable historic importance.

FINDINGS OF FACT

After conducting a public hearing and having heard from the Applicant and all interested persons, the Board hereby FINDS, as follows:
1. Land Use Department Staff conducted a preliminary zoning review (PZR) and determined that the Application appears to meet the underlying zoning standards set forth in the Santa Fe City Code (SFCC).

2. Historic Preservation Division City staff reviewed the Application and related materials and information submitted by the Applicant for conformity with applicable SFCC requirements and provided the Board with a written report of its findings (Staff Report), which evaluates the factors relevant to the Application.

3. Historic Preservation Division Staff Recommendation: Staff recommends approval of the proposed project and finds that the application complies with Section 14-5.2(D) General Design Standards for all Historic Districts, and 14-5.2(E) Downtown and Eastside Design Standards.

4. The project is subject to requirements of the following sections of the SFCC:
   - Section 14-5.2(D)(9), General Design Standards, Height Pitch Scale and Massing (of any structure);
   - Section 14-5.2(D), General Design Standards; and
   - Section 14-5.2(C), Regulation of Significant and Contributing Structures in the Historic Districts.

5. The property is located in the Downtown and Eastside Historic District and is subject to Section 14-5.2(E) of the SFCC.

6. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review as herein described have been met.

   Items 1: Construction

7. Staff determined that no exception was required for approval of Item 1, and the Applicant did not request an exception.

8. Under SFCC Sections 14-2.6(C), 14-2.7(C)(2), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f), 14-5.2(C)(3)(a-b), and 14-5.2(D), the Board has authority to review, approve, with or without conditions, or deny, all or some of the Applicant’s proposed design to assure overall compliance with applicable design standards.

9. Under SFCC 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.

10. The information contained in the Application and provided in testimony and evidence establishes that all applicable design criteria have been met.

   Item 2: Demolition Request

11. City staff provided to the Board information on a structure and storage sheds under consideration for demolition, pursuant to SFCC Section 14-3.14(C).

12. There has not been a condemnation citation on this structure.

13. Under SFCC Sections 14-2.6(C)(1) and 14-5.2(A)(1), the Board has authority to review, approve, with or without conditions, or deny, all or some of the Applicant’s proposed
demolition in a historic district in accordance with the standards and procedures set out in SFCC Sections 14-3.14 and 14-5.2.

14. Under SFCC Section 14-3.14(G), in determining whether a request for demolition in a historic district should be approved or denied, the Board shall consider whether the structure is of historical importance, whether the structure is an essential part of a unique street section/block front, whether the street section/block front will be reestablished by a proposed new structure, and the state of repair and structural stability of the structure.

15. The information contained in the Application, and provided in testimony and evidence at the hearing, establishes that all applicable requirements for Board approval for demolition as herein described have been met with regard to the non-historic additions to this structure.

16. The Board finds that the as to the north historic portion of the parking kiosk and gateway, demolition should be denied because the entryway adds to the streetscape in that it defines the entrance to the parking lot, and its absence would have a negative impact on the streetscape.

CONCLUSIONS OF LAW

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

1. The Board has the authority to review and approve the Application.
2. Regarding Item 1, the Board approves the Application as recommended by Staff, subject to the following conditions:
   a. the stucco color shall be El Rey “La Luz”; and
   b. the window glass be antiqued/wavy, as originally approved in 2018.
3. Regarding Item 2, the Board approves the demolition of the south non-historic bathrooms and gateway, as recommended by Staff.
4. Regarding Item 2, the Board denies the demolition of the north historic portion of the parking kiosk and gateway.

IT IS SO ORDERED ON THIS 10th DAY OF MARCH 2020, BY THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.

Chairperson

Date:

FILED:

Yolanda Y. Vigil
City Clerk

Date:
APPROVED AS TO FORM:

__________________________________________    Date:
Gabriel A. Smith
Assistant City Attorney
City of Santa Fe
Historic Districts Review Board
Findings of Fact and Conclusions of Law

Case # 2019-1514-HDRB
Address – 127 East Santa Fe Avenue
Agent’s Name – Architectural Alliance Inc
Owner/Applicant’s Name – David and Samantha Barz

THIS MATTER came before the Historic Districts Review Board (Board) for hearing on February 25, 2020.

BACKGROUND

127 East Santa Fe Avenue is a single-family residence constructed in a simplified Craftsman Style by 1928 and listed as Significant to the Don Gaspar Area Historic District and referred to in the documentation as the “Popp House”. The home exhibits a hipped roof, brick masonry rectangular massing, dormers with painted wood shingle walls, asphalt-shingled roof, bay window at the east façade, front porch with white painted wood balustrade and turned spindle doric columns, central chimney, and one-over-one double hung windows with concrete sills and lintels. Several of the original windows have been replaced with non-historic units. A stuccoed shed-roofed addition was constructed onto the rear of the home at an unknown, presumed historic, date, and a gabled roof storage shed structure is located at the northwest corner of the property (construction presumed to be associated with the original construction of the home).

In January 2020, the HDRB reviewed the Applicant’s request to construct a new addition to the rear of the home to create an attached guest suite to accommodate adequate living space for the owner’s mother-in-law, who needs to live in close proximity to the family for health and safety reasons. The Board postponed action on the case, making several suggestions for redesign of the addition.

The new addition is designed to be sensitive and subordinate to the original massing of the home and is located at the rear of the home in an area with minimal public visibility. The major changes to the design made since the last hearing include altering the roofline from gabled to hipped in order to echo the roofline of the original home, and altering the window light pattern and sill heights to better harmonize with the windows on the original home. The scope of the project includes the following:

(1) Reconfigure the roof of the historic shed-roofed, stuccoed addition at the rear of the home, which currently houses laundry, utility, and bathroom spaces, to tie in with the proposed new addition. In the proposed design, the roof of this addition is flat, and a new five-panel door is featured at the east façade. The flat roof signals the connection between the original house and the proposed addition, helping to differentiate the structures.

(2) Construct a new 543 square foot addition to create an attached accessory dwelling unit. The Applicant requests an exception to place an addition on a primary façade of a significant structure and provided responses to the exception criteria, which were included in the staff report and exhibits for this case. The maximum height of the proposed addition is 13 ft 6 in at the top of
the shingled, hipped roof, where the original home is 20 ft 6 in high at the apex of its hipped roof massing. The addition features stuccoed massing in El Rey “Ash,” a small entry porch on the east elevation surrounded by a low stuccoed wall, single light-over-panel entry door flanked by a pair of one-over-one double hung windows, one-over-one double hung and single light awning window units elsewhere on the addition, and a skylight over the kitchen (described in the proposal letter but not depicted on the plans).

**FINDINGS OF FACT**

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

1. Land Use Department Staff conducted a preliminary zoning review (PZR) and determined that the Application appears to meet the underlying zoning standards set forth in the Santa Fe City Code (SFCC).
2. Historic Preservation Division City staff reviewed the Application and related materials and information submitted by the Applicant for conformity with applicable SFCC requirements and provided the Board with a written report of its findings (Staff Report), which evaluates the factors relevant to the Application.
3. **Historic Preservation Division Staff Recommendation:** Staff found that the Applicant had satisfied all exception criteria and recommended approval of the Application because it complies with SFCC Sections 14-5.2(D), General Design Standards for all H Districts; and 14-5.2(H), Don Gaspar Area Historic District.
4. The project is subject to requirements of the following sections of the SFCC:
   - Section 14-5.2(D)(9), General Design Standards, Height Pitch Scale and Massing (of any structure);
   - Section 14-5.2(D), General Design Standards; and
   - Section 14-5.2(C), Regulation of Significant and Contributing Structures.
5. The property is located in the Don Gaspar Area Historic District and subject to the related sections Section 14-5.2(H) of the SFCC.
6. Staff determined that an exception would be required to place an addition on a primary façade, see SFCC § 14—5.2(D)(2)(d), and the Applicant required such exception in the Application.
7. The Board affirms Staff’s findings with regard to the exception criteria and finds, based on the information presented at the hearing and in the staff report, that the Applicant has conclusively demonstrated that all exception criteria have been met.
8. Under SFCC Sections 14-2.6(C), 14-2.7(C)(2), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f), 14-5.2(C)(3)(a-b), and 14-5.2(D), the Board has authority to review, approve, with or without conditions, or deny, all or some of the Applicant’s proposed design to assure overall compliance with applicable design standards.
9. Under SFCC 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.
10. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review as herein described have been met.

11. The information contained in the Application and provided in testimony and evidence establishes that all applicable design criteria have been met, except for the limitation on additions to a primary façade, for which Appellant is being granted an exception.

CONCLUSIONS OF LAW

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

1. The Board has the authority to review and approve the Application.
2. The Board approves the Application as recommended by Staff.
3. The Board grants an exception to build an addition on a primary façade.

IT IS SO ORDERED ON THIS 10th DAY OF MARCH 2020, BY THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.

Chairperson

Date:

FILED:

Yolanda Y. Vigil
City Clerk

Date:

APPROVED AS TO FORM:

Sally A. Paez
Assistant City Attorney

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

Case # 2020-1695-HDRB
Address – 828 Camino Atalaya
Agent’s Name – Scott Wong
Owner/Applicant’s Name – Roger Griffith

THIS MATTER came before the Historic Districts Review Board (Board) for hearing on February 25, 2020.

BACKGROUND

828 Camino Atalaya is a non-statused residential structure in the Downtown and Eastside Historic District built in 1977 in a contemporary Spanish pueblo revival style. It is stuccoed in the color “Sandia,” and has simulated divided-lite windows in dark brown and natural cedar. The house has minimal visibility from the public right-of-way. Additions were made in 1996. On the property is also a free-standing 90 square foot shed, which is presumed to have been built around the same time as the house, but not before. The house is currently identified as non-statused on the city’s official map.

At this hearing, the Applicant requested a status designation.

FINDINGS OF FACT

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

1. Historic Preservation Division City staff reviewed the Application and related materials and information submitted by the Applicant for conformity with applicable Santa Fe City Code (SFCC) requirements and provided the Board with a written report of its findings (Staff Report), which evaluates the factors relevant to the Application.
2. Historic Preservation Division Staff Recommendation: Staff recommended the historic status of the structure be designated non-contributing per SFCC Section 14-5.2(C), Designation of Significant and Contributing Structures.
3. The project is, without limitation, subject to requirements of the following sections of the SFCC:
   a. Section 14-5.2(D)(9), General Design Standards, Height Pitch Scale and Massing (of any structure);
   b. Section 14-5.2(D), General Design Standards; and
   c. Section 14-5.2(C), Regulation of Significant and Contributing Structures in the Historic Districts.
4. The property is located in the Downtown and Eastside Historic District and subject to the related sections 14-5.2(E) of the SFCC.
5. Under SFCC Section 14-12.1, the definition of a “contributing structure” is “a structure, located in a historic district, approximately fifty years old or older that helps to establish and maintain the character of that historic district. Although a contributing structure is not unique in itself, it adds to the historic associations or historic architectural design qualities that are significant for a district. The contributing structure may have had minor alterations, but its integrity remains.”

6. Under SFCC Section 14-12.1, the definition of a “noncontributing structure” is a “structure, located in an H district, that is less than fifty years old or that does not exhibit sufficient historic integrity to establish and maintain the character of the H District.”

7. SFCC 14-5.2(C)(2)(a-c) gives the Board authority to review and approve “significant,” “contributing,” or “noncontributing” status designations and to designate primary façades of contributing structures.

8. The Board, in response to the application, finds the structure should be designated as noncontributing because the structure is less than fifty years old.

9. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review have been met.

CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Board acted upon the Application as follows:
1. The Board has the authority to review and approve the Application.
2. The Board grants the Applicant’s request to review historic status and designates the structure as noncontributing.

IT IS SO ORDERED ON THIS 10th DAY OF MARCH 2020, BY THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.

_________________________                     _______________________
Chairperson                      Date:

FILED:

_________________________                     _______________________
Yolanda Y. Vigil                  Date:
City Clerk

APPROVED AS TO FORM

_________________________                     _______________________
Sally A. Paez                    Date:
Assistant City Attorney
City of Santa Fe  
Historic Districts Review Board  
Findings of Fact and Conclusions of Law  

Case # 2019-1544-HDRB  
Address – 828 Camino Atalaya  
Agent’s Name – Scott Wong  
Owner/Applicant’s Name – Roger Griffith  


BACKGROUND  

828 Camino Atalaya is a residential structure located in the Downtown and Eastside Historic District. At a hearing immediately preceding this hearing (Case #2020-1695-HDRB), the Board designated the residence as a noncontributing structure.

At this hearing, the Applicant proposed following changes:
1. Extend an existing shed by about 90 square feet, raise its height by 12 inches to 9.5 ft., and add doors. The exterior will be hand-trowel applied synthetic stucco over a cementitious base in “Sandia” from the STO Southwest Color Collection. The doors will be converging pocket doors with 9-pane windows in wood and steel.
2. Construct a wooden pergola with a natural light tan stain over the shed doors with a tan brick patio beneath it.
3. Replace 7 non-historic windows on the main house with simulated divided lite Pella windows with aluminum exterior in dark brown. The window opening sizes will be moderately altered.

FINDINGS OF FACT  

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

1. Land Use Department Staff conducted a preliminary zoning review (PZR) and determined that the Application appears to meet the underlying zoning standards set forth in the Santa Fe City Code (SFCC).
2. Historic Preservation Division City staff reviewed the Application and related materials and information submitted by the Applicant for conformity with applicable SFCC requirements and provided the Board with a written report of its findings (Staff Report), which evaluates the factors relevant to the Application.
3. Historic Preservation Division Staff Recommendation: Staff recommended approval of the proposed project and found that the Application complied with SFCC Sections 14-5.2(D)(9), General Design Standards for all Historic Districts – Height, Pitch, Scale, and Massing; and 14-5.2(E), Downtown and Eastside Design Standards.
4. The project is subject to requirements of the following sections of the SFCC:
• Section 14-5.2(D)(9), General Design Standards, Height Pitch Scale and Massing (of any structure); and
• Section 14-5.2(D), General Design Standards.
5. The property is located in the Downtown and Eastside Historic District and subject to Section 14-5.2(E) of the SFCC.
6. Staff determined no exception would be required for approval of the Application, and the Applicant did not make an exception request.
7. Under SFCC Sections 14-2.6(C), 14-2.7(C)(2), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f), 14-5.2(C)(3)(a-b), and 14-5.2(D), the Board has authority to review, approve, with or without conditions, or deny, all or some of the Applicant’s proposed design to assure overall compliance with applicable design standards.
8. Under SFCC 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.
9. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review as herein described have been met.
10. The information contained in the Application and provided in testimony and evidence establishes that all applicable design criteria have been met.

CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Board acted upon the Application as follows:
  1. The Board has the authority to review and approve the Application.
  2. The Board approves the Application as recommended by Staff.

IT IS SO ORDERED ON THIS 10th DAY OF MARCH 2020, BY THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.

Chairperson

Date:

FILED:

Yolanda Y. Vigil
City Clerk

Date:

APPROVED AS TO FORM:

Sally A. Paez
Assistant City Attorney

Date:

Finding of Fact Form
Case #2020-1544-HDRB
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City of Santa Fe  
Historic Districts Review Board  
Findings of Fact and Conclusions of Law  

**Case # 2020-1660-HDRB**  
Address – 121 Lorenzo Road  
Agent’s Name – Sandra Aguilar  
Owner/Applicant’s Name – Marta Cugusi  

THIS MATTER came before the Historic Districts Review Board (Board) for hearing on February 25, 2020.  

**BACKGROUND**  

121 Lorenzo Road is comprised of a single-family residence and free-standing carport with attached studio/office. Both structures were constructed in the 1970s in the Spanish-Pueblo Revival style and are listed as non-contributing to the Downtown and Eastside Historic District. The property is set back a substantial distance from Lorenzo Road and is accessed by a private drive. There is as a result no public visibility for either structure. The Applicant proposes to remodel the free-standing studio/office structure with the following:  

(1) Construct a 306 square foot addition with 80 square foot portal to the east elevation, resulting in a total floor area for the structure (not including the carport) of 622 square feet. The maximum height above grade of the proposed addition is 13-ft, where the maximum allowable height is 13-ft 6-in and where the existing structure is 11-ft in height.  

(2) The proposed addition will feature rounded stuccoed massing in El Rey “Adobe,” undivided Bronze aluminum clad wood windows, and doors and window trim stained in Behr “Padre Brown” stain. Canales and wooden portal members shall also be stained Behr “Padre Brown.” Exterior down-lighting will be placed under the portals and overhangs, and fixtures will be Bronze in color.  

(3) Landscaping elements will continue to utilize brick and flagstone paving, and existing yardwalls will not be disturbed. The existing entry gate will be restained in Behr “Padre Brown.”  

**FINDINGS OF FACT**  

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

1. Land Use Department Staff conducted a preliminary zoning review (PZR) and determined that the Application appears to meet the underlying zoning standards set forth in the Santa Fe City Code (SFCC).  
2. Historic Preservation Division City staff reviewed the Application and related materials and information submitted by the Applicant for conformity with applicable SFCC requirements and provided the Board with a written report of its findings (Staff Report), which evaluates the factors relevant to the Application.  
3. **Historic Preservation Division Staff Recommendation:** Staff recommended approval of the proposed project and found that the application complies with SFCC Sections 14-5.2(D),
General Design Standards for all Historic Districts; and 14-5.2(E), Downtown and Eastside Design Standards.

4. The project is subject to requirements of the following sections of the SFCC:
   - Section 14-5.2(D)(9), General Design Standards, Height Pitch Scale and Massing (of any structure); and
   - Section 14-5.2(D), General Design Standards.

5. The property is located in the Downtown and Eastside Historic District and subject to the related sections Section 14-5.2(E) of the SFCC.

6. Staff determined no exception would be required for approval of the Application, and the Applicant did not make an exception request.

7. Under SFCC Sections 14-2.6(C), 14-2.7(C)(2), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f), 14-5.2(C)(3)(a-b), and 14-5.2(D), the Board has authority to review, approve, with or without conditions, or deny, all or some of the Applicant’s proposed design to assure overall compliance with applicable design standards.

8. Under SFCC 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.

9. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review have been met.

10. The information contained in the Application and provided in testimony and evidence establishes that all applicable design criteria have been met.

**CONCLUSIONS OF LAW**

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

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

2. The Board approved the Application as recommended by Staff.

**IT IS SO ORDERED ON THIS 10th DAY OF MARCH 2020, BY THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.**

Chairperson

Date:

FILED:

Yolanda Y. Vigil
City Clerk

Date:

APPROVED AS TO FORM:

Sally A. Paez
Assistant City Attorney

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

Case # 2020-1669-HDRB  
Address – 1204 Canyon Road  
Agent’s Name – Gerald Valdez  
Owner/Applicant’s Name – Josie and Fred Lucero  

THIS MATTER came before the Historic Districts Review Board ("Board") for hearing on February 25, 2020.

BACKGROUND

1204 Canyon Road is 1,024 square foot single-family residence constructed in 1964 and listed as noncontributing to the Downtown and Eastside Historic District. The footprint of the residence is a simple rectangle sited in the center of a sizable 0.34-acre lot. The residence exhibits some simplified Spanish-Pueblo Revival features, such as rounded stuccoed massing and minimal fenestration. A small portal on the north (front) elevation appears to be original to the home; however its structure has been substantially modified. A shallow rear/southern portal was a non-historic addition, and most windows and doors are non-historic replacements in a variety of finishes and light patterns. The east and west elevations are characterized by the absence of features and fenestration. A non-historic small metal shed on a concrete pad exists to the east of the residence. At this hearing, the Applicant asked the Board to review the structure’s noncontributing status.

FINDINGS OF FACT

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

1. Historic Preservation Division staff reviewed the Application and related materials and information submitted by the Applicant for conformity with applicable Santa Fe City Code (SFCC) requirements and provided the Board with a written report of its findings (Staff Report), which evaluates the factors relevant to the Application.

2. Historic Preservation Division Staff Recommendation: Staff opined that the residence displays little, if any, distinctive character, and that its integrity is insufficient to demonstrate historic significance. Staff therefore recommended that the Board retain the historic status of the structure as non-contributing per SFCC Sections 14-5.2(C), Designation of Significant and Contributing Structures; and 14-12.1, Definitions.

3. The project is, without limitation, subject to requirements of the following sections of the SFCC:
   • Section 14-5.2(D)(9), General Design Standards, Height Pitch Scale and Massing (of any structure);
   • Section 14-5.2(D), General Design Standards; and
   • Section 14-5.2(C), Regulation of Significant and Contributing Structures in the Historic Districts.
4. The property is located in the Downtown and Eastside Historic District and subject to Section 14-5.2(E) of the SFCC.

5. Under SFCC Section 14-12.1, the definition of a “contributing structure” is “a structure, located in a historic district, approximately fifty years old or older that helps to establish and maintain the character of that historic district. Although a contributing structure is not unique in itself, it adds to the historic associations or historic architectural design qualities that are significant for a district. The contributing structure may have had minor alterations, but its integrity remains.”

6. Under SFCC Section 14-12.1, the definition of a “noncontributing structure” is a “structure, located in an H district, that is less than fifty years old or that does not exhibit sufficient historic integrity to establish and maintain the character of the H District.”

7. SFCC 14-5.2(C)(2)(a-c) gives the Board authority to review and approve “significant,” “contributing,” or “noncontributing” status designations and to designate primary façades of contributing structures.

8. The Board, in response to the application, finds the structure should retain its noncontributing status because it lacks the historic integrity and character defining features necessary for a designation as contributing.

9. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review have been met.

**CONCLUSIONS OF LAW**

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

1. The Board has the authority to review and approve the Application.
2. The Board grants the Applicant’s request to review historic status and retains the existing noncontributing status.

**IT IS SO ORDERED ON THIS 10th DAY OF MARCH 2020, BY THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.**

_________________________                  __________________________
Chairperson                                      Date:

_________________________
Yolanda Y. Vigil
City Clerk

DATE:

_________________________
Sally A. Paez
Assistant City Attorney

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

Case # 2020-1662-HDRB
Address – 829 El Caminito
Owner/Applicant’s Name – Scott and Maika Wong

THIS MATTER came before the Historic Districts Review Board (Board) for hearing on February 25, 2020.

BACKGROUND

829 Caminito is a noncontributing residential structure in the Downtown and Eastside Historic District. It is a single-story house built in the international style around 1980 with very minimal visibility from the public right-of-way.

The Applicant proposes the following additions and changes:

1. Partial demolitions.
2. Additions:
   a. A closet;
   b. Enlarging a bedroom;
   c. Entry, living room, and pool portals stained dark brown with painted metal flashing and canales matching;
   d. Enclosing a carport into a 3-car garage (all heights will remain the same); and
   e. Storage and mechanical rooms.
3. New structures:
   a. A freestanding gazebo; and
   b. New Casita (new structures will be in the same color and material as the house El Rey cementitious in “Pecos”).
4. Alterations:
   a. Skylights;
   b. Solar panels, which will be shielded by parapets;
   c. Screened HVAC;
   d. Canales with metal lined wood stained brown to match the portals;
   e. Rounding of parapets; and
   f. Eyebrows to match portals stained dark brown.
5. New Windows:
   a. Pella or Sierra Pacific with clad exterior in grey or black (iron ore color).
6. New Doors:
   a. Exterior patio doors in Sierra Pacific or Pella.
7. New walls, gates and fences:
   a. A six ft. high coyote fence on the north side;
   b. A gate where the driveway splits in rusted patina steel;
   c. An wooden entry courtyard gate;
d. A side gate leading to the pool area to match the entry gate; and
e. Double coyote gates on the coyote fence.

8. Hardscaping:
a. A 4 ft. retaining wall with stone planters on the south end;
b. A stone planter on the west side; and
c. A stone firepit in front of the gazebo.

9. Exterior lighting: Sconces pendants and ceiling fixtures. Fixture selections will be presented for administrative approval at a later date.

10. Re-stuccoing in El Rey cementitious in “Pecos” color.

11. Roof replacement with TPO or torchdown brai.

FINDINGS OF FACT

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

1. Land Use Department Staff conducted a preliminary zoning review (PZR) and determined that the Application appears to meet the underlying zoning standards set forth in the Santa Fe City Code (SFCC).

2. Historic Preservation Division City staff reviewed the Application and related materials and information submitted by the Applicant for conformity with applicable SFCC requirements and provided the Board with a written report of its findings (Staff Report), which evaluates the factors relevant to the Application.

3. Historic Preservation Division Staff Recommendation: Staff recommended approval of the proposed project and found that the application complies with SFCC Sections 14-5.2(D)(9), General Design Standards for all Historic Districts – Height, Pitch, Scale, and Massing; and 14-5.2(E), Downtown and Eastside Design Standards.

4. The project is subject to requirements of the following sections of the SFCC:
   - Section 14-5.2(D)(9), General Design Standards, Height Pitch Scale and Massing (of any structure); and
   - Section 14-5.2(D), General Design Standards.

5. The property is located in the Downtown and Eastside Historic District and subject to Section 14-5.2(E) of the SFCC.

6. Staff determined no exception would be required for approval of the application, and the Applicant did not make an exception request.

7. Under SFCC Sections 14-2.6(C), 14-2.7(C)(2), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f), 14-5.2(C)(3)(a-b), and 14-5.2(D), the Board has authority to review, approve, with or without conditions, or deny, all or some of the Applicant’s proposed design to assure overall compliance with applicable design standards.

8. Under SFCC 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.

9. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review as herein described have been met.
10. The information contained in the Application and provided in testimony and evidence establishes that all applicable design criteria have been met.

CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Board acted upon the Application as follows:
1. The Board has the authority to review and approve the Application.
2. The Board approves the Application as recommended by Staff.

IT IS SO ORDERED ON THIS 10th DAY OF MARCH 2020, BY THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.

_________________________                      _______________________
Chairperson                          Date:

FILED:

_________________________                      _______________________
Yolanda Y. Vigil                      Date:
City Clerk

APPROVED AS TO FORM:

_________________________                      _______________________
Sally A. Paez                          Date:
Assistant City Attorney
City of Santa Fe
Historic Districts Review Board
Findings of Fact and Conclusions of Law

Appeal No. 2020-1644-APPL
Appellant’s Name – Guthrie Miller
Appellant’s Agent – Jeffrey Haas
Address – 509 Camino Lejo

THIS MATTER came before the City of Santa Fe (City) Historic Districts Review Board (Board) for a public hearing on February 25, 2020 (Hearing) to consider the appeal (Appeal) of Guthrie Miller (Appellant) of a decision by the City Land Use Director (Director) in Land Use Case No. 2020-1592-ADMIN to deny administrative approval of mural artwork at 509 Camino Lejo (Property).

RECORD ON APPEAL

The record on appeal (Record) includes the following documents:

1. Memorandum dated February 25, 2020, to the Members of the Board from Sally A. Paez, Assistant City Attorney, regarding the appeal (Memorandum);
2. Exhibit A, Final Action of the Director in Case No. 2020-1592-ADMIN dated January 14, 2020;
3. Exhibit B, Verified Appeal Petition filed January 24, 2020;
4. Exhibit C, Letter from City to Appellant dated January 28, 2020;
5. Exhibit D, Appellant’s First Supplement to Verified Appeal Petition filed January 28, 2020;
6. Exhibit E, Appellant’s Second Supplement to Verified Appeal Petition filed January 29, 2020; and
7. Exhibit F, City’s file for previous sign permit at 509 Camino Lejo, Permit No. 16-3078.

After conducting a public hearing, the Board hereby FINDS, as follows:

FINDINGS OF FACT

Background & Procedural History

1. 509 Camino Lejo is a private residential property located within the City’s Historic Review District.
2. This appeal concerns mural artwork on Appellant’s stuccoed wall, which is publicly visible from Old Pecos Trail, a public right of way.
3. According to Appellant, “[o]n January 5, 2020, Native American artist Remy put up on Appellant’s stucco walls graphic images of the Israeli military terrorizing Palestinian children[.]”
4. The artist applied the mural artwork to the wall using a medium of paper with starch paste glue.
5. Appellant acknowledged that the medium used for the artwork is temporary and will weather and break down over time with exposure to the elements.

6. Appellant did not seek approval from the City prior to the installation of the mural artwork.

7. On January 8, 2020, an inspector from the City’s Historic Preservation Division conducted a site visit, spoke with Appellant, and informed Appellant that the mural artwork could not remain on the wall unless Appellant obtained administrative approval from the Land Use Department.

8. Appellant came to City Hall and spoke with the Director and the Historic Preservation Division (HPD) Manager about the process for obtaining administrative approval of the mural artwork.

9. Appellant subsequently sent an email to the HPD Manager requesting administrative approval of the mural artwork. The email included hyperlinks to a website with a drone video of the mural artwork and a Santa Fe New Mexican newspaper article with photos of the mural artwork.

10. Reading the SFCC as a whole, the Director determined that the mural artwork was not "graffiti" because Appellant affirmed that he, the property owner, wished to retain the mural artwork on his private wall. See SFCC § 20-4.2(C)(1) (defining graffiti as "unauthorized painting, writing, or inscription").

11. Reading the SFCC as a whole, the Director determined that the mural artwork should be treated as a "work of art" not subject to the City’s Sign Ordinance, SFCC § 14-8.10. See SFCC § 6-1.4(C)(5) (defining "work of art" to include murals).

12. On January 14, 2020, the HPD Manager issued a letter on behalf of the Director denying administrative approval of the mural artwork.

13. The Director based the decision on a determination that the material used (paper with starch-paste glue) does not comply with the architectural design standards set forth in the City’s Historic Districts Ordinance, Santa Fe City Code (SFCC) Section 14-5.2.

14. The Director’s decision was not based on the content or the message of the mural artwork.

15. The Director ordered Appellant to remove the mural artwork within ten days.

16. Under SFCC Section 14-3.17(A)(2), an appeal of a decision of the Director may be filed for one or more of the following reasons only: (1) the Director’s final action does not comply with SFCC Chapter 14 or the Zoning Enabling Act, NMSA 1978, Sections 3-21-1 to -14; (2) the Director misapplied SFCC Chapter 14; or (3) the Director’s decision is not supported by substantial evidence.


18. In the petition, Appellant requested that the City stay enforcement of its decision pending appeal because Appellant did not have an opportunity to respond prior to the issuance of the Director’s decision.

19. On January 28, 2020, the HPD issued a letter granting Appellant’s request for a stay of enforcement pending appeal and advising Appellant that “any new mural art, banner or signage” would be “subject to review and permitting and/or enforcement action, if necessary, by the Land Use Department.”

Claim 1
20. In Claim 1, Appellant asserts that the Director erred by relying on the Historic Districts Ordinance to deny administrative approval of the mural artwork because the SFCC provisions that the Director relied on are vague and subjective and do not apply to art on a stucco wall.

21. The New Mexico Historic District and Landmark Act (Act) permits the City to create . . . a zoning district designating certain areas as historical areas . . . for the purpose of preserving, protecting and enhancing such historical areas and [to] adopt and enforce regulations and restrictions within such district relating to the erection, alteration and destruction of those exterior features of buildings and other structures subject to public view from any public street, way or other public place.” NMSA 1978, § 3-22-3 (1983).

22. In accordance with the Act, the purposes of the City's Historic Districts Ordinance are “to promote the economic, cultural, and general welfare of the people of the [City]; “to ensure the harmonious, orderly, and efficient growth and development of the [City],” and to safeguard the qualities that “preserve property values and attract tourists and residents alike,” including “a harmonious outward appearance” and a “general harmony as to style, form, color, weight, proportion, texture and material between buildings of historic design and those of more modern design.” See SFCC § 14-5.2(A)(1).

23. The City regulates murals differently depending on where the artwork is located within the City, i.e., different rules apply depending on whether the mural is located within a historic district and, for murals located within a historic district, which district.

24. The SFCC does not place limitations on mural artwork located outside the historic districts (unless the artwork constitutes graffiti).

25. The City has five different historic districts, and the SFCC Section 14-5.2(E)-(I) sets forth specific architectural design standards for each district.

26. In the City's Downtown and Eastside Historic District, the SFCC permits "mural decorations" that are located in the "protected space under portales, or in church-derived designs, [or in] inset panels in a wall under the roof, in which case the roof overhangs the panel." SFCC § 14-5.2(E).

27. In the Don Gaspar Area Historic District and the Westside-Guadalupe Historic District, the SFCC expressly permits murals as follows: "Painting of buildings with a color that causes arresting or spectacular effects or with bold repetitive patterns or using buildings as signs is prohibited. Murals, however, are permitted and may be referred to the city arts board for an advisory recommendation." SFCC § 14-5.2(H)(1)(a) (Don Gaspar); SFCC § 14-5.2(I)(1)(b) (Westside-Guadalupe).

28. In the Historic Review District and Historic Transition District, the SFCC does not expressly permit or preclude murals. But see generally SFCC § 14-5.2(F)(2)(a)(ii), SFCC § 14-5.2(G)(3)(a)(ii) (providing that the “[p]ainting of buildings with bold repetitive patterns, or using buildings as signs is prohibited”).

29. In this case, Appellant's stuccoed wall is located within the Historic Review District, and the mural artwork is publicly visible from Old Pecos Trail, a public right of way.

30. Under SFCC Section 14-5.2(F)(1)(a), an exterior alteration to a publicly visible structure within the Historic Review District is subject to review and administrative approval by the City's HPD. See SFCC § 14-12.1 (including "walls" within the definition of "structure"); see also SFCC § 14-5.2(F)(1)(b) (providing that certain types of construction in the Historic Review District, which are not relevant to this case, are subject to review and approval by the Board).
31. Under the architectural design standards for the Historic Review District set forth in SFCC § 14-5.2(F)(2)(g), “[w]alls and fences visible from the street shall be built of brick, adobe, rock, masonry, wood, coyote fencing, wrought iron, slump block, or similar materials. Walls of unstuccoed concrete block or unstuccoed concrete, chain link, metal wire, or similar materials are prohibited, except where the wall or fence is not visible from the street.”

32. Under the architectural design standards for the Historic Review District set forth in SFCC Section 14-5.2(F)(2)(a)(i), “[s]lump block, stucco, or stone shall be used as exterior wall materials.”

33. Under the architectural design standards for the Historic Review District set forth in SFCC Section 14-5.2(F)(2)(a)(ii), “[t]he color of stuccoed buildings shall predominantly be brown, tan, or local earth tones.”

34. Although the SFCC does not expressly state that stuccoed walls must be the same color as stuccoed buildings, the Historic Districts Ordinance requires “a harmonious outward appearance” and a “general harmony as to style, form, color, weight, proportion, texture and material” among structures in the district. See SFCC § 14-5.2(A)(1).

35. The material used for the mural artwork began peeling off the wall within a few days of application, resulting in a tattered appearance of the murals and a pile of debris and litter at the base of the wall.

36. The materials and colors used in the mural artwork do not meet the architectural design standards set forth in SFCC Section 14-5.2(F)(2).

37. The material and colors used in the mural artwork are disharmonious with the outward appearance of the Historic Review District and the other structures in the streetscape.

38. In evaluating this case, both the Director and the Board considered the Board’s previous decision in Case #H-19-024, in which the applicant proposed to install a mural fabricated of self-adhesive vinyl applied to aluminum composite at 207 West San Francisco Street, within the Downtown and Eastside Historic District.

39. The proposed mural in Case #H-19-024 would have been located in an inset panel under an overhang, which is a permitted location for a mural in the Downtown and Eastside Historic District.

40. On April 9, 2019, the Board held a hearing on Case #H-19-024 and decided to deny approval of the mural because the material proposed for the mural would be disharmonious with the outward appearance of the City’s Downtown and Eastside Historic District.

41. On April 23, 2019, the Board issued its final action in Case #H-19-024, and the Board’s Findings of Fact and Conclusions of Law are filed with the records of the City Clerk as Item #19-0312.

42. In considering this appeal, the Board relied solely on the architectural design standards set forth in SFCC Section 14-5.2.

Claim 2

43. Appellant’s second claim is that the Director’s decision violates Appellant’s rights, including his First Amendment rights of public expression and free speech, property rights, right not to have his art discriminated against and censored because of its content, and right to participate in the rich art heritage and messaging through art in Santa Fe.
44. In making this claim, Appellant does not identify any particular violation of the City’s Land Use Code or the Zoning Enabling Act, and the Appellant does not argue that the Director’s final action was not supported by substantial evidence.

45. In considering this appeal, the Board did not evaluate the content or subject matter of the murals, the topic discussed, or the idea or message expressed.

**CONCLUSIONS OF LAW**

Under the circumstances and based upon the record and the evidence and testimony submitted at the hearing, the Board CONCLUDES as follows:

**General**

1. The Director’s decision issued January 14, 2020, is a final action subject to appeal. See SFCC § 14-3.17(A)(1)(c).


3. Under the SFCC, the Board has authority to hear this appeal. See SFCC § 12-2.2(G) (“The governing body delegates its authority for hearing appeals of decisions of the land use director to the respective land use board as set forth in Chapter 14.”); § 14-2.6(C)(2) (providing that the Board shall “hear appeals of final actions of the land use director interpreting or applying historic district regulations”).

4. The City has the power and authority to regulate architectural design style in its historic districts to promote the economic, cultural, and general welfare of the people; to ensure harmonious development; to preserve historical areas, buildings, and building styles; and to maintain a general harmony as to style, form, color, height, proportion, texture and material between buildings of historic design and those of more modern design. See SFCC § 14-5.2(A)(1).

**Claim 1**

5. Appellant’s Claim 1 asserts a proper basis for appeal under SFCC Section 14-3.17, specifically, that the Director misapplied or misinterpreted SFCC Chapter 14.

6. The Board has the power and authority to hear and decide the issues raised in Claim 1.

7. Mural artwork on a publicly visible structure in the Historic Review District requires City approval and must be consistent with the generally applicable architectural design standards set forth in SFCC Section 14-5.2(F).

8. In this case, approval of the mural artwork should be denied because the material used in the artwork does not meet the architectural design standards for the Historic Review District, see SFCC § 14-5.2(F)(2), and is disharmonious with the outward appearance of the Historic Review District and the other structures in the streetscape, see SFCC § 14-5.2(A)(1).

9. In denying approval of the mural artwork, the Director properly interpreted and applied the provisions of Chapter 14 of the SFCC.

10. Appellant’s Claim 1 should be denied because it lacks merit.

**Claim 2**
11. Appellant’s Claim 2 should be denied because it does not assert a proper basis for appeal under SFCC Section 14-3.17.

WHEREFORE, IT IS ORDERED ON THE 10th OF MARCH 2020 BY THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE:

The decision of the Land Use Director in Case No. 2020-1592-ADMIN is affirmed, and Appeal No. 2020-1644-APPL is denied. The Board’s decision constitutes the final decision from the City on this case. See SFCC § 14-2.2(G) (“Final actions of a land use board on the appeal of a decision of the land use director shall not be heard by the governing body. That appeal shall be filed in district court.”).

________________________________________  __________________________
Chairperson                                      Date:

FILED WITH THE CITY CLERK:

________________________________________  __________________________
Yolanda Y. Vigil                                  Date:
City Clerk

APPROVED AS TO FORM:

________________________________________  __________________________
Sally A. Paez                                     Date:
Assistant City Attorney