

**City of Santa Fe
Governing Body
Findings of Fact and Conclusions of Law**

Appeal # 2024-8309-APPL

Appellant's Name – Emily Rivera

Agent's Name – Lisa Martinez, B Constructiv LLC

Address – 718 Old Santa Fe Trail

THIS MATTER came before the City of Santa Fe (City) Governing Body (Governing Body) for a public hearing on January 15, 2025, to consider the appeal of Emily Rivera (Applicant or Appellant) from the written decision of the City's Historic Districts Review Board (Board) in Case # 2024-7892-HDRB. In the Board's decision, the Board designated the historic status of three structures at 718 Old Santa Fe Trail, Santa Fe (the "Property"). The Board designated a single-story, four-unit apartment building (the "Apartments" or "Main Structure") as "significant" and designated the historic status of two additional dwelling units (the "Casitas") as "contributing". The Appellant asked the Governing Body to downgrade the designations of the structures to lower historic statuses, arguing that the structures need considerable repair and renovation and the specially protected status assigned to the structures by the Board would make renovation prohibitively expensive.

I. RECORD ON APPEAL

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

1. Memorandum dated January 10, 2025, for the January 15, 2025, Meeting of the Governing Body to the Members of the Governing Body, from Frank Ruybalid, Assistant City Attorney (Memorandum), with two decision charts;
2. Exhibit A, Verified Appeal Petition (Petition) filed May 6, 2024;
3. Exhibit B, Board Findings of Fact and Conclusions of Law for Case # 2024-7892-HDRB, approved May 14, 2024;
4. Exhibit C, relevant excerpt from Minutes of the March 12, 2024, Board meeting;
5. Exhibit D, Historic Preservation Staff Report and Exhibits for Case # 2024-7892-HDRB from the March 12, 2024, Board meeting, with exhibits:
 - (1) 1982 Historic Building Inventory
 - (2) 2007 Historic Cultural Properties Inventory
 - (3) 1996 Historic Building Inventory Resurvey
 - (4) 2024 Historic Cultural Properties Inventory
6. Exhibit E, Buildings Historic Status Map Screenshot.

II. FINDINGS OF FACT

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

A. Factual Background

1. Structures on the Property consist of a row of four apartments, two free-standing casitas,

and a shed.

2. The Property is within the City's Downtown and Eastside Historic District.
3. The Apartment units are a single-story construction, parts of which were built in the 1800s and other parts built between 1935 and 1945, with all parts being at least 50 years old and subject to the authority of the Historic Districts Review Board.
4. The apartments units are habitable and were occupied by tenants at the time of the Governing Body hearing.
5. The Casitas are single-story constructions built before 1945 and are subject to the authority of the Historic Districts Review Board, being more than 50 years old.
6. Both Casitas have been uninhabited for at least 20 years, with Casita 1 being plainly uninhabitable, having a collapsed roof, crumbling adobe, and a breached wall on the south elevation. Casita 2 appears structurally sound but has deteriorated exterior stucco which requires repair.
7. Benigno and Inez Muñiz owned the Property from 1907 through Mr. Muñiz's death in 1945, and Mrs. Muñiz continued to live on the property until her death in 1995.
8. Benigno Muñiz was a prominent member of the community in Santa Fe and had significant roles, among them Local Chief of the International Typographical Union, Editor in Chief of the Spanish-language daily newspaper *El Nuevo Mexicano*, a board member of the Santa Fe Fiesta and Spanish Colonial Arts Society, and the director of Los Villeros Alegre, a 14-piece band that played traditional Spanish folk music and traveled widely.
9. The Applicant submitted an application for a status review to the Board on February 2, 2024, seeking a status review of the Property by the Board.
10. At the time the Applicant submitted her application, the historic status of the Apartments and Casita 2 had been designated "significant," and the status of Casita 1 and the shed had not been designated, according to the official Historic Buildings Status map kept by the City in accordance with Santa Fe City Code (SFCC) Section 14-5.2, Parts (A)(3) and (C)(2)(a).

B. Procedural History

11. The Historic Preservation (HP) staff reviewed the application and related materials and information submitted by the Applicant for conformity with applicable SFCC requirements and provided the Board a written report of its findings (Staff Report), which evaluated the factors relevant to the application.
12. The HP staff recommended to the Board that the Apartments be maintained as significant, Casita 1 and the shed be designated non-contributing, and Casita 2 be downgraded to non-contributing, in accordance with SFCC Section 14-5.2(C), Regulation of Significant and Contributing Structures in the Historic Districts.
13. At a public hearing held March 12, 2024, the Board heard presentations by the HP staff and sworn testimony from the Applicant and interested members of the public.
14. At the Board meeting, the Board members and the public discussed the Property's connection to Benigno Muñiz and his descendants, the history of the Property, the reason for the deterioration of the Casitas and their present condition, and the costs of repair and renovation. The Applicant said her intention is to renovate the structures consistently with their original design.

15. At the conclusion of the hearing the Board voted to:
 - a. Maintain the status of the Apartments as significant, by a vote of 2 to 1;
 - b. Upgrade the status of Casita 1 to contributing, by a vote of 3 to 0;
 - c. Downgrade the status of Casita 2 to contributing, by a vote of 3 to 0; and
 - d. Designate the status of the shed as non-contributing, by a vote of 3 to 0.
16. On May 14, 2024, the Board adopted written Findings of Fact and Conclusions of Law reflecting its decisions regarding the statuses of the four structures.
17. As reflected in the Findings of Fact and Conclusions of Law adopted by the Board, the Board's decision about the statuses of the structures was based on the following findings:
 - a. The Main Structure (the Apartments) meets the definition of a "significant structure," because the evidence is that no plainly visible alterations to it have occurred since the 1940s, it maintains a high level of historic integrity, and it was owned and occupied for decades and further developed by the long-standing editor of an influential Spanish-language newspaper;
 - b. Casita 1 meets the definition of a "contributing structure," for its high level of historic integrity. The Board found that the north façade of Casita 1 is the principal elevation of the building with features that define the character of the building's architecture;
 - c. Casita 2 meets the definition of a "contributing structure," for its high level of historic integrity. The Board found that the north façade of Casita 2 is the principal elevation of the building with features that define the character of the building's architecture.
 - d. The tool shed adjacent to Casita 1 meets the definition of a "non-contributing structure," for there is no evidence that it is 50 years old or older or that it helps to establish and maintain the character of the Historic District.
18. The Board's decision was based on the following provisions of the Historic Districts Ordinance:
 - (a) SFCC Section 14-5.2(C)(2)(b)(i), which reads that the Historic Districts Review Board is authorized to change the status of a structure or to designate a status for a structure with no status designated.
 - (b) SFCC Section 14-5.2(C)(2)(b)(ii), which reads that change in status or the designation of a status shall be based upon an evaluation of data provided through survey or other relevant sources of information and the definitions of "significant," "contributing" or "non-contributing."
 - (c) The definitions, found in SFCC Section 14-12, as follows:
 - i. "Significant structure," which is, "[A] structure located in a historic district that is approximately 50 years old or older, and that embodies distinctive characteristics of a type, period or method of construction. For a structure to be designated as significant, it must retain a high level of historic integrity. A structure may be designated as significant:
 - A. for its association with events or persons that are important on a local, regional, national or global level; or
 - B. if it is listed on or is eligible to be listed on the State Register of Cultural Properties or the National Register of Historic Places."
 - ii. "Contributing structure," which is, "[A] structure, located in a Historic District, approximately 50 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.”

- iii. “Non-contributing structure,” which is, “[A] structure, located in a Historic District, that is less than 50 years old or that does not exhibit sufficient historic integrity to establish and maintain the character of the Historic District.”

C. Appeal to Governing Body

19. Under SFCC Section 14-3.17(A)(1)(b), final actions of a Land Use Board include a written decision made after a public hearing.
20. On May 6, 2024, Appellant timely filed a Verified Appeal Petition, asking the Governing Body to review the decision of the Board and downgrade the historic statuses of the structure on the Property.
21. In the Verified Appeal Petition, the Appellant argued that:
 - a. The Application was not complete, consistent with SFCC Section 14-3.1(G), because HDRB did not have floorplans or elevations needed for a complete and informed historic status review.
 - b. The HP Staff and HDRB did not define or discuss the public visibility of façades for each of the four structures in the Application and whether the assigned statuses support the public good interest and harmonious appearance of the Historic Districts, as required by SFCC Section 14-5.2(A)(1).
 - c. The Staff and HDRB did not identify the character-defining features of the façades and did not assess the doors and windows or other character defining features.
 - d. In discussing and voting on the historic statuses, the HDRB did not follow the advice and recommendations of the City’s Staff or the professional consultant who completed the 2024 Historic Property Inventory.
 - e. In deciding the historic status of the structures at 718 Old Santa Fe Trail, the HDRB assumed that the three residential structures in the application comprise a historic compound, and this assumption is contrary to SFCC Section 14-5.2(K), Historic Compounds.
22. SFCC Section 14-3.17(A)(2) sets forth the valid grounds for an appeal of a Board decision and provides that an appeal may be filed for one or more of the following reasons only: (1) the Board’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 Board misapplied SFCC Chapter 14; or (3) the Board’s decision is not supported by substantial evidence.
23. As required by SFCC Section 14-3.17(D)(6), the City Land Use Director reviewed the Verified Appeal Petition for conformity with the requirements of SFCC Section 14-3.17 and determined that the Appeal conformed to the requirements.
24. The Governing Body appeal hearing was scheduled for January 15, 2025, and the Appellant provided notice of the Governing Body hearing in accordance with the notice provisions of SFCC Section 14-3.1(H)(4).

25. Under SFCC Section 14-2.2(F), the Governing Body conducts a de novo hearing on an appeal of a final action of a land use board.
26. The Appellant appeared in person at the hearing and was represented by Lisa Martinez, B Constructiv LLC.
27. During the hearing, the Governing Body received a presentation by an Assistant City Attorney, presentations by Agent Lisa Martinez and Appellant Emily Rivera, and comments from City Land Use Planner and HP staff member Paul Duran.
28. During the hearing, the Governing Body opened the floor and heard comments by five members of the public.
29. During the hearing, City Councilors asked questions of the Applicant and her Agent and the City staff, who provided additional information.
30. The Appellant did not appeal the non-contributing status designation of the shed on the Property, and the Governing Body did not review or reconsider that status.

III. FINDINGS OF FACT

After conducting a public hearing and reviewing the record, and having heard from the Applicant, her Agent and all interested persons, the Governing Body hereby FINDS, as follows:

1. Substantial evidence in the record supports the Historic Districts Review Board's finding that the Apartments on the property fulfill the definition of "significant structure".
2. The Casitas are in substantial disrepair and are uninhabitable in their present condition.
3. In the March 12, 2024, Historic Districts Review Board hearing on this property, the City's Historic Preservation Staff recommended that the Casitas be designated non-contributing.
4. The Historic Districts Code restricts alterations to contributing structures and imposes additional restrictions on the primary façades of contributing structures.

IV. CONCLUSIONS OF LAW

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

1. The Governing Body has the power and authority to hear and decide the matter that is the subject of the Appeal.
2. The Board's written decision adopted May 14, 2024, was a final action subject to appeal.
3. The Appellant timely appealed The Board's decision to the Governing Body and complied with the procedural requirements set forth in the SFCC.
4. This Appeal should be denied in part because the status of the Apartments meets the definition of "significant structure," as determined by the Historic Districts Review Board.
5. This Appeal should be granted in part because the status of Casita 1 and Casita 2 meet the definition of "non-contributing structure," contrary to the determination by the Historic Districts Review Board.

V. VOTE AT THE HEARING

1. With respect to the Apartments, the Governing Body voted to deny the appeal and to uphold the Board’s final action, with a vote of eight (8) in the affirmative and one (1), Councilor Pilar Faulkner, in the negative Councilor
2. With respect to Casita 1 and Casita 2, the Governing Body voted unanimously to grant the appeal and downgrade the historic status of the Casitas to non-contributing, contrary to the Board’s final action, with a vote of none (9) in the affirmative and none (0) in the negative.

WHEREFORE, IT IS ORDERED ON THE 26TH OF FEBRUARY, 2025, BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Considering the foregoing findings and conclusions, the Governing Body:

1. DENIES the appeal with respect to the Apartments at 718 Old Santa Fe Trail, upholds the Board’s decision, and denies the application.
2. GRANTS the appeal with respect to Casita 1 and Casita 2 at 718 Old Santa Fe Trail, downgrades the historic status of the Casitas to non-contributing, contrary to the Board’s decision, and grants the application.

Alan M. Webber
Mayor


Date

FILED WITH THE CITY CLERK:

Andréa Salazar
City Clerk

Date

APPROVED AS TO FORM:



Erin K. McSherry
City Attorney

Feb 21, 2025

Date