



CITY OF SANTA FE

VERIFIED APPEAL PETITION PLUD-17

EXHIBIT A

APPELLANT INFORMATION

Name	Miriam Leth-Espensen		
Address:	614 Paseo de Peralta		
Street Address			Suite/Unit #
Santa Fe	NM		87501
City	State		ZIP Code
Phone	505 918 8810	Email Address	miriamsf@mac.com
Additional Appellant Names			
Correspondence Directed to	Owner ☒	Applicant ☒	Both ☒

APPLICANT/AGENT INFORMATION (IF DIFFERENT FROM OWNER)

Company Name:			
Name (First, Last):	Stefanie Beninato		
Address:	PO Box 1601		
Street Address			Suite/Unit #
Santa Fe	NM		87504
City	State		ZIP Code
Phone:	505 988 8022	E-mail Address:	info@nmmediate.com

AGENT AUTHORIZATION (IF APPLICABLE)

I am/we are the owner(s) and record title holder(s) of the property located at: 614 Paseo de Peralta Santa Fe 87501	
Miriam Leth-Espensen	
I/we authorize Stefanie Beninato to act as my/our agent to execute this application.	
Signed: <i>M. Leth-Espensen</i>	Date: 11/24/25
Signed:	Date:

SUBJECT OF APPEAL

Project Name:	614 Paseo de Peralta HDRB 24-009478	
Applicant or Owner Name:	Stefanie Beninato	
Location of Subject Site:	614 Paseo de Peralta	
Case Number:	HDRB 24-009478	Permit Number (if applicable):
Final Action Appealed:	Issuance of Building Permit	Other Final Determination of LUD Director
Final Action of Board or Commission:	Planning Commission	BCD-DRC
	Board of Adjustment	☒ Historic District Review Board

Two originals of this form must be filed. The Land Use Department Director or their designee will enter the date and time of receipt and initial both original copies. See Section 14-3.17(D) SFCC 2001 for the procedure.

LAND USE STAFF ONLY

Time Filed:	10:17 am	Fee Paid:	\$ 200.00	Receipt Attached
Date Filed:	1/28/2025	Staff Signature:	<i>[Signature]</i>	



BASIS OF STANDING (SECTION 14-3.17 SFCC)

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

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

Denial of exception for fence at 614 Paseo de Peralta made by HDRB on 10 December 2024

HDRB 24009478

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

A. DESCRIPTION OF HARM Describe the harm that would result to you from the action appealed (attach additional pages if necessary):

See attached

11 pg Attachment

B. EXPLAIN THE BASIS FOR APPEAL Please detail the basis for Appeal here (be specific):

See attached

11 pg Attachment

SIGNATURE & 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:

M. Leah Espensen

Date:

1/24/25

Agent Signature:

Stefanie Beninato

Date:

1/24/25

I/We **M. Leah Espensen + Stefanie Beninato** 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.

X Appellant/s

Signature

Print Name

Agent

Signature

Print Name

Subscribed and shown to before me this **24** day of **JANUARY**, 20**25**

NOTARY PUBLIC

My commission expires:

4.18.2027

**State of New Mexico
Notary Public
Sylvia Mariscal**

**Commission Number 1097458
Expiration Date 04/18/2027**

Attachment
to Appeal
Tom

APPEAL TO GB from HDRB 24-009478

614 Paseo de Peralta

1/11

HARM

1 Severe impairment of physical safety and security, loss of peaceful enjoyment of her property, loss of reasonable use of the yard on her property due to periodic trespasses, vandalism and break in. Increased stress. The owner was in the house when the break in occurred.

2 Economic Devaluation of property due to periodic trespasses and vandalism

3 Aesthetic harm: The insistence of the Board that some other type of fencing than coyote fencing should be used despite the fact that coyote fencing has been on the property for decades. Having two types of fencing meeting is aesthetically incongruous and produces disharmony in the owner who has a highly developed aesthetic/artist sense and values. It devalues the property to have two inconsistent fencing types meet on the same property.

4 Emotional distress: The need to go to court to defend against a misdemeanor concerning the fence filed in city court. The case has been ongoing for 18 months in large part due to no planner being assigned to the case and the city apparently losing the application submitted by Paul Duran, city LUD employee on 1 March 2024. My client believes there are very few cases in which the city engages in this type of criminal action. For example, 803 Agua Fria built a coyote fence to 6 ft on a significant house without permission. The owners got redtagged and came to the Board. The HDRB allowed this fence with certain conditions. Eight months later, the owners have not met the conditions (lower fence slightly, put cross bracing on the inside), but the city is not in court with them on noncompliance.

5 Economic harm the cost of the construction of the fence (\$2800) and the potential cost of its removal

6 Lack of equal protection— the HDRB stated that it allowed the owners of 803 Agua Fria and Girls Inc to have higher fences based solely on claims of safety yet denied similar action in this case while acknowledging the precedent the Board set in the other two cases. Girls Inc is within the streetscape of 614 Paseo de Peralta. See Basis for Appeal Unequal Treatment/Protection

7 The cost of an exception in front of HDRB when it seems that perhaps none was needed See Wall and Fence Guidelines: Board can grant an additional 20 percent of height beyond what it is allowed to grant in a historic district) “Wall heights should be carefully regulated by HDRB standards ...and should be restricted so as not to increase the allowable height for the streetscape by more than 20 percent”) \$550 was for the HDRB application and exception request with additional representative fees.) And the cost of this appeal (\$200).

8 Due Process/Equal Protection We have only an action letter from the HDRB but no adoption of findings and conclusions within 49 days of the oral decision. We are operating with a limited capacity to respond in accordance with the deadline that creates a disadvantage (14-3.17C4b) for the owner in creating a legally adequate record on which to base a further appeal if necessary. This type of legal harm has safety and economic effects. We are using the reasons given in the

APPEAL TO GB from HDRB 24-009478 614 Paseo de Peralta 2/11

city's response to 614 Paseo de Peralta's application for an exception. The Motion adopted the reasons set forth in the staff report to deny.

BASES FOR APPEAL

The owner requested a height variance on a fence to 5 ft 8 Inches when the HDRB can grant 4 ft 6 inches. The HDRB decision to deny the exception was arbitrary, capricious not based on law or fact and produced unequal protection. The HDRB denial was based on lack of fenestration, height and materials adopting the reasons in the staff's report which stated it was deleterious to the larger downtown/eastside streetscape; to the more immediate streetscape; and that it may potentially impact the character of the house. YouTube 2:39

I General Objection

1. FENCING MATERIAL

1A The decision was based on speculation and violates 14-5.2 C1a and violates HDRB policy of requiring consistent fencing/walls on an individual property; it ignores the existence of coyote fencing in the larger Downtown Eastside historic district as well as within this smaller streetscape. There is no law, and none was cited, that prohibits the construction of the fence because it will impact the "overall character" of the residence/business at 614 Paseo de Peralta.

II REPLY To CITY GROUNDS IN STAFF REPORT USED AS BASIS FOR HDRB DECISION

2A. RESPONSE TO CRITERIA ONE The streetscape has a variety of fences and walls within the streetscape as defined within the HDR ordinance. The staff ignored the existence of coyote fencing that has been on the subject property on Castillo Place for decades and coyote fencing in the streetscape directly across the street between a privately owned property and the Cross of the Martyrs, as well at Girls Inc which is within the streetscape. Moreover, there is several examples of coyote fencing within that square block. Obviously the Downtown/Eastside district allows coyote fencing as an approved fencing type in this district. (See Photos: Streetscape Looking East (7/24 City Docs) p 5/9 Staff Report Street; p15/21 HDRB Application; and Girls Inc and Otero/Castillo Place photos submitted with this Appeal.)

2B The Board and staff did not follow the definition of streetscape under the Historic code which includes both sides of the street and for 300 ft within either direction. Given those parameters, there are 10 and 8 ft masonry walls at street level (Photo p15/21 HDRB Application); a visible coyote fence that divides the Cross of the Martyrs from the adjoining property Streetscape Looking East (7/24 City Docs) ; Girls Inc coyote fencing; coyote fencing on the Castillo Pl side of this property (p2/24 City Docs) and a house wall at the sidewalk (zero lot line) on the adjoining property to 614 paseo de Peralta (Photo p15/21 ibid). The definition of Streetscape (14-12 Definitions) is "The visual character of a street or section of a street as defined by topography; the pattern of structures and open space ; building and wall setbacks; street design; architectural design; and heights, widths and proportions of structures , fixtures and graphics."

2C It does not make exceptions for changes in zoning or in topography. The staff acknowledged the existence of these taller walls and completely omitted consideration of Girls Inc fences which

are clearly in the streetscape. Staff's justification was that Girls Inc "is part of the Hillside streetscape and is part of a different zone district...". It is clearly in two streetscapes since it sits at an intersection. The staff report does not address the house wall at the street or the impact of these high masonry walls on the streetscape or Girls Inc when it stated that the coyote fencing was "deleterious" to this immediate streetscape.(YouTube 3:39)

2D Even if there is an intersection where Girls Inc is located, the 14-5.2-2 indicates "If the streetscape is truncated by an intersecting block or a visual intrusion (such as a curve or turn in the streetscape) before the six hundred (600) feet is measured, the streetscape shall include all buildings , yard walls , or fences up to and including those which front the intersection or intrusion." That definition clearly includes Girls Inc. and all the properties on the north side of the street. The staff stated you could not see Girls Inc from the subject property—that is an untrue statement of fact. See photos Photo Streetscape Looking East (7/24 City Docs) and 14/21 HDRB App). We are attaching additional photos especially of how the exception for the 6 ft coyote fencing at Girls Inc granted by the HBoard is clearly within the streetscape and the fences' overwhelming dominance. See unequal protection below

2E The Board has a precedent of requiring fencing or wall materials to be consistent on the same property. The Board ignored the existence of similar coyote fencing noted on the 2003 survey submitted as Existing and Proposed Site Plan in HDRB Application p16/21 which references an earlier survey as well as photos of the fencing from years prior that the staff produced in City Documents pg 2/34 even though staff stated there were no earlier cases. The existing coyote fencing apparently went unnoticed by the two members who came on the field trip.

2F The HDRB and its staff and the complainant all speculated on the existence of a white picket fence at this home based on its architectural type—not based on historical accuracy (real evidence). In fact, the staff contradicted itself by saying there was no evidence of any fencing on E Marcy and maybe in this area. (YouTube 2:44) Attached Otero/Castillo Place Photos show several examples of coyote fencing in the square block in which the subject property is located.

2G The staff is relying on a very poor quality photo from a 1985 HPIC to determine the fencing on the property. (p4/9 Staff Report) It is not at all clear what type of fencing and how tall it might be etc. Additionally, staff said the porch was open in 1985 but in my professional opinion, it looks like the porch is enclosed on one side by 1985—the HIPC describes it as "recessed in the building volume" before the current owner took possession (1/34 City Docs). Although complainant Mann testified to the existence of a city report on white picket fencing in this area, (YouTube 3:31) the city never produced any such report for this case.

2H The ordinance prohibits conjecture and speculation: 14-5.2C1a Each structure to be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as the addition of conjectural features or architectural elements from other buildings, shall not be undertaken."

2I Coyote fencing is an appropriate fencing within the Downtown Eastside Historic district and is traditionally found on properties with adobe structures. The statement that this type of fencing is “deleterious to the larger streetscape of the Downtown Eastside” (YouTube 2:39) would be laughable if it were not so grossly incompetent or biased. Despite the sloped roof and non-portal type of porch, this structure is adobe and thus, coyote fencing is historically appropriate. See also Otero/Castillo Pl Photos.

According to the owner, the Antons who built the structure purchased a Sears home plan but used their own materials because they could not afford the kit—only the plan. It should be noted that the 1912 King’s Map does not show the current structure or the Antons as owners in that area despite complainant Mann’s testimony to Anton ownership prior to 1912. The 1957 aerial shows Hillside all but disappearing at the curve where the property is located as if Hillside became a one land dirt road. (both on p 8 Staff Report) The establishment of Paseo de Peralta in the 1960s was government action that changed the intensity of use and the width of the street to some extent.

3 REPLY TO CITY RESPONSE TO CRITERION ii

3A Although owner acknowledges that the goals of the HDRB are partially correct, Ord 14-5.2A states in its first sentence: “In order to promote the economic, cultural, and general welfare of the people of the city and to ensure the harmonious, orderly and efficient growth and development of the city , it is deemed essential by the governing body that the qualities relating to the history of Santa Fe, and a harmonious outward appearance, which preserve property values and attract tourists and residents alike...”. It then goes on to focus on buildings and the harmony between historic and newer buildings.

3B Staff’s reasons are not based on law or fact. The statement that coyote fencing “threatens the historic status of the building” is conclusory and is unsupported by law or fact. The Guidelines for Walls and Fences says a fence or wall will not be connected to a significant structure (p2). It is clear from the discussion and Plan submitted, that the fence does not touch the primary façade of the contributing structure which is prohibited in 14-5.2D2c concerning additions to contributing structures. It is set back 10 ft from the primary façade on the W side and does not touch the house See 14-5.2D2d. It should also be noted that the height chart in the Wall and Fence Guidelines (14.70.20 SFCC 1987 does not exist.

3C We can see from Photo Streetscape Looking East (7/24 City Docs) that there is a variety of fencing/wall types in the area, and the coyote fencing on the subject property is not at all disruptive given the fencing/walls directly across the street and the variety of fencing within the designated streetscape. Additionally, according to Member Bienvenu, the exception for 6 ft high fencing on top of retaining walls at Girls Inc will “literally tower over the streetscape.” (YouTube 3:31) The Girls Inc fencing is the disruption in the streetscape—not this shorter fencing which is of very little length compared to the fencing at Girls Inc. See Equal Treatment/Protection below. See additional photos with this Appeal.

4 REPLY TO CITY RESPONSE CRITERION iii

4A The staff completely ignored two other cases (803 Agua Fria and Girls Inc) where, as pointed out by Member Bienvenu the Board granted height exceptions based solely on safety and which Member Bienvenu said set precedent for this case. YouTube 3:21-3:24 He found the subject property to be unique for a variety of reasons as he stated. However, he never addressed why the Board should treat this property differently from Girls Inc which did no redesign or at 803 Agua Fria where he himself redesigned the fence by imposing conditions lowering the height, staggering top of fence and reversing the cross bracing. See Unequal Treatment/Protection Procedural Due Process below

4B The applicant has clearly stated her concerns for her personal safety and her inability to peacefully enjoy her property before the fencing was in place. The owner is the only owner who continues to live and work on the property. The other properties that were in this zone post 1960 and now part of the BCD are all investment properties—none of the owners occupy these buildings let alone run a business from the location. As stated in Applicant response iii, the owner is and has been a full-time resident at the address since 1988 and in order to continue to reside there safely needs to raise the fence to its current built height. There have been several 911 calls and a break in at the residence which is located in close proximity to two parks—the Cross of the Martyrs and the Tommy Macione Park, the latter park’s proximity used as a justification by Girls Inc for needing the safety of higher fences. The entrance to the Cross of the Martyrs is directly across from the subject property. See Affidavit of Miriam Leth-Espensen Attached

4C The Board usually favors those using the rationale of aging in place as part of the exception criteria, but here where someone is literally wanting to maintain her current residence and business safely on a property that she has owned and occupied for over 37 years suddenly aging in place is not a value regarded by the Board.

4D The staff does not take into account that the owner’s property is a shortcut from a parking lot on Otero with a walkway into Castillo Place. Her property is directly across from the stairs at the Cross of the Martyrs. This parking area and walkway were established to accommodate the 21 rooms on the Inn of the Paseo a couple of lots down from the subject property in the late 1990s/early 21st century.

4E The owner bought a gun after the breakin and went to be trained at a gun range. The instructor advised her to get rid of the gun because she was never going to fire it at someone. (Apparently she had excellent aim when the gun had no ammo but when it was actually loaded, she shot wild) Motion detectors do not prevent trespass—they only make you get up to see what activated them. Alarms means someone is already in your home. Neither really assure peaceful enjoyment of the property or personal safety and security. The owner has not made a 911 call since the fencing went up in August 2023.

5 REPLY TO CITY RESPONSE CRITERION iv

5A It is untrue that this lot is not unique. It is at the most severe part of the curve in that streetscape. It factually untrue that it has the same setbacks as the other three structures to the

east. It only has a 5.5 ft setback from the bedroom. At 618 Paseo de Peralta next door, the setback is closer to 8 ft and there is a deep porch that runs the length of the building on the street side. The next building east is approximately 10 ft back and also has a porch that runs the length of the building on that side.

5B The structure to the west is of a different historic style and seemingly was on the 1912 Kings Map (p 8/9 Staff report) and is now directly next to the sidewalk. It is impossible to know the setback of this structure before Paseo de Peralta was completely formed and before a sidewalk was put in on the south side of the street. See also 4D re location across from the entry to the Cross of the Martyrs. See YouTube 3:20-3:22 where Bienvenu lays out some of the unique characteristics of the property.

5C Whether other owners of these properties could decide to live-work in these structures is irrelevant to the issues on this property at this time. “Each structure to be recognized as a physical record of its time, place, and use. See 14-5.21a. Again staff is speculating on future possible uses by possible owners of other properties.

5D The maps used as exhibits by the city are unhelpful. The 1912 King’s Map does not show the current structure or the Antons as owners in that area. The 1957 aerial shows Hillside all but disappearing at the curve where subject property is located as if it became a one-lane dirt road.(p 8/9 City Report)

6 REPLY TO CITY RESPONSE CRITERION v

6A The staff ignores the fact that the owner was advised by Fabian Nava, an alleged licensed contractor that she did not need a permit if the fence was under 6 ft. It is a false and defamatory accusation that the owner brought it upon herself by ignoring the permit requirements. See Owner email to city staff p 20/21 HDRB Application. Despite Ms Lamboy’s attempt to defame the owner, the owner in August 2023 met with the Ramon Saracon, who shortly after ended his employment with the city, The city issued a red tag in January 2024 and then a citation in February 2024. The owner met with Paul Duran on 1 March 2024 with the materials for an application. Despite Lamboy’s characterization of Paul “just scanning documents”, the email thread shows the owner applied for an exception to the HDRB with the help of Paul Duran on 1 March 2024. See p 29/34 City Docs). No one advised her upon receipt of the application that it was incomplete because it lacked the Preliminary Zoning Review (PZR). Ms Lamboy simply says she contacted the attorney who came to an August 2023 meeting with Ramon Saracon and other LUD staff (p20/34 City Docs). She knew or should have known that this attorney no longer represented the owner. There is no correspondence from Saracon or any report on picket fencing in the record. P Duran told the owner that she would be contacted when a new planner was assigned. See Unequal Treatment and Bias/Prejudice below. See Robert Kohn Affidavit.

6B The streetscape includes a house wall of over 10 feet in height on the property next door as well as retaining walls that are 8-10 ft high at the intersection of Otero and Paseo de Peralta so there clearly are walls that far exceed the height of this fence in the streetscape. (Photos p 11/21 HDRB Application and p 6/34 City Docs)

6C The part of the response “All residents may consider responsible and code compliant safety measures to secure their homes and businesses. The applicant should be held to the same

standard as all other structures in the streetscape,” shows the staff ignored the exception given to Girls Inc for six-foot coyote fencing on retaining walls thus visually presents a 8-9 ft wall/fence and that was not denied for the reasons staff gave in this Response. See above re: HDRB granting exceptions to height on fencing to both Girls Inc and 803 Agua Fria based solely on safety. YouTube 3:20-3:24 See Unequal Treatment/Protection below

7 REPLY TO CITY RESPONSE TO CRITERION vi

7A The staff again denigrates the intention of the owner by stating that somehow she and her contractor “want to set the rules for permitting”. The owner relied on the misrepresentation of the contractor. She has been trying to make it right ever since but is being pushed (Application Packet p 20/21 HDRB Application) to undertake to remove fencing and replace it with inconsistent fencing based on the staff’s, the adjoining owner’s or Board members’ architectural preferences-not on historical documentation-- that will not give her the level of safety she needs and that has been afforded girls attending Girls Inc. for a few hours during the week. The statement that the fence produces a negative impact on the streetscape is conclusory and subjective. As stated above, it is the newly built fences at Girls Inc that are overwhelming dominant and intrusive on the streetscape See Photos attached and Member Bienvenu’s remark that these fences recently approved by the Board solely based on safety were going “to tower over the streetscape.” YouTube 3:20-3:21 See above.

III BASIS FOR APPEAL UNEQUAL TREATMENT/PROTECTION

IIIA The HDRB granted exceptions to height for both Girls Inc and 803 Agua Fria based solely on safety. In the latter case, the HBoard allowed the owners to keep the coyote fencing next to the significant structure even though rock walls were typical in this area and a detail of the house’s columns. In both of these cases, owners justified the need because “someone looked in our bedroom windows” (803 Agua Fria) or fear of potential threats of pedophilia or other crimes from those in Tommy Maccione Park or possible domestic violence. The owner of the subject property had trespass and vandalism routinely on the property and has had to call 911 on a periodic basis. She has two nearby parks: The Cross of the Martyrs and Tommy Maccione Park near her home. Member Bienvenu stated that “personal aesthetic choices had to give way to safety”. He also stated that he felt the Board had set a precedent with Girls Inc and 803 Agua Fria by granting height exceptions solely for safety reasons. He also remarked he did “not think there was a good design solution” [at 614 Paseo de Peralta] [given safety considerations] and insisted in his motion that the owner should reconsider the use of the materials [coyote fencing] and height while requiring no redesign for Girls Inc six-foot coyote fencing. (YouTube 3:20-3:24) After Raymond Mann’s public testimony that was based on his personal preferences, hearsay, speculation unsupported by fact or law or irrelevant (I personally do not think coyote fencing should face the street”; “My son and I lived at 618 Paseo for ten years [in the 1990s]”), (YouTube3:30-34) Bienvenu changed his mind and decided it was not appropriate to design the fence “on the fly”. He gave no reason for ignoring what he described as the unique conditions of this property and the need for safety when he made the motion to deny the exception. Member Bienvenu redesigned the coyote fencing design on the significant structure at 803 Agua Fria by conditioning approval to height, fenestration and bracing of the fence.

IIIB When the staff says the owner did not propose an alternative design that was true in discussions with the staff who apparently kept pushing for total removal of the fence and its replacement with white picket fences—resulting in two inconsistent style fences on the same property. Again this objection seems based on the staff’s opinion that white picket fencing is more appropriate without any facts based on historical documentation to support that opinion. See above re prohibition on speculation and policy of consistent fences on same property. Even Member Bienvenu wanted the owner to consider a white picket fence because it “was architecturally appropriate even if not historic” YouTube 3:20 See 14-5.2 C1a

C This staff reason for denial also ignores the fact that at the HDRB meeting on 10 Dec 2024, the owner offered to reduce the height between 2 and 4 inches for the length of the fence on Paseo de Peralta. It is burdensome to ask her to remove it. It has proven effective in stopping trespassers and consequent 911 calls. Girls Inc was not required to redesign the fence and 803 Agua Fria was not required to replace the coyote fencing with fencing that was typical in the area of Agua Fria and Irvine.

IV BIAS The staff went to great lengths to have the HDRB know that the owner was a “scofflaw” even though this term and designation is irrelevant to the granting of an exception under the HDRB ordinance. Such negative terminology, if considered by the Board, is outside the law and fact (HDRB Application p 20/21) and could be prejudicial to the Board reviewing the owner’s request objectively and neutrally if the Board reviewed the emails in City Docs.

1A Heather Lamboy says “I think we need to provide some background on the red-tag process and how Ms. Leth-Espensen has been a scofflaw. That is an important point to share with the HDRB.”(Email 2 Dec 2024 20/34 City Docs) The use of the term “scofflaw” is irrelevant to whether the property should have been granted the exception and the board’s consideration of this characterization, therefore, would be improper.

City staff has fifteen pages of emails in City Docs, but no emails from Ramon Saracon or any other staff member to the owner concerning the application—certainly no reports on the existence of white picket fences in the area that the owner ignored as complainant Mann testified to (YouTube3:31)—although apparently Saracon, like Mann, was influenced by what might be architecturally appropriate for Mann’s structure rather than what was historically accurate to the subject property.

1 B The use of a photo of the fence as the first page of the packet that went to the HDRB with the sign DO NOT RETAIN BIEDSCHIED on the fence was prejudicial since Jennifer Biedshied was a board member and the owner was asking that Ms Biedschied recuse herself.

2 Failure of Jennifer Biedshied to Remove Herself

2AThe agent asked the LUD to approach Ms Biedshied and explain the owner’s concerns about bias/conflict of interest since her husband had represented a client against the owner 21 years ago; the current complainant had a copy of that 21-year-old letter to someone else; and that her husband as judge found against the owner and for the complainant when the complainant Mann went to court to prevent the acupuncture business he was renting to from improperly operating

during COVID. Biedschied unlawfully suppressed the owner's right to free speech by putting unnecessary prior restraints on it, and it was reversed by another judge.

2B Ms Biedshied testily stated that she "was a bit insulted" that someone should question her ability to be neutral and went on about how she felt insulted for "all working women who were married" even though the city's ethics ordinance considers actions and activities of spouses and other relatives as disqualifying. Biedschied did not acknowledge the effect of the Do Not Retain Biedschied sign on her ability to be neutral which was up in 2022 and 2024 on a route that would be used by her. Biedschied actually reported that her husband does not take any cases relating to the HDRB (YouTube 2:46-47), but she did not apply that standard to this case in which she is ruling on a case involving a woman who her husband has twice acted against as a lawyer and judge. Ms Rios also chimed in about Biedshied's integrity. (YouTube 2:47-2:48). It was improper and prejudicial for the chair to comment on this recusal.

V PROCEDURAL DUE PROCESS ISSUES

1A Failure of Bienvenu to explain why he discounted his own findings concerning the unique conditions of this property and the fact that safety was the same concern as two other properties that had been granted fence height exceptions based solely on these concerns

1B Atlixco Coalition v Maggiore 125 NM 786 (1997) ¶24: "An agency's action is arbitrary and capricious if it provides no rational connection between the facts found and the choices made, or entirely omits consideration of relevant factors or important aspects of the problem at hand. Colonias Dev Council v Rhino Envir Svr 2003 NMSC 005 ¶41 Without a reasoned explanation. . . , it appears that the Secretary ignored an entire line of evidence in reaching his decision on the final order...Allowing the Secretary to ignore material issues raised by the parties in this manner would render their right to be heard illusory."

2NEED FOR RECORD

2A The 35-day rule for the adoption of a final decision without a written order that contains relevant findings and evidence in the record (14-3.17C4b) is arbitrary, capricious and violates statutory and constitutional requirements for these types of appeal including Ord 14-3.17D7; Ord 14-3.17I; Rule 1-074; Rule 1-075 NMRA and §39-3-1.1 NMSA) The city's own appeal ordinance requires an appeal to follow the procedures under Rules 1-074, 1-075 NMRA and §39-3-1.1 NMSA. 14-3.17D7 states: "District Court Appeals An appeal of a final action of the governing body or a land use board, or of an action of the city manager, the city attorney or the land use director that is only subject to appeal to district court, shall be to the first judicial district court pursuant to Section 39-3.1.1 NMSA 1978, Rule 1-074, NMRA or Rule 1-075, NMRA, as amended, or other relevant statute or court rule." Vandervossen v. City of Espanola, 2001-NMCA-016 ¶¶37, 38: "The Legislature has recognized that administrative agencies must provide written factual and legal bases for their decisions. See, e.g., § 39-3-1.1(B)(2); NMSA 1978, § 74-9-27(B)(1) (1990); § 74-9-29(B)(1)." See also Paule v. Santa Fe County, 2005-NMSC-021, ¶12

3 BOARD MEMBERS AND THE PUBLIC BASED THEIR STATEMENTS AND OPINIONS ON FACTS NOT IN THE RECORD.

3A West Old Town Neighborhood Ass'n v. City of Albuquerque, 1996-NMCA-107 ¶11 "...In New Mexico, zoning decisions involving the application of a general rule to a specific property are not legislative acts; rather they are deemed to be quasi-judicial in nature. Paule v. Santa Fe Cnty. Board of Cnty. Comm'rs, 2005-NMSC-021 ¶30: "When we review an administrative decision for arbitrary and capricious conduct, we review 'the whole record to ascertain whether there has been unreasoned action without proper consideration or disregard of the facts and circumstances.' Lopez v Wal-Mart Stores 1989-NMCA-013 ¶6 "...Thus, if the facts essential to the trial court's judgment are not established by substantial evidence in the record, we will necessarily find an abuse of discretion. See Vandervossen *ibid*.

3B Ms Biedshied wanted to introduce information on the structure on Otero and Paseo de Peralta in terms of the use of that structure based on her belief not facts. She stated there were low walls with wrought iron fenestration on top. (YouTube 3:29-3:30). No photo shows such a wall at Otero. There is one wall with rock and wrought iron fencing with the wrought iron incorporated into and no higher than the rock wall itself at the intersection of Otero and Paseo. (6/34 City Docs) Biedschied was trying to contrast the low walls there with the owner's request at 614 Paseo de Peralta.

3C Ms Denman said she opposed the fence because "she didn't think it would work anyway and it was too tall." (YouTube 3:20-3:21) Ms Denman never even asked the owner if there was any change with the installation of the fence. Ms Denman would have found out that there were no 911 calls since the fence was in place. See Miriam Leth-Espensen Affidavit Attached

3D Mr Mann had all kinds of personal preferences that he thought the HBoard should rely on, and he also stated that the fence prevented someone from seeing his building. (Photos p11-13/21 HDRB Application show these statements to be incorrect) He also concluded that the fence would affect the historic status of 614 Paseo de Peralta—see Reply to City Response ii above. It should be noted that the photos on p8-9/34 City Docs were taken by Mann when the fence was being constructed and seemingly he had more access to staff, especially Ramon Saracon, than the owner did. Given the unexplained Brian Biedschied connection with Mann, it would seem my client is spot-on re bias/prejudice by the Board and staff and conflict of interest by Jennifer Biedschied.

REQUEST

We request the Governing Body to consider a third alternative: To approve the fence as submitted to the HDRB with the changes for a slight lowering and staggering offered by the owner at the 10 Dec 2024 as a final decision with no return to the HDRB or the Board of Adjustment.

Respectfully submitted



Stefanie Beninato, agent

APPEAL TO GB from HDRB 24-009478 614 Paseo de Peralta 11/11

PO Box 1601 Santa Fe NM 87504

505 988 8022

info@nmmediate.com

Attached are Affidavits from Miriam Leth-Espensen and her son, Rob Kohn and recent photos of the coyote fence at Girls Inc in the streetscape of 614 Paseo de Peralta

Appellant will submit the following electronically for the appeal packet—all of which should already be in the record.

HDRB Application for HDRB 24-009478 614 Paseo de Peralta

Wall and Fence Guidelines

City Documents for HDRB 24-009478 614 Paseo de Peralta

Staff Report for HDRB 24-009478 614 Paseo de Peralta

AFFIDAVIT OF MIRIAM LETH ESPENSEN

FOR GOVERNING BODY APPEAL ON HDRB Case # 24-009478

I, Miriam Leth-Espensen, do hereby affirm under penalty of perjury

That I live and work at 614 Paseo de Peralta and have since 1988;

That my property is a shortcut from Otero Street to the Cross of the Martyrs

That the number of incidents of trespass have increased over the years

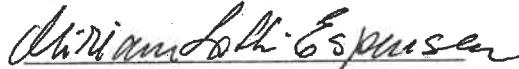
That I have called 911 for the past several years once or twice a year because of nighttime trespasses that make me feel unsafe because I hear the people right by my bedroom window;

That I do not report vandalism, the latest of which was around 10 December 2024 and it occurred outside the fenced area.

That there was a break in while I was present a few years ago and I was in fear of my life.

That there have been no nighttime trespass in the past year since the coyote fencing that is the subject of this appeal was constructed.

The above is true and correct to the best of my knowledge, belief and understanding.


Miriam Leth-Espensen

Signed and sworn before me by Miriam Leth-Espensen
on January 23, 2025.


SYLVIA MARISCAL

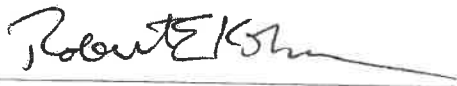
State of New Mexico
Notary Public
Sylvia Mariscal
Commission Number 1097458
Expiration Date 04/18/2027

AFFIDAVIT OF ROBERT E. KOHN

FOR GOVERNING BODY APPEAL ON HDRB Case # 24-009478

I, Robert E. Kohn, do hereby affirm under penalty of perjury under the laws of New Mexico that:

1. I am over the age of 18 years, and I have personal knowledge of the facts contained in this affidavit.
2. On May 15, 2024, I attended a proceeding in the Municipal Court in Santa Fe, New Mexico, where Ms. Miriam Leth-Espensen had been charged with building a structure without a permit at 614 Paseo de Peralta in Santa Fe.
3. Shortly after the court proceeding, Ms. Leth-Espensen and I met on May 15, 2024 with Mr. Gary S. Moquino at the Santa Fe City Hall. Mr. Moquino gave me a business card, stating that he was a Planner Manager with the Historic Preservation Division of the Planning & Land Use Dept.
4. During our meeting on May 15, 2024, Mr. Moquino stated to me and Ms. Leth-Espensen that a Planner had been assigned to help her with her earlier request for approval of the coyote-style fence at 614 Paseo de Peralta, but that this person had left the Department, and that a new Planner would be assigned soon to help with this request.
5. During the same meeting, Mr. Moquino also stated to me and Ms. Leth-Espensen that coyote fencing is "not historic" and therefore that a permit could not be issued for a coyote fence at 614 Paseo de Peralta. He also stated that he was aware of the pending court case, and that the matter could be resolved immediately – "today" – if Ms. Leth-Espensen were to request permission to replace the coyote fence with a picket fence.



Robert E. Kohn

CALIFORNIA JURAT WITH AFFIANT STATEMENT

GOVERNMENT CODE § 8202

- ☐ See Attached Document (Notary to cross out lines 1-6 below)
☐ See Statement Below (Lines 1-6 to be completed only by document signer[s], not Notary)

1
2
3
4
5
6

Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of

Los Angeles

Subscribed and sworn to (or affirmed) before me

on this 27 day of Jan, 2028
by Robert E. Kohn
Date Month Year

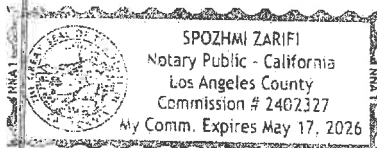
(1) Robert E. Kohn
(and (2) _____),
Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature

Signature of Notary Public

Place Notary Seal and/or Stamp Above



OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

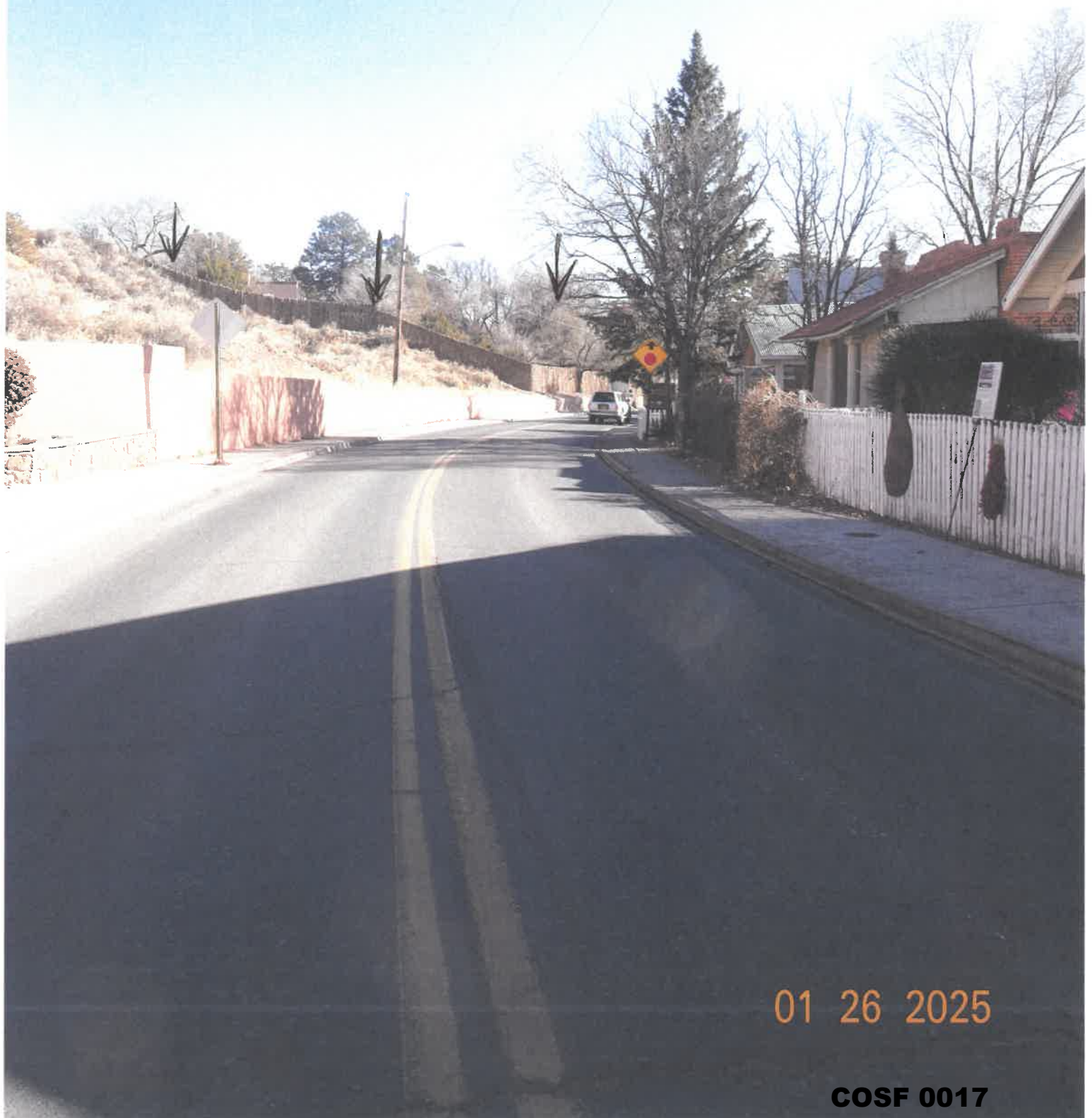
Title or Type of Document: Affidavit of Robert E. Kohn

Document Date: 1-27-2028 Number of Pages: 1

Signer(s) Other Than Named Above: N/A

Shredscape East Girls Inc

1/7

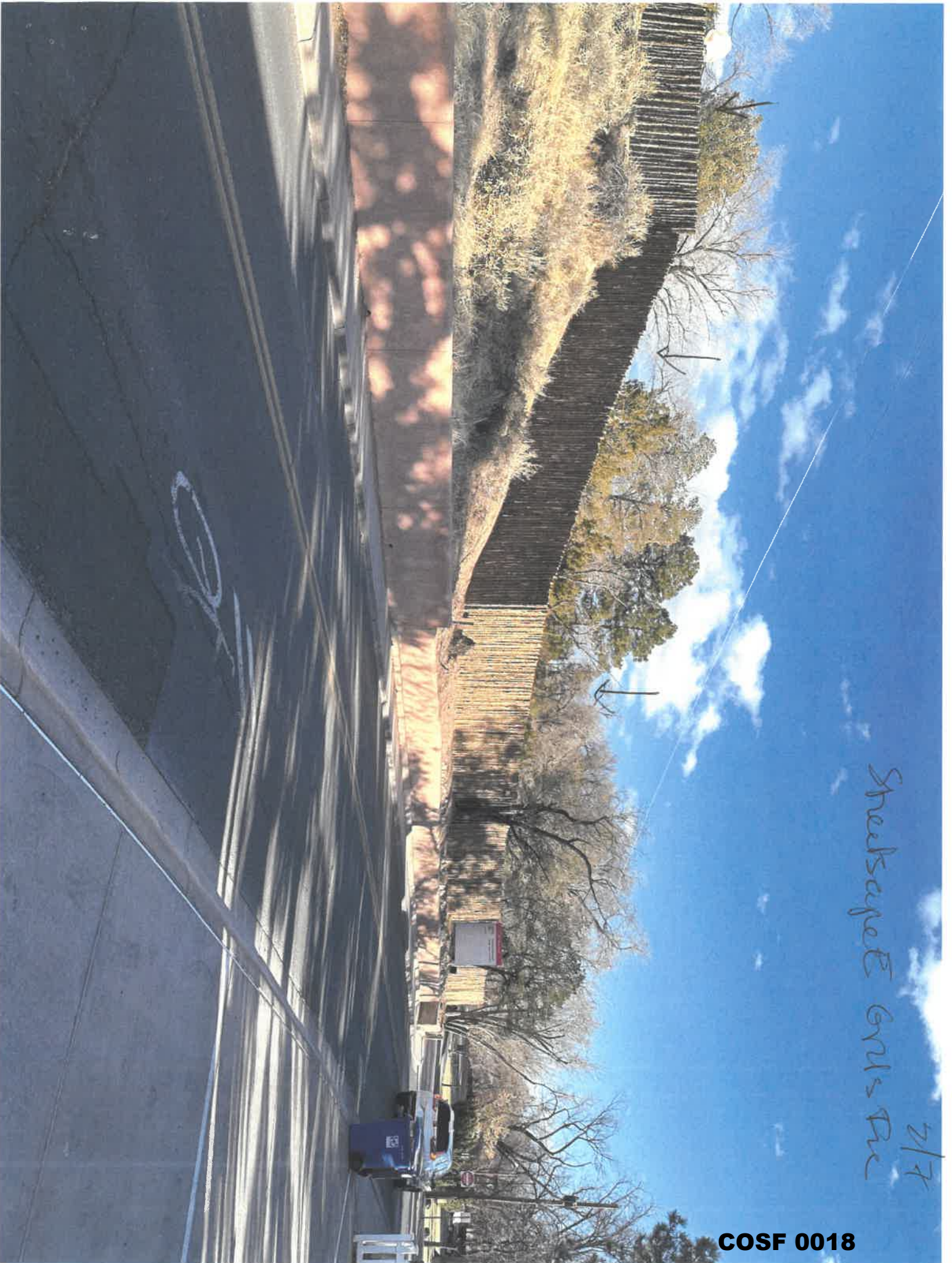


01 26 2025

COSF 0017

2/7
ShedsageE GMS DC

COSF 0018



Streetscape Façade Artistic

3/9

COSF 0019



01 26 2025

Coyote Feeding (Open)

4/7

COSF 0020



01 26 2025

Couste Fenews 080 +
COSTHOPI

517

COSF 0021

01 26 2025

6/17
09/20
09/20

COSF 0022

01 26 2025

Coyote Feeding Lot P1

8/7

COSF 0023



01 26 2025

City of Santa Fe, NM
Planning Department
200 Lincoln
Santa Fe, NM 87507-4808
(505)955-4333
Welcome

01/28/2025 10:19AM Elisa P.
002264-0003

EG INVOICE
BENINATO, STEFANIE (MEDITATIONS
UNLIMITED)
2025-009812--APPL
2025 Item: INV-00092843
Appeal Fee - Plan - All
Appeals

200.00

200.00

200.00
200.00

200.00

Subtotal
Total

CHECK
Check Number 2661

0.00

Change due

Paid by: BENINATO, STEFANIE (MEDITATIONS
UNLIMITED)

2001
1/28/25
\$200.00
City of Santa Fe
L. Beninato
City of Santa Fe
For General Accounting

Thank you for your payment

CUSTOMER COPY
DUPLICATE RECEIPT

EXHIBIT B

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

Case # 2024-9478-HDRB**Address** – 614 Paseo de Peralta**Agent's Name** – Stefanie Beninato, Attorney at Law**Owner/Applicant's Name** – Miriam Leth-Espensen

THIS MATTER came before the Historic Districts Review Board ("Board") for hearing on December 10, 2024.

BACKGROUND

The single-family residence at 614 Paseo de Peralta has a contributing historic status in the Downtown and Eastside Historic District. The Applicant, who owns and lives on the property, has built an unpermitted 5'8" coyote fence, abutting the sidewalk and extending across the entire north street frontage for this property. The streetscape along Paseo de Peralta was built after the Anglo-American arrival and the houses in this area reflect the Anglo-American style of architecture, including low front-yard fences. There is a consistent grade change between the properties on the south side of the street and those on the north side. Retaining walls characterize the streetscape on the north side, where there is a pronounced slope, with some retaining walls substantially set back from the street.

The property has had several fences along the street frontage in the years since 1985. A photograph from the 1985 HCPI shows that this house, like others in the streetscape, had low, transparent fencing at the property line. Historically the house was unobstructed and apparent from the street as were other historic buildings in the streetscape. Photos show a blue board fence present from 2007 through 2014, and a wood-framed wire fence from 2015 to 2023. The coyote fence which is the subject of this application was built in 2023. There is no record of approval from Historic Preservation and no permits on record for changes to the fencing over time. A City inspector issued a Stop Work Order in August, 2023, for construction of the coyote fence without approval from HDRB or the Historic Preservation staff or a construction permit. The City of Santa Fe sent the Leth-Espensen Trust (the owner of record) a Notice of Violation in January, 2024, and the matter is pending in Municipal Court. See Case # CE-2024-5.

The Staff has determined that the Applicant's 5'8"-high coyote fence is inconsistent with this streetscape with regard to height and material. Santa Fe City Code ("SFCC") Section 14-5.2(D)(9)(c)(ii)(C) reads, "Yard walls and fences shall be limited to a height that does not exceed the average of the height of other yard walls and fences in the streetscape." The Staff's streetscape calculation allows for a 4'6"-high fence. The Staff's opinion is that the 5'8"-high coyote fence disrupts the structure's relationship with the streetscape and, if permitted to remain, threatens the building's historic status. SFCC Section 14-5.2(D)(1)(a) reads, "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 Applicant now requests approval of the coyote fence by proposing the following exterior alterations:

Construct a 5'8"-high coyote fence with two wood-plank pedestrian gates (one on the street frontage and one on the side property line) where the maximum allowable height is 4'6". An exception to SFCC Section 14-5.2(D)(9) to exceed the maximum allowable height is requested.

This property also is located within the Business Capital District East Marcy / East Palace Subdistrict (BCDEAS). In this subdistrict, fences are further limited to a maximum height of 4'0", per SFCC Section 14-7.4(A)-1, Table of Dimensional Requirements for Townscape Districts. While the applicant is requesting an exception from the HDRB to the streetscape height standard of 4'6", SFCC Section 14-5.2(C)(5)(a) reads:

"If the applicant requests approval of a height in the historic district that exceeds the underlying zoning district requirement, the applicant shall first receive an exception to this Section 14-5.2. If approved by the historic district board, the applicant shall proceed to the board of adjustment for consideration of the proposed variance."

Therefore, if the HDRB approved the exception, the Applicant would proceed to the Board of Adjustment for a variance to the standards of the underlying zoning.

At the outset of this hearing, Stefanie Beninato, the Agent for the Applicant, asked Board member Jennifer Biedscheid to disqualify herself, claiming Ms. Biedscheid had a conflict of interest in this case. Ms. Biedscheid declined to disqualify herself, denying that she had a conflict of interest and noting that she had consulted the City Attorney's Office about Ms. Beninato's request.

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.
2. Historic Preservation 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 exception criteria of SFCC Section 14-5.2(C)(5)(c) had not been met and did not recommend approval of the application, as it did not comply 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 SFCC Section 14-5.2(C), Regulation of Significant and Contributing Structures.
5. The project is subject to the requirements and general design standards set forth in SFCC Section 14-5.2(D), General Design Standards.
6. The property is located in the Downtown and Eastside Historic District and is subject to the district design standards set forth in SFCC Section 14-5.2(E).
7. The property is located in the Business Capital District, East Marcy / East Palace Subdistrict (BCDEAS), and is subject to the district and subdistrict design standards set forth in SFCC Section 14-7.4(A) and (B)(3)(e).
8. Under SFCC Sections 14-2.6(B-C), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f), 14-5.2(C)(3)(a-b), 14-5.2(C)(4), 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(D)(9)(c)(ii)(C), yard walls and fences are limited to a height that does not exceed the average of the height of other yard walls and fences in the streetscape.
10. The Applicant seeks approval for a 5'8"-high coyote fence on the street frontage and on a side property line where the maximum allowable height is 4'6". Staff determined that an exception to SFCC Section 14-5.2(D)(9)(c)(ii)(C) would be required for approval of the application, and the Applicant requested an exception.
11. To obtain an exception, the Applicant was required to conclusively demonstrate that the six exception criteria set forth in SFCC Section 14-5.2(C)(5)(c) have been met.
12. Based on the information set forth in the Staff Report and exhibits, and the evidence and testimony presented at the hearing, the Board agrees with Staff's finding that the Applicant has not conclusively demonstrated that all exception criteria have been met:
 - a. Pursuant to SFCC Section 14-5.2(C)(5)(c)(i), the Board finds that granting the exception would damage the character of the streetscape because the height of the fence is inharmonious with the streetscape, and disregards the standards for the BCDEAS district. The heights of the walls and fences along this streetscape of Paseo de Peralta range in height from 24" (2 feet) and 108" (9 feet), with the highest walls being rock or stuccoed-masonry retaining walls on the north side of the street where there is a substantial grade change. The south side of the street, where the house walls do not abut the sidewalk, is lined almost entirely with lower yard walls and fences with stepped heights or wrought iron, picket and wire fences, creating an open fenestration of the wall or fence;
 - b. Pursuant to SFCC Section 14-5.2(C)(5)(c)(ii), the Board finds that the exception is not required to prevent a hardship to the Applicant or an injury to the public welfare, because there has been no persuasive showing that the security of the property cannot be upheld by features less harmful to the character of the district, such as a lower fence or yard wall, a fence or wall with more fenestration, or other security measures;
 - c. Pursuant to SFCC Section 14-5.2(C)(5)(c)(iii), the Board finds that granting the exception would not 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, because the Applicant has not

shown a need for safety at her property greater than at any other heavily traveled location, and other design options are available to enhance the occupants' safety there;

- d. Pursuant to SFCC Section 14-5.2(C)(5)(c)(iv), the Board finds that there are not special conditions or circumstances that are peculiar to the land or structure involved that are not applicable to other lands or structures in the related streetscape: All the properties on the south side of Paseo de Peralta abut the sidewalk or have a minimal setback, similar to the subject property, and are in a heavily traveled area. The setback, traffic and pedestrian travel are not peculiar to this lot. Some of the properties are commercial and others are residential, but the use of the property can change and is not inherent in the land or the structure;
 - e. Pursuant to SFCC Section 14-5.2(C)(5)(c)(v), the Board finds there are no special conditions or circumstances affecting this property that fulfill this exception criterion. The Applicant should be held to the same standard as the occupants of other structures in the streetscape, which must follow the height and design restrictions in the ordinances;
 - f. Pursuant to SFCC Section 14-5.2(C)(5)(c)(vi), the Board finds that granting the exception would not provide the least negative impact with respect to the purposes set forth in SFCC Section 14-5.2(A)(1), because the proposed coyote fence at that height is a threat to the historic status of the historically contributing structure. It obstructs the view of the house, which is uncharacteristic for that streetscape. The standards for the Business Capitol District, East Marcy / East Palace Subdistrict, express a preference for "low walls that are compatible with the characteristic open yards." See SFCC Section 14-7.4(B)(3)(e)(iii).
13. The Board finds that the Applicant has failed to conclusively demonstrate that all of the exception criteria have been met.
 14. The information contained in the Staff Report and exhibits, and the testimony and evidence submitted at the hearing, establishes that all applicable requirements for Board review as herein described have been met.
 15. The information contained in the Staff Report and exhibits, and the testimony and evidence submitted at the hearing, establishes that all applicable design criteria have not 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 denies Item # 1 as set forth in the application.
3. The Board denies the exception requested in the application.
4. These denials are without prejudice, and the Board may reconsider the project if the Applicant submits another application with a redrawn design for the fence.

IT IS SO ORDERED ON THIS 11th DAY of FEBRUARY, 2025, BY THE
HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.


Cecilia Rios, Chair

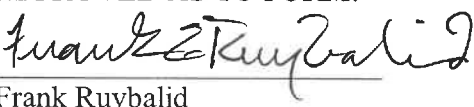
2-11-25
Date

FILED:


ANDREA SALAZAR (Apr 10, 2025 12:28 MDT)
Andréa Salazar XIV
City Clerk

Date

APPROVED AS TO FORM:


Frank Ruybalid
Assistant City Attorney

2-11-25
Date

EXHIBIT C

SUMMARY INDEX
HISTORIC DISTRICTS REVIEW BOARD
December 10, 2024

ITEM	ACTION TAKEN	PAGE(S)
Call to Order	5:33 pm	3
Roll Call	Quorum Present	3
Approval of Agenda	Approved as amended	4
Approval of Minutes May 14, 2024	Approved	4
October 22, 2024	Approved	
April 29, 2024	Approved	
Approval of Findings & Conclusions	Approved or Approved as amended	4
Matters from the Public	Comments	5
Staff Communications	Comments	5-7
Old Business	None	7
New Business		
2024-009377-HDRB 449 Camino Monte Vista	Approved with Conditions	7-12
2024-009399-HDRB 465 Camino Manzano	Partially Denied Partially Approved	12-21
2024-009398-HDRB 346 Hillside Ave	Partially Denied Partially Approved with Conditions	21-29
2024-009478-HDRB 614 Paseo de Peralta.	Denied	29-40
2024-009323-HDRB 312 Pino Road	Postponed	40-41

H
HDRB Minutes

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December 10, 2024

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Page 1

COSF 0030

2024-009479-HDRB 710 Canyon Rd.	Approved	41-46
Discussion Items	None	47
Matters from the Board	None	47
Next Meeting	Tuesday, January 14, 2025	26
Adjournment	9:58 pm	26-27

fence currently stands 86" in height and is planned to be cut down and it also notes the maximum allowable height is 59". Regardless I would say that the fence should be no higher than the maximum allowed height that's calculated for the streetscape. I appreciate the offer of a compromise with respect to the metal structure that's already there but I think it would be a simple matter to retain that structure and just reweld the top railing to a lower height so that it would be minimal in cost this would permit the gate to remain because it's completely fenestrated and already in existence and that all other aspects of the application be approved

Chair Rios then asked Member Bienvenue, in reference to the making of the motion, if he'd want to indicate the maximum allowable height.

Member Bienvenue stated he thought it was 59" but if that is not accurate, the height should be the calculated maximum allowable height.

Member Mather seconded the motion.

VOTE: The motion passed by (4-0) roll call vote with Members Mather, Degnan, Biedscheid and Bienvenu voting in favor and none voting against.

To view the entire recording of this hearing, **see** the YouTube video at:
<https://www.youtube.com/watch?v=Vk1h9FgJWNQ> (1:58:44 – 2:36:44)

4. **2024-009478-HDRB, 614 Paseo de Peralta**, Downtown & Eastside Historic District, Contributing, Stefanie Beninato, agent for Miriam Leth Espensen, owner, proposes to construct a 5'-8" high coyote fence with pedestrian gates where the maximum allowable height is 4'-6". Exceptions are requested to 14-5.2(D)(9) to exceed the maximum allowable height. (Lani McCulley)

BACKGROUND & SUMMARY

The single-family residence at 614 Paseo de Peralta is listed as contributing to the Downtown and Eastside Historic District. The residence is a moderately pitched gabled roof, deep set windows, and a large bay of windows on the north where a porch has been enclosed. It is obvious that the northern portal was enclosed sometime after 1985 because the photo of the 1985 HCPI shows an open portal. There is no case for that enclosure on file with the Historic Preservation Division office.

The property has held several fences along the street frontage of Paseo de Peralta over the years. Figure 1, shows photographic proof of a blue board fence present from 2007 through 2014, and a wood framed wire fence present from 2015 through 2023. The new coyote fence was constructed in 2023. There is no record of an approval from Historic Preservation and there are no permits on record for the changes to the fencing over

time.

The streetscape along Paseo de Peralta was built after the Anglo-American arrival and the houses in this area reflect the Anglo-American style of architecture, including low front yard fences. There is a consistent grade change between the properties on the south side of the street and those on the north side. Retaining walls characterize the streetscape on the north side, with additional walls that are substantially set back from the plane of the retaining walls. The applicant's proposed coyote fence is not in keeping with this streetscape with regard to height and material.

Section 14-5.2(D)(c)(ii) states that, *"yard walls and fences shall be limited to a height that does not exceed the average of the height of other yard walls and fences in the streetscape."* While the Historic Preservation Streetscape calculation allows for a 4'-6" high fence, this property is located within the BCDMAR subdistrict. In this subdistrict, fences are further limited to a maximum height of 4'-0" per 14-7.4(A)-1 Table of Dimensional Requirements for Townscape Districts. Per Section 14-1.7 the more restrictive code would apply which means the maximum allowable height at this property is the 4'-0" height per zoning code for the BCDMAR.

Section 14-5.2(C)(1)(a) states that, *"Each structure to be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as the addition of conjectural features or architectural elements from other buildings, shall not be undertaken."*

A photograph from the 1985 HCPI (See Figure 2) illustrates that this house, like others in the streetscape, had low transparent fencing at the property line. Although it is difficult to discern the exact fence material, it is clear that historically the house had a direct relationship with the street as do other historic buildings in the streetscape.

Section 14-5.2(D)(1)(a) states, *"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 5'-8" high coyote fence causes a disruption in how the structure relates to the streetscape and if allowed, poses a threat to the building's historic status and the legibility of the streetscape. Additionally, the townscape, as set forth in the BCD design standards for the East Marcy/E Palace subdistrict also identifies the unique nature of the streetscape by limiting the height of fences and/or walls to a maximum height of 4'-0".

The city's inspections office issued a Stop Work Order (red tag) in August 2023 for the construction of the coyote fence without approval from the HDRB, the Historic Preservation Division or a construction permit.

The applicant now requests approval of the coyote fence by proposing the following exterior alterations:

1. Construct a 5'-8" high coyote fence with two wood plank pedestrian gates (one on the street frontage and one on the side property line) where the maximum allowable height is 4'-6". An exception to section 14-5.2(D)(9) to exceed the maximum allowable height is requested.

Ms. Lamboy presented this case in Ms. McCulley's absence. She stated this contributing building has had some changes over time but has retained much of its historic integrity. One of the changes includes the enclosure of the front porch that was originally there, as well as an addition that was done on the south elevation. However, the coyote fence that is currently standing was not approved administratively or by the Board. To provide some reference to the Board the fence can be seen on the far left here. It is the edge of the coyote fencing of that subject property. Looking west towards the Scottish Rite Temple and Kearney Avenue the fences are either retaining walls with no fencing on top or low walls with some potentially wrought iron on the top of the fence or the walls. So, looking the other way and with the subject property being on the right-hand side, you can see the development pattern illustrates low fences along the streetscape on the south side of the street, without the retaining walls. There is some coyote fencing that is higher, but it is set back from the street and is a side property line, not a front property line. This is an illustration of what the applicant is proposing which is the fencing that was constructed without a permit. This is that part of the street that is adjacent to or in between the subject property to the I guess south as well as the adjacent property to the north. Maybe my directions are wrong, but on both sides of the subject property. This is an illustration of the drawings of the proposed fence. The underlying zoning is something of a unique story here. So, with the Business Capital District a unique approach was taken with reference to the zoning and it all related to townscape districts. So, not only was there a Historic Districts Review Board review required at one time but also a Business Capital District Review Board review as well. The townscapes' character of the downtown changes radically from one block to another and those changes you know are reflected in the plaza area which is in the BCD Plaza Subdistrict. This property is part of the East Marcy/East Palace Subdistrict. There's also the BCD Capital Subdistrict with its unique character. So, there's underlying zoning that relates to the general dimensional standards and there's also underlying zoning that also relates to the character of the district, and in this particular case with the BCD East Marcy/East Palace subdistrict in which the site is located the maximum height for front yard fencing is 4 feet and that acknowledges the development pattern of which I've been speaking. Which is that there are low or no fences in the front yard of the properties therefore that's the reason for the maximum height of four feet and you can see that in the streetscape generally along that corridor this is an illustration of the development pattern. As seen on an aerial and you can see clearly Fort Marcy as well as a development pattern of the East Marcy/East Palace area. The Paseo de Peralta and Hillside intersection is there. So, if this case were to be approved by the Board

tonight as it is submitted then the case will have to be heard by the Board of Adjustment. It's just a reminder to the applicant and for the public's information that this isn't the only hearing that would take place. Also, the board of adjustment would have to hear the case to allow for a variance to allow the additional height over the underlying zoning. The staff's recommendation is that the exception criteria have not been met. It will be deleterious to the streetscape; it will impact the overall character of the Downtown and Eastside Historic District streetscape in this area and can impact potentially the overall character of the building to which it is adjacent which is contributing. The staff recommends denial in this case.

STAFF RECOMMENDATION

Staff finds that the exception criteria of Section 14-5.2(D)(9) have not been met and does not recommend approval of the application as it does not comply with 14-5.2(D) General Design Standards for all Historic Districts, and 14-5.2(E) Downtown and Eastside Design Standards.

While the applicant is requesting an exception from the HDRB to the streetscape height standard of 4'-6", Section 14-5.2(C)(5)(a) states that, *"if the applicant requests approval of a height in the historic district that exceeds the underlying zoning district requirement, the applicant shall first receive an exception to this Section 14-5.2. If approved by the historic district board, the applicant shall proceed to the board of adjustment for consideration of the proposed variance."*

The underlying zoning district for this property is Business Capital District East Marcy/East Palace (BCDMAR) which permits a maximum height of 4'-0" for fences, per Table 14-7.4 (A)-1. Therefore, if the HDRB approves the exception, the applicant shall proceed to the Board of Adjustment for a variance to the standards of the underlying zoning. If the Board denies the exception, the applicant must produce a new proposal which complies with both the underlying zoning and historic design standards. One motion will be required in this case.

APPLICANT PRESENTATION

Ms. Beninato came forward to present, as she is the applicant. She stated she found herself in an unfortunate situation as they did submit a request for Member Biedscheid to recuse herself and stated she was curious how Member Biedscheid was going to respond.

Member Biedscheid stated she did see a copy of that request and discussed it with the City Attorney's office and that she has no bias against Ms. Beninato's client. She doesn't know her client. She knows Ms. Beninato pretty well from the hearings, but she has no bias against her. Her husband's job has absolutely nothing to do with her responsibilities on the Board. They work to keep things separate and respect ethical boundaries. In fact, she understands that her husband doesn't hear H-Board Appeals as part of his

job, as a State District Judge. She stated she was insulted for herself and all working women that are part of a marriage or partnership that it would be assumed she cannot be independent and capable of an intellectual border between hers and her husband's job duties. She is not influenced by her request, and she will hear this case impartially like all other cases.

Ms. Beninato stated that it was not at her instigation, but at her clients request and the wording is primarily from their sources. I just want to be clear that my client did have a very poor experience and with the other party, and that the complaining party here (for this project) are the same. It just builds that kind of sense of distrust on the part of my client and I.

Chair Rios stated member Biedscheid has been on the Board for quite some time and she agrees with Ms. Biedscheid's comments. She believes Ms. Biedscheid can be impartial and thinks she indicated that her husband's work has nothing to do with this Board and she is a person that will be impartial in this case as she is with every other.

Ms. Beninato thanked them for those considerations and reasons and then proceeded to state that she doesn't agree with Staffs recommendations and does think that her client has met the exception criteria. The fence should not affect whether this is a contributing building or not. This property belonged to the Anton family and was built in 1920 based by hand and is not a home kit Sears. The brothers Alonso and James inherited and split the property in 1935. At that time, both addresses were on Hillside. This residence was owned by James, who sold it in 1979 to Steven Long. Mr. Long later sold to the current homeowner in 1988. The house has been added onto several times between 1988 and 1991. The roof may have been asphalt shingles initially but when Miriam purchased it, it was rolled asphalt. The homeowner replaced it with approval from the Historic office, possibly administratively with a metal roof. She has also had approval to enclose the portal on the front of the building. This was enclosed due to the salt damage that occurred from the care for the icy road in bad weather which splashes onto the property and was damaging the portal. To prevent the salts from damaging the residence, the client put up the previous blue colored board fence. There was wire fencing behind the board fence when it was removed due to damage to the fence. The client tried to incorporate the wire and metal fencing in place of the board fence. However, as a result her property has been subject to a lot of trespassing and people have actually broken into her residence while she has been there. These houses are designed for work/live. The BCD was only introduced in the 1980s. I now see that it is divided into smaller sections, which makes understanding it more confusing. I do question the status of this building. I do not believe it should be a contributing structure. Either way, the fence should not affect the status of the structure. Again, this shouldn't affect the streetscape because the fences in existence are already a variety of fences. She feels it's a necessity to have the fence there, so she can live there safely. It would also be less maintenance from the salt and feels like it will be more durable and tried to make it more visibly interesting.

Ms. Beninato also felt it was important to point out the timeline of going through the process. The fence was put up in August of 2023 by contractor Fabian Nava who told the client that she did not require a permit if the fence was under 6 feet in height. My client met with the Historic Preservation Division in September of 2023 along with her representative, Eric Sommer. They discussed what needed to be done for the client to come into compliance. An inspector issued a red tag on the property in February 2024. My client went to the Historic offices and met with a planner who explained what paperwork she needed to present to Historic. There has not been a single planner assigned to the case for any length of time.

As for the exception criteria: staff seem to be pushing for a white picket fence to match the neighbors fencing, which is also not historic. They are from the 1980s and the 1990s. There is a variety of fencing in the streetscape including the picket fences, masonry walls, stone walls, and coyote fencing. Therefore, a coyote fence will not harm the district (criteria 1). Regarding the hardship (criteria 2): the homeowner is a longtime resident who is in close proximity to two parks, Cross of the Martyrs and Tommy Masson Parks. She has had to call 911 on several occasions for break-ins. A higher fence to keep trespassers off the property, will help her be able to continue to live in this location because a four-foot fence or wall can be stepped over. Regarding the third criteria, this residence is closer to the street than most on the streetscape, the squashed wire fencing is replaced with a coyote fence which is on the streetscape in a height that will keep the homeowner safe from trespassers and the fence type will help protect the building from damage from salts. Maintenance costs are very high when damage is to the residence. Most of the front area of the streetscape changed when Paseo de Peralta was put in by the government in the 1960's. This is unique to this streetscape and is not the cause of Ms. Epsensen. The issue with the care and maintenance of the road, the location proximity to the parks, and the rise in crime are not the homeowners cause either.

Ms. Beninato continued: the Board has issued exceptions for safety reasons at Girls Inc most recently for a 6' fence on that streetscape due to safety concerns for the girls and their family's due to the proximity to Tommy Masson Park. My client's safety should be a concern and a reason for approval of this exception as well. Ms. Beninato gave several other examples of higher fences at properties for safety concerns including a significant structure on Saint Francis.

Ms. Beninato concluded that this request is for a safety concern of the elderly owner, and she was sorry that the homeowner was given bad advice from the contractor.

Ms. Espensen stated that when she moved in the fence was a white fence and before it was a white fence it was a natural fence. She didn't know anything about Historic but after a few years of getting all the dirt and salt on the fence, it looked terrible, so every spring she would sand, wash and repaint it, but after a while the white became too difficult to maintain. So, it then changed into the blue fence that everyone has seen in the pictures. It became tiresome to care for and she really wanted a coyote fence. She couldn't afford it, so she went with a wire fence and the issue with the wire fence is that it did not prevent people from jumping over it. She had a lot of strangers and homeless that would pass through her property and even though she locked the gate people would still jump over it. She was informed that if the fence wasn't 6 feet or taller she wouldn't need a permit, so based off of that information she put in the coyote fence with the help

of Fabian Nava. She felt that the fence was a solution to dealing with the increased traffic, tourists, and criminal elements of the city.

Chair Rios acknowledged and stated she always appreciates it when the owners of the property come to speak to the Board. She thinks even though the owners have representatives, it's important to hear from the owners and she feels for Ms. Espensen's situation. She doesn't know what the Board will decide in terms of the height, unfortunately she does think this fence impacts the street in a negative way, but that is her opinion. She would recommend something shorter and that the coyote fence, while popular through the city is not in keeping with this particular streetscape.

Ms. Beninato stated there are coyote fences in that area, for instance there is one directly across from her client's residence and one for Girls Inc. and the picket fence is not historic.

Ms. Espensen stated that allowing the neighbors to have coyote fencing but not her makes absolutely no sense to her and she believes that it is discrimination.

Chair Rios stated the main question here was height and asked to hear from other members of the Board.

Member Degnan stated she appreciates that Ms. Espensen has been able to maintain a successful business in this town all these years. She just thinks it's their role is to try to honor what the rules and regulations are and certainly sometimes it requires flexibility which is why you applied for an exception. She just thinks that while there may be another example of a tall coyote fence that generally speaking, tall fences are like creating a wall. I respect the fact that you want to be safe and understand that entirely. However, that due to all of the access around the property just having the coyote fence on Paseo de Peralta isn't going to keep people out of the property. It is her opinion that it will not be effective, and the fence is too tall.

Member Bienvenue stated that he felt this is a strikingly unattractive feature on the streetscape and it really would be aesthetically nicer if it was a small picket fence just like the neighbors even if they're not historic in that area though they certainly are. Even if the particular ones nearby are not historic that's certainly a historic feature for the style of architecture in that area, but I do see your situation as being unique and that is what is to me feeling the most important consideration in this particular case. We have in recent times gone beyond the boundaries of what both the code say and what I think our personal aesthetic choices would be in an ideal world with respect to safety issues and that has come up both in terms of neighborhood safety for a residential house and that was the case for the significant structure and then most recently with respect to the Girls Inc where an extremely tall fence was approved. That literally towers over the streetscape purely for safety reasons and that was the only reason it was allowed. Your property does strike me, the more I looked at it today and also hearing tonight has

similarly unique situation because of the fact that it's on such an incredibly narrow section of Paso de Peralta that your house is located so very close to the street. This is most likely because of the reconfiguration of Paeo de Peralta and its location with respect to very public areas both the park nearby and the park across at the martyr's walkway. On top of it you're using it as a residence which is also unusual in that particular location which is something that I think we want to encourage in our downtown. So, I am inclined to think that because of all of those very unique circumstances even though I do believe that this is not aesthetically a very good design solution to your difficulties; I'm not I'm not certain there is a really good design solution; you need a certain height where 4 feet will probably not be sufficient for purposes of your safety concerns. I would prefer it to be fenestrated in some way like picket fences are but that would also perhaps be a little averse to the safety issues that you have and in addition to safety it does seem that you do have some issues with respect to the maintenance of the road that's impacting on your property. The fencing all of which strike me as a little bit not as applicable to the immediate properties surrounding you which are commercial properties that are set back more from the street and therefore can accept that kind of more aesthetically appealing picket fence. So, I do think with the precedence we've set in some of these other cases that your circumstances may be unique enough to suggest that we should grant an exception, I don't know how the rest of the board feels. I think they might feel different but if we were to go down that path is there any kind of a compromise that can be reached from what you have right now such as any kind of lowering of the fence that would still give you sufficient privacy? I mean I note for one thing it's a fairly it's cut straight across as far as the top of the fencing goes. You probably know that we usually mandate that there be staggering of the latillas which hasn't happened here. If it were staggered by three or four inches would bring some of the height down. So, I'm wondering if you could live with something that's more like a 5-foot coyote fence or a 5ft. or 5ft 2in. coyote fence with some staggering involved. Also, we could suggest that you and could also add plantings on top of the fencing, which will bring it up in height. This is one of the things that our fence guidelines permit or even suggest and encourage as a possibility for privacy purposes without it being so dramatic from the point of view of the passerby.

Chair Rios stated she thought Stephanie indicated that there was another possibility of another type of fence and then asked Ms. Beninato if she heard her say that.

Ms. Beninato stated that was not correct and what she said was that the gate is a different material than the fencing to try and visually break up the coyote fencing. She believed her client would be willing to make it irregular, but she doesn't think a 5'-2" is sufficient and anything less than that doesn't give protection. She thinks 5'-5" might work with a couple of inches variations, but nothing less than that will give the protection needed. Generally, she likes lower fences as well, but she believes as it was stated this is a unique situation and all the other properties are being rented out and not needing the same exception.

Chair Rios clarified that Ms. Beninato said 5½'.

Ms. Beninato stated 5'-6" but not 3" or 4" in variation, so 5'-4" or 5'-6" will give Ms. Espensen the safety she needs.

Ms. Lamboy stated in reference to the width of the street she presented the 1930 Sanborn map and stated that when it was Hillside Avenue you could see the subject property at that curve and the street neck down to 28 feet but here it was 30', So the street itself in its width has not changed very much over time.

Member Biedscheid stated she does believe there are a few other residential properties on this street, especially at the intersection of Otero and Paseo De Peralta which have fences that are higher but are fenestrated on the top with wrought iron. This fence, the material is definitely out of character for the streetscape. A fenestrated fence or even a wire fence would be more appropriate so that it could be seen through. She doesn't think there's a wall that's even 3' on this street. It's very out of character but she does understand the safety concerns. She doesn't think this is the right solution for that.

PUBLIC HEARING

Mr. Mann stated that his family also lives in a house built by the Anton family on 618 Paseo De Peralta and the 4-foot white fence has been there for 36 years. The history of the Anton family built both houses around 1900 and 1912. He recently talked with Waldo Anton who is now 97 years old, and they discussed the house that he grew up in. He also spoke with Sarah Melton who had lived in the area, stated she spoke for the houses because the houses didn't have a voice. He's heard a lot discussion about what someone needs and how in fact it will diminish the historic character of a contributing structure. His structure where he resides is contributing, the house next door is significant, and it is his understanding that Ramon Sarason delivered Ms. Espenson a report telling her what style and height the fence would need to be. He personally objects to the coyote fence, as it is ugly on a primary façade, and it would diminish the architectural and historic view of their properties. The idea that you can put that fence up and then plead necessity puts a personal need ahead of a federal historic structure and I personally feel that all that testimony about need should be put aside and to the point made that she's the only one who lives there we have a tenant living upstairs. I lived up there. We raised our child there. I certainly understand people's necessity for security, but do we want to sacrifice the way a building looks and maybe have the federal government look at the way we maintain our historic district and say we're willing to compromise so easily. I'm sorry I wish that it could be a win-win when you deliberately say I didn't know I needed a permit. However, that's no excuse.

John Eddy, previously sworn, stated that on occasion you do get cases like this and one thing that needs to be said is that this house is too close to Paseo De Peralta. The

biggest problem being its 6' away from the curb of this street and that will continually be affected by weathering of the traffic on that road. As we keep repaving the roads they continue to get higher, extenuating the potential damage being splashed onto this fence and house. He is very conflicted and thinks the needs of the people living in houses should be addressed and is a valid concern.

Ms. Beninato stated she wanted to clarify that she has known many contractors who do not get permits even when they're supposed to. Her client relied on a licensed contractor, Fabian Nava, who informed her that she didn't need a permit. Her client was just given bad advice. She is being pushed and pushed that she has to have a picket fence which is actually not true. Ms. Beninato understands that some people may think that this (the coyote fence) doesn't really work, but this works in terms of maintenance. Ms. Beninato thinks this is one of the issues. Also when you look at the streetscape, it's not just the south side of the street it is the entire streetscape; north and south of that street. Overall, what you see are some retaining walls that are about 4' high, a 10' high retaining wall, for some distance, and then right across the street at Otero there's an 8' retaining wall. So, if you're looking at the streetscape within 300' from her property, you will see these high retaining walls that are massive. Ms. Beninato pointed out that as Member Bienvenue stated, it's a unique situation.

BOARD DISCUSSION/ACTION:

Member Degnan asked Ms. Beninato for clarification that it was mentioned that perhaps it would be amendable, or agreeable to a 5'-6" fence to satisfy to some extent their concerns.

Ms. Beninato said yes, they believe a 5'-6" for the safety concern could still be effectively met. Her client is even willing to make it vary every couple of inches so it would be the 5'-4" to the 5'-6".

Member Degnan moved to suggest that the fence be amended or adjusted or redone lowered to 5'-6". No second was given so the motion died.

Member Bienvenue stated he has had concerns as the hearing has gone forward about trying to do a redesign on the fly because the issues are both height and the materials. He thinks a compromise solution can be reached someplace but it is going to have to address both the height the materials and some kind of fenestration because it really is very important section of our historic district where this is located. I do think that some design work on the part of the applicant in conjunction with staff is probably the only way we're going to be able to find a solution that would be acceptable to all of the Board members. So unfortunately, I think that leaves us in my mind no choice but to deny the application as submitted with the hope that the applicant will resubmit with a new proposal that will address their legitimate concerns in a manner that will be acceptable

to staff.

MOTION: In Case 2024-009478-HDRB, 614 Paseo de Peralta, Member Bienvenue moved that findings be entered by adopting the reasoning set forth in staff's report that the exception criteria have not been made met, for the application as submitted and the fence as currently existing and that the application therefore be denied without prejudice to a resubmittal. Member Mather seconded the motion.

VOTE: The motion passed by (4-0) roll call vote with Members Mather, Degnan, Biedscheid and Bienvenu voting in favor and none voting against.

Chair Rios explained after the motion that this had been denied but without prejudice, which means that you can come back before the board with a different application that's indicates exactly the kind of material you're going to use, the exact height, or you can appeal it to the city council.

Ms. Beninato stated that's right because what the Board is asking her to do is take down the coyote fencing even though her property has coyote fencing on it now. You don't want the same fencing that she actually has all over her property she's supposed to do a new type of fencing and then asked if that's what they're stating and would not approve a coyote fence.

Chair Rios stated she did not hear that in the motion.

Ms. Beninato then stated the Board said something about the materials being unacceptable.

Chair Rios stated she believed that was a personal statement she gave earlier in case and asked Member Bienvenue for clarification.

Member Bienvenue stated his motion stated but I did say that there were concerns with respect to both height and materials and that I would hope that the applicant could address those concerns and redesign. That doesn't mean there is direction as to what material materials have to be, or what the exact height needs to be. I truly believe something can be designed here that will meet the needs of your client as well as the board and the staff but and I'm not and purposefully did not want to get involved in trying to design from this perspective which is you came in you asked for exactly what you have and that's been denied. There may be someplace other that you can find a solution that the board will approve.

Ms. Beninato stated she wanted clarity that the board was basically rejecting the coyote

material because it's being said that they should look at other material and proceeded to ask if that is correct.

Chair Rios stated that options are open in other words if they would want to resubmit with that then she does not know if the applicant would get a denial. The Board is just saying there's other options.

Ms. Beninato stated that was not much direction.

Ms. Lamboy stated this case has gone to municipal court and the Applicant is before the Board based on some direction that this be considered by the H-Board. Since this particular design was denied, Ms. Lamboy would like to just communicate to the applicant that they can come back to the Board within 90 days, or remove their fence within 90 days. She wanted to provide them with some parameters, as to what the next City action would occur since it is being considered by the Court. She stated Mr. Frank Ruybalid could affirm they have three months either to come back to the Board, or then they will need to remove the fence to comply with the code.

Mr. Ruybalid stated as he understood at that time. He asked if a red tag had been issued.

Ms. Lamboy stated yes, and a citation to Municipal Court, so the applicant has been to court already regarding this issue.

Mr. Ruybalid stated he would have to look at the Municipal Court order, he didn't know what the municipal court order said.

Ms Beninato stated she just wanted it to be on record that her client is being treated differently in this manner than many other people.

Mr. Ruybalid stated this was out of order.

Chair Rios stated this case was over and thanked them for stating their concerns and stated to have a discussion with Staff and they will guide them through the process.

To view the entire recording of this hearing, **see** the YouTube video at:
<https://www.youtube.com/watch?v=Vk1h9FgJWNQ> (2:36:54 – 3:51:11)

- 6. 2024-009479-HDRB, 710 Canyon Rd., Downtown & Eastside Historic District, Contributing**, Conron & Woods Architects, agent for Anna Marie Hamilton, owner, proposes to remove a portion of the portal, raise parapets, relocate a door, re-roof the portal and residence, replace skylights and

City of Santa Fe, New Mexico

memo

DATE: December 10, 2024

TO: Historic Districts Review Board Members

FROM: Lani McCulley, Senior Planner, Historic Preservation Division

2024-009478-HDRB, 614 Paseo de Peralta, Downtown & Eastside Historic District, Contributing, Stefanie Beninato, agent for Miriam Leth Espensen, owner, proposes to construct a 5'-8" high coyote fence with pedestrian gates where the maximum allowable height is 4'-6". Exceptions are requested to 14-5.2(D)(9) to exceed the maximum allowable height.

REFERENCE ATTACHMENTS (Sequentially):

CITY SUBMITTALS

☒ District Standards & yard wall
& fence standards.

☒ Historic Inventory Form

☒ Zoning Review Sheet

☐ Other:

APPLICANT SUBMITTALS

☒ Proposal Letter

☒ Site Plan/Floor Plan

☒ Elevations

☒ Photographs

☒ Other: exception criteria

STAFF RECOMMENDATION:

Staff finds that the exception criteria of Section 14-5.2(D)(9) have not been met and does not recommend approval of the application as it does not comply with 14-5.2(D) General Design Standards for all Historic Districts, and 14-5.2(E) Downtown and Eastside Design Standards.

While the applicant is requesting an exception from the HDRB to the streetscape height standard of 4'-6", Section 14-5.2(C)(5)(a) states that, *"if the applicant requests approval of a height in the historic district that exceeds the underlying zoning district requirement, the applicant shall first receive an exception to this Section 14-5.2. If approved by the historic district board, the applicant shall proceed to the board of adjustment for consideration of the proposed variance."*

The underlying zoning district for this property is Business Capital District East Marcy/East Palace (BCDMAR) which permits a maximum height of 4'-0" for fences, per Table 14-7.4 (A)-1.

Therefore, if the HDRB approves the exception, the applicant shall proceed to the Board of Adjustment for a variance to the standards of the underlying zoning. If the Board denies the exception, the applicant must produce a new proposal which complies with both the underlying zoning and historic design standards. One motion will be required in this case.

Sample motion:

A. Approve or deny Case #2024-009478 to allow an exception to 14-5.2(D)(9) to construct a coyote fence to a maximum height of 5'-8" where a maximum allowable height of 4'-6" is allowed.

BACKGROUND & SUMMARY:

The single-family residence at 614 Paseo de Peralta is listed as contributing to the Downtown and Eastside Historic District. The residence is a moderately pitched gabled roof, deep set windows, and a large bay of windows on the north where a porch has been enclosed. It is obvious that the northern portal was enclosed sometime after 1985 because the photo of the 1985 HCPI shows an open portal. There is no case for that enclosure on file with the Historic Preservation Division office.

The property has held several fences along the street frontage of Paseo de Peralta over the years. Figure 1, shows photographic proof of a blue board fence present from 2007 through 2014, and a wood framed wire fence present from 2015 through 2023. The new coyote fence was constructed in 2023. There is no record of an approval from Historic Preservation and there are no permits on record for the changes to the fencing over time.

The streetscape along Paseo de Peralta was built after the Anglo-American arrival and the houses in this area reflect the Anglo-American style of architecture, including low front yard fences. There is a consistent grade change between the properties on the south side of the street and those on the north side. Retaining walls characterize the streetscape on the north side, with additional walls that are substantially set back from the plane of the retaining walls. The applicant's proposed coyote fence is not in keeping with this streetscape with regard to height and material.

Section 14-5.2(D)(c)(ii) states that, "*yard walls and fences shall be limited to a height that does not exceed the average of the height of other yard walls and fences in the streetscape.*" While the Historic Preservation Streetscape calculation allows for a 4'-6" high fence, this property is located within the BCDMAR subdistrict. In this subdistrict, fences are further limited to a maximum height of 4'-0" per 14-7.4(A)-1 Table of Dimensional Requirements for Townscape Districts. Per Section 14-1.7 the more restrictive code would apply which means the maximum allowable height at this property is the 4'-0" height per zoning code for the BCDMAR.



Figure 1: Board fence 2007-2014, Wire fence 2015-2023, and Coyote Fence 2023

Section 14-5.2(C)(1)(a) states that, “Each structure to be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as the addition of conjectural features or architectural elements from other buildings, shall not be undertaken.”

A photograph from the 1985 HCPI (See Figure 2) illustrates that this house, like others in the streetscape, had low transparent fencing at the property line. Although it is difficult to discern the exact fence material, it is clear that historically the house had a direct relationship with the street as do other historic buildings in the streetscape.

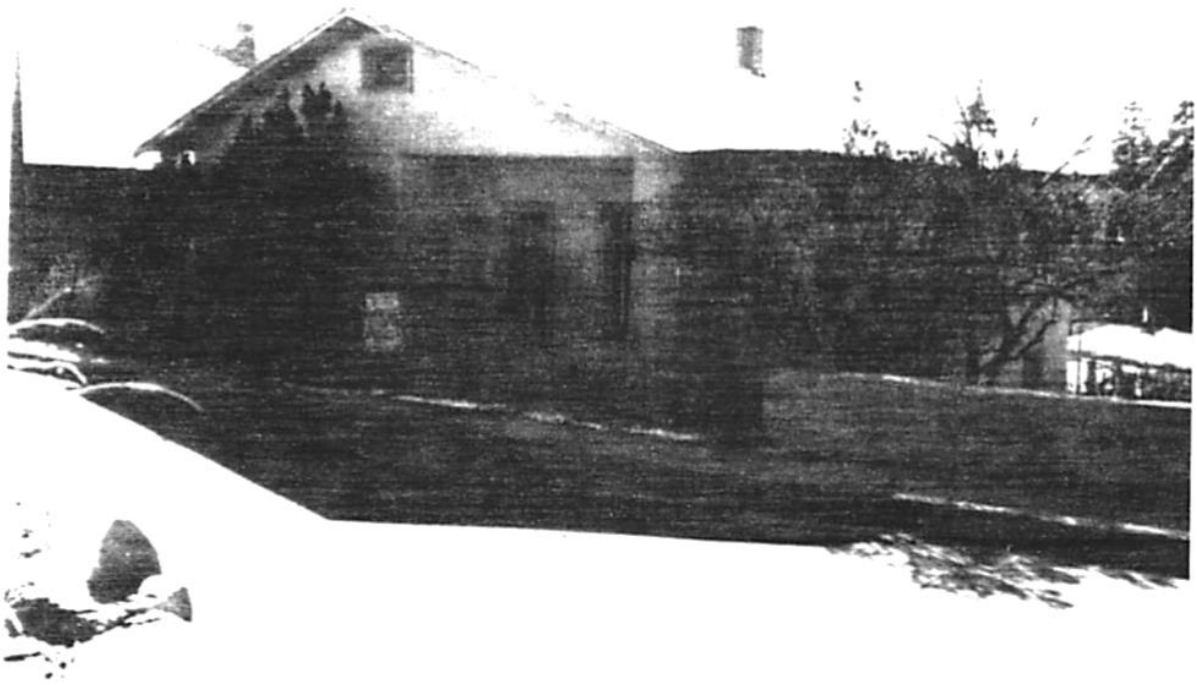


Figure 2: Photo from the 1985 HCPI

Section 14-5.2(D)(1)(a) states, “*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 5’-8” high coyote fence causes a disruption in how the structure relates to the streetscape and if allowed, poses a threat to the building’s historic status and the legibility of the streetscape. Additionally, the townscape, as set forth in the BCD design standards for the East Marcy/E Palace subdistrict also identifies the unique nature of the streetscape by limiting the height of fences and/or walls to a maximum height of 4’-0”.

The city’s inspections office issued a Stop Work Order (red tag) in August 2023 for the construction of the coyote fence without approval from the HDRB, the Historic Preservation Division or a construction permit.

The applicant now requests approval of the coyote fence by proposing the following exterior alterations:

- 1) Construct a 5’-8” high coyote fence with two wood plank pedestrian gates (one on the street frontage and one on the side property line) where the maximum allowable height is 4’-6”. An exception to section 14-5.2(D)(9) to exceed the maximum allowable height is requested.

EXCEPTION CRITERIA AND RESPONSES:

Exception to Section 14-5.2(D)(9): The applicant requests an exception to exceed the maximum allowable height of a fence.

(i) *Do not damage the character of the district;*

Applicant Response: The streetscape has a variety of fencing types from stone and solid masonry walls to wood fencing including coyote and picket fencing. There are 8 and 10 ft retaining walls less than half block away at the intersection of Paseo and Otero (NW and NE corners) and several coyote fences across the street.

Staff Response: Staff does not agree with this statement. The coyote fence as proposed damages the character of the district, is a violation so the streetscape standards and the underlying BCDMAR zoning standards. The heights of the walls and fences along this streetscape of Paseo de Peralta range in height from 24" (2'-0") and 108" (9'-0") and the walls and fences vary from retaining walls constructed of rock or stuccoed concrete masonry on the north side of the street. The tallest wall is a retaining wall with yard wall on top. The combination of a yard wall with retaining wall is allowed at a height greater than properties with no retaining wall. There is a grade change between the properties on the south side of the street and those on the north side. Retaining walls characterize the streetscape on the north side, with additional walls that are substantially set back from the plane of the retaining walls. The south side of the street is lined with lower yard walls and fences with stepped heights or wrought iron creating an open fenestration of the yard wall, two picket fences, one wire fence, and at the edge of the streetscape there is a single coyote fence located on the Girls, Inc. Property. The Girls, Inc property is part of the Hillside streetscape rather than the Paseo de Peralta streetscape, and is visually disrupted from the property, as it is located around the curve from the subject property. Furthermore, the Girls, Inc. property is part of a different zone district than the subject streetscape.

Streetview images have been provided to illustrate the streetscape and context of yard walls and/or fences in the streetscape.



Figure 3: Streetview looking west



Figure 4: Streetview looking east

(ii) *Are required to prevent a hardship to the applicant or an injury to the public welfare;*

Applicant Response: The owner is and has been a full-time resident at the address since 1988 and in order to continue to reside there safely needs to raise the fence to its current built height. There have been several 911 calls and a break in at the residence which is located in close proximity to two parks-the Cross of the Martyrs and the Tommy Macione Park.

The owner had replaced a blue wood fence with a lower chain link fence that supported the older wire fencing in 2003. However, with the increase in trespass and robbery at her residence, the owner felt her only recourse was to replace the damaged wire fencing with a fence made of stronger material that will deter unwanted entries.

The coyote fencing will also be easier to maintain given the heavy barrage of salt that it gets in the winter due to the location of the residence at a curve and its extreme proximity to Paseo de Peralta.

Staff Response: This criterion has not been met. There is no hardship that is unique to this property; other residences/shops in the streetscape have direct access to the street. Through the establishment of the Downtown & Eastside Historic District and the adoption of the historic districts ordinances, it was determined by the community that the preservation of historic streetscapes and buildings is important to retain the overall character of Santa Fe.

The proposed coyote fence is a threat to the historic status of the historically contributing residence, and furthermore it disrupts the streetscape as is regulated by both the Historic Districts Ordinance and the Business Capitol East Marcy/East Palace subdistrict standards.

(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;*

Applicant Response: The streetscape has a variety of fencing types from stone and solid masonry walls to wood fencing including coyote and picket fencing. The increased height will allow the continued use of the structure as a residence since it will increase the owner's personal safety and decrease maintenance costs.

Staff Response: The Applicant's response does not address the approval criteria. While safety and security are concerns for all residents within the city, they are not a valid reason to violate the height and preservation standards established in the ordinance, which inherently considers the welfare and safety of residents. Other security measures could be employed that would not violate the ordinance.

- (iv) *Are due to special conditions and circumstances which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the related streetscape;*

Applicant Response: Other structures have more setback from the street. This lot lost most of its setback when Paseo de Peralta was created in the 1960s. Additionally this structure is the only one that still serves as a live workspace, which has been the historic use of these homes since the 1960s.

Staff Response: The Applicant's response does not address the approval criteria and staff disagrees with this statement. While most of the properties on the north side of Paseo de Peralta are set back further from the road, all the properties on the south side of Paseo de Peralta are set back similarly to the subject property. The setback is not peculiar to this lot. Staff does recognize that some of the properties are commercial such as the art galleries, but the use of the property can change and is not peculiar to the land or structure, other uses are permitted, and other structures could be converted to live work as well, or the existing property could be similarly repurposed.

Street map and aerial images have been provided to illustrate the streetscape and context of yard walls and/or fences in the streetscape.



Figure 5: 1912 Kings map of the vicinity



Figure 6: 1957 Aerial of the vicinity

- (v) *Are due to special conditions and circumstances which are not a result of the actions of the applicant; and*

Applicant Response: The owner is not responsible for the rise in property crime and drug use. Her property is located near two parks which at times serve as magnets for these types of behavior.

Staff Response: The Applicant's response does not address the approval criteria. While staff recognizes that the property owner is not responsible for crime rates, the presence of crime or an incidence of crime is not a justification to violate the preservation or height standards of the ordinance, which is the law of the city. All residents may consider responsible and code compliant safety measures to secure their homes and businesses. The applicant should be held to the same standard as all other structures in the streetscape, which must follow the height and design restrictions set in the ordinance. It should be noted that this exception request is due to the action of the applicant to build a fence without a permit and Historic Districts Review Board approval. Had the applicant proceeded through the typical review process there may not have been a need for this request.

- (vi) *Provide the least negative impact with respect to the purpose of this section as set forth in Subsection 14-5.2(A)(1).*

Applicant Response: The owner understood from the contractor that if she kept the fence below six feet, she would not need a permit. She deliberately kept the fence to 5 ft 8 inches for its entire length whether on the street or on a sideline. It is the minimum she feels will deter entry onto her property from Paseo. The type of material being used is compatible with the existing streetscape. There are fences and walls in close proximity that are or will be higher

Staff Response: The Applicant's response does not address the approval criteria. The applicant and her contractor are not in a position to set the rules for permitting, or for height standards and design standards within the historic district, and ignorance of the appropriate processes and standards is not valid justification for violating those standards.

The proposed coyote fence negatively impacts the historic streetscape and a design that does not negatively impact the streetscape has not been considered or proposed by the applicant.

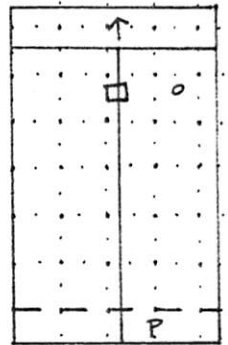
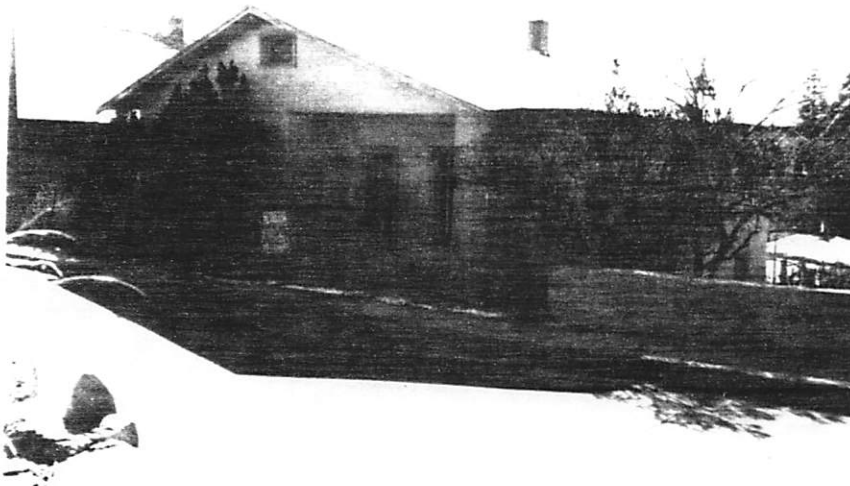
APPROVED AS TO FORM BY THE PLANNING AND LAND USE DEPARTMENT:

Title	Name	Initials
Department Director	Heather Lamboy	HLL
Assistant Department Director	Maggie Moore	MRM
Planning Manager	Gary Moquino	GM
Planner Senior	Lani McCulley	

Attachment B
NEW MEXICO HISTORIC BUILDING INVENTORY FORM

H3011

building threatened? yes	surveyed date <u>2/85</u> by <u>HMW</u>	county <u>SANTA FE</u>	ID no. <u>051610400</u>
field map <u>SFHD #1</u>	number <u>400</u>	UTM reference easting zone <u>12 13</u>	northing
location description <u>614 P° de PERALTA</u>		city/town <u>SANTA FE</u>	
		land grant/reservation	
building name		legal description tnsp <u>N S</u> range <u>E W</u> sec <u>4</u>	
film roll by HMW no. <u>SFHD 17</u>	negative nos. <u>27</u>	loc. of neg. <u>HPB</u>	plan shape



date of construction
1912-30 estimate _____ actual _____
source
KING'S, SANBORN'S

use
present residential
other _____
historic residential
other _____

condition
_____ excellent X good
_____ fair _____ deteriorating

degree of remodeling
_____ minor _____ moderate _____ major

describe:

BUNGALOW

wall material/surface
ADOBES/ STUCCO

architectural features 1 S IN FRANT 2 IN REAR.
MOD. PITCH FRONT GABLE RF W/ PORCH RECES'D IN BLDG VOL.
SMALL 4-LIGHT WD WDW W/ WD SURROUND IN GABLE
2 SOL 1 SMALL / 1 LARGE D.H. WD WDWs W/ STUCCOED
LUG SILLS; SOL LEAF SOL LARGE LIGHT WD. DOOR.
PORCH CARRIED ON CORNER STUCCOED PIER, CONC. FLOOR.
SIDES: 1/1 D.H. WD, SOLS & TANDEM, 1 4/4 WD CASMT
ALL W/ STUCCOED LUG SILLS. BASMT SIDES: 4 & 6 PANE
comments HOPKINS, WD.
REAR: WD PORCH AT UPPER LEVEL ENCLOSED W/ FRAME
CONST & 2 BANDS OF 4 4-LIGHT WD WDWs, CARRIED ON
IRON POSTS BELOW, FORMING OPEN PORCH W/ GARAGE
DOOR.

surroundings
COMMERCIAL/RESIDENTIAL

relationship to surroundings
X similar _____ not similar

district potential
_____ yes _____ no

significance
_____ eligible X of _____ none
if eligible, interest

why? CONTRAST

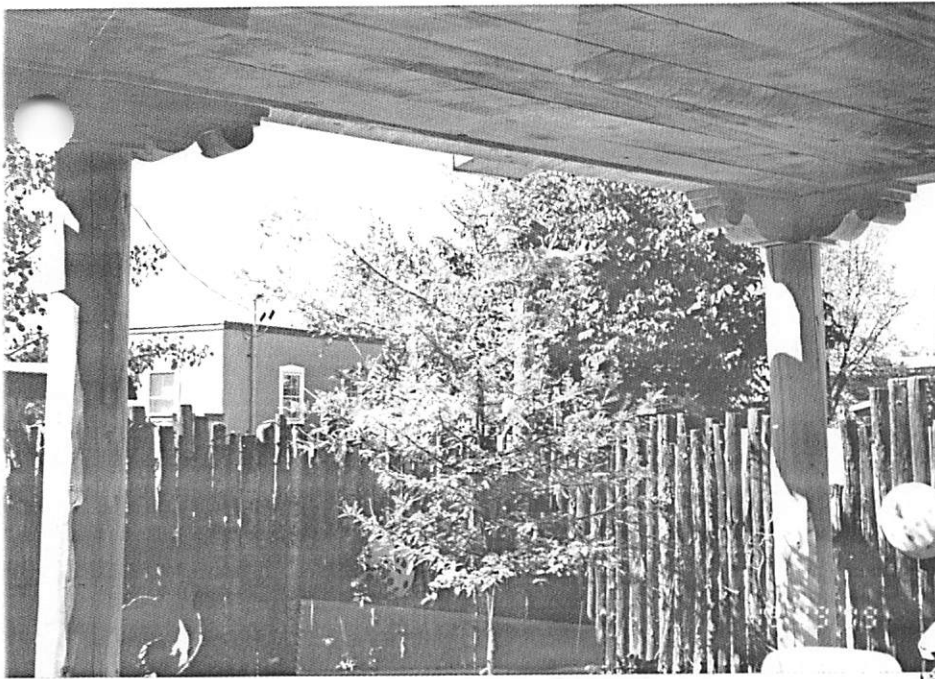
associated buildings? _____ yes
what type?

if inventoried, list ID nos.

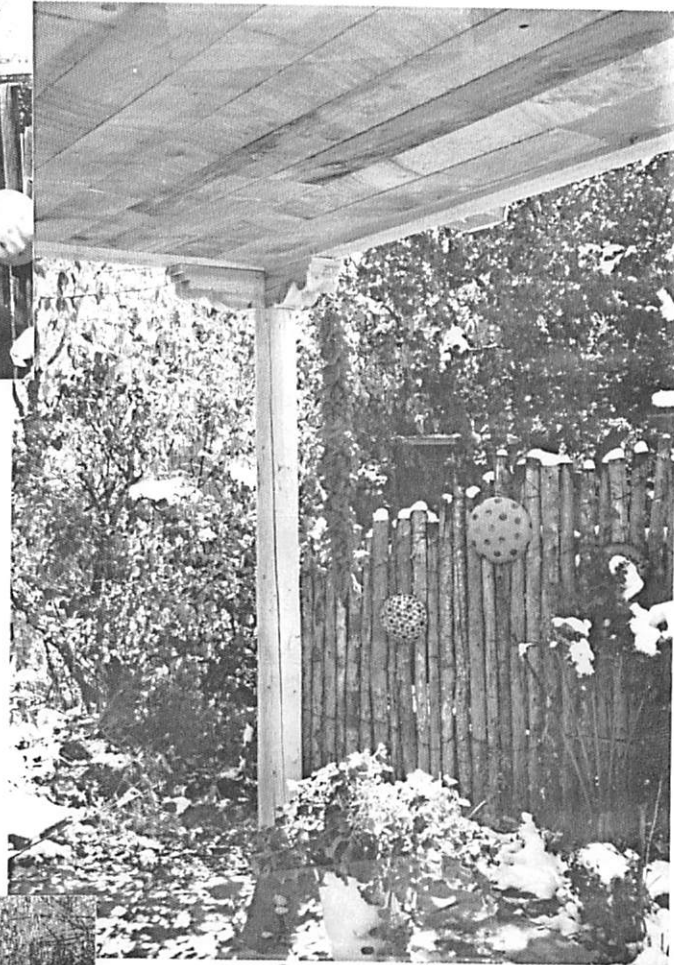
EXHIBIT D-2

see back **COSF 0053**

H-99-211
614 Paseo de Peralta



SW View



SE View



View from Loma Lane



Preliminary Zoning Review Worksheet

City of Santa Fe Land Use Department

To Be Completed By Applicant:		Site Address:
Date Submitted: 10/1/24	Miriam Espensen	614 Paseo de Peralta
Property Owner of Record: Leth Espensen Trust		Proposed Construction Description:
Applicant/Agent Name: Stefanie Beninato		new fence
Contact Person Phone Number: 505 988 8022	TOTAL ROOF AREA: 1530 / 3955 (lot size)	
Zoning District: BCDEAS		Lot Coverage: 39 %
Overlay: ☐ Escarpment ☐ Flood Zone ☐ Other: Downtown/Eastside		☐ Open Space Required:
Submittals Reviewed with PZR: Historic District		Setbacks: N/A
☒ Legal Lot of Record ☐ Development Plan ☐ Building Plans		Proposed Front: Minimum:
☐ Existing Site Plan ☒ Proposed Site Plan ☒ Elevations		2nd Front?
Supplemental Zoning Submittals Required for Building Permit:		Proposed Rear: Minimum:
☐ Zero Lot Line Affidavit N/A		Proposed Sides: L R Minimum:
Access and Visibility: ☐ Arterial or Collector** N/A		Height: Proposed 5'8"
☐ Visibility Triangle Required		Maximum Height: 4'8" or
Use of Structure: ☒ Residential Yarn Shop,		☒ Regulated by Historic Districts Ordinance
☒ Commercial Type of Use: Gallery		☐ Regulated by Escarpment District
Terrain: ☐ 30% slopes N/A		Parking Spaces: N/A
		Proposed Accessible
		Minimum:
		Bicycle Parking**: N/A
		Proposed Minimum:

** Requires an additional review conducted by Technical Review Division
** Requires an additional review conducted by the Traffic Engineering Division

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

Stefanie Beninato (OWNER ☐ APPLICANT ☒ AGENT)

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

Stefanie Beninato
SIGNATURE

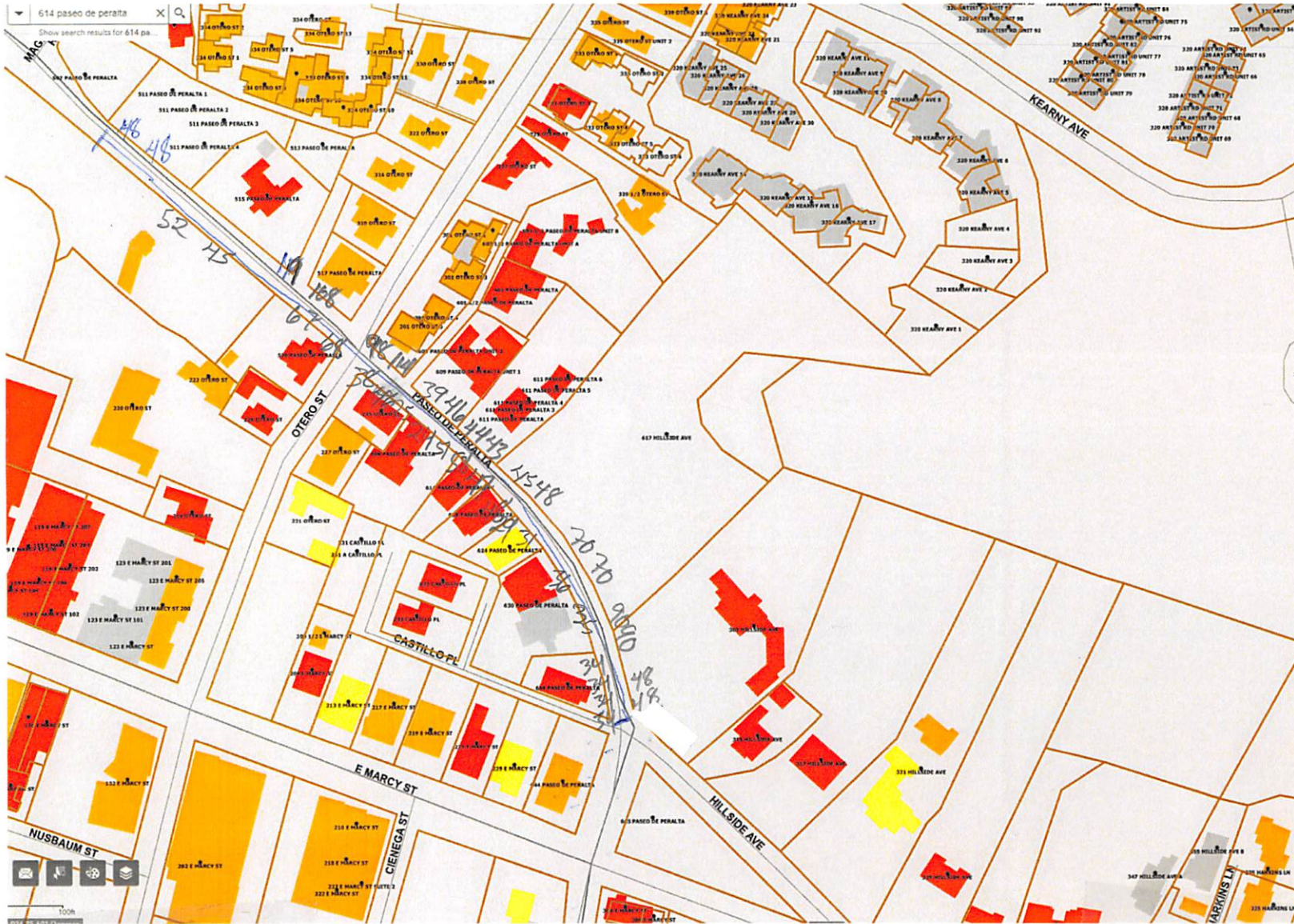
10/1/24
DATE

To Be Completed By City Staff:		2024-009432PAR
Additional Agency Review if Applicable:		
☐ Escarpment Approval by	Date: / /	
☐ Flood Plain Approval by	Date: / /	
☐ Traffic Engineering Approval by	Date: / /	
Notes:		
Zoning Approval:		
☐ Preliminary Approval ☒ with conditions ☐ Rejected		
Comments/Conditions: Legal lot of record provided		
Proposed 5'8" fence requires a variance from the Board of Adjustment before permitting per		
14-7.4(A) Table of Dimensional Requirements for Townscape Districts for East Marcy/ East Palace		
REVIEWER: Rebekah Clouser	DATE: 11 / 6 / 2024	

Original color form must be submitted with Historic Districts Review Board (HDRB) application packet.

COSF 0055

3/24



Fence/Wall Height Calculation for 614 Paseo de Peralta

Total: 2052
Count: 38
Average: 54"
Maximum Allowable
Height: 54" or 4'6"

48 48 119 108 98 114 39 46 44 43 45 48 70 70 90 90 48 48 52 45 67 68 38 46 25 24 51 58 47 48 29 31 36 35 34 34 34 34 54

COSF 0056



2007-2014



2015-2023



August 2023
 COSF 0057



Streetscape looking west
from neighbor to the east
to the stop sign and then
beyond the stop sign



COSF 0058



Streetscape looking east from the residence

COSF 0059



COSF 0060



COSF 0061

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

THIS SECTION ON DELIVERY

Case Number: **BLD-002116-2024**

Case Type: **Building**

Date Case Established: **01/11/2024**

Compliance Deadline: **02/22/2024**

OFFICIAL

SANTA FE

Postage \$ **6.35**

Certified Fee **4.35**

Return Receipt Fee (Endorsement Required) **3.55**

Restricted Delivery Fee (Endorsement Required)

Total Postage & Fees \$ **14.25**

Sent To **Leth - Espensen Trust**

Street, Apt. No., or PO Box No. **614 Paseo de Peralta**

City, State, ZIP+4 **Santa Fe, NM 87501-1957**

Postmark Here **JAN 12 2024**

PS Form 3800, January 2001 See Reverse for Instructions

☐ Agent
☐ Addressee

(Printed Name) C. Date of Delivery

Address different from delivery address below? ☐ Yes ☐ No

Received
JAN 16 2023
Stephen Bartels
NM Taxation & Revenue

Mail ☐ Express Mail
Return Receipt for Merchandise ☐
C.O.D. ☐

Delivery? (Extra Fee) ☐ Yes

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-0835

Santa Fe, NM 87501

Violation: Building without a Permit - Building - 14.5.2.8 Building without a Building permit.

Permits required. Subject to CILA Sections 60-13-3 and Section 60-13-45 NMSA 1978, and the provisions of the division rules, no building or structure shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished, no electrical wiring, plumbing or mechanical work and LP gas work as defined and described in the applicable New Mexico construction codes for those trades, may be installed, repaired or maintained in or on such building or structure, unless the applicable permit has first been obtained from the division, unless otherwise provided by statutes or rule. All re-roofs and applications of roof coatings require a building permit and inspections.

Corrective Action: Obtain Building Permit

Compliance Date: 02/22/2024

NOTICE OF VIOLATION

Should compliance not be adhered to, you will be subject to the penalties of Section 1-3.1. "Any violation of the Santa Fe City Code of 1987, not specifically provided for in any ordinance, resolution, rule, regulation or order to the contrary, is punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the county jail for a term of not more than ninety (90) days, or by both such fine and imprisonment. Every day that any such violation continues constitutes a separate offense, except where otherwise provided."

Sincerely,

Kevin Smith

City Copy

USPS TRACKING#



9590 9402 5883 0038 0555 99

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

United States
Postal Service

* Sender: Please print your name, address, and ZIP+4® in this box *

City of Santa Fe
200 Lincoln Ave
Santa Fe N.M. 87504
Anthony MAESTRAS



COSF 0063

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the package, or on the front if space permits.

1. Article Addressed to:

4-26-94
Miguel Leth Espersen
614 Paseo de Peralta
Santa Fe N.M.
87501



9590 9402 5883 0038 0555 99

2. Article Number (Transfer from service label)

7013 0600 0000 5934 2028

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X *Miguel Leth Espersen* ☐ Agent
☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below. ☐ No

M. Leth Espersen
4/13/24

3. Service Type
☐ Priority Mail Express®
☐ Adult Signature
☐ Registered Mail™
☒ Certified Mail®
☐ Registered Mail Restricted Delivery
☐ Collect on Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery
☐ Registered Mail Restricted Delivery
☐ Registered Mail Restricted Delivery Merchandise

Domestic Return Receipt

City of Santa Fe

0654

P.O. Box 909, Santa Fe, New Mexico 87504-0909

HISTORIC PRESERVATION DIVISION / NOTICE OF VIOLATION

☒ City Initiated

☐ Citizen Complaint

NAME: _____

PHONE: _____

ADDRESS: _____

DESCRIPTION

Unapproved coyote fence at place of residence
NEEDS Approval From Historic Preservation
and construction permit

MAY result in fines and court appearance

Historic preservation @ santafe nm gov

NAME OF VIOLATOR: _____

PHONE: _____

ADDRESS: _____

614 Paseo De Peralta

☒ 14-3.10

construction

Building Permits

☐ 14-8.10 (H) (19)

Permits Required (Signs)

☒ 14-8.5

Walls and Fences

☐ 14-8.10 (H) (23)

Sandwich Signs; Prohibition

☐ 14-8.10

Signs

☐ 14-8.10 (H) (29)

Price Reduction Signs

☐ 14-8.10 (A)

Applicability (Signs)

☐ 14-8.10 (H)

Special Sign Regulations in
the Historic Districts

☐ 14-8.10 (H) (4)

Prohibited Locations

☐ 14-8.10 (H) (12)

Signs; Awnings, Flags, Banners

☐ OTHER

You are in violation of the following City Ordinance: _____

NOTICE OF VIOLATION

HPE01.indd 06/09

Should compliance not be adhered to, you will be subject to the penalties of Section 1-3.1. "Any violation of the Santa Fe City Code of 1987, not specifically provided for in any ordinance, resolution, rule, regulation or order to the contrary, is punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the county jail for a term of not more than (90) days, or by both such fine and imprisonment. Every day that any such violation continues constitutes a separate offense, except where otherwise provided."

DATE: _____

2/23/24

TIME: _____

14:11

☐ AM

☒ PM

REINSPECTION DATE: _____

5/8/24

INSPECTOR _____

PHONE NO.: _____

Anthony MAESTRAS
505-955-6577

COSF 0065



NO ENTRANCE TO
614 PASEO DE PERELTA

PRIVATE PROPERTY
FOR THE EXCLUSIVE USE
OF
618 PASEO DE PERELTA
NO PUBLIC ACCESS

COSF 0066



COSF 0067



COSF 0068



COSF 0069



COSF 0070



COSF 0071

MCCULLEY, LANI J.

From: LAMBOY, HEATHER L.
Sent: Monday, December 2, 2024 7:37 PM
To: MOORE, MARGARET; MOQUINO, GARY S.; MCCULLEY, LANI J.
Subject: FW: Your facts differ from my client's 614 Paseo de Peralta

Follow Up Flag: Follow up
Flag Status: Flagged

Hi all,

I think we need to provide some background on the red-tag process and how Ms. Leth-Espensen has been a scofflaw. That is an important point to share with the HDRB. Please see below.

Sincerely,

Heather L. Lamboy, AICP
Director, Planning & Land Use Department
200 Lincoln Ave, Box 909
Santa Fe, NM 87505
(505) 470-5281



From: LAMBOY, HEATHER L.
Sent: Monday, November 4, 2024 12:25 PM
To: Stefanie Beninato <info@nmmediate.com>
Cc: info@havephd-willtravel.com; VENDITTI, CARLY A. <cavenditti@santafenm.gov>; ESQUIBEL, DANIEL A. <daesquibel@santafenm.gov>; MOQUINO, GARY S. <gsmoquino@santafenm.gov>; HIBNER, KYLE J. <kjhibner@santafenm.gov>; CLOUSER, REBEKAH E. <reclouser@santafenm.gov>
Subject: RE: Your facts differ from my client's 614 Paseo de Peralta

Hi Stefanie,

This is the link that I was referring to – the file size was too large to send via email.

Here's the attachment as a link for your review:

[Citations and Photos 614 PdP.pdf](#)

Sincerely,

Heather L. Lamboy, AICP

Director, Planning & Land Use Department

200 Lincoln Ave, Box 909

Santa Fe, NM 87505

(505) 470-5281



CITY OF SANTA FE
PLANNING & LAND USE

From: LAMBOY, HEATHER L.

Sent: Wednesday, October 30, 2024 5:51 PM

To: Stefanie Beninato <info@nmmediate.com>

Cc: info@havephd-willtravel.com; VENDITTI, CARLY A. <cavenditti@santafenm.gov>; ESQUIBEL, DANIEL A.

<daesquibel@santafenm.gov>; MOQUINO, GARY S. <gsmoquino@santafenm.gov>; HIBNER, KYLE J.

<kjhibner@santafenm.gov>; CLOUSER, REBEKAH E. <reclouser@santafenm.gov>

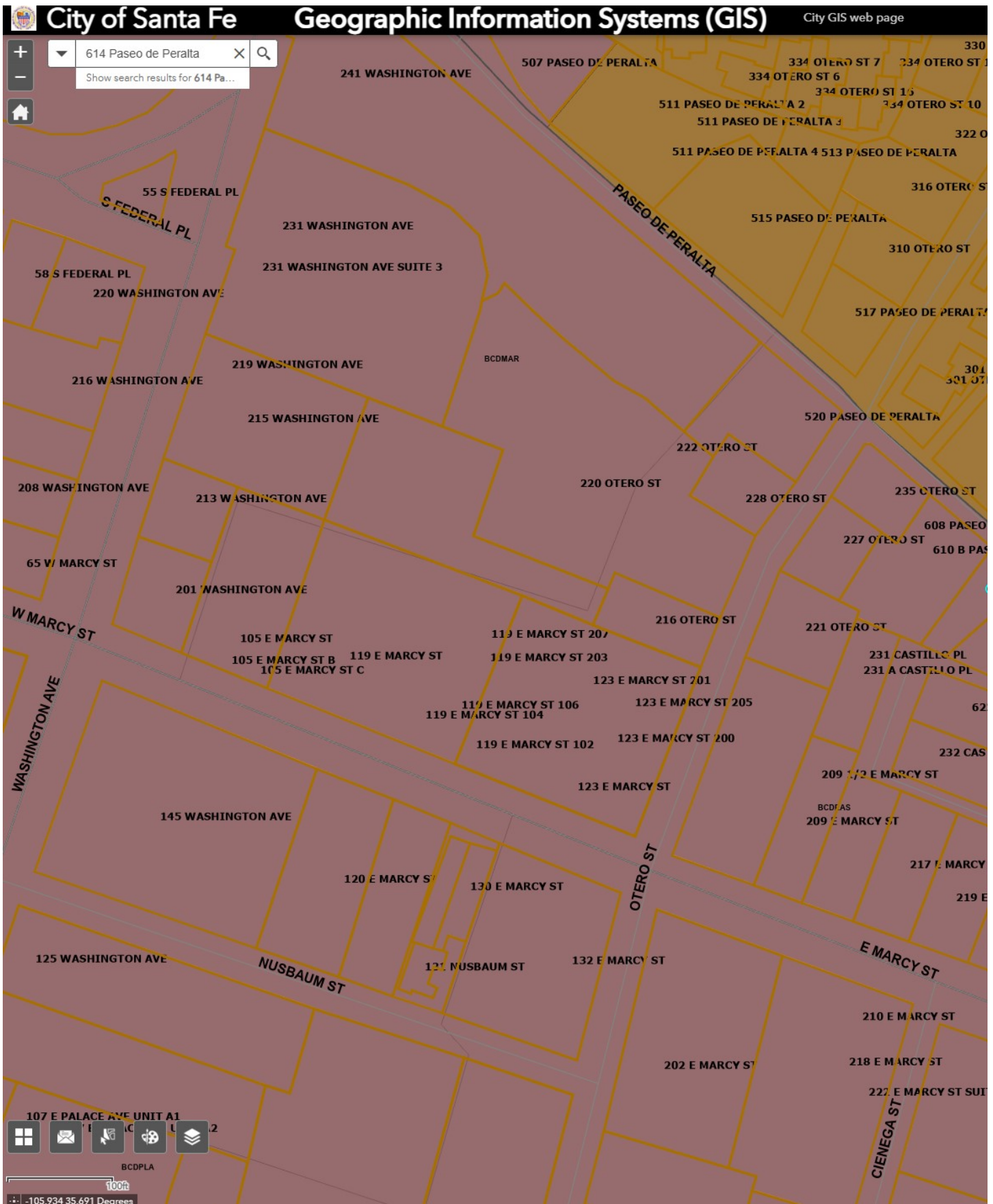
Subject: RE: Your facts differ from my client's 614 Paseo de Peralta

Good afternoon, Stefanie,

The property was red tagged by Kevin Smith, a citation was given by Anthony Maestas, and finally a citation referring the matter to court was issued (please see file link below with the paperwork).

While Paul may have assisted Ms. Leth-Espensen with scanning some paperwork, she did not do anything further. The first step is to obtain a preliminary zoning review (PZR) to assure that the proposed use and height is permitted in the zone district. The Code reference that Ms. Clouser cited has to do with Business Capitol District (BCD) zone district standards. We do not accept an application without the PZR form, as that communicates that Current Planning has reviewed the proposal and that there are no zoning issues. The map below is from the City's Geographic Information Systems (GIS) zoning map, a link to which can be found on the City's website:

<https://gis.santafenm.gov/portal/apps/webappviewer/index.html?id=8cbbefaf87d44d99b4f379564e9f3c83>. On a related matter, the Girls Inc property is in an R-2 zone district and not subject to the same standards as the East Marcy/East Palace BCD subdistrict.



As you can see, the subject property is in the Business Capitol District. The subdistrict is East Marcy/East Palace. The BCD has many subdistricts which reflect the unique character of each district; for example,

a subdistrict for the Capitol campus, Cerrillos Road, Don Gaspar, etc. The table of dimensional standards for the BCD Zone District can be found in Section 14-7.4(A) SFCC

1987. https://library.municode.com/nm/santa_fe/codes/code_of_ordinances?nodeId=CH14LADE_ART14-7BUENOPSPSTME_14-7.4BUPIDI



VERSION: **SEP 12, 2024 (CURRENT)**

➤ Article 14-3 - REVIEW AND APPROVAL PROCEDURES

▼ Article 14-4 - ZONING DISTRICTS

14-4.1 - GENERAL PROVISIONS

14-4.2 - RESIDENTIAL DISTRICTS

14-4.3 - NONRESIDENTIAL AND MIXED-USE DISTRICTS

➤ Article 14-5 - OVERLAY ZONING DISTRICTS

▼ Article 14-6 - PERMITTED USES AND USE REGULATIONS

14-6.1 - LAND USE CATEGORIES; TABLE OF PERMITTED USES

14-6.2 - USE-SPECIFIC STANDARDS

14-6.3 - MULTIPLE PRINCIPAL USES; ACCESSORY USES OR STRUCTURES

14-6.4 - TEMPORARY STRUCTURES OR USES

▼ Article 14-7 - BUILDING ENVELOPE AND OPEN SPACE STANDARDS AND MEASUREMENTS

14-7.1 - GENERAL RULES OF MEASUREMENT AND EXCEPTIONS

14-7.2 - RESIDENTIAL DISTRICTS

14-7.3 - NONRESIDENTIAL AND MIXED-USE DISTRICTS

14-7.4 - BUSINESS-CAPITOL DISTRICT

14-7.5 - OPEN SPACE STANDARDS

➤ Article 14-8 - DEVELOPMENT AND DESIGN STANDARDS

➤ Article 14-9 - INFRASTRUCTURE DESIGN, IMPROVEMENT AND DEDICATION STANDARDS

➤ Article 14-10 - NONCONFORMITIES

➤ Article 14-11 - ENFORCEMENT

➤ Article 14-12 - DEFINITIONS

➤ Article 14-13 - FEES

14-7.4 - BUSINESS-CAPITOL DISTRICT

(A) Table of Dimensional Requirements for Townscape Subdistricts

Maximum Height of Structures (feet); Stepback Note 2	Maximum Lot Coverage Ratio	Building Placement and Requirements (feet)
Alameda Street		
56 Stepback: 1' Horiz.: 2' Vert. above 36'	67%, for portion of block bounded by Cathedral Place, Alameda, Paseo de Peralta and Palace Avenue. None for remainder of this district	No requirements
Barrio De Analco		
West portion: 24 East portion: 18	67%	West portion: Buildings n feet maximum from prop East portion: No restricti
Cerrillos Road		
45 Stepback: 1' Horiz.: 2' Vert. above 27'; wall stepbacks shall be a minimum of 10 horizontal feet.	No requirements	15 minimum on Cerrillos; lot abuts a residential dis outside of the BC district, requirements for the resi district shall be met along common property line
Don Gaspar		
24	No requirements	Building setback requirer Street: 10 Side: 5 Rear: 15
East Marcy/East Palace		
27	No requirements	Building setback requirer Street: Note 4 Side: 5 Rear: 10
Loretto		

Ms. Leth Espensen was originally given a red tag by Kevin Smith (our Zoning Inspector) in August 2023 and January 2024. Anthony Maestas issued a citation on February 23 noting that Ms. Leth-Espensen had

not submitted an application and had not removed the fence. Anthony reinspected on April 26 and the fence remained and yet no application had been submitted. That is when Anthony referred this issue to municipal court. Since then, Assistant City Attorney Kyle Hibner has been processing this case. When the fence was originally constructed in August 2023 Constituent Services received a complaint from a community member, which was investigated and as a result the red tag issued.

Here is a snip from our computer system documenting dates:

Manage Code Case

Search

ILD-002116-2024 (614 PASEO DE PERALTA Santa Fe, NM 87501)

ACTIVE HOLDS

NEW CASE

Summary

Details

Location

Additional Info

Workflow

Linked Records

Holds (2)

Contacts (1)

Fees

Activities

Files

Print Documents

Tasks

Internal Notes (1)

Inspection Cases

Communication

History

Active

Building Without a Permit Hold

Origin: 10068096

Violation # 0654 Issued for coyote fence at place of residence. Needs Approval from Historic Preservation and Construction permit.

Maestas, Anthony

02/23/2024 4:35 PM

Active

Inactive

Building Without a Permit Hold

Origin: 10068096

coyote fence built no permit Historic approval

Smith, Kevin

08/22/2023 7:14 AM

Active

We do try to work with applicants so they can come into compliance with the Historic Districts Ordinance. Over the past year, there have been several interactions with Ms. Leth-Espensen with staff as well as with the attorney at municipal court. Mr. Hibner shared with me that the judge most recently requested that Ms. Leth-Espensen make application to the City. As of yet, all that we have processed is a PZR. Even if the Historic Districts Ordinance permits a higher height, the underlying zoning permitted

7

COSF 0078

height of 4 feet still applies; therefore, a variance to the height permitted by zoning (4 feet) will need to be reviewed and acted on by the Board of Adjustment. If a variance is granted, then the Historic Districts Review Board may then review the case.

Finally, you will find the application for a variance on this web page: <https://santafenm.gov/land-use/current-planning/application-forms-and-fees>.

Here's the attachment as a link for your review:

[Citations and Photos 614 PdP.pdf](#)

I hope this helps your understanding of the process and Code standards.

Sincerely,

Heather L. Lamboy, AICP

Director, Planning & Land Use Department

200 Lincoln Ave, Box 909

Santa Fe, NM 87505

(505) 470-5281



CITY OF SANTA FE
PLANNING & LAND USE

Sincerely,

Heather L. Lamboy, AICP

Director, Planning & Land Use Department

200 Lincoln Ave, Box 909

Santa Fe, NM 87505

(505) 470-5281



CITY OF SANTA FE
PLANNING & LAND USE

From: Stefanie Beninato <info@nmmediate.com>

Sent: Wednesday, October 30, 2024 9:04 AM

To: LAMBOY, HEATHER L. <hllamboy@santafenm.gov>

Cc: info@havephd-willtravel.com; VENDITTI, CARLY A. <cavenditti@santafenm.gov>; ESQUIBEL, DANIEL A. <daesquibel@santafenm.gov>; MOQUINO, GARY S. <gsmoquino@santafenm.gov>; HIBNER, KYLE J.

<kjhibner@santafenm.gov>; CLOUSER, REBEKAH E. <reclouser@santafenm.gov>

Subject: Your facts differ from my client's 614 Paseo de Peralta

Importance: High

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Heather Apparently my client and her son have a difference of opinion with your staff. I don't see Paul Duran's name on this thread. He is the one who on 1 March 2024 sent Miriam's application in—I believe he helped her scan the documents. See email below

It should be noted that Ms Clouser is citing fence heights for E Marcy and E Palace. This property is not located on either street. It is located on Paseo de Peralta. There is a 4 ft 8 inch picket fence at 618 visible from the street. Also Ms Leth-Espensen is adamant that her fence was never redtagged. I am not surprised since there are people in my neighborhood who have been reported for unpermitted work and NEVER redtagged such as at 1008, 1023, 1025 Don Diego and 1030 Don Cubero.

My goal is to move this case to a resolution so Ms Leth-Espensen can live there safely.

What is the next step? I would like a clear pathway to resolution—no changes seven months later...like going to BOA instead of Historic...

If it is really necessary to go to the BOA, why was your staff ready to schedule this for a HBoard meeting? Really it seems even with digitalized files the right and left hands in your dept do not know what the other is doing. Please send all necessary applications today to avoid even more delay. I have submitted the PZR application; perhaps you can find the 1 March 2024 H Board application or I can submit a new one. Otherwise please send correct application for variance with instructions.

Thank you

Stefanie Beninato

----- Forwarded message -----

From: Robert Kohn <rkohn@outlook.com>

To: Stefanie Beninato <info@nmmediate.com>

CC: Miriam Leth-Espensen <miriamsf@me.com>

Subject: FW: 614 Paseo del Peralta Historic Districts Application

Date: Tue, 29 Oct 2024 23:45:59 +0000

Message-ID: <BL0PR02MB3700C0CD36EF0D5B3F6804D3AC4B2@BL0PR02MB3700.namprd02.prod.outlook.com>

Dear Stefanie,

It is wrong for Heather Lamboy to say that Miriam supposedly caused delays because she supposedly “has not formally applied for a permit.” (As stated by Ms. Lamboy in her email sent to lots of people on Oct. 28, 2024.)

Miriam applied for a permit on March 1, 2024. (Please see below.) Would you please consider noting this fact to Ms. Lamboy and her colleagues?

Thank you,

-Rob

From: Miriam Leth-Espensen <miriamsf@mac.com>

Date: Saturday, April 20, 2024 at 8:05 AM

To: Robert Kohn <rkohn@outlook.com>

Subject: Fwd: 614 Paseo del Peralta Historic Districts Application

Sent from my iPhone

Begin forwarded message:

From: Miriam Leth-Espensen <miriamsf@me.com>

Date: March 1, 2024 at 5:02:09 PM MST

To: "DURAN, PAUL A." <paduran@santafenm.gov>

Subject: Re: 614 Paseo del Peralta Historic Districts Application

Thanks for all your help.

Enjoy the week-end.

Miriam

Sent from my iPad

On Mar 1, 2024, at 4:16 PM, DURAN, PAUL A. <paduran@santafenm.gov> wrote:

Hi Miriam,

Attached is the historic districts application. I have sent a copy to the hpdsubbmittal@santafenm.gov<<mailto:hpdsubbmittal@santafenm.gov>>

Thank you for coming in today and have a great weekend,

Paul

<614 Paseo Del Peralta.pdf>

From: Stefanie Beninato [<mailto:info@nmmediate.com>]

Sent: Tuesday, October 29, 2024 5:30 PM

To: 'hllambo@sanatfenm.gov'

Cc: 'info@havephd-willtravel.com'; 'cavenditti@santafenm.gov'; 'daesquibel@santafenm.gov'; 'gsmoquino@santafenm.gov'; 'kjhbnr@santafenm.gov'; 'reclouser@santafenm.gov'

Subject: New Requirement for 614 Paseo de Peralta

LAMBOY, HEATHER Thank you for city's history of the case. Would you cite the ordinance re BCD height variations by variance? And also what zone is Girls Inc in since it just got an exception to raise the height of its coyote fencing beyond what is allowed by the HBoard. Same concerns as Ms Leth-Espensen.

Thank you

Stefanie Beninato

L. writes:

> Hi Stefanie,

>

> Many of the delays have been caused by Ms. Leth-Espensen. She has not
> formally applied for a permit even though the preliminary contact was
> months prior to Ramon leaving (the meeting was held on September 14,
> 2023). When he did not get timely responses from her, I even reached out
> to Eric Sommer as he was present at the initial meeting.

>

> As she has not done her due diligence, the zoning standards were not
> reviewed until this point. Previously we have only discussed the project
> as it relates to the height standards, preservation and design standards
> of the Historic Districts Ordinance. Chapter 14 clearly states the
> following: Section 14-5.2(A)(5):

>

> (5)Zoning District Regulations

> The property in an historic district shall be subject to the

> requirements, uses, and other regulations of the zoning district of which

> the property is a part, except for height as regulated in Subsection 14-5.2(D).

>

> Typically, the permitted height according to the Historic Districts

> Ordinance is lower than the permitted zoning district height. In this

> case, the BCD standards apply in addition to the Historic Districts

> Ordinance. The only body permitted to vary dimensional standards as set

> forth by the zone district is the Board of Adjustment. If she wants to

> maintain the current height, a variance will be required first and then

> the Historic Districts review board may approve this case.

>

> I am sure that you know that a non-conforming condition (the height of

> the fence she replaced) may not be created again with new construction.

> The non-conforming condition was removed with the removal of the previous fence.

>

> I have included a copy of the email correspondence that Gary and I sent

> to Ms. Leth-Espensen in September 2024 outlining the application process,

> which included the statement that she should apply for her PZR immediately.

>

> Finally, Ms. Leth-Espensen has regularly removed the red tags from the

> fence, which is not permitted according to Code. She has been severely

> deficient in her response to the red tags and citation.

>

> Sincerely,

>

> Heather L. Lamboy, AICP

> Director, Planning & Land Use Department

> 200 Lincoln Ave, Box 909

> Santa Fe, NM 87505

> (505) 470-5281

>

>

>

>

> -----Original Message-----

> From: info@swguides.com <info@swguides.com>

> Sent: Monday, October 28, 2024 10:11 AM

> To: CLOUSER, REBEKAH E. <reclouser@santafenm.gov>

> Cc: info@havephd-willtravel.com; LAMBOY, HEATHER L.

> <hllamboy@santafenm.gov>; VENDITTI, CARLY A. <cavenditti@santafenm.gov>;

> ESQUIBEL, DANIEL A. <daesquibel@santafenm.gov>

> Subject: Re: 614 Paseo de Peralta PZR status

>

> CAUTION: This email originated from outside of the organization. Do not

> click links or open attachments unless you recognize the sender and know

> the content is safe.

>

>

> CLOUSER, REBEKAH The client is asking for an exception to the Historic

> standards. She does not want the fence to the accepted height of 4 ft 8

> inches. That is on the PZR application.

> Please can we go forward? This case has been open for over a year and

> delayed because of alleged staff shortages etc. Now it seems that you

> all are not in the loop on why this case is going to Historic.

> Thank you

> Stefanie Beninato

>

>

>

> E. writes:

>

>> Good Morning,

>>

>> Staff has received your legal lot of record for the property.

>> Per 14-7.4(A)-1 Table of Dimensional Requirements for Townscape

>> Subdistricts for East Marcy/ East Palace "Walls, fences, and hedges

>> permitted to maximum of 4 feet."

>> Please lower the proposed fence height to 4'.

>>

>> Thanks,

>> Rebekah Clouser

>> City of Santa Fe Land Use

>> Land Use Planner

>>

>>

>> The City of Santa Fe is initiating a review and update of the Land

>> Development Code, and invites you to participate!

>> Please visit <http://www.santafeldcupdate.org/> to learn more, take our

> survey and join the mailing list.

>>

>>

>>

>> -----Original Message-----

>> From: info@havephd-willtravel.com <info@havephd-willtravel.com>

>> Sent: Friday, October 25, 2024 1:48 PM

>> To: VENDITTI, CARLY A. <cavenditti@santafenm.gov>

>> Cc: LAMBOY, HEATHER L. <hllamboy@santafenm.gov>; CLOUSER, REBEKAH E.

>> <reclouser@santafenm.gov>

>> Subject: Re: 614 Paseo de Peralta PZR status

>>

>> CAUTION: This email originated from outside of the organization. Do

>> not click links or open attachments unless you recognize the sender

>> and know the content is safe.

>>

>>

>> VENDITTI, CARLY On Wednesday Dan Esquibel contacted you and sent you

>> verification of the legal lot of record status for 614 Paseo de Peralta.

>> Since that is the only item you pointed out as missing, I was

>> expecting the review to be approved shortly after you received that

>> confirmation. I am trying to make the 28 Oct deadline for the HBoard.

>> Please advise me of status of PZR Thank you Stefanie Beninato

>>

>>

>> A. writes:

>>

>>> Good morning,

>>>

>>> The PZR for 614 Paseo de Peralta is currently incomplete, please

>>> submit legal lot of record for the property so we may move forward with our review.

>>> <https://santafenm.gov%2Fland-use%2Flegal-lot-of-record&data=05%7C02%7Creclouser%40%7C77b69f5a55ed436386164867b0bc707f%7C0%7C0%7C638654825426728306%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTil6Ik1haWwiLCJXVCI6Mn0%3D%7C60000%7C%7C%7C&sdata=dermLbR4exoKYs4BNzN4W09%2BMFa%2FvZrOHvdYPPJ%2F58%3D%7C60000%7C%7C%7C&sdata=jhy2ioRmUsp5%2BQqNvBZLbLDgPVJm7UK9bCJtjwxufsk%3D&reserved=0>

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>>> J

>>> WljoIMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTil6Ik1haWwiLCJXVCI6Mn0%3D%7C60000%7C%7C%7C&sdata=dermLbR4exoKYs4BNzN4W09%2BMFa%2FvZrOHvdYPPJ%2F58%3D%7C60000%7C%7C%7C&sdata=jhy2ioRmUsp5%2BQqNvBZLbLDgPVJm7UK9bCJtjwxufsk%3D&reserved=0

>>> 0

>>> 0%7C%7C%7C&sdata=dermLbR4exoKYs4BNzN4W09%2BMFa%2FvZrOHvdYPPJ%2F58%3D%7C60000%7C%7C%7C&sdata=jhy2ioRmUsp5%2BQqNvBZLbLDgPVJm7UK9bCJtjwxufsk%3D&reserved=0

>>> &

>>> reserved=0

>>>

>>> Thank you,

>>> Carly

>>>

>>> Carly Venditti

>>> Senior Planner

>>> City of Santa Fe

>>> cavenditti@santafenm.gov

>>> Cell: 505.795.0675

>>> Office: 505.955.6656

>>>

>>>

>>> [cid:17ece933-1a05-43f1-9654-eb3fc77f0440]

>>>

>>> The City of Santa Fe is initiating a review of the Land Development

>>> Code, and invites you to participate!

>>>

>>> Please visit

>>> <http://www.santafenm.gov>

>>> s%2F&data=05%7C02%7Chllambo%40santafenm.gov%7Ca5c2b9bfcfbf24b758eec08dcf76b1bcc%7C77b69f5a55ed436386164867b0bc707f%7C0%7C0%7C638654825426728306%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTil6Ik1haWwiLCJXVCI6Mn0%3D%7C60000%7C%7C%7C&sdata=jhy2ioRmUsp5%2BQqNvBZLbLDgPVJm7UK9bCJtjwxufsk%3D&reserved=0

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>>> vBZLbLDgPVJm7UK9bCJtjwxufsk%3D&reserved=0

>>> antafeldcupdate.org%2F&data=05%7C02%7Creclouser%40santafenm.gov%7C34c15c891c784dc8bdc308dcf52dfb6a%7C77b69f5a55ed436386164867b0bc707f%7C0%7C0%7C638654825426743191%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTil6Ik1haWwiLCJXVCI6Mn0%3D%7C60000%7C%7C%7C&sdata=TbQqNvBZLbLDgPVJm7UK9bCJtjwxufsk%3D&reserved=0

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>>> C

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>>> J

>>> QljoIV2luMzliLCJBTil6Ik1haWwiLCJXVCI6Mn0%3D%7C60000%7C%7C%7C&sdata=TbQqNvBZLbLDgPVJm7UK9bCJtjwxufsk%3D&reserved=0

>>> G

>>> O6AKFHSqIbAt55Ov5CQRoLHsH0ilzDtjkSdn7zXk%3D&reserved=0<<https://gcc02.santafenm.gov>

>>> safelinks.protection.outlook.com/?url=https%3A%2F%2Fgcc02.s%2F&data=0
>>> 5%7C02%7Chllamboym%40santafenm.gov%7Ca5c2b9bfcfbf24b758eec08dcf76b1bcc%
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>>> C
>>> JBTiI6IklhaWwiLCJXVCI6Mn0%3D%7C60000%7C%7C%7C&sdata=p2T6XjYU0HokSyQYZ
>>> 1 OSGTZOY8yxAQK7dG%2F0%2BZwJuT8%3D&reserved=0>
>>> to learn more and join the mailing list.
>>>
>>> _____
>>> From: Stefanie Beninato <info@nmmediate.com> on behalf of
>>> info@havephd- willtravel.com <info@havephd-willtravel.com>
>>> Sent: Saturday, October 19, 2024 4:41 PM
>>> To: Land Use Zoning Counter <zoningcounter@santafenm.gov>
>>> Subject: 614 Paseo de Peralta preliminary zoning review work sheet
>>>
>>>
>>> CAUTION: This email originated from outside of the organization. Do
>>> not click links or open attachments unless you recognize the sender
>>> and know the content is safe.
>>>
>>>
>>> Attached please find preliminary zoning review work sheet for 614 Paseo de Peralta.
>>>
>>> The owner built the fence based on bad advice of a contractor and is now seeking a permit.
>>>
>>> Photo attached shows already existing fence that is part of the subject of the permit.
>>>
>>> If you need anything else to complete the application, please let me know.
>>>
>>> I would like to help the owner move forward-she has been working on
>>> resolving the issue for over a year now.
>>>
>>> Thank you.
>>>
>>> Stefanie Beninato
>>>
>>> Agent for Miriam Leth-Espensen
>>>
>>> 505 988 8022
> Stefanie Beninato
> PO Box 1601
> Santa Fe, NM 87504

> 505 988 8022

>

EXHIBIT D-3

1 October 2024

Historic Design Review Board

Proposal Letter

Coyote Fencing at 614 Paseo de Peralta

The owner mistakenly put up a 5ft 8 in coyote fence based on the advice of the contractor (FabianNava) who installed the fence.

It is made of wood coyote fencing approximately 2 inches in diameter. The frame is 2 3/8 steel vertical bars placed every 4 feet and 1 inch steel pipes for the cross bracing at top and bottom of fence. Bracing is on the inside of the fence as it faces the street. The vertical bars are placed in 2 3/4 inch steel pipes in the ground. On the W side, there is 15 ft of coyote fencing starting at the corner of Paseo de Peralta that is connected by a 5 ft extension to the residence. The elevation drops sharply at this point on the W side. The fence extends the 35 ft length of the property facing Paseo de Peralta with a white-painted, three-foot wide, solid wood gate with a curved top placed approximately midway down that line. The fence then angles behind a utility pole and extends another 60 feet with the elevation dropping at approximately 20 ft from the street. There is a second gate at the lower elevation just where the elevation change occurs on the E side. The fence runs approximately 36 ft past the gate on the E side and attaches to the pre-existing coyote fencing on the lower part of the property. The fence is partially hidden on the E side by the existing picket fence on the neighboring property. Other than the top, it is not visible approximately 20 feet from the street on the E side because of the elevation change.

614 Paseo de Peralta
Miriam Leth-Espensen, owner

REQUEST FOR AN EXCEPTION TO FENCE HEIGHT
Historic Districts and Historic Landmarks
Height, Pitch, Scale, Massing, and Floor Step backs Exception Criteria

- (i) Do not damage the character of the streetscape

Response: The streetscape has a variety of fencing types from stone and solid masonry walls to wood fencing including coyote and picket fencing. There are 8 and 10 ft retaining walls less than half block away at the intersection of Paseo and Otero (NW and NE corners) and several coyote fences across the street.

- (ii) Prevent a hardship to the applicant or an injury to the public welfare

Response: The owner is and has been a full time resident at the address since 1988 and in order to continue to reside there safely needs to raise the fence to its current built height. There have been several 911 calls and a break in at the residence which is located in close proximity to two parks—the Cross of the Martyrs and the Tommy Macione park.

The owner had replaced a blue wood fence with a lower chain link fence that supported the older wire fencing in 2003. However with the increase in trespass and robbery at her residence, the owner felt her only recourse was to replace the damaged wire fencing with a fence made of stronger material that will deter unwanted entries.

The coyote fencing will be also be easier to maintain given the heavy barrage of salt that it gets in the winter due to the location of the residence at a curve and its extreme proximity to Paseo

- (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

Response: The streetscape has a variety of fencing types from stone and solid masonry walls to wood fencing including coyote and picket fencing. The increased height will allow the continued use of the structure as a residence since it will increase the owner's personal safety and decrease maintenance costs.

- (iv) Are due to special conditions and circumstances which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the related streetscape

Response: Other structures have more setback from the street. This lot lost most of its setback when Paseo de Peralta was created in the 1960s. Additionally this

614 Paseo de Peralta Muram 6th -
Request for Exception Espensen

structure is the only one that still serves as a live work space which has been the historic use of these homes since the 1960s.

(v) Are due to special conditions and circumstances which are not a result of the actions of the applicant

Response: The owner is not responsible for the rise in property crime and drug use. Her property is located near two parks which at times serve as magnets for these types of behavior

(vi) Provide the least negative impact with respect to the purpose of this section as set forth in Subsection 14-5.2(A)(1)

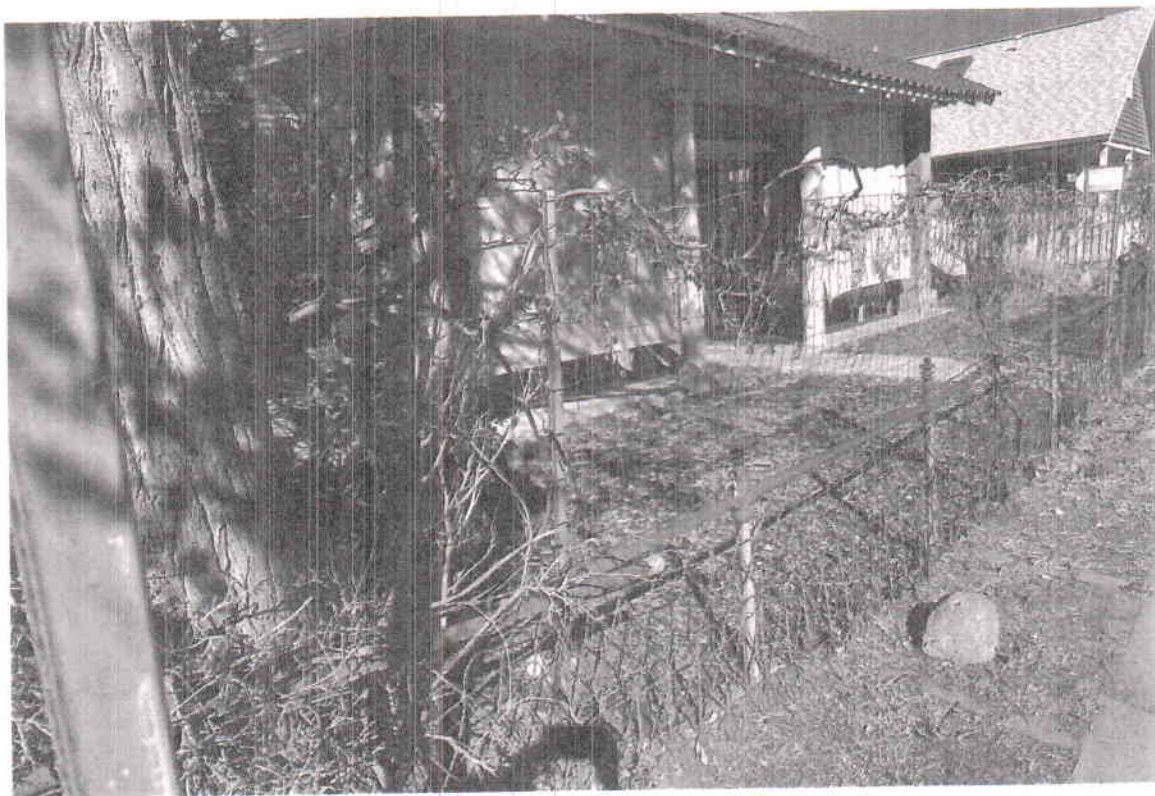
Response: The owner understood from the contractor that if she kept the fence below six feet, she would not need a permit. She deliberately kept the fence to 5ft 8 inches for its entire length whether on the street or on a side line. It is the minimum she feels will deter entry onto her property from Paseo. The type of material being used is compatible with the existing streetscape. There are fences and walls in close proximity that are or will be higher

614 Paseo de la Alta
McRae Beth Espensen



Original fence in 1988 when I
moved here

614 Aegnia Madre
Miriam Leth-Espensen



Original wire fence supported by newer
wire fence behind

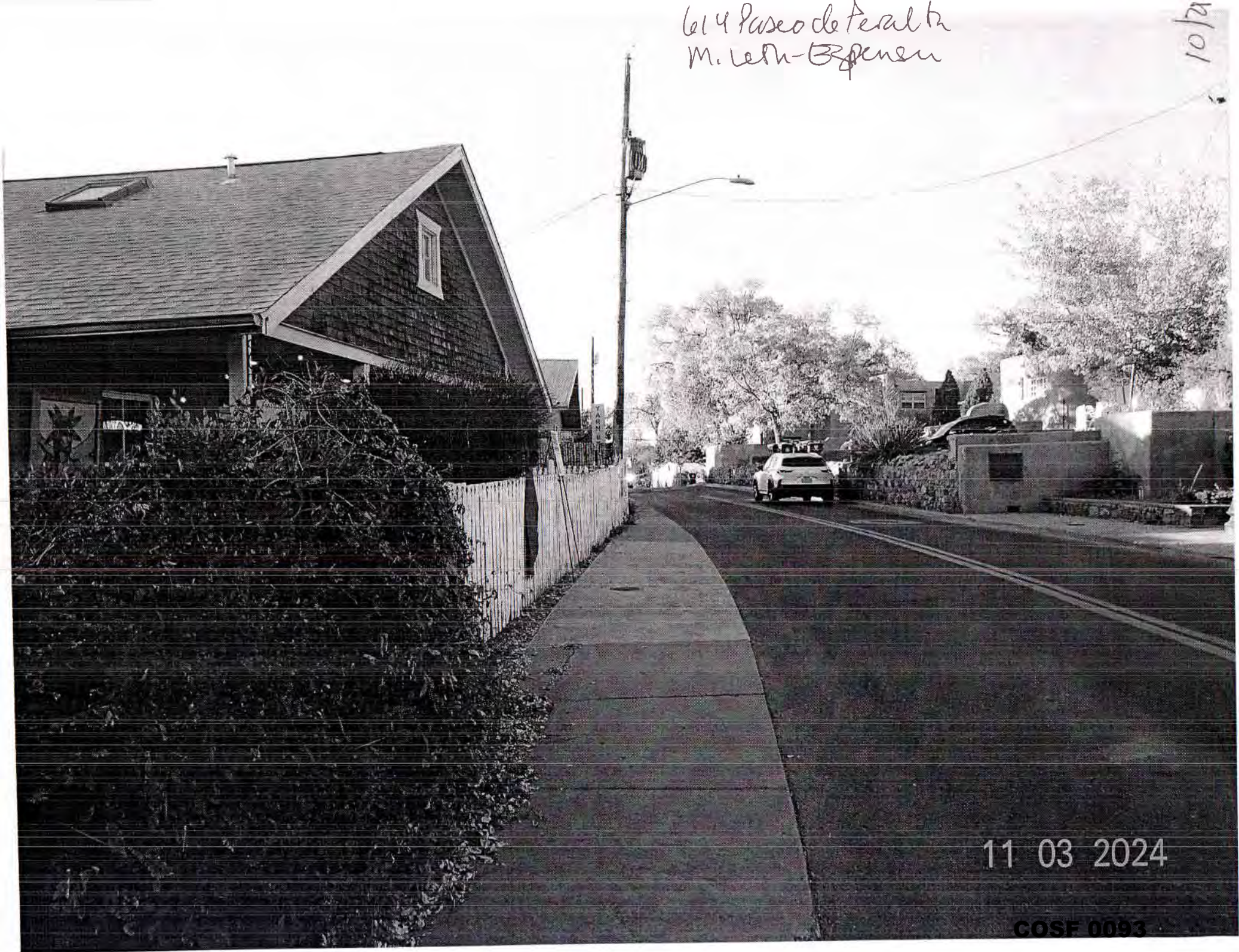
my new fence
5'8"

614 Paseo de Peralta
Miriam Cely
Espersen
Exhibit W



614 Paseo de Peralta
M. Leth-Bensen

10/21



11 03 2024

COSF 0093

12/11



11 03 2024

COSF 0094

614 Pasco de Peraltas
Miriam Lefu-Espinoza

YARNER

STOP

25

11 03 2024

COSF 0095

614 Paseo de Peraltz
Mr. Gen-Bjersen

12/31



11 03 2024

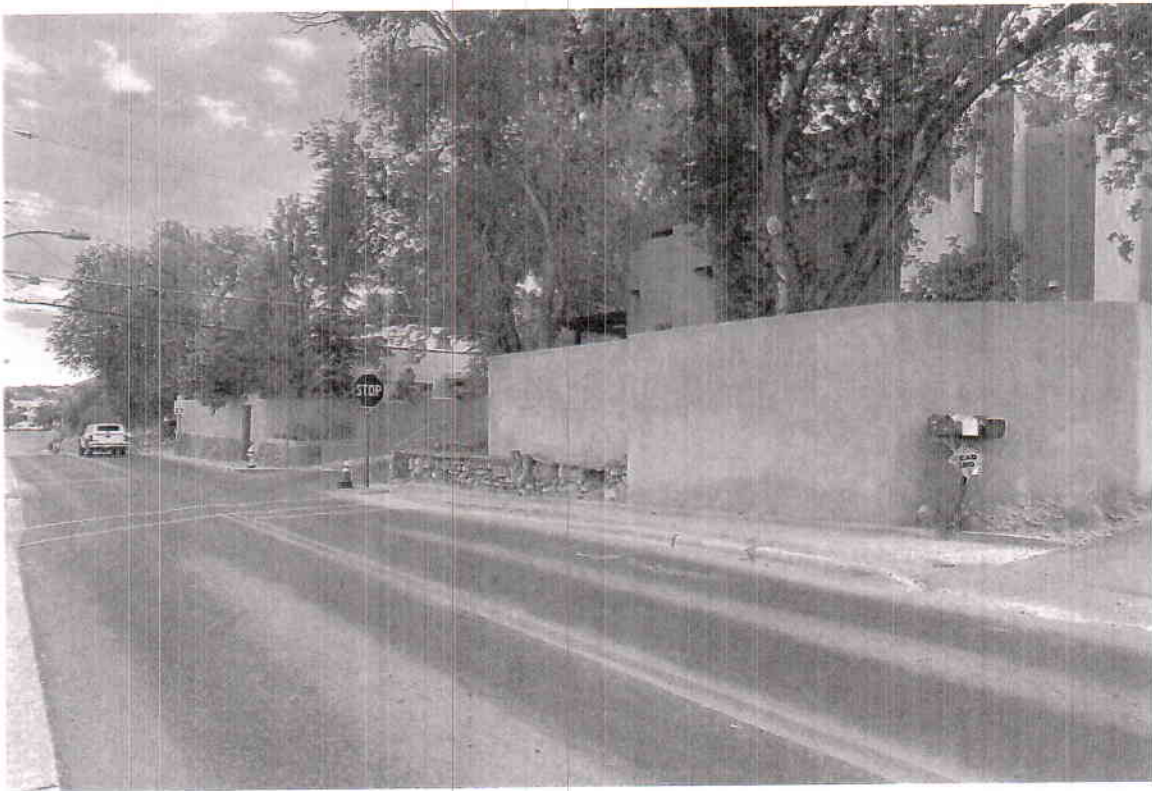
COSF 0096

614 Paseo de Peralta 2/21
M. Leth Espensen

11 03 2024

COSF 0097

614 Paseo de Peralta
Miriam Leth-Bjerslev



concrete wall / corner of Peralta and Otero 10'





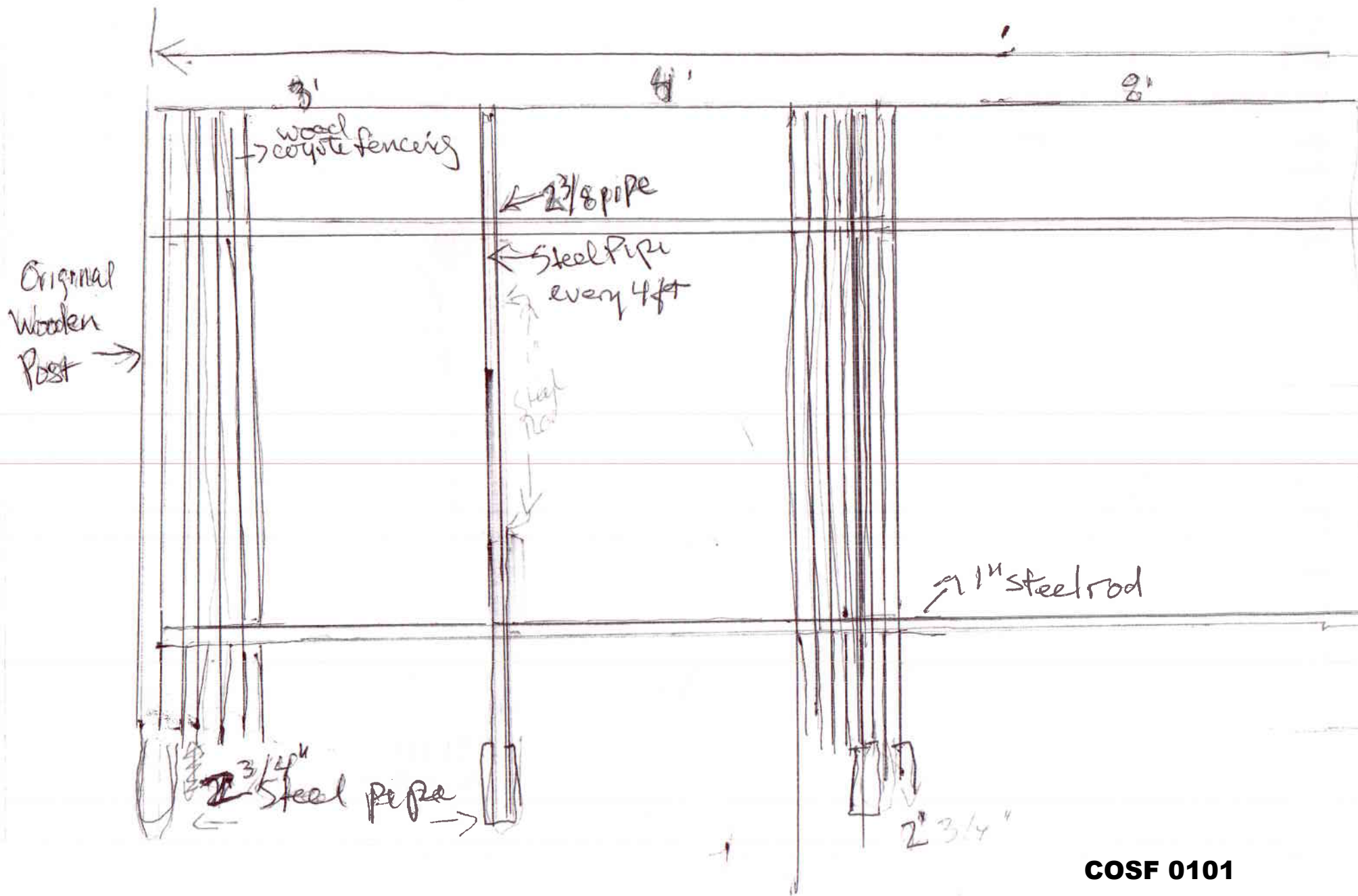
Location Map of Fencing System

COSF 0100

12/21

Typical Fence Elevation (Inside View)
614 Paseo de Peralta
Miriam Leth-Espensen

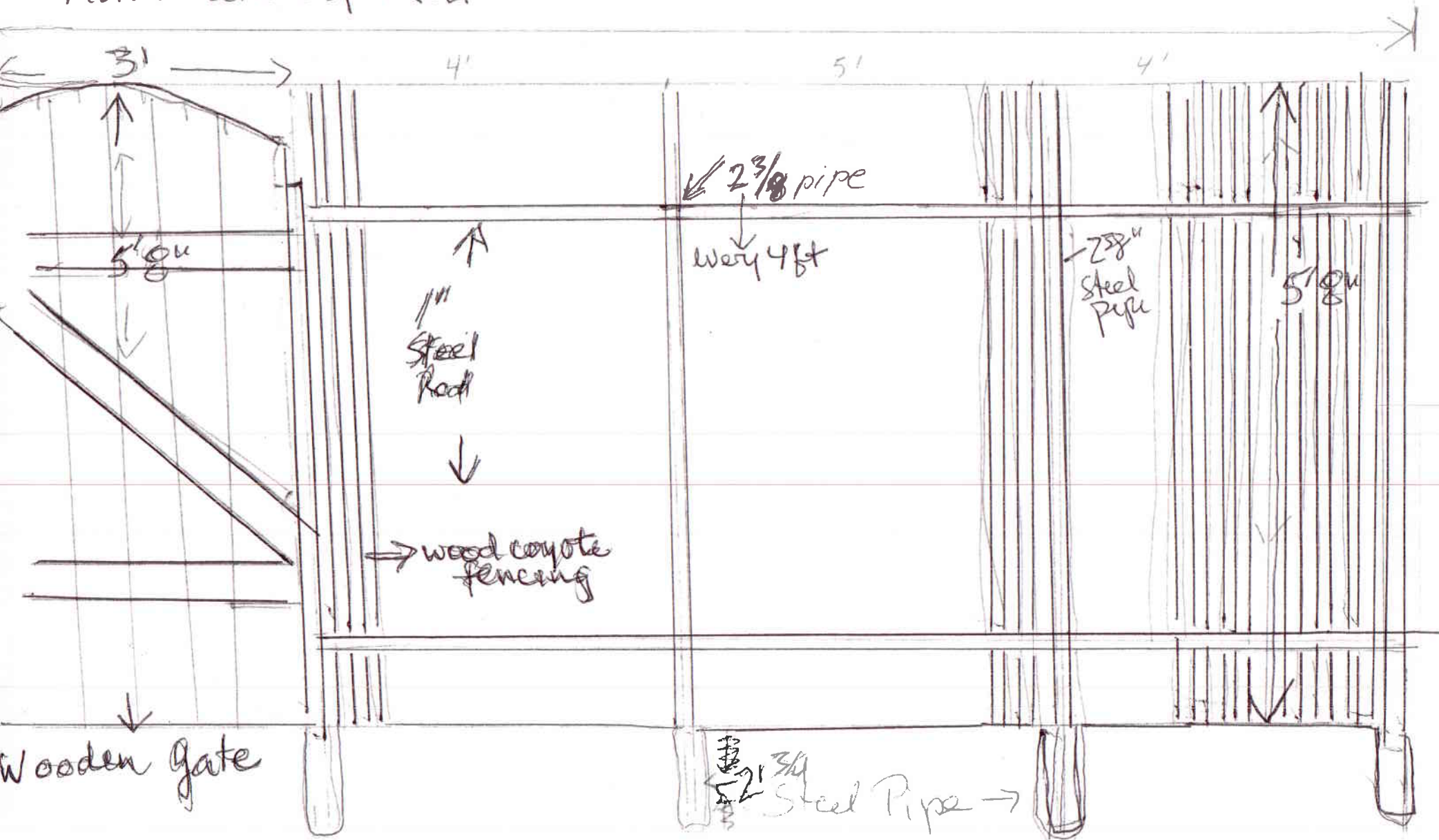
12/8/1



614
Paseo de Peralta
Typical Fence Elevation w/ Gate (Inside View)
Marian Leht-Espenson

HDRB

12/5/1



letter from owner to planning staff

From: Miriam Leth-Espensen miriamsf@mac.com
Subject: The fence
Date: August 18, 2023 at 9:25 AM
To: Lani J. McCulley ljmcclley@santafenm.gov
Cc: Miriam Leth-Espensen miriamsf@me.com

Good morning!

I couldn't fall asleep last night, till I remembered why I thought I did not need a permit for the Peralta fence. When I came in 1988, there was a wooden fence on my Peralta property, it was natural wood. After a couple of years the fence started to deteriorate, in part because when it snows and the city truck sprays salt on the street, it sprays the nasty salt mixture onto my fence. So, for a couple of years in the spring I would clean it off, and then I began painting it white to make it look nice. I finally had enough and thought that if I replaced it with a coyote fence, which I wouldn't have to paint.

I did go to the permit office to make sure that was ok, and I was told that as long as the new fence did not exceed the old one in height, I did not need a permit. As it turned out I could not afford the coyote fence at the time with two kids still in college, so I opted for the cheap wire fence.

I don't remember exactly how many inches the wooden fence measured, but it was tall enough, so I didn't need curtains for privacy and similar in height to the new fence.

The rules may have changed since that time, and I should have checked back. I apologize.

I hope everything will turn out okay, because in addition to aesthetics, I also have security concerns. In the second picture I sent you see a large police presence. There are regular 911 calls from this area. I myself had to call three times during COVID, and before that several times, including when I was robbed at my home.

Thank you for your help and consideration.

Miriam

COSF 0103

20/21

614 Paseo de Peralta
Miriam Leth-Espensen owner
HDRB Application Supplement
TIME LINE ACCORDING TO OWNER'S DOCUMENTATION

Ms Leth-Espensen (Miriam) hired Fabian Nava in August 2023 to build the fence. Nava, holding myself out as a licensed contractor, assured Miriam that she would not need a permit if the fence was under 6 ft tall. She chose to make it 5 ft 8 inches.

The first LUD meeting was with Eric Sommer who accompanied Miriam to the meeting, Lani McCullen, Ramon Sarason and one other member from zoning on 9/14/2024. Mr Mann, Miriam's neighbor, filed a complaint about the fence. This meeting was in response to the complaint. At that meeting Miriam was told by Lani that coyote fences visible from the street were not allowed in the Historic district and the only fencing in that area that would be allowed was a 4'6" white picket fence.

Anthony Maestas inspected the fence and told Miriam not to change the current fence without a permit because it would cause a lot of trouble. Miriam received 2 red tags by mail dated 2/23/24 and 4/17/24 from Mr. Maestas following his inspection. NO redtag was ever posted on the property and Miriam did not remove any redtag.

After the first redtag by mail, Miriam met with Paul Duran who helped her with the application form (Email 3/1/2024). The email from Mr. Duran indicates that a 48" coyote fence was ok without a permit and at that time he also told Miriam what documents to prepare for the application.

Mariam prepared the documents but was told by Mr. Duran not to bring them in until a planner was assigned and that a planner would be assigned shortly. 3/8/2024 email.

Miriam and her son Rob Kohn met with Gary Moquino on 5/15/2024 following her court appearance in municipal court when she pleaded not guilty to the criminal charge the city lodged against her for construction of the fence. Again Gary Moquino assured them a planner would be assigned shortly. Gary Moquino told them he could administratively approve a 6 ft high white picket fence.

Miriam hired Stefanie Beninato as her agent on approximately 9.26.2024 when there was no movement by the city to assign a planner and resolve this issue.

Beninato requested a planner for the case and followed up with the LUD (9/30/2024 email) on the matter and was assigned HDRB staff, Lani McCulley in the beginning of October 2024.

Beninato submitted the PZR on 10/21/2024 and was told on 10/23/2024 that the case would have to first go to the BOA and that dual approval was needed.

After speaking with Beninato on 11/1/2024, the LUD agreed to have the HDRB decide the case first and then send it to the BOA. The HDRB application was submitted on 11/11/2024

21/21

WALL AND FENCE GUIDELINES SANTA FE HISTORIC DISTRICTS

[ADOPTED 24 AUGUST 1999]

Purpose and intent: These guidelines are offered to promote continuity and harmony of design elements that comprise streetscape in the Santa Fe Historic Districts, including, but not limited to walls, fences, open space and landscaping and their connectivity to the primary structures(s) on the property and the physical character of the street or public façade of the property. These guidelines are consistent with the purpose and intent, and standards in the Historic Districts Ordinance [Section 14-70 SFCC 1987].

SCALE:

Walls should not extend for more than 50 feet in a single, horizontal plane without a plane change of at least one foot.

Wall heights should modulate a minimum of 8 inches, or one block course, at least every 25'.

Walls should include openings such as gates, windows and niches at appropriate intervals.

Walls and fences in excess of 4 feet in height and having street frontage or visibility shall be brought to the HDRB for review and approval prior to submission for building permit review. Where there is a conflict between this guideline and the allowable height as calculated under Section 14-70.20 SFCC 1987, the latter shall prevail. [This supersedes the HDRB's 8/13/96 policy requiring the same for walls or fences in excess of 3 feet in height. It encourages the construction of lower privacy walls that still allow the structure on the site to make a contribution to the streetscape, and provide for a view shed into the property. This is recommended in response to the proliferation of inappropriately high yard walls that have been and are being constructed throughout the city's historic districts, causing an impact on the historic and visual character of the historic districts.]

Wall heights should be carefully regulated by the HDRB standards as calculable for the particular streetscapes [Section 14-70.20 SFCC 1987]; and should be restricted so as not to increase the allowable height for the streetscape by more than 20%.

Solid fences should be stepped back and modulated the same as walls.

Fences with fenestration, such as coyote fences, may continue in an unrestricted horizontal distance at the same height and in the same horizontal plane.

SETBACK:

Unfenestrated walls and fences (e.g. cedar stake, ponderosa slat) should setback from the front property line an average of 1 foot for every 10 feet of horizontal length of the wall. This could be accomplished in a single plane or with step backs as outlined above.

Open fences (e.g. wire and post, picket) or fenestrated fences (e.g. coyote) may be constructed without setback at the front property line, unless otherwise regulated by the underlying zoning.

Walls with openings comprising 20% of the surface area of a single plane may be constructed at the property line, unless restricted by the underlying zoning.

Side or rear walls or fences may be constructed at the property line as per that allowed by the underlying zoning.

Walls or fences within existing compounds should be restricted to privacy barriers to enclose courtyards, parking and private areas; and should be connected to and not extend more than 25 feet from the main structure. However, walls or fences should not be connected to significant structures. Desired connections may be made to significant structures by way of other means [e.g. Landscaping]. These treatments will help maintain traditional compound common elements, such as open space and the ability to communicate with neighbors, and therefore assist in the preservation of the character of existing compounds.

MATERIAL, TEXTURE AND COLOR:

Walls should be predominantly of the same material, texture and color as the main structure(s) to be located on the property, or may be of material indigenous or traditional for the area such as river rock, limestone, flagstone or slate.

Fences should be of the material, texture and color of fences typical of the existing streetscape or design vernacular if applicable to a particular H-District or streetscape.

GATES:

Vehicular gates should be permitted only at entrances to private driveways or compounds and set back in accordance with the underlying zoning.

Vehicular gating of subdivisions or other large-scale developments is strongly discouraged, and may be prohibited [See City of Santa Fe 1999 General Plan].

Gates should be designed to complement the wall or fence treatment containing them with respect to scale, height, material, texture and color. Fenestrated gates should be encouraged as opposed to solid gates.

LANDSCAPING (Suggested Options)

Walls and fences in excess of 50' in length should install landscaping along the exterior façade within the suggested setback or step back.

Landscaping on top of or over a wall is encouraged to provide for additional screening if desired from the interior of the property.

Terracing of walls is encouraged and should be landscaped.

The use of native, drought resistant plant material is encouraged in all wall, fence or terrace landscaping.



City of Santa Fe
Land Use Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909

EXHIBIT E

PROJECT 2024-009478-HDRB, 614 Paseo de Peralta, Downtown & Eastside Historic District,
DESC: Contributing, Stefanie Beninato, agent for Miriam Leth Espensen, owner, proposes to construct a 5'-8" high coyote fence with pedestrian gates where the maximum allowable height is 4'-6". Exceptions are requested to 14-5.2(D)(9) to exceed the maximum allowable height.

CASE NUMBER: 2024-009478--HDRB

PROJECT TYPE: Remodel

LOCATION: 614 PASEO DE PERALTA
Santa Fe, NM 87501

CONTACTS: Applicant	Leth-Espensen Trust	614 paseo de peralta SANTA FE, NM 87501-1957
Property Owner/Builder	Leth-Espensen Trust	614 paseo de peralta SANTA FE, NM 87501-1957

BOARD ACTION

This is to certify that the Historic Districts Review Board (HDRB) acted on your request at their hearing on Dec 10, 2024. The decision of the Board was to deny the application without prejudice finding the exception criteria have not been met for the application as submitted, citing the fencing material, the height, as well as the impact on the streetscape as the three primary concerns. A new application with a different design must be submitted within 90 days from the hearing date. The existing fence must be removed within 90 days.

For further information please call 505-955-6605.

Sincerely,

Lani McCulley

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



CODE CASE DETAILED REPORT Requests-001740-2023 FOR CITY OF SANTA FE

Case Type: Constituent Requests
Status: In Progress
Assigned To: Isabella Sharpe

Project:
District: Council District 1
Description: CRM 18271: 614 Paseo de Peralta continues to build a fence (access behind Castillo Place) without a permit, survey or consideration of the Historic Board. The fence will also restrict & or stop our legal access to Paseo de Peralta. The workers will not acknowledge our concerns & say only doing what the owner wants. We already registered a complaint yesterday.

Opened Date: 08/17/2023
Closed Date: NOT CLOSED

Parcel: 10068096	Main	Address: 614 Paseo De Peralta Santa Fe, NM 87501	Main	Zone: BCDEAS (ZN: BCDEAS)
-------------------------	------	--	------	----------------------------------

Note	Created By	Date and Time Created
1. i have issued the owner a violation notice for the fence, also i have given her the contact information for the Historic District.	Kevin Smith	8/18/2023 6:58 am

EXHIBIT F





City of Santa Fe
Land Use Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909

Case Number: **BLD-002116-2024**

Violation Notice

Case Type: **Building**

Date Case Established: **01/11/2024**

Compliance Deadline: **02/22/2024**

Owner: Leth-Espensen Trust

Mailing Address

Leth-Espensen Trust
614 paseo de peralta
SANTA FE, NM 87501-1957

Notice of Violation for the following location:

Address

Parcel

614 PASEO DE PERALTA
Santa Fe, NM 87501

10068096

Violation: Building without a Permit - Building - 14.5.2.8 Building without a Building permit.

Permits required. Subject to CILA Sections 60-13-3 and Section 60-13-45 NMSA 1978, and the provisions of the division rules, no building or structure shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished, no electrical wiring, plumbing or mechanical work and LP gas work as defined and described in the applicable New Mexico construction codes for those trades, may be installed, repaired or maintained in or on such building or structure, unless the applicable permit has first been obtained from the division, unless otherwise provided by statutes or rule. All re-roofs and applications of roof coatings require a building permit and inspections.

Corrective Action: Obtain Building Permit

Compliance Date: 02/22/2024

NOTICE OF VIOLATION

Should compliance not be adhered to, you will be subject to the penalties of Section 1-3.1. "Any violation of the Santa Fe City Code of 1987, not specifically provided for in any ordinance, resolution, rule, regulation or order to the contrary, is punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the county jail for a term of not more than ninety (90) days, or by both such fine and imprisonment. Every day that any such violation continues constitutes a separate offense, except where otherwise provided."

Sincerely,

City Copy
Kevin Smith

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

THIS SECTION ON DELIVERY

Case Number: **BLD-002116-2024**

Case Type: **Building**

Date Case Established: **01/11/2024**

Compliance Deadline: **02/22/2024**

OFFICIAL
SANTA FE
JAN 12 2024
Postmark Here

Postage	\$ 6.35
Certified Fee	4.35
Return Receipt Fee (Endorsement Required)	3.55
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 14.25

Sent To: **Leth - Espensen Trust**
Street, Apt. No., or PO Box No. **614 Paseo de Peralta**
City, State, ZIP+4 **Santa Fe, NM 87501-1957**

PS Form 3800, January 2001 See Reverse for Instructions

☐ Agent
☐ Addressee

(Printed Name) C. Date of Delivery

Address different from delivery address below? ☐ Yes ☐ No

Received
JAN 16 2023
Stephen Bartels
NM Taxation & Revenue

Mail ☐ Express Mail
id ☐ Return Receipt for Merchandise
Mail ☐ C.O.D.
Delivery? (Extra Fee) ☐ Yes

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-0835

Santa Fe, NM 87501

Violation: Building without a Permit - Building - 14.5.2.8 Building without a Building permit.

Permits required. Subject to CILA Sections 60-13-3 and Section 60-13-45 NMSA 1978, and the provisions of the division rules, no building or structure shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished, no electrical wiring, plumbing or mechanical work and LP gas work as defined and described in the applicable New Mexico construction codes for those trades, may be installed, repaired or maintained in or on such building or structure, unless the applicable permit has first been obtained from the division, unless otherwise provided by statutes or rule. All re-roofs and applications of roof coatings require a building permit and inspections.

Corrective Action: Obtain Building Permit

Compliance Date: 02/22/2024

NOTICE OF VIOLATION

Should compliance not be adhered to, you will be subject to the penalties of Section 1-3.1. "Any violation of the Santa Fe City Code of 1987, not specifically provided for in any ordinance, resolution, rule, regulation or order to the contrary, is punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the county jail for a term of not more than ninety (90) days, or by both such fine and imprisonment. Every day that any such violation continues constitutes a separate offense, except where otherwise provided."

Sincerely,

Kevin Smith

City Copy



City of Santa Fe
Land Use Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909

Case Number: **BLD-002515-2024**

Violation Notice

Case Type: **Building**

Date Case Established: **04/11/2024**

Compliance Deadline: **05/23/2024**

Owner: Leth-Espensen Trust

Mailing Address

Leth-Espensen Trust
614 paseo de peralta
SANTA FE, NM 87501-1957

FILED

04/15/2024

SANTA FE
MUNICIPAL COURT
PO BOX 909
SANTA FE, NM 87504

Notice of Violation for the following location:

Address

Parcel

614 PASEO DE PERALTA
Santa Fe, NM 87501

10068096

Violation: Building without a Permit - Building - 14.5.2.8 Building without a Building permit.

Permits required. Subject to CILA Sections 60-13-3 and Section 60-13-45 NMSA 1978, and the provisions of the division rules, no building or structure shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished, no electrical wiring, plumbing or mechanical work and LP gas work as defined and described in the applicable New Mexico construction codes for those trades, may be installed, repaired or maintained in or on such building or structure, unless the applicable permit has first been obtained from the division, unless otherwise provided by statutes or rule. All re-roofs and applications of roof coatings require a building permit and inspections.

Corrective Action: Obtain Building Permit

Compliance Date: 05/23/2024

NOTICE OF VIOLATION

Should compliance not be adhered to, you will be subject to the penalties of Section 1-3.1. "Any violation of the Santa Fe City Code of 1987, not specifically provided for in any ordinance, resolution, rule, regulation or order to the contrary, is punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the county jail for a term of not more than ninety (90) days, or by both such fine and imprisonment. Every day that any such violation continues constitutes a separate offense, except where otherwise provided."

Sincerely,

Anthony Maestas

City Copy
4/11/24

State of New Mexico City of Santa Fe LAND USE CITATION	The undersigned officer complains and says that	0951 Non-traffic citation
Defendant's Name: <u>Miriam LETHESPENSEN</u>		
Address: <u>614 PASEO DE PERALTA</u>		
City & State: <u>Santa Fe</u> <u>NEW MEXICO</u>		
Phone #:		Date of Birth: <u>10/19/1944</u>
Social Security #: (If possible)		Place of Employment:
Driver License #: <u>039095459</u>		State: <u>N.M.</u>
on <u>Friday</u> date <u>4/12/24</u> at <u>8:00 AM</u> hrs.,		
at (location) <u>614 PASEO DE PERALTA</u>		
did there and then commit the offense of: (Common Name) <u>Construction Permit</u> ,		
in violation of: ☒ City Ordinance <u>14-3.11</u>		
Essential Facts		Case # <u>BID-002515-2024</u>
<u>Unapproved construction at place of</u> <u>RESIDENCE (FENCE)</u> <u>No approval from Historic Preservation</u> <u>and no construction permit</u>		
Officer's Signature <u>Anthony</u>	Officer Printed Name <u>Anthony MAESTAS</u>	Phone # <u>505-955-6570</u>
I acknowledge receipt of this notice and without admitting guilt agree to appear in: ☐ Municipal Court, 2511 Camino Entrada, Santa Fe, N M		
on _____ date _____ at _____ am pm Signature: <u>Certified mail</u> COSF 0112		

EXHIBIT G



CITY OF SANTA FE HISTORIC PRESERVATION DIVISION HISTORIC DISTRICTS APPLICATION

Applicant Information (to be completed by the Applicant)

Date: 3/1/2024 Location of Project: 614 Paseo de Peralta

Applicant

Name: Miriam Leth-Espensen

Phone: 505-918-8810 Email: miriam@me.com

Property Owner

Name: Miriam Leth-Espensen

Phone: 505-918-8810 Email: miriam@me.com

Proposed Work:

construction of a new fence

At a minimum these materials will be required in addition to this application form:

- Proposal letter stating the details of the scope of work.
- Site plan or map of the project area with the location of the work noted on the map.
- Photos of the current condition of the areas of work.
- Scaled floor plan and elevations if appropriate to your project.

Provide all information digitally to mgsargent@santafenm.gov. See the HPD webpage for detailed instruction. <https://www.santafenm.gov/land-use/historic-preservation/hpd-procedures>

Examples of Maintenance and Repair Requests:

Re-roof	*Solar	Concrete	Stucco and Paint
Skylights	Brick Coping	Hardscaping	*Windows and Doors
Canales	*Fences, Walls, and Gates	Exterior Lights	Mechanical Equipment

*May require HDRB approval.

Examples of HDRB Requests:

Demolition, Status Review, Removal of Historic Material, Additional Square Footage**, Remodel**, Window and Door Replacement**

**District dependent

Project Details Section (to be completed by Applicant)

Projects may require HDRB approval. Please submit this application form in addition to the list of materials and requirements for HDRB approval, which can be found at <https://www.santafenm.gov/land-use/historic-preservation/hdrb-hearings-and-cases>.

New Construction



Sq. Ft. of project: _____

Remodel



Sq. Ft. of project: _____

Construction Cost: \$ 2800.00

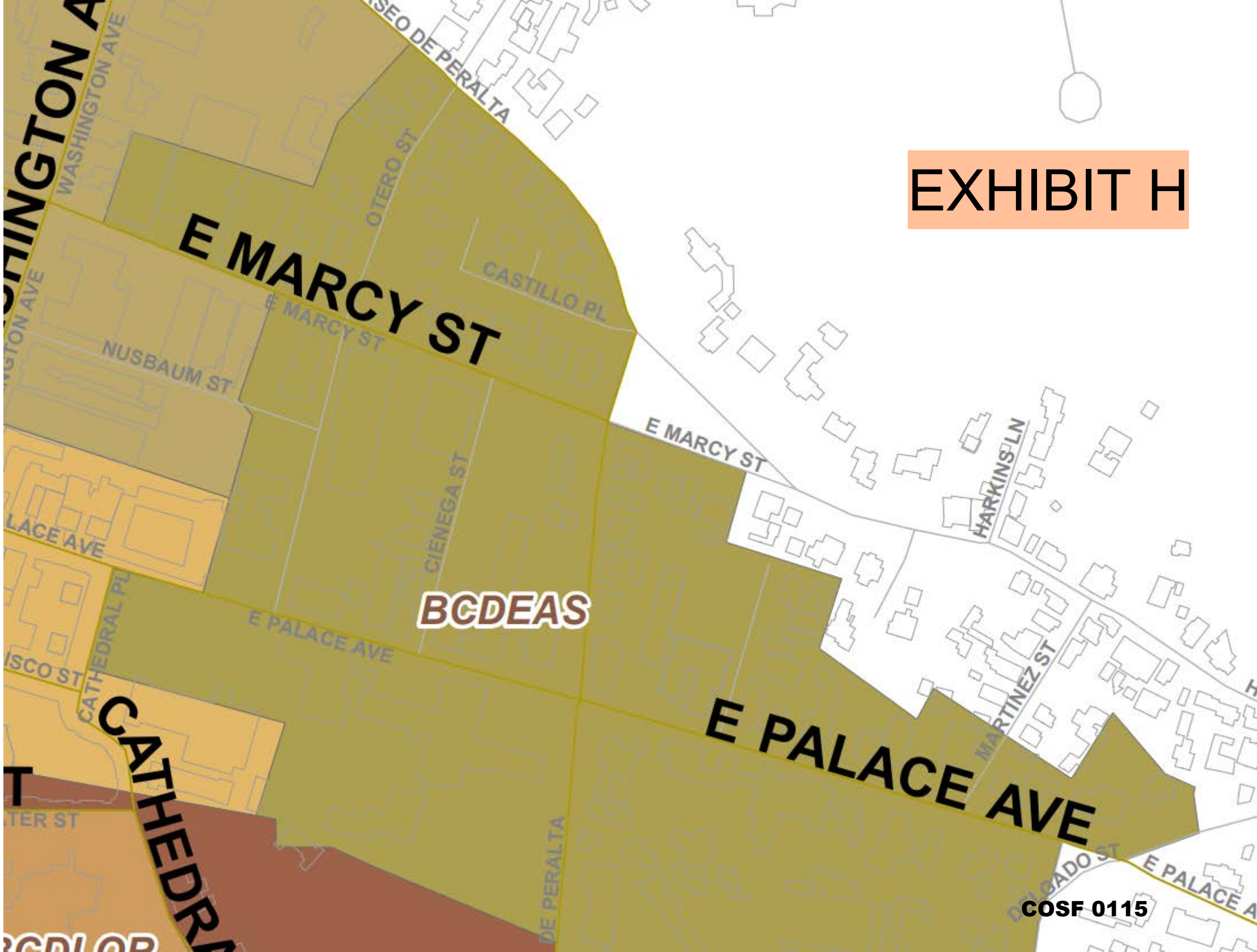
AFIDAVIT AUTHORIZING AGENT/APPLICANT

As the Owner and holder of title of the above listed property I/we authorize the Agent/Applicant to act on my/our behalf to execute this application.

Print Name Miriam Leth-Espensen

Signature M. Leth-Espensen

EXHIBIT H



BCDEAS

COSF 0115

EXHIBIT I



14-7.4 - BUSINESS-CAPITOL DISTRICT

(A) Table of Dimensional Requirements for Townscape Subdistricts

[14-7.4\(A\)-1](#) Table of Dimensional Requirements for Townscape Districts^{Note 1}

Maximum Height of Structures (feet); Stepback Note 2	Maximum Lot Coverage Ratio	Building Placement and Setback Requirements (feet)	Minimum Open Space Requirements	Landscape Treatment in Yards	Height of Walls and Fences (feet)	Placement of Off-Street Parking	Portals
East Marcy/East Palace							
27	No requirements	Building setback requirements: Street: Note 4 Side: 5 Rear: 10	Open space of no less than 10 percent of the lot area shall be located adjacent to the front property line to serve as yard or courtyard	Landscape treatment required in yards and open space. Street trees and landscape treatment required if planting strip exists. Asphalt or concrete pavement prohibited in planting strip. Note 3.	Walls, fences, and hedges permitted to maximum of 4 feet	Parking prohibited in required front yard	Prohibited within ROW

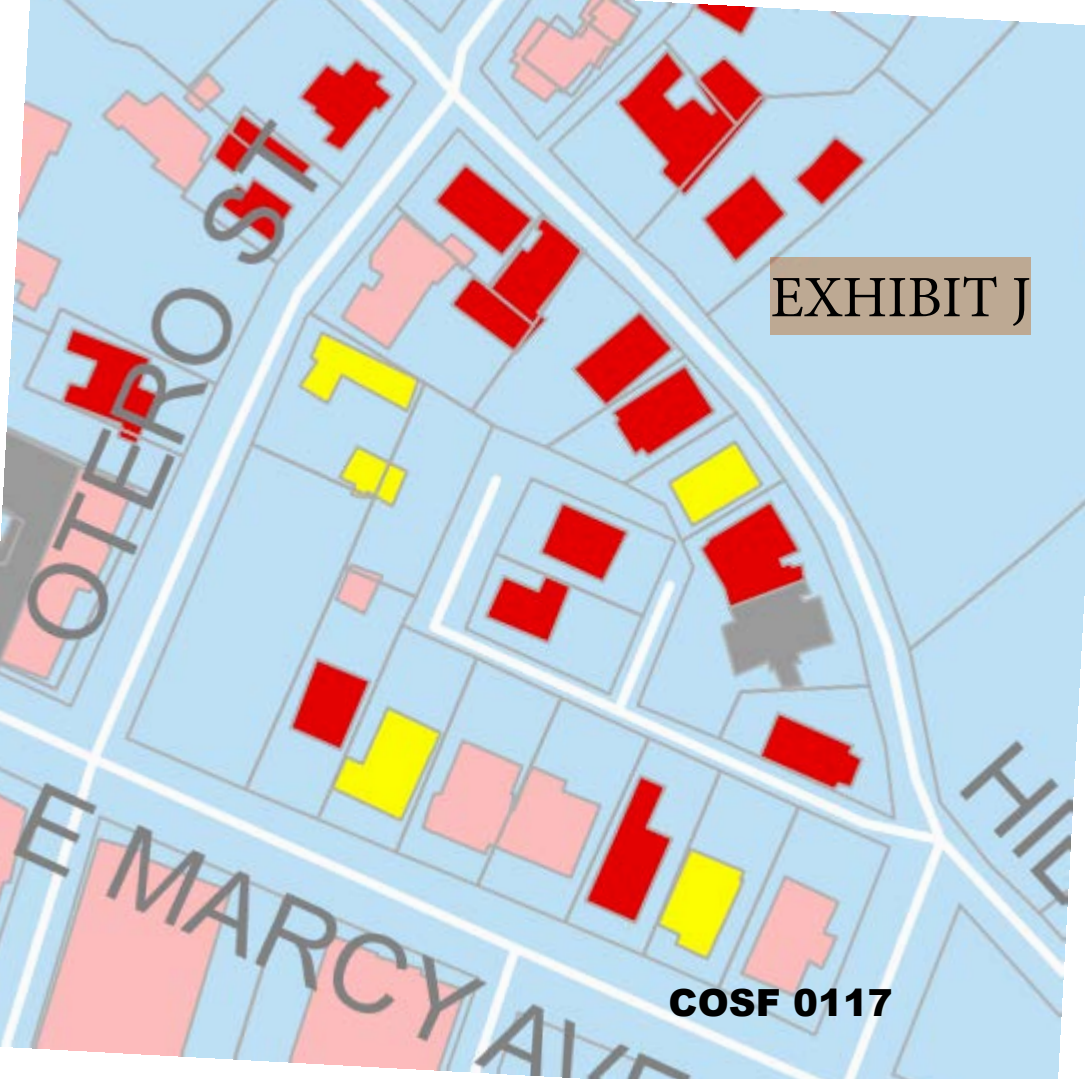


EXHIBIT J

COSF 0117