



CITY OF SANTA FE  
CITY ATTORNEY

MEMORANDUM

**To:** Members of the Governing Body

**From:** Frank Ruybalid, Assistant City Attorney *FR*

**Via:** Erin McSherry, City Attorney *EM*

**Re:** **Appeal # 2024-8309-APPL of Case # 2024-7892-HDRB.** Property owner Emily Rivera and her agent Lisa Martinez, B Constructiv LLC, appeal the Historic Districts Review Board's March 12, 2024, decisions regarding the historic status of structures at 718 Old Santa Fe Trail: (1) maintaining the significant status of an apartment building; and (2) designating two casitas on the property as contributing.

**Date:** January 10, 2025, for the January 15, 2025, Governing Body meeting

---

Property owner Emily Rivera and her agent Lisa Martinez, B Constructiv LLC, (“Appellants”) have filed an Appeal challenging decisions by the Historic Districts Review Board (“HDRB”) regarding the historic status of a single-story, four-unit apartment building (“the Apartments”) and two free-standing additional dwelling units, or casitas, at 718 Old Santa Fe Trail (“The Property”). These structures are in the Downtown and Eastside Historic District. In a public meeting on March 12, 2024, the HDRB voted to

- (1) retain the existing historic status of “significant” for the Apartments; **[Ex. B, Findings of Fact & Conclusions of Law (“FF&CL”), at 10-11]**
- (2) designate the first casita (“Casita 1”), as “contributing.” Before the HDRB hearing, Casita 1 did not have a designated historic status; and
- (3) downgrade the status of the second casita (“Casita 2”), which previously had a “significant” status, to “contributing.”

The HDRB also designated a crudely built, wood tool shed, adjacent and to the west of Casita 1, as “non-contributing.” **[Ex. B, FF&CL, at 11]** The Appellants do not appeal the HDRB’s designation of this shed structure as non-contributing.

The City’s Historic Districts Code restricts alterations and additions to significant and contributing properties. **[Santa Fe City Code (“SFCC”) Section 14-5.2(D)(1-3, 5)]** In their

Appeal, the Appellants claim the specially protected status of the apartment building and casitas creates a hardship to them, because the structures are deteriorated and need renovations, and Casita 1 is uninhabitable in its present condition. [Ex. A, Appeal Petition, at 4] In this “de novo” appeal, the Governing Body may uphold or reverse the HDRB’s decision affecting these structures’ historic status. [SFCC Section 14-2.2(F)] A “de novo” hearing is one in which the Governing Body conducts an independent application of the law to the evidence to decide whether the facts and the law support the structures’ historic statuses.

## I. BACKGROUND & PREVIOUS HISTORIC DESIGNATIONS

### A. The Property and Its History

The history of the Property is detailed in four abstracts by professional historians, written over a period of 42 years. The abstracts’ conclusions about the historic status of the property are inconsistent. The historic abstracts may persuade or guide a decision on the structures’ historic status, but they do not control the outcome. When the HDRB reviews a property to determine its status, the existing status of a building comes from the City’s official Buildings Historic Status map. With Casita 2, there was no documentation regarding how it received its current status. The Buildings Historic Status map shows Casita 1 with no status and the main house and Casita 2 as significant structures. [Ex. E, screenshot from Buildings Historic Status map]

The first of the four historic abstracts is a New Mexico Historic Building Inventory Form (“HBI”), based on a survey performed in 1982. [Ex. D, Staff Report, at 26-28] This one-page report, with two photos attached, gives a description only of a row of apartments, describing it as a “significant” building. The HBI notes the antiquity of the apartments, that parts pre-date 1912, and that Benigno Muñiz, “ed - *El Nuevo Mexicano*” had acquired the property by 1928. [Ex. D, Staff Report, at 26] The HBI gives no description of outbuildings, except for the following notation: “718½ - Jackson David”. This may have been identifying a tenant in one of the casitas.

The second abstract, a 1996 Historic Building Inventory “Resurvey,” describes the apartment structure’s design as Territorial, Territorial Revival and Vernacular, the degree of remodeling as “minor,” and identifies its historic status as both “contributing” and “significant.” [Ex. D, Staff Report, at 49] (Definitions may not be mutually exclusive, although the HDRB gives a structure a single designation when deciding historic status.) The Resurvey does not refer to any outbuildings.

A Historic Cultural Properties Inventory (“HCPI”), written in 2007, refers to “a separate two-room adobe,” 40 feet south of the “main structure” (the Apartments) with a shared driveway, “not considered on this survey.” [Ex. D, Staff Report, at 29] There is no reference to a second casita. The author wrote that the Apartments were “non-contributing” because, “The building lacks integrity of architectural style as a result of multiple additions and alterations.” [Ex. D, Staff Report, at 31] This HCPI notes that Benigno Muñiz owned the property from the 1890s through 1944, but does not describe Mr. Muñiz’ prominence in the community. [Ex. D, Staff Report, at 30]

A 70-page HCPI, written in 2024 in response to Ms. Rivera’s request for a status review, addressed the histories and historic statuses of four structures on the property – the Apartments, the two casitas and a wood-framed shed. This HCPI also provides a biography of Mr. Muñiz, who was an altar boy for Archbishop Lamy at the Santa Fe Cathedral, went to work as a printer for the New Mexican Printing Company and became Chairman of the Typographical Union. **[Ex. D, Staff Report, at 85-86]** The HCPI describes that Mr. Muñiz went on become Editor in Chief of the *El Nuevo Mexicano*, the Spanish-language edition of *The New Mexican*, a position he held for almost 20 years. The author of the HCPI, John W. Murphey, noted the Apartments’ significant status, but wrote, “It is unclear when or why the designation was made, other (than) the original 1984 survey stated ‘pre-1912.’ Given its alterations, it seems more appropriate to be statused at the Contributing level, . . .” **[Ex. D, Staff Report, at 94]**

Mr. Murphey’s HCPI concludes that Casita 1, approximately 778 square feet, likely was built in the 1930s. Benigno and Inés Muñiz deeded it to their daughter Domitila, or “Tillie,” who was Emily Rivera’s great aunt. **[Ex. D, Staff Report, at 82-83]** José and Tillie Rivera died without children. Decades lapsed while an out-of-state executor of their estate neglected the structure, and relatives litigated its ownership, according to Murphey’s HCPI and Ms. Rivera’s account at the HDRB hearing. During its neglect, the empty structure deteriorated. **[Ex. D, Staff Report, at 83, 93-94]** In recommending a non-contributing status for Casita 1, Murphey noted its crumbling stucco, failing roofs in a bedroom and the living room, compromised ceiling vigas, and rotting floorboards and joists. **[Ex. D, Staff Report, at 82-83, 94]**

The square footage of Casita 2 is unknown, but with only three rooms, it is smaller than Casita 1, and sits just five feet to the south of it. Casita 2 likely was built in 1935 and occupied through 2006. In the 2024 HCPI, it is described as a “small unimpressive dwelling” with a significant status. The HCPI reads that it is unclear how it received this designation, as there is no survey or HDRB case to support it. **[Ex. D, Staff Report, at 95]** Murphey recommended it be downgraded to contributing.

## **B. Historic Designations Defined**

City Code, Section 14-12.1, defines the status levels for historic properties as follows:

**SIGNIFICANT STRUCTURE:** A structure located in a historic district that is approximately 50 years old or older, and that embodies distinctive characteristics of a type, period or method of construction. For a structure to be designated as significant, it must retain a high level of historic integrity. A structure may be designated as significant:

- (A) for its association with events or persons that are important on a local, regional, national or global level; or
- (B) if it is listed on or is eligible to be listed on the State Register of Cultural Properties or the National Register of Historic Places.

**CONTRIBUTING STRUCTURE:** A structure, located in a historic district, approximately 50 years old or older that helps to establish and maintain the character of that historic district. Although a contributing structure is not unique in itself, it adds to

the historic associations or historic architectural design qualities that are significant for a district. The contributing structure may have had minor alterations, but its integrity remains.

**NON-CONTRIBUTING STRUCTURE:** A structure, located in a Historic District, that is less than 50 years old or that does not exhibit sufficient historic integrity to establish and maintain the character of the Historic District.

When the Historic Districts staff (“Staff”) can find no record that a structure has ever been assigned a status, the structure is deemed to be “unstatused” or “non-statused.” “Non-Contributing” is an assigned status and is not the same as unstatused or non-statused. Significant and contributing structures have special protections, and significant structures are more restricted than contributing structures. [SFCC § 14-5.2(D)(2)(c-d), (3)(b) and (5)(a)] For this reason, “significant” is treated as a higher, more restrictive classification than “contributing”, and the HDRB commonly refers to a change from significant to contributing, or from contributing to non-contributing, as a “downgrade”.

Proposed additions or alterations that do not comply with Code restrictions for significant or contributing buildings are not entirely prohibited: the HDRB can permit them if the property owner or project applicant requests “exceptions” and meets three criteria described in the Code at SFCC 1987, Section 14-5.2(C)(5). The applicant has the burden of “conclusively demonstrating” the exception criteria. SFCC 1987, § 14-5.2(C)(5)(b).

## **II. PROCEDURAL HISTORY**

### **A. 2024 Application**

In February 2024, the Appellant Emily Rivera filed an Application for a historic status review from the HDRB with the Land Use office. [Ex. D, Staff Report, at 145] In her Application she explained that she sought the status review to “make decisions about the properties’ ongoing care and maintenance.” [Ex. D, Staff Report, at 145] Ms. Rivera did not describe any renovations she planned, and the HDRB commonly considers a historic building’s status independently of proposed renovations. See Section C, below. In her Application, Ms. Rivera did not request specific historic designations for any specific structure, nor did she make any reference to the existing status of any of them. [Ex. D, Staff Report, at 145] At the time she submitted the Application and in the HDRB hearing, Appellant Emily Rivera was not represented by agent Lisa Martinez, B Constructiv LLC.

### **B. Staff Recommendations**

In its Staff Report, the Staff recommended:

- The Apartments’ historic status be maintained as **significant**, as it is “a direct reflection of the architectural design of its time and place”;
- Casita 1 be designated **non-contributing**, because it is has been “uninhabitable for some time and has fallen into disrepair”;
- Casita 2 be downgraded to **non-contributing**, because it is “in a state of disrepair and uninhabitable”; and

- The shed, adjacent to Casita 1, be designated **non-contributing**. [Ex. D, Staff Report, at 21-22]

### C. Board Decisions to Assign Historic Status

On March 12, 2024, the HDRB held a public hearing about the Application. Four members of the Board participated in the hearing. Because the chair only has a vote in ties, three members voted. [Ex. C, Minutes, at 17-18] Ms. Rivera said she had no desire to change the look or feel of the Apartments, other than to improve the things that are permitted and to fully restore it. [Ex. C, Minutes, at 16] She did not describe what she intended to do with the casitas, mentioning no plans for either restoration or demolition, but she said she doubted she could fully restore both of them. [Ex. C, Minutes, at 16] She agreed with the recommendations of the HP Staff. [Ex. C, Minutes, at 16] Four members of the public spoke about the historic status of the structures. Three people told the HDRB that the significant status of the main structure should be maintained and that the two casitas should have contributing status. Another person told the Board the main structure should be downgraded to contributing and said nothing about the casitas. [Ex. C, Minutes, at 17]

The HDRB voted on the status of each structure under consideration. [Ex. C, Minutes, at 17-18] Member John Bienvenu moved, and the Board voted, as follows:

- That the status of the main structure be maintained as **significant**, which passed by a vote of two to one;
- That the status of Casita 1 be designated as **contributing**, with the primary façade specified as the north façade, which passed by a vote of three to zero;
- That the status of Casita 2 be designated as **contributing**, with the primary façade specified as the north façade, which passed by a vote of three to zero; and
- That the status of the shed be designated as **non-contributing**, which passed by a vote of three to zero. [Ex. C, Minutes, at 17-18]

The Code restricts alterations to the “primary façades” of contributing buildings. SFCC 1987, § 14-5.2(D)(2)(c-d) and (D)(5)(a). The Code restricts *all* façades of a significant building and does not impose the same restrictions on alterations to non-contributing buildings. Hence, the HDRB identifies primary façades when it assigns a contributing status, but it does not do so when it assigns a significant or non-contributing status. The Appellants are not disputing the HDRB’s primary façade designations but, more broadly, they are challenging the historic designations of the Apartment and both casitas.

On May 14, 2024, the HDRB adopted written Findings of Fact and Conclusions of Law reflecting its decisions regarding the Property. [Ex. B, FF&CL, at 8-12]

## III. APPEAL TO THE GOVERNING BODY

### A. Applicable Code Sections

Under SFCC 1987, Section 14-3.17(A)(2), an appeal of an HDRB decision may be filed for one or more of the following reasons:

- (a) To contest non-compliance of a final action with Chapter 14 or Sections 3-21-1 through 3-21-14 NMSA 1978 (the New Mexico zoning enabling act);
- (b) To contest the application of SFCC Chapter 14; or
- (c) To appeal a decision lacking substantial evidence to support it.

**B. The Appellants' Claims**

The Appellants make the following arguments in their Verified Appeal Petition (“Petition”):

1. The Application did not conform with SFCC Section 14-3.1(G), Review and Approval Procedures, General Provisions, Application Completeness, because HDRB did not have floorplans or elevations needed for a complete and informed historic status review.

2. The Staff and HDRB did not define or discuss the number and public visibility of façades for each of the four structures in the Application and whether the assigned statuses support the public good and outward harmonious appearance of the Historic Districts, as required by SFCC Section 14-5.2(A)(1), Historic Districts, General Provisions, General Purpose.

3. The Staff and HDRB did not discuss or identify the character-defining features of the façades, did not assess the historic and non-historic doors and windows, or other character-defining features, such as building massing, brick parapet coping and deep window reveals.

4. The HDRB did not follow the advice and recommendations of the City’s Staff, the professional consultant who completed the 2024 HCPI, nor information in Staff files when discussing and voting on the historic statuses.

5. In deciding the historic status of the structures at 718 Old Santa Fe Trail, the HDRB assumed that the three residential structures in the application comprise a historic compound, and this assumption is not contrary to SFCC Section 14-5.2(K), Historic Districts, Historic Compounds.

6. There were only the chair and three voting members to form a minimum quorum of four members. **[Ex. A, Appeal Petition, at 4-6]**

The Appellants also asserted that the historic designations create a hardship for them, claiming Ms. Rivera does not have the financial means for the work to make the two casitas structurally stable and compliant with building codes. **[Ex. A, Appeal Petition, at 4]** The Appellants have not proposed historic designations they believe are appropriate for the structures.

**IV. ANALYSIS**

**A. Evidence Supporting the Board’s Decision**

The HDRB had evidence to support its historic status designations. Although Member

Bienvenu did not recite the specific facts supporting each of his motions, he referred broadly to “the reasons set forth in the Staff Report and on the record of this hearing.” [Ex. C, Minutes, at 17-18] The historic surveys and inventories include evidence that the Apartments and casitas are all 50 years old or older. [Ex. D, Staff Report, at 75] They also include evidence that the Apartments embody distinctive characteristics of a type, period or method of construction, have a high level of historic integrity, and are associated with a person that was important on a local or regional level. These are all the elements of a significant structure, in accordance with SFCC Section 14-12.1. [Ex. D, Staff Report, at 21-22, 24] For the casitas, their relationship to the family of Bengino and Inés Muñiz and their adobe and stucco vernacular construction are historic associations or architectural design qualities that are significant for the District. [Ex. C, Minutes, at 15-16; Ex. D, Staff Report, at 82-84]

In relation to the arguments made by the Appellants in their Verified Appeal Petition [Ex. A, Appeal Petition, at 4-6], the Governing Body may consider the following analysis:

**1. The Appellants argue that the HDRB did not have floor plans or elevations required by SFCC Section 14-3.1(G), Review and Approval Procedures [Ex. A, Appeal Petition, at 4-5]:**

SFCC 1987, Section 14-3.1(G) does not require floor plans or elevations for the Land Use Staff or a Land Use Board to conduct a review. Rather, it requires only that an Application include all the exhibits “specified by the land use director,” and that the “land use director shall make a determination of application completeness.” For a construction project application, which would be the basis for a building permit, floor plans and elevation drawings are required, but determining the historic status of a structure is not based the applicant’s future plans for a structure. An applicant’s plans for the future of a building may change before the applicant applies for a building permit, depending on costs, family events or changes in the applicant’s economic circumstances.

**2. The Appellants argue the Staff did not address the public visibility of the façades for each structure, and whether the statuses assigned to them support the public good and outward harmonious appearance of the historic districts.**

“Public visibility” is not an element of any definition the HDRB had to consider in determining “significant,” “contributing,” “non-contributing” or “primary façade.” [See Syllabus, Definitions] The 2024 HCPI notes the prominent location of these buildings, on a small bluff overlooking a heavily traveled street. [Ex. D, Staff Report, at 80] Under the subheading “Architectural and Construction Details,” the 2007 HCPI provides an inventory of windows, doors, chimneys, porches and additions, and identifies the architectural style of each elevation. [Ex. D, Staff Report, at 32-33] Extensive detail about each façade, including a description of the doors, windows, stucco, coping and rooflines, is provided in the 2024 HCPI. [Ex. D, Staff Report, at 77-78]

The term “public visibility” appears rarely in the Historic Districts Code, primarily in the restrictions on rooftop appurtenances, such as decks and solar collectors. See SFCC 1987, Section 14-5.2(D)(3)(b). “Public visibility” is also a consideration in the limitations on color and the use of materials other than adobe and stucco in Recent Santa Fe Style buildings. See

SFCC 1987, Section 14-5.2(E)(2)(b), (d) and (e).

**3. The Appellants argue that the HP Staff and HDRB did not identify the character-defining features of the façades and did not assess the historic and non-historic doors and windows.**

The 2007 HCPI provides an inventory of windows, doors, chimneys, porches and additions, and identifies the architectural style of each elevation. [Ex. D, Staff Report, at 33] Extensive detail about each façade, including a description of the doors, windows, stucco, coping and rooflines, is provided in the 2024 HCPI. [Ex. D, Staff Report, at 77-78]

The HDRB commonly requires a report on the antiquity of windows and doors when an applicant for a renovation or remodel seeks to remove and replace historic windows, which is restricted to those deteriorated beyond repair. [SFCC § 14-5.2(D)(5)(a)(i)] This may require a written report by a paid window-assessment professional, or an exception if the applicant can conclusively demonstrate the three exception criteria. [SFCC § 14-5.2(D)(5)(a)(i)] A historic window assessment is not required for a status review. [SFCC § 14-5.2(C)(2)(b)(ii)]

**4. The HDRB did not follow the advice and recommendations of the Staff or the professional consultant who completed the 2024 Historic Cultural Properties Inventory (HCPI).**

The authority to determine the historic status of any structure in the City's Historic Districts is granted solely to the HDRB, under SFCC Section 14-5.2(C)(2)(b). The authors of historic abstracts do not have that authority. When Staff is granted authority to make decisions without review, the City Code clearly delegates it. A concise summary of this decision-making authority appears in SFCC 1987, Section 14-2.1, Table 14-2.1-1, showing that Staff may decide certificates of occupancy, minor plan modifications, and some subdivision and utility conformity reviews. For Staff to bind the HDRB would defeat the discretion vested in the HDRB by SFCC 1987, Section 14-5.2(C)(2)(b), and constitute an unapproved expansion of the Staff's authority.

The authors of the HBIs and HCPIs often have broad experience in the field of historic preservation, drawn from their educational backgrounds and work for other cities, other states, and federal agencies such as the U.S. National Park Service. They are not City employees, and their reports are not written with the City's Code as a frame of reference. A reader may review a dozen HCPIs from highly respected architectural historians and find very few references to the City's Code, or none at all. In contrast, HDRB must apply the definitions of such terms as "significant," "contributing" and "non-contributing" from the City's Code. [SFCC Section 14-5.2(C)(2)(b)(ii)] Because of this, the HDRB's conclusion about the historic status of a property may differ from the conclusions of a HBI or HCPI author.

**5. HDRB assumed that the three residential structures in the application comprise a historic compound, but this assumption is inconsistent with SFCC Section 14-5.2(K), Historic Districts, Historic Compounds.**

There was no discussion in the Staff Report or during the March 12, 2024, hearing that

the structures under review are part of a historic “compound,” which is a special status under the Historic Districts Code. *See* SFCC 1987, § 14-5.2(K). The definition of “compound” is “[t]hree or more attached or detached dwelling units *on one lot* and located in the RC-5, RC-8, RAC, AC or BCD districts.” (Emphasis added.) 718 Old Santa Fe Trail is in an RAC (Residential Arts & Crafts) district, but the structures are not on a single lot – they are spread out over five separate lots. [Ex. D, Staff Report, at 146] Thus, the definition of compound does not apply to them.

**6. Only the chair and three voting members formed a minimum quorum of four members.**

The Appellants’ argue that “a more complete Board presence could have provided the applicant with greater opportunity for a more desirable outcome.” [Ex. A, Appeal Petition, at 6] Per the City of Santa Fe’s Rules and Procedures for City Committees, “A majority of the members shall constitute a quorum.” [Resolution # 2009-20, Art. 11, § 2(A)] It is immaterial that only two members voted to sustain the significant status of the apartments. Per Resolution 2009-20, “[T]he vote of a majority of members present shall decide any questions brought before such a meeting . . .” [Id., §2(C)] Resolution # 2009-20, describing procedural rules for the City’s committees, does not require a majority of a committee to cast a vote in favor of a motion for the motion to pass when fewer than the full members are present and there is not a tie. Resolution 2009-20, Art. 11, § 2(B), requires the chairperson of a City Committee to abstain from voting unless his/her vote is necessary to break a tie, or to provide a specified necessary number of votes required by law for a board or committee to act. Resolution 2009-20 is consistent with New Mexico law that requires that the chairperson of an administrative board is not counted in the calculation of the majority when he/she abstains from voting. *See McCormick v. Hobbs Municipal School Dist.*, 1954-NMSC-094. *See also Roberts Rules of Order*, § 44:9 (abstention should not count as a “no” vote).

**B. Standard of Review**

On appeal, the Governing Body should determine whether there is substantial evidence to support the HDRB designations. The Governing Body should independently apply the Code provisions described above to the facts of this case. *See* Appendix (relevant Code provisions).

**V. CONCLUSION & MOTION OPTIONS**

With respect to each of three structures under review, the Governing Body should determine if substantial evidence and the City’s Code support the Apartments’ status of “significant,” “contributing” or “non-contributing”; Casita 1’s status of “contributing” or “non-contributing”; and Casita 2’s status of “contributing” or “non-contributing”:

- Motion: *I move to grant the appeal, reverse the Board’s decision, designate the (apartment building/casita 1/casita 2) as (contributing or non-contributing) and direct staff to prepare Findings of Fact and Conclusions of Law consistent with this motion.*

Otherwise, the Governing Body should affirm the Board’s decision and deny the appeal:

- Motion: *I move to deny the appeal, affirm the Board’s decision (that the apartment building is significant / that casita 1 or 2 is contributing), and adopt the Board’s Findings of Fact and Conclusions of Law as our own.*

**VI. LIST OF EXHIBITS**

A	Verified Appeal Petition	May 6, 2024	pp. 1-7
B	HDRB Findings of Fact and Conclusions of Law (FF&CL)	May 14, 2024	pp. 8-13
C	Excerpts from Board Meeting Minutes	March 12, 2024	pp. 14-172
D	HP Staff Report	March 12, 2024	pp. 20-25
	1982 Historic Building Inventory		pp. 26-28
	2007 Historic Cultural Properties Inventory		pp. 29-48
	1996 HBI Resurvey		pp. 49-74
	2024 Historic Cultural Properties Inventory		pp. 75-144
E	Buildings Historic Status Map Screenshot		p. 173

**APPENDIX:  
EXCERPTS FROM SANTA FE CITY CODE**

**§ 14-5.2 – Historic Districts**

**(C) Regulation of Significant and Contributing Structures in the Historic Districts**

(1) Purpose and Intent

It is intended that:

(a) 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;

(b) Changes to structures that have acquired historic significance in their own right shall be retained and preserved, recognizing that most structures change over time;

(c) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a structure be preserved; and

(d) New additions and related or adjacent new construction be undertaken in such a manner that if removed in the future, the original form and integrity of the historic property and its environment would be unimpaired.

(2) Designation of Significant, Contributing, or Noncontributing Status within Historic Districts

(a) Status Designation

Structures within historic districts may be designated a status of “significant,” “contributing,” or “noncontributing” based upon the definitions of these terms in Article 14-12. Staff shall maintain a record as to the current status of structures located in the Historic Districts.

(b) Board Authority to Review Status Designation

(i) The Board is authorized to change the status of a structure or to designate a status for a structure with no status designated.

(ii) A change in status or the designation of a status shall be based upon an evaluation of data provided through survey or other relevant sources of information and the definitions of “significant,” “contributing,” or “noncontributing.”

(c) Initiation of Review of Status Designation

The Board may review the status designation in response to the following:

(i) An application for construction or demolition as set forth in Section 14-5.2 as follows:

A. Prior to the application being placed on a board agenda or prior to issuance of a building permit, if Board approval is not required, staff shall determine whether or not the board should review the status of the structure. Staff’s determination shall be made within thirty days of submittal of the application. If staff’s determination is not completed within the thirty days, the application shall be forwarded to the board. Review by the board as to the structure’s status shall be made at the earliest practicable date. The board or staff (as applicable) may consider the application immediately following the determination of status. The application shall be reviewed based upon the status of the structure following the determination of status.

B. Prior to action by the board on the application, the board itself may decide to review the status of the structure. The board’s determination as to the status shall be made within forty-five days of the decision of the board to review the status. The board or staff (as applicable) may consider the application immediately following the determination of the status. The application shall be reviewed based upon the status of the structure following the determination of status.

(ii) A request from the property owner; or

(iii) A request initiated by the city. Staff shall notify the property owner prior to initiating the request.

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

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

(1) General

(a) The status of a significant, contributing, or landmark structure shall be retained and preserved. If a proposed alteration will cause a structure to lose its significant, contributing, or landmark status, the application shall be denied. The

removal of historic materials or alteration of architectural features and spaces that embody the status shall be prohibited.

(b) If a proposed alteration or new construction will cause an adjacent structure to lose its significant, contributing, or landmark status, the application may be denied.

(2) Additions

(a) Additions shall have similar materials, architectural treatments and styles, features, and details as the existing structure, but shall not duplicate those of the existing structure in a manner that will make the addition indistinguishable from the existing structure.

(b) Additions to buildings that meet the standards of Subsection 14-5.2(E) shall continue to meet those standards set forth in Subsection 14-5.2(E) in addition to the standards set forth in this section.

(c) Additions are not permitted to primary façades.

(d) Additions are not permitted to the side of the existing footprint unless the addition is set back a minimum of ten (10) feet from the primary facade. The addition shall not exceed fifty percent of the square footage of the existing footprint, and shall not exceed fifty percent of the existing dimension of the primary facade. To the extent architecturally practicable, new additions shall be attached to any existing noncontributing portion of structures instead of attaching them to the significant or contributing portion.

(3) Remodeling to Increase Height; Rooftop Appurtenances

(a) For remodeling of existing significant and landmark structures, no increase in height of the structures is permitted. (For standards relating to additions to existing structures, see paragraph (2) above.)

(b) For significant and landmark structures, publicly visible roof top appurtenances, including but not limited to solar collectors, clerestories, decks, or mechanical equipment, shall not be added nor shall the parapet be raised to conceal the rooftop appurtenances. For contributing buildings solar collectors, clerestories, decks, or mechanical equipment if publicly visible shall not be added.

...

(5) Windows, Doors, and Other Architectural Features

(a) For all facades of significant and landmark structures and for the primary facades of contributing structures:

(i) Historic windows shall be repaired or restored wherever possible. Historic windows that cannot be repaired or restored shall be duplicated in the size, style, and material of the original. Thermal double pane glass may be used. No opening shall be widened or narrowed.

(ii) No new opening shall be made where one presently does not exist unless historic documentation supports its prior existence.

(iii) No existing opening shall be closed.

(b) For all façades of significant, contributing and landmark structures, architectural features, finishes, and details other than doors and windows, shall be repaired rather than replaced. In the event replacement is necessary, the use of new material may be approved. The new material shall match the material being replaced in

composition, design, color, texture, and other visual qualities. Replacement or duplication of missing features shall be substantiated by documentation, physical or pictorial evidence.

### **§ 14-12.1 – Definitions**

#### **CONTRIBUTING STRUCTURE**

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

#### **FAÇADE**

One whole exterior face or elevation of a structure from grade up to and including the top of the parapet. An individual façade is defined as including at least an eight-foot width that is offset from an adjacent plane by at least four feet.

#### **NON-CONTRIBUTING STRUCTURE**

A structure, located in an H district, that is less than fifty years old or that does not exhibit sufficient historic integrity to establish and maintain the character of the H District.

#### **PRIMARY FAÇADE**

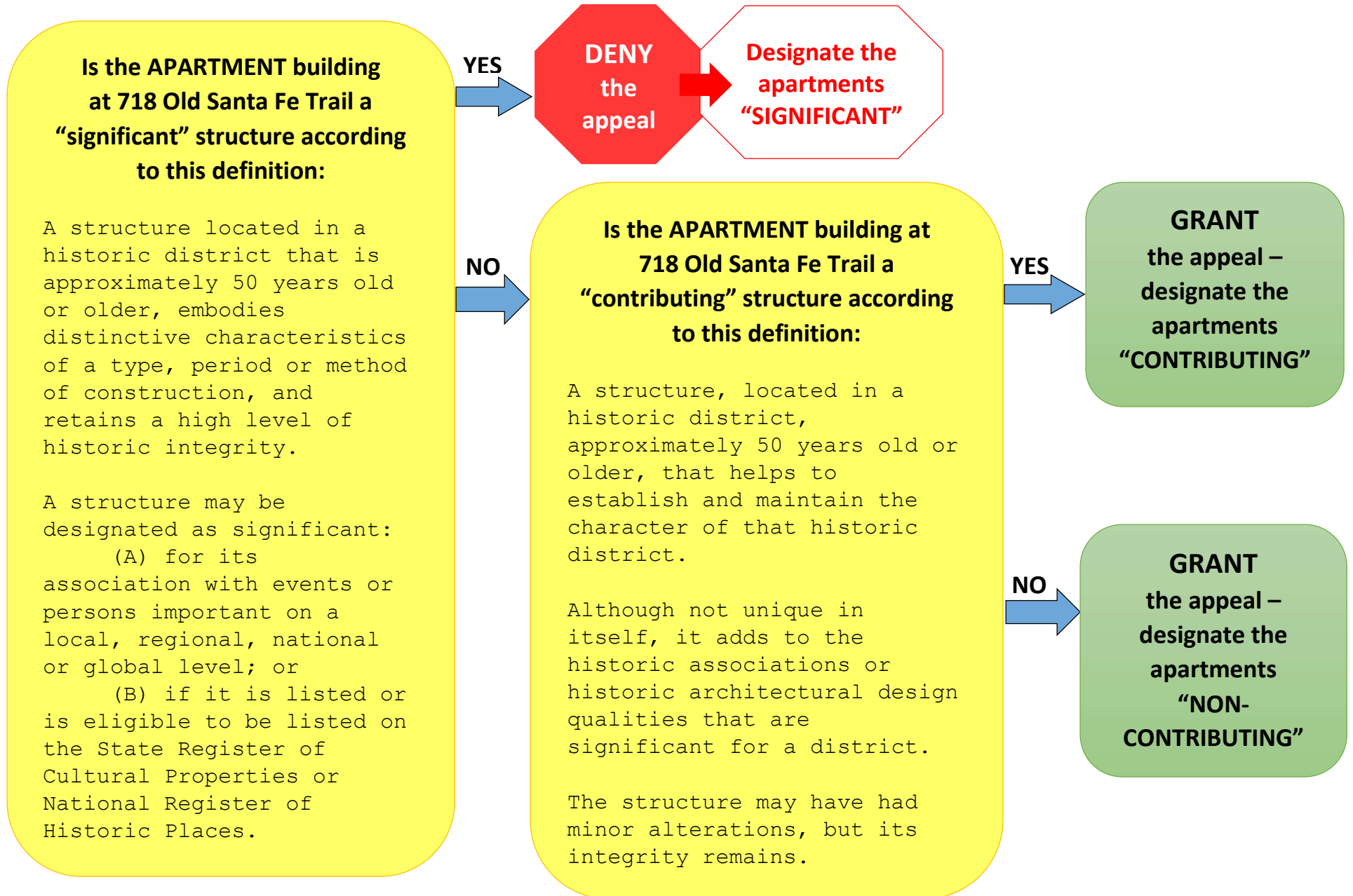
One or more principal faces or elevations of a building with features that define the character of the building's architecture.

#### **SIGNIFICANT STRUCTURE**

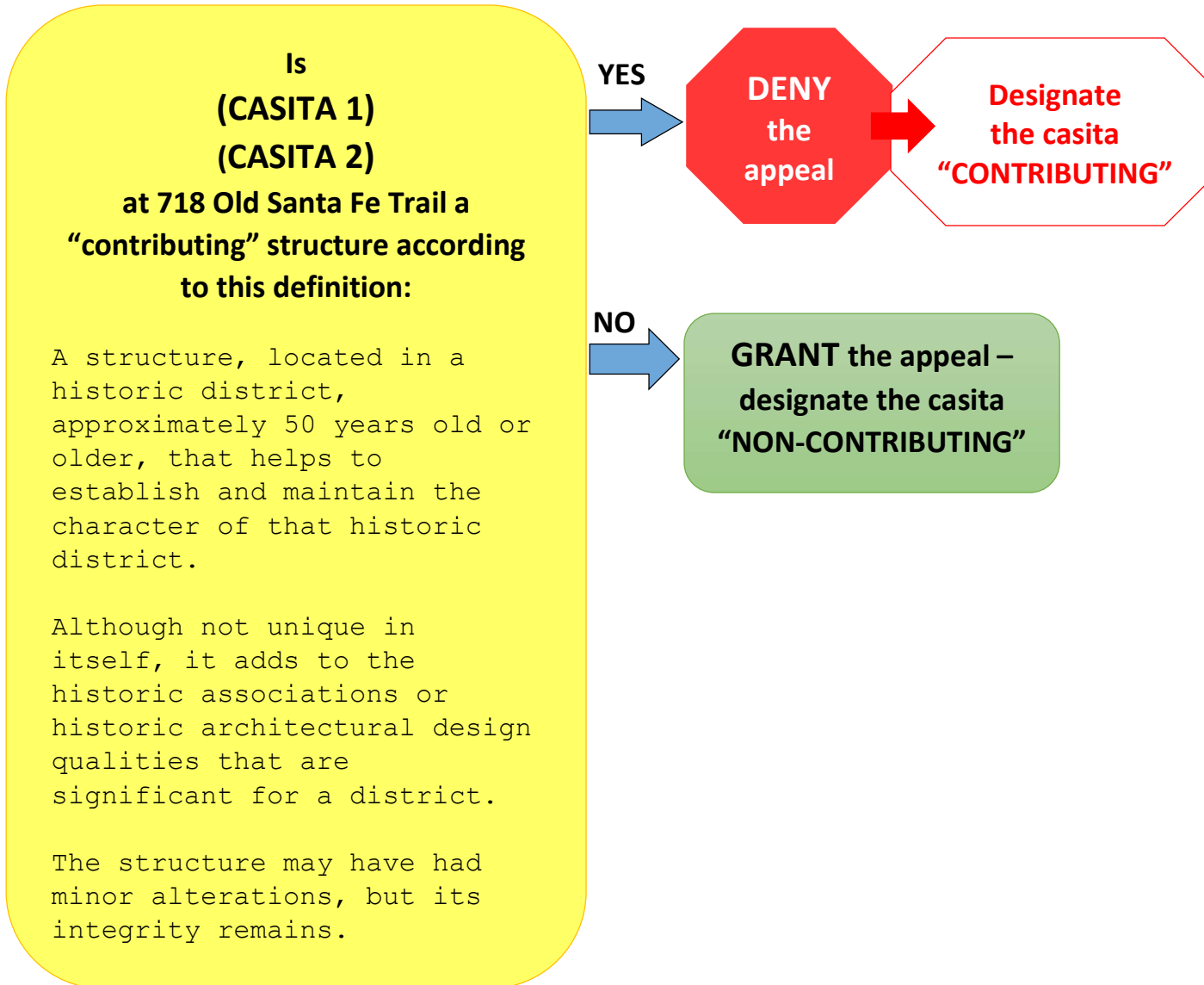
A structure located in a historic district that is approximately fifty years old or older, and that embodies distinctive characteristics of a type, period or method of construction. For a structure to be designated as significant, it must retain a high level of historic integrity. A structure may be designated as significant:

- (A) for its association with events or persons that are important on a local, regional, national or global level; or
- (B) if it is listed on or is eligible to be listed on the State Register of Cultural Properties or the National Register of Historic Places.

**Appeal # 2024-8309-APPL of Case # 2024-7892-HDRB**  
Appeal by Emily C. Rivera HDRB Status Designations  
First vote: Apartment structure at 718 Old Santa Fe Trail



**Appeal # 2024-8309-APPL of Case # 2024-7892-HDRB**  
Appeal by Emily C. Rivera HDRB Status Designations  
Second and Third votes: Casita 1 and Casita 2 at 718 Old Santa Fe Trail



**Signature:** 

**Email:** ekmcsherry@santafenm.gov

**Signature:** 

**Email:** feruybalid@santafenm.gov