



# AGENDA

MEETING OF  
THE BOARD OF  
ADJUSTMENT  
NOVEMBER 03, 2020 AT 11:00  
AM  
ATTEND VIRTUALLY

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## SPECIAL PROCEDURES FOR VIRTUAL ATTENDANCE AND PUBLIC COMMENT

**Attendance:** In response to the State’s declaration of a Public Health Emergency, the Mayor’s Proclamation of Emergency, and the ban on public gatherings of more than five (5) people, the Board of Adjustment meeting will be conducted using Zoom.

**Viewing on YouTube:** Members of the public may stream the meeting live on the City of Santa Fe’s YouTube channel at <https://www.youtube.com/channel/UCuW5Fb7iWuKpTdsWYNDurgA>. The YouTube live stream can be accessed at this address from most computers, mobile devices, or smartphones. A video recording of the meeting will be posted on YouTube and available for viewing after the meeting.

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**Attending Zoom by Phone:** Members of the public can attend the Zoom meeting by phone by dialing:

US: 1 346 248 7799 or 1 669 900 6833 or 1 253 215 8782 or 1 312 626 6799 or 1 929 205 6099 or 1 301 715 8592

Webinar ID: 831 3805 0511

### Public Comment:

- By video: A person attending the Zoom meeting by using a computer, mobile device, or smart phone may provide public comment during the meeting. Attendees should use the “Raise Hand” function to be recognized by the chair to speak at the appropriate time.
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contact Noah Berke (505-490-5930, [nlberke@santafenm.gov](mailto:nlberke@santafenm.gov)) at least seventy-two (72) hours in advance of the meeting and provide your **full name, address, and the phone number** you will be using to call in to the teleconference. Without your phone number, the chair will not be able to recognize you to speak at the meeting.

- In writing: A person may submit written public comments in at least seventy-two (72) hours in advance of the meeting via the virtual comment “button” at <https://santafe.primegov.com/public/portal>.

**A. ROLL CALL**

**B. PLEDGE OF ALLEGIANCE**

**C. APPROVAL OF AGENDA**

**D. APPROVAL OF MINUTES:**

1. October 6, 2020
2. October 20, 2020

**E. APPROVAL OF FINDINGS/CONCLUSIONS**

1. Case 2020-2494. 113 Washington Avenue Variance to Height.
2. Case 2020-2638. 113 Washington Avenue Variance to Stepback.

**F. OLD BUSINESS**

**G. NEW BUSINESS**

**H. STAFF COMMUNICATIONS**

**MATTERS FROM THE BOARD**

**I. ADJOURN**



City of Santa Fe

# AGENDA

MEETING OF  
THE BOARD OF  
ADJUSTMENT  
NOVEMBER 03, 2020 AT 11:00  
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**Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6521, five (5) working days prior to meeting date.**



# Agenda

**AMENDED**  
**BOARD OF ADJUSTMENT**  
**Tuesday, October 6, 2020 - 6:00pm**  
**ATTEND VIRTUALLY**

**SPECIAL PROCEDURES FOR VIRTUAL ATTENDANCE AND PUBLIC COMMENT:**

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Passcode: 743238

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Webinar ID: 893 1747 2918

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- **In writing:** A person may submit written public comments in advance of the meeting by email ([LandUsePublicComment@santafenm.gov](mailto:LandUsePublicComment@santafenm.gov)), by U.S. Postal Service (City of Santa Fe, ATTN: Noah Berke, PO Box 909, Santa Fe, NM 87504-0909), or by dropping off a comment at the physical drop box which will be located outside City Hall at the entrance to Land Use Lobby facing Marcy Street. Please include your full name and address, and identify the specific agenda item you are commenting on. To be included in the official record and considered at the hearing, written public comment **must** be received no later than Friday, October 2, 2020.

**A. ROLL CALL**

**B. PLEDGE OF ALLEGIANCE**

**C. APPROVAL OF AGENDA**

**D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS:**

**MINUTES: January 7, 2020**

**FINDINGS/CONCLUSIONS: None**

**E. OLD BUSINESS**

## F. NEW BUSINESS

1. **Case #2020-2491. 613 B Canyon Road Setback Variance.** Hoopes + Associates, Architects Co. Ltd., Agent, for Canyon Room Holdings, LLC, Owner, requests approval of a variance to SFCC Table 14-7.2-1 to raise the height of a structure that is non-conforming in regards to setbacks. The property is zoned RC8AC (Residential Compound Arts and Crafts- eight dwelling units per acre), is approximately 0.22 acres, and is within the Downtown and Eastside Historic District. (Lee Logston, Case Manager, [llogston@santafenm.gov](mailto:llogston@santafenm.gov), 955-6136).
2. **Case #2020-2494. 113 Washington Avenue Variance.** Liaison Planning Services Inc., Agent, for Rosewood Inn Of The Anasazi, Owner, request a variance to Table 14-7.4(A)-1 "Table of Dimensional Requirements for Townscape Districts" for the Marcy Townscape Sub-district, to allow a height of 56' where 42' is the maximum. The property is approximately .45 acres, zoned BCDMAR (Community Commercial [Business Capital District] – Marcy Townscape Sub-district) and located within the Downtown and East Side Historic District. (Dan Esquibel, Case Manager, [daesquibel@santafenm.gov](mailto:daesquibel@santafenm.gov), 955-6587) **(TO BE POSTPONED TO OCTOBER 20, 2020)**

## G. STAFF COMMUNICATIONS

## H. MATTERS FROM THE BOARD

## I. ADJOURNMENT

### NOTES:

- 1) Procedures in front of the Board of Adjustment are governed by the City of Santa Fe Rules & Procedures for City Committees, adopted by resolution of the Governing Body of the City of Santa Fe, as the same may be amended from time to time (Committee Rules), and by Roberts Rules of Order (Roberts Rules). In the event of a conflict between the Committee Rules and Roberts Rules, the Committee Rules control.
- 2) New Mexico law requires the following administrative procedures to be followed by zoning boards conducting "quasi-judicial" hearings. By law, any contact of Board of Adjustment members by applicants, interested parties or the general public concerning any development review application pending before the Board, except by public testimony at Board of Adjustment meetings, is generally prohibited. In "quasi-judicial" hearings before zoning boards, all witnesses must be sworn in, under oath, prior to testimony and will be subject to reasonable cross examination. Witnesses have the right to have an attorney present at the hearing.
- 3) The agenda is subject to change at the discretion of the Board of Adjustment.  
**\*Persons with disabilities in need of special accommodations or the hearing impaired needing an interpreter please contact the City Clerk's Office (955-6520) 5 days prior to the hearing date.**

<p><b>RECEIVED AT THE CITY CLERK'S OFFICE</b> <b>DATE: <u>09/22/2020</u></b> <b>TIME: <u>8:23 PM</u></b></p>
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# Agenda

**BOARD OF ADJUSTMENT  
Tuesday, October 6, 2020 - 6:00pm  
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**A. ROLL CALL**

**B. PLEDGE OF ALLEGIANCE**

**C. APPROVAL OF AGENDA**

**D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS:**

**MINUTES: January 7, 2020**

**FINDINGS/CONCLUSIONS: None**

**E. OLD BUSINESS**

**F. NEW BUSINESS**

1. **Case #2020-2491. 613 B Canyon Road Setback Variance.** Hoopes + Associates, Architects Co. Ltd., Agent, for Canyon Room Holdings, LLC, Owner, requests approval of a variance to SFCC Table 14-7.2-1 to raise the height of a structure that is non-conforming in regards to setbacks. The property is zoned RC8AC (Residential Compound Arts and Crafts- eight dwelling units per acre), is approximately 0.22 acres, and is within the Downtown and Eastside Historic District. (Lee Logston, Case Manager, [lrllogston@santafenm.gov](mailto:lrllogston@santafenm.gov), 955-6136).
2. **Case #2020-2494. 113 Washington Avenue Variance.** Liaison Planning Services Inc., Agent, for Rosewood Inn Of The Anasazi, Owner, request a variance to Table 14-7.4(A)-1 "Table of Dimensional Requirements for Townscape Districts" for the Marcy Townscape Sub-district, to allow a height of 56' where 42' is the maximum. The property is approximately .45 acres, zoned BCDMAR (Community Commercial [Business Capital District] – Marcy Townscape Sub-district) and located within the Downtown and East Side Historic District. (Dan Esquibel, Case Manager, [daesquibel@santafenm.gov](mailto:daesquibel@santafenm.gov), 955-6587)

**G. STAFF COMMUNICATIONS**

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**RECEIVED AT THE CITY CLERK'S OFFICE**

**DATE: September 14, 2020**

**TIME: 3:04 PM**

Board of Adjustment  
October 6, 2020

Item	Motion/Description	Page
Call to Order	Gary Friedman, Chair of the Board of Adjustment called the meeting to order at 6:04 p.m. in the City Councilor's Conference Room.	1
Roll Call	A quorum was established with roll call.	1
Pledge of Allegiance		1
Approval of the Agenda	Approved	1
Approval of the Minutes from January 7, 2020	Approved	1
Approval of Findings/Conclusions None	None	1-2
Old Business	None	2
New Business:		
1. Case #2020-2491 613 B Canyon Road Setback Variance Hoopes & Associates, Architects Co. Ltd., Agent, fro Canyon Room Holdings, LLC., Owner requests approval of a variance to SFCC Table 14,7,2-1 to raise the height of a structure that is non-conforming in regards to setbacks. The property is zoned RC8AC, is approximately 0.22 acres, and is within the downtown and Eastside Historic District.(Lee Logston Case Manager)	Approved	2-4
2. Case #2020-2494 113 Washington Ave. Variance. Liaison Planning Services, Inc. Agent. For Rosewood Inn of the Anasazi, Owner, request a variance to Table 14-7.4(A)-1 :Table of Dimensional Requirements for Townscape Districts" for the Marcy Townscape Sub-district, to allow a height of 56' where 42' is the maximum. The property is approximately .45 acres, zoned BCDMAR and located within the Downtown and East Side Historic District (Dan Esquibel, Case Manager) To be postponed to October 20, 2020.	To be postponed to October 20, 2020	4
Staff Communications	Discussion Only	4
Matters from the Board	Discussion Only	4-5
Adjourn		5
Signatures		6

Board of Adjustment  
Via Virtual Meeting  
Tuesday October 6, 2020

**A. CALL TO ORDER**

Gary Friedman, Chair of the Board of Adjustment called the meeting to order at 6:00 p.m. via virtual meeting due to the current health restrictions. A quorum was established with roll call.

**ROLL CALL**

**Present:**

Gary Friedman, Chair  
Rachel Winston, Vice Chair  
Donna Reynolds  
Doug Maahs  
Coleen Dearing  
Patricia Hawkins  
Daniel Werwath

**Absent:**

**Staff and Others Present:**

Noah Berke, City Land Use  
Lee Logston, City Land Use  
Sally Paez, City Attorney's Office  
Linda Vigil, Stenographer

**B. PLEDGE OF ALLEGIANCE**

**NOTE: All items in the packet for all agenda items were incorporated herewith by reference. The original packet is on file with the City Land Use Staff. Any additional attachments will be labeled as exhibits.**

**C. APPROVAL OF AGENDA**

Chair Friedman noted that the second case (Case #2020-2494) will be heard at the next meeting.

**MOTION:** Mr. Maahs moved to approve the agenda as amended with a second from Ms. Winston.

**ROLL CALL VOTE:** All members voted in favor. Motion passed.

**D. REVIEW AND APPROVAL OF MINUTES FROM January 7, 2020**

**MOTION:** Ms. Dearing moved to approve the minutes with a second from Mr. Maahs.

**ROLL CALL VOTE:** All members voted in favor. Motion passed. *Mr. Werwath abstained as he was not present at that meeting.*

**E. APPROVAL OF FINDINGS/CONCLUSIONS**

None.

**F. OLD BUSINESS**

None.

**G. NEW BUSINESS**

1. **Case #2020-2491 613 B CANYON ROAD SETBACK VARIANCE.**

Hoopes & Associates, Architects Co. Ltd., Agent, for Canyon Room Holdings, LLC, Owner, requests approval of a variance to SFCC Table 14-7.2-1 to raise the height of a structure that is non-conforming in regards to setbacks. The property is zoned RC 8AC, is approximately 0.22 acres, and is within the Downtown and Eastside Historic District. (Lee Logston, Case Manager, [llogston@santafenm.gov](mailto:llogston@santafenm.gov), 955-6136)

*Staff Report:*

Mr. Logston explained the request for the variance is for the set back. The property is zoned RC8AC residential compound arts and crafts. The applicant will share their screen, which will have renderings. The minimum rear yard is 5 feet if you have a 6-8 foot wall. The side wall is 5 feet, this structure is about 1.5 feet at the rear. Inside the structure sits 6 feet from the bottom of the vigas. The applicant wants to raise the ceiling inside to meet modern building codes for the height interior. They are not asking no exception to go higher, they are asking just to improve the functionality and to meet health and safety codes.

Mr. Logston explained the criteria and staff's suggestions:

- Criterion 1- they do have unique circumstances with low ceiling height, they set back is not unusual in the zone.
- Criterion 2- financial cost is not driving it but trying to meet the building code trying to meet the safety and function of the building.
- Criterion 3- it is not raising the intensity, it is merely bringing it up to a reasonable height
- Criterion 4- they are restating that if it is used residentially or for a gallery the minimum standards for ceiling height are not met in the structure.
- Criterion 5- staff does not feel it is contrary to the public interest in any way. They are not asking for anything extra.

Based on this, staff recommends approval for the variance. Included in the memo are sample motions there are motions they can use.

*Applicant Report:*

Charles Rosenberg (6 Dogwood Circle Santa Fe, NM 87506) and Craig Hoopes (333 Montezuma Santa Fe, NM 87501) spoke on behalf of the applicants.

Mr. Rosenberg thanked the board members and City Land Use staff for their work on this case.

Mr. Rosenberg shared his screen and used the Land Use packet. Mr. Rosenberg explained the vicinity map. The client owns tract A and B and the subject is what is known as the "Vigil" house.

Where the site and building are located, there are three buildings. At the facade is a gallery it used to be Celebrations Restaurant, which is now Bill Hester Fine Art. One photo next to the existing house showing how low the ceiling is. The diagrams show what they are presenting.

There is a 7-foot tall wall, they are allowed 5 foot setbacks from either side. They are proposing raising the ceiling, they will not touch the front facade which was deemed historical.

The primary facade with the historical board. The meeting confirmed the status of the property. The contributing the from grade it is 12'6 they will max it out

The rear elevation with east elevation is really low. They are proposing going up 14 feet as they measure from the low end. It is actually 13 feet from floor line or 12'3 from grade.

There is a section behind the windows has sagging vigas they are proposing taking the center of the building up 16 feet that is beyond the set back and beyond property line. The meeting with the historic group over a year ago was to confirm the status of the properties. Mr. Rosenberg explained the east elevation that is low the parapet is only 8'7 from grade. They are proposing taking the center of the ceiling to 16 feet, which is beyond the setback.

Mr. Logston explained the zone allows 24 feet but 10 feet in maximum. The historic board allowed 16 feet.

*Public Comment:*

None.

Ms. Paez stated for the record they have received two emails in support (Marilyn Bane and Fletcher Catron). They will be added as exhibits.

*Questions from the Board:*

Ms. Hawkins asked what will happen to the magnificent lilac tree in front of the facade.

Mr. Rosenberg states if they can save it they will. They have no intention of removing it.

Mr. Maahs asked if the overall height is 16 feet where does that come in to the main structure.

Mr. Rosenberg explained the building is set down the floor line is below the floor line of what was the restaurant it is below street level.

Chair Friedman asked if this is the property across from El Farol or is it further down.

Mr. Hoopes explained it is further down.

Mr. Logston shared a google maps view street view and showed how low the building is.

*Approve or deny*

**MOTION:** Mr. Werwath moved to approve the variance of Case #2020-2491 to SFCC Table 14-7.2-1 and the Findings of Fact and Conclusions of Law with a second from Ms. Winston

**ROLL CALL VOTE:** All members voted in favor. The motion passed.

Ms. Dearing thought they had to be approved in two motions.

Ms. Paez believes it is clear that all members were in favor. If there was a discrepancy they would like it done in two motions.

It was agreed if in the future if the vote is not unanimous they will break it down in two motions.

2. Case #2020-2494 113 Washington Avenue Variance. Liaison Planning Services Inc. , Agent, for Rosewood Inn Of The Anasazi, Owner, request a variance to Table 14-7.4(A)-1 "Table of Dimensional Requirements for Townscape Districts" for the Marcy Townscape Sub-district, to allow a height of 56' where 42' is the maximum. The property is approximately .45 acres, zoned BCDMAR (Community Commercial [Business Capital District] – Marcy Townscape Sub-district) and located within the Downtown and East Side Historic District. (Dan Esquibel, Case Manager, daesquibel@santafenm.gov, 955-6587) **(TO BE POSTPONED TO OCTOBER 20, 2020)**

#### **H. STAFF COMMUNICATIONS**

Mr. Berke congratulated the board for completed their first virtual meeting. Since January all meetings have been held virtually. All City meetings are broadcast on Youtube and can be reviewed.

The second meeting will be on October 20, 2020. There are two cases for one property. He will not be present at that meeting. The Department has changed and Mr. Eli Isaacson is the new Land Use Director and there are now different branches. Land Use is broken up into two branches; the development review branch and the planning branch.

They are conducting most business online, they are still accepting building permits and busy as ever. They are maintaining with no additional staff. They just passed an increase in the development fees.

They will be charging for things they did not charge for previously. Salaries have gone up but the fees have remained the same. They want to reserve pre application meetings. They are accepting building permits, some are online portal the rest are done by appointment.

Greg Smith has retired a few months ago. Also, John Romero the traffic engineer for the last eighteen years has also left, this is a huge loss for planning.

There are a few new branches in the City structure; Community Development, Community Health and Public Safety, Public Works, Water and Public Utilities, Parks and Recreation has been broken into two branches. City Hall is closed and virtual meetings may go on into the new year.

#### **I. MATTERS FROM THE BOARD**

Ms. Hawkins congratulated Mr. Werwath on the affordable housing on Siler. She would like to know what affordable housing in Santa Fe should be pricewise.

Mr. Werwath explained it is not an income level it is cost of housing relative to your income. The rule they use is 30% of your gross income. The City of Santa Fe code has defined is as anyone under 120% of median income. The income limits vary for ownership and rentals.

Based on the changes 80% of the median income is the upper limit for rental assistance. Which is the income limit the inclusionary zoning programs that state developers have to include affordable housing in their developments. A project like Siler targets much deeper incomes. They range from 30% of median income so right around full time wage at the living wage. The larger the family is, the higher the income level is allowed.

Ms. Hawkins states she will cope with that, she sees people complaining about lack of affordable housing.

Mr. Werwath stated many people are talking about is housing affordability problem not necessarily an affordable housing problem. There are problems like income restriction and then there is nurses and teachers cannot afford apartments in Santa Fe. They get mixed up a lot. One problem is at the federal level they do not treat housing as a right about one fifth wont afford it. There is also the supply and demand. In Santa Fe they did not anticipate the population.

Mr. Werwath discussed they are focusing on the resources and building the income restricted housing for those who are disables or have limited earning potential. There are changes to Land Use Code that make it less costly and easier. The projects have improved in the last few years. They need to create more subsidized housing. One thing they recommend he recommends is for folks to look at the Santa Fe Housing Coalition website which has some great information about policy work and background stuff. They need a funding source. At the local level Pete's Place is dealing with an unmanageable problem because they needs more projects like Siler.

Mr. Berke shared a spreadsheet showing units, status and the number of affordable housing. It is data compiled over the last three years. Right now they have about 2,100 units multifamily, and single family under construction about 184 of those are affordable. They are nowhere near resolving the affordable housing problem. There are ways to address it, incentive and then change what is required. There are some more small project fees and in lieu of is an option for developers.

Mr. Berke showed the developments on a map. There is building in all parts of the City. The more important issue is they aren't building enough of affordable housing.

Mr. Werwath stated the fact that they haven't building high end rentals, that means wealthier folks are living in low to mid grade and building up their costs. They compete statewide for about 300 units of new rental housing funding a year. They need projects similar to Siler where the City provided land and infrastructure. This year they did not have any projects. They need to focus on how to que up these projects and find funding sources. There are some plans on how to approach it.

Mr. Werwath thinks they can do 200-250 units of income restricted rentals a year but it will take getting some more money in the trust fund and getting a land donation from the City. With the resources they have, they maintain it. They have lost about 1,000 low income families from the community in the last few years. It is viable to do that, if they could do that for the next ten years they could solve the issue. The average cost of an unhouse person on an annual basis costs the government between \$60,000 to \$80,000 a year. It saves the local government to invest in permanent housing.

Ms. Hawkins believes this is a conversation they need to have often.

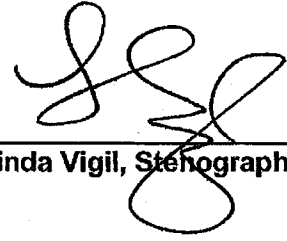
## **J. ADJOURN**

With all business conducted for the Board of Adjustment, the meeting was adjourned at 6:51 p.m.

**SIGNATURES**

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**Gary Friedman, CHAIR**



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**Linda Vigil, Stenographer**

**BERKE, NOAH L.**

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**From:** LOGSTON, LEE R.  
**Sent:** Tuesday, October 6, 2020 11:50 AM  
**To:** BERKE, NOAH L.  
**Subject:** Fw: 613 B Canyon Road/BOA 2020-2491

And this email from Marilyn in support.

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**From:** Marilyn Bane <mabinsf@aol.com>  
**Sent:** Saturday, October 3, 2020 12:42 PM  
**To:** charles@hoopesarchitects.com <charles@hoopesarchitects.com>; LOGSTON, LEE R. <lrllogston@santafenm.gov>  
**Subject:** 613 B Canyon Road/BOA

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.

Mr. Rosenberg, Mr. Logston - thank you for your courtesy in advising us of this requested height variance before the Board of Adjustment and soliciting our comment.

Although normally very sensitive to increased height requests in our historic neighborhood, we believe the request for 613 B Canyon Road is acceptable due to the distance from Canyon Road and the downward slope from the street.

Also, my home is within the affected area and I, too, find your variance request acceptable.

Regards,  
Marilyn Bane, President  
Historic Neighborhood Association  
622 1/2 B Canyon Road  
Santa Fe, NM. 87501

Sent from my iPhone

*Exhibit A*

**BERKE, NOAH L.**

---

**From:** LOGSTON, LEE R.  
**Sent:** Tuesday, October 6, 2020 11:49 AM  
**To:** BERKE, NOAH L.  
**Subject:** Fw: Board of Adjustment Case 2020-2491

You've got this one already

---

**From:** BERKE, NOAH L. <nlberke@santafenm.gov>  
**Sent:** Sunday, September 27, 2020 7:16 PM  
**To:** LOGSTON, LEE R. <llogston@santafenm.gov>  
**Subject:** Fwd: Board of Adjustment Case 2020-2491

Thanks!

Noah Berke, AICP, CFM  
Planner Manager  
Land Use Department  
(505) 955-6647  
(505) 490-5930

---

**From:** Fletcher R. Catron <fcatron@comcast.net>  
**Sent:** Sunday, September 27, 2020 7:08:40 PM  
**To:** Land Use Public Comment <landusepubliccomment@santafenm.gov>  
**Subject:** Board of Adjustment Case 2020-2491

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.

I object to any variance which would raise the height of structures along Canyon Road. Canyon Road is an iconic part of the city, and variances are changing the streetscape from historic, warm and friendly to fake, cold and businesslike. Zoning has been put in place for a reason, and variances should be extremely rare. A variance is inappropriate to raise the height of any structure along this street.

Fletcher R. Catron  
1062 Encantado Drive  
Santa Fe, NM 87501

*Exhibit B*



# Agenda

**BOARD OF ADJUSTMENT  
Tuesday, October 20, 2020 - 6:00pm  
ATTEND VIRTUALLY**

**SPECIAL PROCEDURES FOR VIRTUAL ATTENDANCE AND PUBLIC COMMENT:**

In response to the State's declaration of a Public Health Emergency, the Mayor's Proclamation of Emergency, and the ban on public gatherings of more than five (5) people, this meeting will be conducted virtually using Zoom.

**Viewing on YouTube:** Members of the public may stream the meeting live on the City of Santa Fe's YouTube channel at <https://www.youtube.com/channel/UCuW5Fb7iWuKpTdsWYNDurgA>. The YouTube live stream can be accessed at this address from most computers, mobile devices, and smartphones. A video recording of the meeting will be posted on YouTube and available for viewing after the meeting.

**Attending on Zoom:** Members of the public may attend the Zoom meeting on a computer, mobile device, or phone. The video conference link and teleconference number will be posted on the City of Santa Fe's Calendar of Events website at least seventy-two (72) hours before the meeting: <https://www.santafenm.gov/events>. The direct Zoom link is: <https://us02web.zoom.us/j/82794723630?pwd=NnRsUVFJZU5aY2J3SkU5bmlhL0JlZz09>  
Passcode: 139394

**Attending Zoom by Phone:** Members of the public can attend the Zoom meeting by phone by dialing US: +1 253 215 8782 or +1 346 248 7799 or +1 669 900 6833 or +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099  
Webinar ID: 827 9472 3630

**Public Comment:**

- **By video:** A person attending the Zoom meeting by using a computer, mobile device, or smart phone may provide public comment during the meeting. Attendees should use the "Raise Hand" function to be recognized by the chair to speak at the appropriate time.
- **By phone:** A person attending the Zoom meeting by phone may provide public comment during the meeting but **must** provide advance notice to City staff. Please contact Noah Berke (505-490-5930, [nlberke@santafenm.gov](mailto:nlberke@santafenm.gov)) no later than Friday, October 16, 2020, and provide your **full name, address, and the phone number** you will be using to call in to the teleconference. Without your phone number, the chair will not be able to recognize you to speak at the meeting.
- **In writing:** A person may submit written public comments in advance of the meeting by email ([LandUsePublicComment@santafenm.gov](mailto:LandUsePublicComment@santafenm.gov)), by U.S. Postal Service (City of Santa Fe, ATTN: Noah Berke, PO Box 909, Santa Fe, NM 87504-0909), or by dropping off a comment at the physical drop box which will be located outside City Hall at the entrance to Land Use Lobby facing Marcy Street. Please include your full name and address, and identify the specific agenda item you are commenting on. To be included in the official record and considered at the hearing, written public comment **must** be received no later than Friday, October 16, 2020.

**A. ROLL CALL**

**B. PLEDGE OF ALLEGIANCE**

**C. APPROVAL OF AGENDA**

**D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS:**

**MINUTES: None**

**FINDINGS/CONCLUSIONS: None**

**E. OLD BUSINESS**

**F. NEW BUSINESS**

1. **Case 2020-2494. 113 Washington Avenue Variance to Height.** Liaison Planning Services Inc., Agent, for Rosewood Inn Of The Anasazi, Owner, request a variance to Table 14-7.4(A)-1 "Table of Dimensional Requirements for Townscape Districts" for the Marcy Townscape Sub-district, to allow a height of 56' where 42 ' is the maximum. The property is approximately .45 acres, zoned BCDMAR (Community Commercial [Business Capital District] – Marcy Townscape Sub-district) and located within the Downtown and East Side Historic District. (Dan Esquibel, Case Manager, [daesquibel@santafenm.gov](mailto:daesquibel@santafenm.gov), 955-6587) **(POSTPONED FROM OCTOBER 6, 2020)**
  
2. **Case 2020-2638. 113 Washington Avenue Variance to Stepback.** Liaison Planning Services Inc., Agent, for Rosewood Inn Of The Anasazi, Owner, request a variance to Table 14-7.4(A)-1 "Table of Dimensional Requirements for Townscape Districts" for the Marcy Townscape Sub-district, requirement from the 1" Vertical above 24'; wall stepbacks of 10 horizontal feet. The property is approximately .45 acres, zoned BCDMAR (Community Commercial [Business Capital District] – Marcy Townscape Sub-district) and located within the Downtown and East Side Historic District. (Dan Esquibel, Case Manager, [daesquibel@santafenm.gov](mailto:daesquibel@santafenm.gov), 955-6587)

**G. STAFF COMMUNICATIONS**

**H. MATTERS FROM THE BOARD**

**I. ADJOURNMENT**

**NOTES:**

- 1) Procedures in front of the Board of Adjustment are governed by the City of Santa Fe Rules & Procedures for City Committees, adopted by resolution of the Governing Body of the City of Santa Fe, as the same may be amended from time to time (Committee Rules), and by Roberts Rules of Order (Roberts Rules). In the event of a conflict between the Committee Rules and Roberts Rules, the Committee Rules control.
- 2) New Mexico law requires the following administrative procedures to be followed by zoning boards conducting "quasi-judicial" hearings. By law, any contact of Board of Adjustment members by applicants, interested parties or the general public concerning any development review application pending before the Board, except by public testimony at Board of Adjustment meetings, is generally prohibited. In "quasi-judicial" hearings before zoning boards, all witnesses must be sworn in, under oath, prior to testimony and will be subject to reasonable cross examination. Witnesses have the right to have an attorney present at the hearing.
- 3) The agenda is subject to change at the discretion of the Board of Adjustment.  
**\*Persons with disabilities in need of special accommodations or the hearing impaired needing an interpreter please contact the City Clerk's Office (955-6520) 5 days prior to the hearing date.**

<b>RECEIVED AT THE CITY CLERK'S OFFICE</b>	
<b>DATE:</b>	<b>September 28, 2020</b>
<b>TIME:</b>	<b>10:21 AM</b>



Board of Adjustment  
City Councilors' Conference Room  
Via Virtual Meeting  
Tuesday October 20, 2020

**A. CALL TO ORDER**

Gary Friedman, Chair of the Board of Adjustment called the meeting to order at 6:04 p.m. via virtual meeting due to the current health restrictions. A quorum was established with roll call.

**ROLL CALL**

**Present:**

Gary Friedman, Chair  
Rachel Winston, Vice Chair  
Donna Reynolds  
Coleen Dearing  
Patricia Hawkins  
Daniel Werwath

**Absent:**

Doug Maahs

**Staff and Others Present:**

Noah Berke, City Land Use  
Dan Esquibel, City Land Use  
Karl Sommer Attorney  
Dolores Vigil, Planning Consultant  
Richard Martinez, Architect  
Lutz Arnohld, General Manager  
Sally Paez, City Attorney's Office  
Linda Vigil, Stenographer

**B. PLEDGE OF ALLEGIANCE**

**NOTE: All items in the packet for all agenda items were incorporated herewith by reference. The original packet is on file with the City Land Use Staff. Any additional attachments will be labeled as exhibits.**

**C. APPROVAL OF AGENDA**

**MOTION:** Ms. Winston moved to approve the agenda with a second from Mr. Werwath.

**ROLL CALL VOTE:** All members voted in favor of approval (6-0), motion passed.

**D. REVIEW AND APPROVAL OF MINUTES FROM October 6, 2020**

This item will be approved at the next meeting.

## **E. APPROVAL OF FINDINGS/CONCLUSIONS**

This item will be approved at the next meeting.

## **F. OLD BUSINESS**

None.

## **G. NEW BUSINESS**

1. **Case #2020-2494 113 Washington Avenue Variance.** Liaison Planning Services Inc. , Agent, for Rosewood Inn Of The Anasazi, Owner, request a variance to Table 14-7.4(A)-1 "Table of Dimensional Requirements for Townscape Districts" for the Marcy Townscape Sub-district, to allow a height of 56' where 42' is the maximum. The property is approximately .45 acres, zoned BCDMAR (Community Commercial [Business Capital District] – Marcy Townscape Sub-district) and located within the Downtown and East Side Historic District. (Dan Esquibel, Case Manager, daesquibel@santafenm.gov, 955-6587) **(TO BE POSTPONED TO OCTOBER 20, 2020)**

Ms. Paez explained there is two cases presented as one but require two motions.

### **Staff Report:**

Mr. Esquibel explained the variance request for Case #2020-2494 variance to height. Liaison Planning Services Inc. , Agent, for Rosewood Inn Of The Anasazi, Owner, request a variance to Table 14-7.4(A)-1 "Table of Dimensional Requirements for Townscape Districts" for the Marcy Townscape Sub-district, to allow a height of 56' where 42' is the maximum. The property is approximately .45 acres, zoned BCDMAR (Community Commercial [Business Capital District] – Marcy Townscape Sub-district) and located within the Downtown and East Side Historic District. There is a second variance request for the same address and applicant and same agent. Under the same table for the step back for the same district.

The Land Use Department is recommends denial to height variance and denial to the step back. There are two motions one for the variance and the other findings in the memo in the packet. On page 2 of the staff report Mr. Esquibel created a summary and a graphic to identify the townscape standards to overlay proposed variance. In figure 1 the standard that would be applied for the step back up and ten feet to a height of 42 feet. The red area shown identifies the requested variance and the height being increases on the existing building and the proposed step back. Mr. Esquibel presented a Google earth image showing adjacent hotels. There is one other hotel in the Marcy sub district. All other hotels are in different districts. Those have other design standards and requirements.

Mr. Esquibel explained its location in the sub district and the other boundaries of the other sub districts. Both variances did not comply with the criteria. All criteria is required for the Board of Adjustment to render a variance. Criteria 1,2, and 3 were not adequately addressed to render an approval based on staff's analysis. Criteria 4 and 5 because of the nature and type with the historical district and architecture if it were to be approve it would not be in conflict with public interest.

Chair Friedman explained they will have the applicant present and public comment then the board will ask questions.

***Applicant Report:***

Ms. Paez allowed the team for the applicant to join the meeting. (Karl Sommer, Dolores Vigil, Richard Martinez, Brad Spain and Lutz Arnohld). All applicants were sworn in as a group.

Karl Sommer (PO Box 2476 Santa Fe 87504) is here to present on behalf of the Inn of the Anasazi. Mr. Arnohld is the General Manager of the hotel and Mr. Martinez is the architect who has worked on this property for many years. Mr. Spain is here to represent the ownership and Ms. Vigil is the planning consultant who helped with the application.

Mr. Sommer explained the two requests to the underlying zoning in the BCD of the Marcy sub district. One is a height variance and the other is a step back to the building going up 24 feet. Mr. Esquibel has done a great job explaining this case. Mr. Sommer will speak about the origins and history of the case.

Mr. Sommer stated the Downtown Santa Fe is critical to the long-term cultural and economic viability of the community. It is the heart and soul of the culture and economic engine that drives the town in many ways. Santa Fe is known in a worldwide fashion. Downtown provides visitors and residents with a rich cultural and spiritual experience. As a world class destination there are hotels in the area like the La Fonda, Drury, Eldorado, Inn of Loretto and the Inn of Anasazi. Having worked with each one he is very familiar with their amenities and how they have evolved. They do and do not comply with the underlying regulation but how the City has allowed them to continue to be viable and continue to give residents and visitors what makes Santa Fe popular. In order for it to remain it is important the properties remain viable.

Mr. Sommer stated it is important these places do not become less attractive and less viable. If you look around at the amenities of the hotels are of the same class of hotel. The Eldorado were just in last year where they put in a rooftop pool, gazebo and lounge area. That had to go through a similar process. The La Fonda hotel also has a rooftop restaurant in two locations and a bar and continually reinvests and gets remodeled. The Inn of Loretto and the Drury were designed with rooftop bar. The Inn of the Anasazi is in the same class of hotel and needs to remain viable and not become obsolete.

Fortunately they have an owner that desires to keep it successful and competitive and unfortunately there is nothing that can be done without a variance. There is a portion which is above the 42 feet and does not conform to the step back. This building was built after 1945 and was redeveloped and is non-conforming then in 1982 they passed the BCD. This property did not conform to the criteria in the sub district the report notes it is a legally non conforming structure. It takes up the entire lot and has underground parking. Almost nothing can be done without requesting a variance. The owner wants to keep the amenities on the rooftop which is in the same class as the other hotels in the area.

Mr. Sommer explained this was proposed to the Historic Districts Review Board ("H Board") which is more strict on height requirements. It is 29 feet is the maximum under their height requirement. That height is done on a block by block basis and is an average of the building on a streetscape. It does not comply and never has.

Mr. Sommer explained they went before the H Board for exceptions. They require certain findings, they approved the exceptions. Their function is to protect downtown and to preserve the harmony so that damage is not done to the character of downtown. This application went before them in the spring and went twice except for one portion. The design was approved, the height was also approved with the recommendation that the chimneys along the front kept to the

same height. That was appealed to the City Council and they upheld the decision they went back to the review board and redesigned that portion. It was approved in September.

Mr. Sommer states in the H Board's decision early on, it adopts staff's recommendation and the height exception is required due to that special circumstance that are peculiar and not applicable to other structures in the related streetscape. The H Board states that the height exception is due to the condition that is not fault of the application. The one qualification was the chimneys and they found that it would negatively affect the project. It does not violate the public interest and the request is due to circumstances that are peculiar. This project has been through three iterations and received approval at the Council level and back to the H Board level.

Mr. Sommer stated in the report quotes the standards efficiently. On pages 3 and 4 it describes how the property is non-conforming. On page 5 of 15 Mr. Esquibel lays out the criteria (C1 A-D) where the applicant must meet one or more of the special circumstances. It does not clarify in this particular townscape it states in the vicinity. That criteria is almost exactly like that found by the H Board. This property like the other hotels exceeded the height requirements and step back of the BCD sub district. These are all unusual characteristics.

Mr. Sommer stated they cannot do anything to that property without a variance because it already exceeds the height limit. In subsection C there is mention of an inherent conflict in applicable regulations that cannot be resolved without stricter restrictions.

There is clearly a conflict between the H Board's Ordinance and this Ordinance. It is not clear but the Ordinance says when they have two requirements that apply the one with more restrictive requirements applies. The more restrictive is the H Board's for height and they have met that.

Mr. Sommer stated they have met A and C. On page 6 of 15 where it states they have not met criterion 2. That states the special circumstances make it infeasible to be in compliance with the standard. The BCD requirement shrink wraps this property and not the entire district. That is a special circumstance.

Mr. Sommer states on page 7 of 15 criterion 13 states the intensity of the development that is not within the district, it is in the vicinity all other hotels are also in the vicinity. It brings it up to par with the uses of those properties. The other hotels in the area share these same amenities and the intensity would not be the same use. The rooftop amenities will not exceed those. All other criteria have been met the rest of the memo mentions the criteria and the same analysis.

Mr. Sommer states in short, they are asking to allow this owner to invest in a manner that is consistent with the other properties so it does not become obsolete and does not fall into disfavor and eventually economic downfall. In this economy it is nice to see an owner who is willing to make this proposed investment. It is not reasonable to consider that this property can be reused for something else.

Chair Freidman

***Public Comment:***

Ms. Paez allowed time or anyone online to use the raise hand feature. None were raised.

***Questions from the Board:***

Ms. Winston asked if there is an on criterion 4 regarding roads. Mr. Esquibel apologized that is in error.

Ms. Winston asked Mr. Sommer to review the applicant's response to criterion 4.

Mr. Sommer stated it is to make reasonable use of the land and structure the following factors shall be considered; consentaneity with the purpose and intent of Chapter 14, the articles in sections from which the variance is granted and the applicable goals and policies of the general plan. Their position is the criteria and factor is broadly encompassing Chapter 14. What informs this in an overriding way is that the H Board deals with a stringent policy and standard in this district than in any other portion of the City. Is it consistent with the policy in the streetscapes form the review standard? The H Board has found it is consistent and will not do damage because it is more specific they need to look and determine if it is consistent this proposal allows for reasonable use of the property that does not do damage for the streetscape and the continued economic viability of Santa Fe. This proposal recognizes and is consistent. The H Board found that is consistent with design standards it has been met and meets the minimum variance. In order to do anything on this property above the roofline they need a variance. The factor that is most important is factor B.

Mr. Werwath asked staff since he is not familiar with overlay districts. This building adjacent to two other BCD sub districts what are the height limits in those zones? He asks because that is where the comparable hotels of similar height are located. Variances are a messy tool in land use code is there a process similar to move it into an adjacent sub district to allow the additional height without a variance.

Mr. Esquibel presented a table of dimensional heights in the districts. The Alameda is 56 feet, the Barrio is 24 feet, Cerrillos is 45 feet, Don Gaspar is 24 feet, East Marcy and Palace is 27 feet. The Loretto Chapel has its own special sub district the Marcy sub district. They all have different sub districts.

Mr. Esquibel wanted to address that criterion 4 and 5 have been met them for both variances, they may have a different analysis they both agree they comply.

Mr. Werwath stated none of the height limits are as tall as any of those. How have they arrived at those that do not apply and can intensify the height?

Mr. Esquibel explained many of the historic zones were not in an actual zone area. What happened is many variances occurred in 2012 ,this body saw many of those in how they were deliberated in 2012 the City felt there were too many variances granted. That is how some of the hotels were able to achieve their goals. Some were already at those heights.

Mr. Werwath asked how does Historic as an overlay interact with the fundamental zoning, it doesn't supersede zoning but how do the two policies articulate and if one has primacy over the other.

Ms. Paez states there is specific language in the ordinance for the Historic Districts that they first try to get an exception and granted and underlying zoning then they request a variance. The general rule is the more restrictive requirement always applies. The underlying zoning is a higher height limit, so they would need an exception and a variance. There is not a supremacy they require both.

Mr. Sommer corrected what he stated earlier, the allowable height under the Historical District 20 feet 1 inch.

Ms. Paez states the way it is calculated needs to be updated.

Chair Freidmana asked if the fact the H Board looks at the height at the landscape do they consider that to be more restrictive based upon the area larger than the landscape.

Ms. Paez states its reasonable that the regulations mention the vicinity and they aren't specific to streetscapes. Certainly the Historic District overlay is more restrictive that the sub district. There are different areas where they can look at what is more restrictive.

Chair Freidman asked Mr. Sommer what the heights of the buildings across the street are. Mr. Sommer states it is the First Interstate Bank Building, he will allow Mr. Martinez to answer.

Mr. Martinez (1524 Paseo De Peralta Santa Fe 87507) states it is the it did come up at the H Board, the building is 60 foot feet there is a section not in the street that is the tallest part. The museum across the street it was in excess of what they are asking in high 50's.

Ms. Hawkins asked about the large lot next to the hotel that was empty. Have they considered putting the amenities on that lot and not on the roof.

Mr. Sommer thinks the parking lot she is referring to is owned by the Casa Sena property.

Mr. Arnohld (2861 Cliffs Palace Santa Fe 87505) the manager of the property agrees, they checked every possible investment. They spoke to all neighboring property owners. Going to the rooftop was the last opportunity.

Mr. Werwath asked how tall is the First Interstate Bank building.

Mr. Martinez explained that building is 60 feet tall. It the same sub district.

Chair Friedman stated the museum is also over.

Mr. Werwath states this is a common issue with the BCD overlays where it is ignored in the districts. They render many buildings non-conforming for setbacks an height. It would behoove the Land Use Department to suggest some policy changes.

Mr. Werwath stated in the long term the Land Use Code is how they create equality amongst property owners. There are many property owners in the vicinity who have done intense development where it is under different regulations they hold them under the same regulation. That is a violation of the fundamentally equality. The whole code is like that, you cannot rebuilding the most historical area. In general from the commentary view, they need to hold them all equally and it sometimes comes into conflict with how the code is written. Holding them to a standard that someone who rebuilt their building years ago and didn't have to follow the rules.

Ms. Dearing stated that Mr. Werwath articulated what she was thinking. It seems whimsical in the way they choose to apply or not apply. That is not the intent but if you look at the history that is how it appears. She agrees that applying standards today that were not applicable a few years ago with no other reason than someone rewrote a restriction is disturbing.

Ms. Winston asked if they need to set up two separate motions.

Mr. Isaacson explained they will need two motions and there are examples of both affirmative and negative in the memo. The findings of fact and conclusions of law were not complete for the packet. They are hoping to convene in a short meeting soon to approve those.

Ms. Paez requests the motion if it is general with more context. With the H Board she often circulates a motion by email and then gathers one on one input.

**MOTION:** Ms. Winston moved in the matter of case 2020-2494 where the Inn of the Anasazi requests a variance to SFCC Table 14-7.4(A)-1 to allow a height of 56' where 42' is the maximum at 113 Washington Ave., to approve the variance subject to the technical corrections of approval listed in Exhibit A (*packet*) recommended by staff based on the following variance approval criteria findings: criterion # 1 is met for the reasons stated by the applicant; criterion #2 is met for the reasons stated by the applicant; criterion #3 is met for the reasons stated by the applicant; criterion #4 is met for the reasons stated by staff, and criterion #5 is met for the reasons stated by staff with a second from Mr. Werwath.

**ROLL CALL VOTE:** All members voted in favor of approval (6-0), motion passed.

2. **Case # 2020-2638 113 Washington Avenue Variance to Stepback.** Liaison Planning Services Inc., Agent, for Rosewood Inn Of The Anasazi, Owner, request a variance to Table 14-7.4(A)-1 "Table of Dimensional Requirements for Townscape Districts" for the Marcy Townscape Sub-district, requirement from the 1" Vertical above 24'; wall stepbacks of 10 horizontal feet. The property is approximately .45 acres, zoned BCDMAR (Community Commercial [Business Capital District] – Marcy Townscape Sub-district) and located within the Downtown and East Side Historic District. (Dan Esquibel, Case Manager, daesquibel@santafenm.gov, 955-6587)

*This item was discussed with the item above.*

**MOTION:** Ms. Winston moved in the matter of case 2020-2638 where the Rosewood Inn of the Anasazi requests a variance to SFCCTable 14-7.4(A)-1 requirement from the 1" vertical above 24'; wall stepbacks of 10 horizontal feet at 113 Washington Ave., to approve the variance subject to the technical corrections of approval listed in Exhibit A (*packet*) recommended by staff based on the following variance approval criteria findings: criterion # 1 is met for the reasons stated by the applicant; criterion #2 is met for the reasons stated by the applicant; criterion #3 is met for the reasons stated by the applicant; criterion #4 is met for the reasons stated by staff, and criterion #5 is met for the reasons stated by staff with a second from Ms. Hawkins.

**ROLL CALL VOTE:** All members voted in favor of approval (6-0), motion passed.

Ms. Hawkins came into this having read everything thinking it would be a case for denial but the applicant did a great job presenting the case.

#### **H. STAFF COMMUNICATIONS**

Ms. Paez stated they will need to find time to meet to approve the Findings of Fact and Conclusions of law from this evening soon. The next meeting is cancelled it is election night. They will coordinate a date and time during the lunch hour.

#### **I. MATTERS FROM THE BOARD**

Ms. Dearing wanted to clarify her comment was not directed at Mr. Esquibel. She understands he has strict criteria to follow.

Mr. Werwath thanked the Land Use Department for the important work they do.

**J. ADJOURN**

With all business conducted for the Board of Adjustment, the meeting was adjourned at 7:21 p.m.

**SIGNATURES**

\_\_\_\_\_  
Gary Friedman, CHAIR

  
\_\_\_\_\_  
Linda Vigil, Stenographer

**City of Santa Fe  
Planning Board  
Findings of Fact and Conclusions of Law**

**Case #2020-2494**

**113 Washington Avenue Variance to Height**

**Case #2020-2638**

**113 Washington Avenue Variance to Stepback**

**Owner's/Applicant's Name** - Rosewood Inn of the Anasazi

**Agent's Name** - Liaison Planning Services, Inc.

THIS MATTER came before the Board of Adjustment (Board) for hearing on October 20, 2020 (Hearing), upon the applications (Applications) of Liaison Planning Services, Inc., as agent for Rosewood Inn of the Anasazi (Applicant). The Applications pertain to 113 Washington Avenue, totaling approximately .45 acres (Property). The Property is zoned BCDMAR (Business Capitol District, Marcy Townscape Subdistrict), and is located within the Downtown and Eastside Historic District.

The Applicant requests two variances from the Santa Fe City Code (SFCC) Table 14-7.4(A)-1 "Table of Dimensional Requirements for Townscape Districts" as follows: (1) a variance to allow a height of 56 feet where 42 feet is the maximum; and (2) a variance to the stepback requirement of one horizontal foot for each vertical inch above 24 feet.

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

**FINDINGS OF FACT**

**Procedural Background**

1. The Applicant proposes to construct rooftop amenities, including a bar, lounge, event space, and pool (Project).
2. Because the Project would be located within the Downtown and Eastside Historic District and would exceed the maximum allowable height allowed by the Historic Districts Ordinance, SFCC Section 14-5.2(D)(9), the Applicant first presented the Project to the City's Historic Districts Review Board (HDRB) for review and approval of the architectural design and for an exception to the maximum allowable height.
3. The HDRB considered the project at public hearings held February 11, 2020 and March 10, 2020 (Case #2019-1600-HDRB).
4. On February 11, 2020, the Board postponed the matter, requesting a redesign to minimize the visual impact of the project on the street-facing west elevation. To address this, the Board suggested that the added height should be stepped back further from the street.
5. On March 10, 2020, the HDRB reviewed a modified design presented by the Applicant and approved the design and height exception, subject to the condition that the proposed three front chimney massings must be eliminated from the design and that the existing chimney

stacks at the street-facing elevation must remain in their current location and at their current height.

6. The HDRB's conditions were based on findings that the proposed location and height of the new chimney massings would damage the character of the streetscape and have a negative impact on the historic district.
7. The Applicant filed an appeal, asking the City's Governing Body to reverse the HDRB's decision to impose design conditions on its approval of the Project (Appeal #2020-2043-APPL).
8. The Governing Body held a public appeal hearing on June 24, 2020.
9. The Governing Body denied the appeal and upheld the design conditions imposed by the HDRB.
10. On September 22, 2020, the Applicant presented a new design to the HDRB, intended to comply with the HDRB's design conditions, and the HDRB approved the application (Case #2020-2548-HDRB).
11. Pursuant to SFCC Section 14-5.2(C)(5)(a), "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 [the Historic Districts Ordinance]. If approved by the [HDRB], the applicant shall proceed to the board of adjustment or other applicable city body for consideration of the proposed variance."

#### General

1. At the Hearing, the Board received reports from staff, testimony and evidence from the Applicant, and testimony offered by any interested members of the public.
2. The SFCC Section 14-3.1 sets out certain procedures to be followed on the Application, including, without limitation, (a) a pre-application conference [SFCC Section 14-3.1(E)]; (b) an Early Neighborhood Notification (ENN) meeting [SFCC Section 14-3.1(F)(2)(vii)]; and (c) compliance with notice and public hearing requirements [SFCC Section 14-3.1(H)-(I)].
3. A pre-application conference was held on December 10, 2019 in accordance with SFCC Section 14-3.1(E).
4. Pursuant to SFCC Section 14-3.1(H)(1), notice of the ENN meeting was properly given.
5. Pursuant to SFCC Section 14-3.1(F), an ENN meeting was conducted on January 30, 2020 at the Santa Fe Main Library at 145 Washington Avenue. The ENN meeting was attended by a representative of the Applicant, one member of City staff, and eight neighbors.
6. Pursuant to the SFCC Section 14-3.16(A), "[I]and use boards may approve variances to the provisions of Chapter 14 ... regulating the size, location and appearance of structures."
7. Pursuant to SFCC Sections 14-2.4(C)(3) and 14-3.16(A), the Board has the authority to review and approve or disapprove variances.
8. City staff reviewed the Applications 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.
9. Staff recommended that the Board deny the variances requested in both Applications.

Variance to Height & Stepback Requirements in Table 14-7.4(A)-1

10. SFCC Section 14-7.4, "*Business-Capitol District*", establishes dimensional design standards for the Marcy Townscape Subdistrict in Table 14-7.4(A)-1, "*Table of Dimensional Requirements for Townscape Districts.*"
11. Pursuant to SFCC Table 14-7.4(A)-1, the maximum allowable height in the Marcy Townscape Subdistrict is 42 feet.
12. The existing building height is 42 feet, except for the southeast portion of the building, which exceeds the maximum height standards by approximately three feet.
13. The existing structure is legal a nonconforming structure with regard to height.
14. The Applicant seeks to build an addition to a height of 56 feet.
15. SFCC Table 14-7.4(A)-1 imposes a stepback requirement of one horizontal foot for each vertical inch above 24 feet high.
16. The existing structure has no stepback massing above 24 feet.
17. The existing structure is legal a nonconforming structure with regard to stepback.
18. In the Applications, the Applicant requested variances to the applicable height and stepback requirements in Table 14-7.4(A)-(1).
19. SFCC Section 14-3.16(B) sets out procedures for variance applications and requires the Board to hold a public hearing and approve, approve with conditions, or deny the variance Applications.
20. SFCC Section 14-3.16(C) sets out approval criteria and requires the Board to make complete findings of fact sufficient to show that these criteria have been met before granting a variance.
21. In the Applications and at the hearing, the Applicant provided the same responses to the criteria for a height variance and the criteria for a stepback variance.
22. The Board finds that it is appropriate to address the criteria for both variances together with a single set of findings that apply to both cases.
23. Pursuant to SFCC Section 14-3.16(C)(1)(a)-(b), the Board finds, for the reasons stated by the Applicant in the Applications and at the hearing, that unusual physical characteristics exist that distinguish the land or structure from others in the vicinity and that the parcel is a legal nonconforming lot. These reasons include that the existing legal nonconforming structure completely covers the small lot and cannot be added to without a variance because the structure already exceeds the maximum allowable height and violates the stepback requirement. The Applicant should be permitted to make improvements to this structure because the Santa Fe Downtown area is critical to cultural and economic viability of the community, and continual investment is vital for continued revitalization of existing buildings and infrastructure.
24. Pursuant to SFCC Section 14-3.16(C)(2), the Board finds, for the reasons stated by the Applicant in the Applications and at the hearing, that special circumstances make it infeasible, for reasons other than financial cost, to develop the property in compliance with the standards of Chapter 14. Due to the lot size and existing lot coverage, the hotel cannot expand anywhere but up to provide the same type of amenities provided by competitors within the downtown area.
25. Pursuant to SFCC Section 14-3.16(C)(3), the Board, for the reasons stated by the Applicant in the Applications and at the hearing, that the intensity of the development would not exceed that which is allowed on other properties in the vicinity. The Anasazi already occupies 100%

of the lot, and there is no additional area to provide amenities that are being proposed. All of the hotel's main competitors in the vicinity provide rooftop swimming facilities and outdoor dining and entertainment.

26. Pursuant to SFCC Section 14-3.16(C)(4), the Board finds, for the reasons set forth in the Staff Report and discussed at the hearing, that the variances are the minimum variances that will make possible the use of the land and structure.
27. Pursuant to SFCC Section 14-3.16(C)(5), the Board finds, for the reasons set forth in the Staff Report and discussed at the hearing, that the variances are not contrary to the public interest.
28. Pursuant to SFCC Section 14-3.16(C)(6), the Board finds that there are no additional requirements, or supplemental or special findings required by other provisions of Chapter 14.
29. The Board finds that the Applicant has met all of the variance criteria in SFCC Section 14-3.16(C) for the requested variances to height and stepback.

### CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted at the hearing, the Board CONCLUDES as follows:

#### General

1. Pursuant to SFCC Section 14-3.1, all procedures regarding the pre-application conference, ENN meeting, notice, and public hearing requirements have been followed.
2. The Board has the power and authority at law and under the Code to review the requested variances and to approve, approve with conditions, or deny the Applications.

#### Variances to SFCC Table 14-7.4(A)-1 – Height and Stepback

3. The Board concludes that the Applications should be granted because the Applicant has met all of the criteria in SFCC Section 14-3.16(C) for the requested variances to height and stepback.

**WHEREFORE, IT IS ORDERED ON THE 3rd DAY OF NOVEMBER 2020 BY THE BOARD OF ADJUSTMENT OF THE CITY OF SANTA FE:**

Considering the foregoing findings and conclusions, the Board approves the requested variances to the height and stepback requirements in SFCC Table 14-7.4(A)-1, as requested in Case #2020-2494 and Case #2020-2638.

\_\_\_\_\_  
Gary Friedman  
Chairperson

\_\_\_\_\_  
Date

Case 2020-2494

113 Washington Avenue Variance to Height

Case #2020-2638

113 Washington Avenue Variance to Stepback

FILED:

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

\_\_\_\_\_  
Date

APPROVED AS TO FORM:



Sally A. Paez  
Assistant City Attorney

November 3, 2020  
Date

**City of Santa Fe  
Planning Board  
Findings of Fact and Conclusions of Law**

**Case #2020-2494**

**113 Washington Avenue Variance to Height**

**Case #2020-2638**

**113 Washington Avenue Variance to Stepback**

**Owner's/Applicant's Name** - Rosewood Inn of the Anasazi

**Agent's Name** - Liaison Planning Services, Inc.

THIS MATTER came before the Board of Adjustment (Board) for hearing on October 20, 2020 (Hearing), upon the applications (Applications) of Liaison Planning Services, Inc., as agent for Rosewood Inn of the Anasazi (Applicant). The Applications pertain to 113 Washington Avenue, totaling approximately .45 acres (Property). The Property is zoned BCDMAR (Business Capitol District, Marcy Townscape Subdistrict), and is located within the Downtown and Eastside Historic District.

The Applicant requests two variances from the Santa Fe City Code (SFCC) Table 14-7.4(A)-1 "Table of Dimensional Requirements for Townscape Districts" as follows: (1) a variance to allow a height of 56 feet where 42 feet is the maximum; and (2) a variance to the stepback requirement of one horizontal foot for each vertical inch above 24 feet.

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

**FINDINGS OF FACT**

**Procedural Background**

1. The Applicant proposes to construct rooftop amenities, including a bar, lounge, event space, and pool (Project).
2. Because the Project would be located within the Downtown and Eastside Historic District and would exceed the maximum allowable height allowed by the Historic Districts Ordinance, SFCC Section 14-5.2(D)(9), the Applicant first presented the Project to the City's Historic Districts Review Board (HDRB) for review and approval of the architectural design and for an exception to the maximum allowable height.
3. The HDRB considered the project at public hearings held February 11, 2020 and March 10, 2020 (Case #2019-1600-HDRB).
4. On February 11, 2020, the Board postponed the matter, requesting a redesign to minimize the visual impact of the project on the street-facing west elevation. To address this, the Board suggested that the added height should be stepped back further from the street.
5. On March 10, 2020, the HDRB reviewed a modified design presented by the Applicant and approved the design and height exception, subject to the condition that the proposed three front chimney massings must be eliminated from the design and that the existing chimney

stacks at the street-facing elevation must remain in their current location and at their current height.

6. The HDRB's conditions were based on findings that the proposed location and height of the new chimney massings would damage the character of the streetscape and have a negative impact on the historic district.
7. The Applicant filed an appeal, asking the City's Governing Body to reverse the HDRB's decision to impose design conditions on its approval of the Project (Appeal #2020-2043-APPL).
8. The Governing Body held a public appeal hearing on June 24, 2020.
9. The Governing Body denied the appeal and upheld the design conditions imposed by the HDRB.
10. On September 22, 2020, the Applicant presented a new design to the HDRB, intended to comply with the HDRB's design conditions, and the HDRB approved the application (Case #2020-2548-HDRB).
11. Pursuant to SFCC Section 14-5.2(C)(5)(a), "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 [the Historic Districts Ordinance]. If approved by the [HDRB], the applicant shall proceed to the board of adjustment or other applicable city body for consideration of the proposed variance."

#### General

1. At the Hearing, the Board received reports from staff, testimony and evidence from the Applicant, and testimony offered by any interested members of the public.
2. The SFCC Section 14-3.1 sets out certain procedures to be followed on the Application, including, without limitation, (a) a pre-application conference [SFCC Section 14-3.1(E)]; (b) an Early Neighborhood Notification (ENN) meeting [SFCC Section 14-3.1(F)(2)(vii)]; and (c) compliance with notice and public hearing requirements [SFCC Section 14-3.1(H)-(I)].
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9. Staff recommended that the Board deny the variances requested in both Applications.

Variance to Height & Stepback Requirements in Table 14-7.4(A)-1

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### CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted at the hearing, the Board CONCLUDES as follows:

#### General

1. Pursuant to SFCC Section 14-3.1, all procedures regarding the pre-application conference, ENN meeting, notice, and public hearing requirements have been followed.
2. The Board has the power and authority at law and under the Code to review the requested variances and to approve, approve with conditions, or deny the Applications.

#### Variances to SFCC Table 14-7.4(A)-1 – Height and Stepback

3. The Board concludes that the Applications should be granted because the Applicant has met all of the criteria in SFCC Section 14-3.16(C) for the requested variances to height and stepback.

**WHEREFORE, IT IS ORDERED ON THE 3rd DAY OF NOVEMBER 2020 BY THE BOARD OF ADJUSTMENT OF THE CITY OF SANTA FE:**

Considering the foregoing findings and conclusions, the Board approves the requested variances to the height and stepback requirements in SFCC Table 14-7.4(A)-1, as requested in Case #2020-2494 and Case #2020-2638.

\_\_\_\_\_  
Gary Friedman  
Chairperson

\_\_\_\_\_  
Date

Case 2020-2494

113 Washington Avenue Variance to Height

Case #2020-2638

113 Washington Avenue Variance to Stepback

FILED:

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

\_\_\_\_\_  
Date

APPROVED AS TO FORM:



Sally A. Paez  
Assistant City Attorney

November 3, 2020  
Date