



AGENDA

HISTORIC DISTRICTS
REVIEW BOARD
AUGUST 24, 2021
5:30 PM
Meeting 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, the ban on public gatherings of more than five (5) people, and the need to incorporate technology and practices to re-institute in-person meeting consistent with the limitations established by the Order, the Historic Districts Review Board meeting will be conducted virtually using Zoom.

Viewing: 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 smartphones, tablets, or computers.

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 at <https://santafe.primegov.com/public/portal> at least seventy-two (72) hours before the meeting.. The direct Zoom link is: <https://us02web.zoom.us/j/83191941803?pwd=NWplL0Q1ai9sSjY1aFhFNWdHdXdLQT09>
Passcode: 348336

Attending Zoom by Phone: Members of the public can attend the Zoom meeting by phone by dialing:
US: (253) 215-8782 or (346) 248-7799 or (929) 205-6099
Webinar ID: 831 9194 1803.

Public Comment:

- By video: A person attending the Zoom meeting by video conference (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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REVIEW BOARD
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• By phone: A person attending the Zoom meeting by phone may provide public comment during the meeting. Phone attendees should press *9 to use the “Raise Hand” function to be recognized at the appropriate time.

• In writing: A person may submit written public comments by 5pm the Monday prior to the meeting via the virtual comment “button” at

<https://santafe.primegov.com/public/portal>.

A. ROLL CALL

B. APPROVAL OF AGENDA

C. APPROVAL OF MINUTES:

1. August 10, 2021

D. APPROVAL OF FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. 2021-003910-HDRB. 259 Montoya Circle #2.
2. 2021-003844-HDRB. 1160 Camino de Cruz Blanca.

E. MATTERS FROM THE PUBLIC

F. STAFF COMMUNICATIONS

G. OLD BUSINESS

H. NEW BUSINESS

I. DISCUSSION ITEMS

J. MATTERS FROM THE BOARD

K. NEXT MEETING: Tuesday, September 14, 2021

L. ADJOURN



City of Santa Fe

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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.

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

Case #2021-003910-HDRB

Address – 259 Montoya Circle, Unit 2

Agent’s Name –Ju Tan

Owner/Applicant’s Name – Richard Babb and Philip Neely

THIS MATTER came before the Historic Districts Review Board (“Board”) for hearing on August 10, 2021

BACKGROUND

259 Montoya Circle, Unit 2, is a non-historic 1500 square-foot residential structure in the Downtown and Eastside Historic District.

The applicant proposes the following items:

1. Construct a new deck area over an existing publicly visible portal roof.
2. Construct new wrought iron railings around the deck area. Their color will match the red of other existing railings on the property. This will not extend above the height of the existing structure.
3. Stucco repair/patching as necessary. The stucco will match existing in color and texture.

FINDINGS OF FACT

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

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

6. Under SFCC Sections 14-2.6(B)-(C), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f), 14-5.2(C)(3)(a-b), 14-5.2(C)(4), 14-5.2(C)(5), and 14-5.2(D), the Board has authority to review, approve, with or without conditions, or deny, all or some of the Applicant's proposed design to assure overall compliance with applicable design standards.
7. Under SFCC Section 14-5.2(C)(3)(b), the Board has the authority to approve an application for alteration or new construction on the condition that changes relating to exterior appearance recommended by the Board be made in the proposed work, and no permit is to issue until new drawings or documentation, satisfactory to the Board, have been submitted.
8. The information contained in the Staff Report and exhibits, and the testimony and evidence submitted at the hearing, establishes that all applicable requirements for Board review as herein described have been met.
9. The information contained in the Staff Report and exhibits, and the testimony and evidence submitted at the hearing, establishes that all applicable design criteria have been met.

CONCLUSIONS OF LAW

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

1. The Board has the authority to review and approve the Application.
2. The Board approves the Application, as recommended by Staff.

IT IS SO ORDERED ON THIS ___ DAY of _____, 2021, BY THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.

Chair

Date

FILED:

Kristine Bustos-Mihelcic
City Clerk

Date

APPROVED AS TO FORM:

Michael Prinz

Michael N. Prinz
Assistant City Attorney

August 13, 2021

Date

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

Case # 2021-3844-HDRB

Address – 1160 Camino de Cruz Blanca

Agent’s Name – Gravity Pad Partners, LLC

Owner/Applicant’s Name – AT&T/FirstNet NML0255

THIS MATTER came before the Historic Districts Review Board (“Board”) for hearing on July 13, 2021, and August 10, 2021, on a proposal to construct new telecommunications facilities (“Project”) at 1160 Camino de Cruz Blanca, which comprises the campus of St. John’s College (“Property”).

FINDINGS OF FACT

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

Background

1. The Property is located within the City’s Historic Review District, which is an overlay zoning district.
2. The underlying zoning for the Property is R-1 PUD (Residential – 1 dwelling unit per acre; planned unit development).
3. Gravity Pad Partners, LLC proposes to construct telecommunications facilities on the Property in an effort to improve services to the college and its students, as well as first responders and the surrounding roads and neighborhoods.
4. The proposed facility would provide emergency services through the AT&T/FirstNet network for first responders and would accommodate the collocation of other FCC wireless carriers in the future.
5. The proposed Project would consist of a sixty-five foot (65’)-tall monopole telecommunications tower with open antennas and an associated ground equipment enclosure with dimensions of 72” by 102”.
6. The location of the pole is proposed to be 72 feet south of Camino de Cruz Blanca (see Exhibit A, Planning Commission Packet).
7. The Applicant submitted a previous application that was denied by the HDRB in August 2020 (Case #2020-2194-HDRB).
8. The Applicant submitted this new application on September 16, 2020 (“Application”).
9. In the Application, the Applicant initially proposed to construct a new telecommunications tower on the campus to a height of 75 feet, designed to look like a single pine tree, or “monopine,” with the antennas hidden by “foliage.”
10. Because St. John’s College is listed on the National Register of Historic Places, the Applicant has been working with State Historic Preservation Office (“SHPO”) of the New Mexico Department of Cultural Affairs to complete the process required by Section 106 of the National Historic Preservation Act.

11. On December 7, 2020, the City sent a letter to the Applicant, requesting to participate in the Section 106 process as a consulting party (see Exhibit B City Request to be a Consulting Party); and on February 25, 2021, the Applicant sent a letter to the City, granting the City's request to participate as a consulting party.
12. Based on initial input from SHPO, the Applicant reduced the proposed tower height to 65 feet, changed the design of the tower from a monopine to a monopole with visible antennas and ground equipment, and provided photo simulations showing what the proposed tower would look like from a variety of vantage points.
13. On February 11, 2021, after reviewing the photo simulations (Exhibit C Photo Simulation), the SHPO formally found that the proposed telecommunications facility would have an adverse effect on the federally listed property due to the tower's inconsistent design with the property's setting, including the architecture and landscape design (Exhibit D SHPO Consultation Letter).
14. The SHPO found that the industrial design and height of the tower would have an overwhelming presence and would detract from the campus's historic setting.
15. The SHPO recommended that the Applicant either (1) change the design or location to remove the adverse effect on the registered property, or (2) develop a Memorandum of Agreement (MOA) with the FCC, SHPO, and City to resolve the adverse effect, as contemplated by the FCC's Nationwide Programmatic Agreement, Section VII.
16. The Applicant has decided to seek zoning approval from the City before developing an MOA with the FCC, SHPO, and City.
17. On March 19, 2021, the Applicant submitted revised plans as an amendment to the Application, reflecting the reduced 65' height and revised monopole design.
18. Under Santa Fe City Code ("SFCC") Section 14-6.2(E), the Application for proposed telecommunications facilities requires review and approval by both the City Planning Commission and the Board.
19. SFCC Section 14-6.2(E) is intended to "[m]inimize adverse land use impacts of towers and antennas by: (i) encouraging the location of towers in nonresidential districts" and "(ii) requiring the co-location of antennas, minimizing new tower sites and encouraging the use of minimally visually intrusive technology to the maximum extent technically feasible."
20. Approval of the Application would result in the siting of a new, free-standing tower in a residential district, within one of the City's five historic districts. *See* SFCC § 14-5.2(E)-(I) (setting forth design standards for each of the five districts).

Review by City Planning Commission

21. The Planning Commission considered the Application under Planning Commission Case #2020-2639.
22. Pursuant to SFCC Section 14-6.2(E)(4)(a), to approve an application, the Planning Commission must "determine that: (i) the application complies with [SFCC Section 14-6.2(E)]; (ii) the proposed telecommunications facilities are necessary to close a demonstrated significant gap in service coverage of the applicant based on actual signal strength data for the area where the gap is claimed and for the type of gap claimed; (iii) the applicant has demonstrated that no other less intrusive means or alternative to the proposed telecommunications facilities siting and design is practicable."

23. Current Planning Division staff reviewed the Application and related materials and information submitted by the Applicant and recommended that the Planning Commission approve the application subject to certain conditions of approval, which were enumerated in the Planning Commission staff report.
24. The maximum allowable height for a nonresidential structure in the underlying R-1 zoning district is 35 feet.
25. The Applicant requested a waiver from the Planning Commission to allow the antennas and tower to be constructed to a maximum height of 65 feet.
26. Under SFCC Section 14-6.2(E)(8)(a), the Planning Commission may grant a waiver to the height limitation established by the underlying zoning district if the Commission finds that the waiver meets the criteria set forth in SFCC Section 14-6.2(E)(8)(a)(i)-(vi).
27. SFCC Section 14-6.2(E)(8)(b)(i)-(vii) lists factors that the Commission must consider in granting a waiver, including the proposed design of the telecommunications facilities, the uses on nearby properties, the surrounding topography and vegetation, the availability of existing towers or other structures for co-location, the proposed ingress and egress to the site, and whether the Project will result in improved telecommunication services to Santa Fe residents.
28. On July 1, 2021, the Planning Commission held a public hearing on the Application and voted to approve the Application, including the waiver to exceed the maximum height allowed by the R-1 zoning district, subject to the conditions of approval recommended in the Current Planning Division staff report.
29. On July 1, 2021, the Planning Commission adopted written Findings of Fact and Conclusions of Law reflecting its decision.
30. The Planning Commission's written Findings of Fact and Conclusions of Law acknowledge that full zoning approval would also require a public hearing and approval by the Historic Districts Review Board.

Review by City Historic Districts Review Board

1. On July 7, 2021, the Applicant submitted an additional narrative letter to Historic Preservation Division staff, supplementing the Applicant's responses to the requirements for Board review, as set forth in SFCC Sections 14-5.2 and 14-6.2(E).
2. In addition to the materials presented as part of the current Application and the additional submittal from July 7, 2021, the Board asked Historic Preservation Division staff to include in the record the application and materials from the previous case, Case #2020-2194-HDRB.
3. The alternative siting and design options presented in the previous case are relevant to the Board's decision in the present case.
4. Historic Preservation Division Staff reviewed the Application and related materials and information submitted by the Applicant for conformity with applicable SFCC requirements and provided the Board with a written report of its findings ("Staff Report"), which evaluated the factors relevant to the Application.
5. Staff determined that the proposed telecommunications tower is subject to the height limits and scale requirements that apply in the City's historic districts, *see* SFCC § 14-5.2(D)(9), and that the design of the structure must adhere to the design standards for the Historic

Review District to the extent that such standards can be applied to a telecommunications tower and associated ground equipment, *see* SFCC § 14-5.2(I).

6. Staff determined that the maximum allowable height for new structures on the subject property is sixteen (16) feet, as calculated pursuant to the Historic Districts Ordinance and imposed by the overlay zoning district, and that the Board could not approve the Application unless the Applicant obtains a height waiver from the Board under SFCC Section 14-5.2(E)(8)(c).
7. Historic Preservation Division Staff Recommendation: Staff deferred to the Board as to whether all the criteria for a waiver of the maximum allowable height and district design have been met, per SFCC Section 14-6.2(E)(8)(c), but otherwise recommended approval of the application on the basis that it complied with SFCC Section 14-5.2(D), General Design Standards for all H Districts; and SFCC Section 14-5.2(F) Historic Review District Design Standards.
8. On August 10, 2021, at 12:00 p.m., the Board met at 1160 Camino de Cruz Blanca for a site visit for the purposes of making factual observations related to the siting and design of the proposed telecommunications facilities.
9. The site visit was publicly noticed, and many members of the public were in attendance to listen and observe.
10. At the August 10, 2021 hearing the Applicant confirmed that its previously-submitted siting options and stealth designs and reasonable variants thereof remained acceptable options to Applicant even with a 65 foot height limitation.
11. The information contained in the Staff Report and exhibits, and the testimony and evidence submitted at the hearing, establishes that all applicable requirements for Board review as herein described have been met.
12. SFCC Section 14-6.2(E)(4)(b) provides that the Board shall review and approve a “tower or antenna that is located in a historic district and is not otherwise permitted or administratively approved . . . in accordance with applicable requirements of Section 14-5.2 (Historic Districts) and in accordance with this Subsection 14-6.2(E) as follows. In approving an application, the [B]oard shall determine that: (i) the application complies with applicable requirements of Section 14-5.2 and this section; and (ii) the applicant has demonstrated that no other less intrusive means or alternative to the proposed telecommunications facilities siting is practicable.”
13. Under SFCC Section 14-6.2(E)(4)(b), the Board is not permitted to approve a telecommunications facility unless the applicant has demonstrated that no less intrusive means or alternatives to the proposed siting is practicable.
14. Under SFCC Section 14-5.2(E)(8)(c), the Board may grant a waiver to the height limitation imposed by the historic districts overlay zoning “if the [B]oard finds that: (i) the applicant has demonstrated to the satisfaction of the [B]oard that it has explored all alternatives to the proposed site in the historic district and to the proposed design; and (ii) the conditions of Sections 14-5.2(C)(5)(c)(i) through (iii), (v) and (vi) have been met.”
15. Under SFCC Section 14-6.2(E)(8)(c)(i), the Board is not permitted to grant a waiver to the maximum allowable height unless “the [A]pplicant has demonstrated to the satisfaction of the board that it has explored all alternatives to the proposed site in the historic district and to the proposed design.”

16. Under SFCC Section 14-6.2(E)(8)(c)(ii), the Board is not permitted to grant a waiver to the maximum allowable height unless the waiver would “not damage the character of the streetscape.” *See* SFCC § 14-5.2(C)(5)(c)(i).
17. Under SFCC Section 14-6.2(E)(8)(c)(ii), the Board is not permitted to grant a waiver to the maximum allowable height unless the waiver is required to “[p]revent a hardship to the applicant or an injury to the public welfare.” *See* SFCC § 14-5.2(C)(5)(c)(ii).
18. Under SFCC Section 14-6.2(E)(8)(c)(ii), the Board is not permitted to grant a waiver to the maximum allowable height unless the project will “[s]trengthen the unique heterogeneous character of the city by providing a full range of design options to ensure that residents can continue to reside within the historic districts.” *See* SFCC § 14-5.2(C)(5)(c)(iii).
19. Under SFCC Section 14-6.2(E)(8)(c)(ii), the Board is not permitted to grant a waiver to the maximum allowable height unless the need for the waiver is “due to special conditions and circumstances which are not a result of the actions of the [A]pplicant.” *See* SFCC § 14-5.2(C)(5)(c)(v).
20. Under SFCC Section 14-6.2(E)(8)(c)(ii), the Board is not permitted to grant a waiver to the maximum allowable height unless the project will “[p]rovide the least negative impact with respect to the purpose of [the Historic Districts Ordinance,] as set forth in Subsection 14-5.2(A)(1).” *See* SFCC § 14-5.2(C)(5)(c)(vi).

CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Board concludes as follows:

1. The Board has the authority to review and approve or deny the Application.
2. The Board has the authority to take judicial notice of the record in Case #2020-2194-HDRB.
3. The Board must review the Application for compliance with the design requirements of SFCC Section 14-5.2 (Historic Districts) and with relevant subsections of Section 14-6.2(E) (Telecommunications Facilities).
4. The project is subject to the requirements and general design standards set forth in SFCC Section 14-5.2(D), General Design Standards, including the height limitation of sixteen feet (16’).
5. The property is located in the Historic Review District and is subject to the district design standards set forth in SFCC Section 14-5.2(F).
6. The Board’s authority to regulate the placement and construction of the proposed telecommunications facilities under SFCC Sections 14-5.2 and 14-6.2(E) is limited by federal law, including the Telecommunications Act, 47 U.S.C. § 332(c)(7) (“Preservation of local zoning authority”).
7. Under 47 U.S.C. § 332(c)(7)(B)(II), the Board must apply the City’s ordinances, including the waiver criteria, in a manner that does not prohibit or have the effect of prohibiting the provision of personal wireless services.
8. Pursuant to SFCC Section 14-6.2(E)(4)(b), the Board concludes that the Applicant has demonstrated that no less intrusive means or alternatives to the proposed siting options is practicable.

9. Because the proposed tower height of 65 feet exceeds the maximum allowable height of 16 feet for the site, as imposed by the historic district overlay zoning, the Board cannot approve the Application unless the applicant obtains a height waiver from the Board, pursuant to SFCC Section 14-6.2(E)(8)(c).
10. Pursuant to SFCC Section 14-6.2(E)(8)(c)(i), the Board concludes that the Applicant has demonstrated to the satisfaction of the Board that the Applicant has explored all alternatives to the proposed site options in the historic district and to the proposed design options.
11. Pursuant to SFCC Sections 14-5.2(E)(8)(c)(ii) and 14-5.2(C)(5)(c)(i), the Board concludes that the Applicant has demonstrated that the height waiver will not damage the character of the streetscape.
12. Pursuant to SFCC Sections 14-5.2(E)(8)(c)(ii) and 14-5.2(C)(5)(c)(ii), the Board concludes that the Applicant has demonstrated that the height waiver is needed to prevent a hardship to the applicant or an injury to the public welfare.
13. Pursuant to SFCC Sections 14-5.2(E)(8)(c)(ii) and 14-5.2(C)(5)(c)(iii), the Board concludes that the Applicant has demonstrated that the height waiver will strengthen the unique heterogeneous character of the city by providing a full range of design options to ensure that residents can continue to reside within the historic districts.
14. Pursuant to SFCC Sections 14-5.2(E)(8)(c)(ii) and 14-5.2(C)(5)(c)(v), the Board concludes that the Applicant has demonstrated that the need for the waiver is due to special conditions and circumstances that are not a result of the actions of the Applicant.
15. Pursuant to SFCC Sections 14-5.2(E)(8)(c)(ii) and 14-5.2(C)(5)(c)(vi), the Board concludes that the Applicant has demonstrated that the height waiver will provide the least negative impact with respect to the purpose of the Historic Districts Ordinance, as set forth in SFCC Section 14-5.2(A)(1).

WHEREFORE, IT IS ORDERED ON THIS [REDACTED] TH DAY OF AUGUST 2021 BY THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE:

Considering the forgoing findings and conclusions, the Board grants the Application, subject to the following conditions of approval:

1. All conditions imposed by the City of Santa Fe Planning Commission are incorporated into this approval.
2. The tower and antennae must be concealed within a stealth design that is compatible with the architecture of the existing buildings on the St. John's College campus, such as a bell, clock, or similar tower, or a cylindrical monopole in an earthen color, such as weathered steel, with a tinted concrete foundation.
3. The tower, antennas, and encompassing stealth design shall not exceed sixty-five feet (65') in height.
4. The tower shall be sited at whichever of the following locations the State Historic Preservation the Office of the Division of Cultural Affairs, St. John's College, and the City of Santa Fe agree in the Memorandum of Agreement process would provide the needed coverage with the least adverse impact on the historic St. John's College campus and the applicable streetscape: (1) on or adjacent to one of the existing buildings on the main campus; or (2) in the general vicinity of site options 1, 2 and 3 as presented by the Applicant in Case #2020-2194-HDRB; and further that the same

parties approve the final design of the tower as having the least adverse effect on the historic campus and the streetscape.

5. Prior to seeking building permits, the Applicant shall certify in writing that the proposed facility is necessary to close a defined and significant gap in service coverage based on actual signal strength data for the area where the gap is claimed and for the type of gap claimed, and that the proposed facility is the least intrusive method to do so.

Cecilia Rios
Chair

Date

FILED:

Kristine Bustos-Mihelcic
City Clerk

Date

APPROVED AS TO FORM:

Michael Prinz
Assistant City Attorney

Date