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**HISTORIC DISTRICTS REVIEW BOARD**  
**December 10, 2024**

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**MINUTES OF THE CITY OF SANTA FE  
HISTORIC DISTRICTS REVIEW BOARD  
December 10, 2024 – 5:30 PM**

**CALL TO ORDER**

A regular meeting of the City of Santa Fe Historic Districts Review Board was called to order by Cecilia Rios, Chair, on the above date at approximately 5:30 p.m. at a meeting held in the City Council Chambers at the Santa Fe Municipal Building, 200 Lincoln Avenue, Santa Fe, New Mexico.

**A. ROLL CALL**

Roll Call indicated the presence of a quorum as follows:

**MEMBERS PRESENT:**

Ms. Cecilia Rios, Chair  
Mr. John Bienvenu  
Ms. Jennifer Biedscheid  
Ms. Amanda Mather  
Ms. Mary Ellen Degnan

**MEMBERS ABSENT (EXCUSED)**

Mr. Anthony Guida, Vice Chair  
Ms. Madelein Aguilar Medrano

**STAFF PRESENT:**

Ms. Heather Lamboy, Assistant Land Use Director  
Ms. Margarat Moore, Interim Assistant Land Use Director  
Mr. Gary Moquino, Historic Preservation Division Manager  
Mr. Frank Ruybalid, Assistant City Attorney  
Ms. Amanda Romero, Senior Planner  
Ms. Lani McCulley, Senior Planner  
Mr. Paul Duran, Senior Planner  
Ms. Mariah Kavanaugh, Planner Technician

**NOTE: The Board packet for all agenda items is incorporated herewith by reference. The packet is on file in the Historic Preservation Office and available on the City of Santa Fe Website.**

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## **B. APPROVAL OF AGENDA**

Mr. Moquino stated that under New Business case E. 2024-009323-HDRB, 312 Pino Rd was postponed. The next meeting of the HDRB will be held on January 14, 2025.

**MOTION:** Member Degnan moved, seconded by Member Beidscheid, to approve the agenda.

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

## **C. APPROVAL OF MINUTES:**

1. May 14, 2024, no changes were made.

**MOTION:** Member Biedscheid moved, seconded by Member Mather, to approve the minutes of May 14, 2024, as amended.

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

2. October 22, 2024, no changes were made.

**MOTION:** Member Biedscheid moved, seconded by Member Mather, to approve the minutes of October 22, 2024, as amended.

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

3. April 29, 2024, no changes were made.

**MOTION:** Member Biedscheid moved, seconded by Member Mather, to approve the minutes of April 29, 2024, as amended.

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

## **D. APPROVAL OF FINDINGS OF FACT AND CONCLUSIONS OF LAW**

No Findings of Facts and Conclusions of Law were presented with this Agenda.

## **E. MATTERS FROM THE PUBLIC**

Stephanie Beninato inquired about the turnaround time on Minutes and Findings of Facts and Conclusions of Law. She noted that some of them are 7 months old and under the Appeals Ordinance applicants have 35 days to appeal or until the Findings are adopted, whichever comes first. Therefore, appellants don't have the Findings of Facts completed when filing. She states that at least in the City's case they have YouTube, but again they must be written. She asked the Board to look into this and urged the council to change that part of the Appeal ordinance which gives the option for the appeal date to vary. So that appeals can be expedited. She further points out that the Findings are required by the District Court.

Chair Rios thanked Stephanie and asked if attorney Ruybalid, or Heather would like to respond in reference to this matter.

Ms. Lamboy stated she would defer to Attorney Ruybalid regarding the Findings of Facts and Conclusions of Law, but due to low staffing and transitions in the City's office and with Mr. Ruybalid's workload with the city does affect the Findings. In reference to the Minutes the City was not prepared when Ms. Melissa Byers left so there was no other stenographer available. The Land Use Department has hired a consultant to write the missing 2024 Minutes. The City staff in Land Use are endeavoring from this Hearing forward to transcribe the Minutes so they can be timely, but it's just an adjustment period while they identified resources for the minutes and taking of notes.

## **F. STAFF COMMUNICATIONS**

Ms. Lamboy introduced Daniel Alvarado, Senior Planner and manager of the Land Development code update. He is working on updating the code language, the project as a whole and will provide an anticipated review timeline.

Ms. Lamboy also introduced Janice Biletznikoff, who is a Strategic Planner. She has a special role in the Division providing forward-looking planning and will provide more strategic initiatives as needed for the code update

Mr. Alvarado presented an update from last year's presentation regarding the Land Development update. The adoption phase of phase 1 is pending of the three-phase project that will be occurring over the next couple of years. Some of the changes that are taking place in this phase have to do with resolving some arbitrary rules around Zoning as well as introducing new policies that are piloting some ideas that Land Use would like to be expanded upon or modified in Phase 2 and 3. The goal is to have Phase 1 introduced in January and have it adopted by February or March. There will be approximately 9 meetings including: Governing Body, Public Comment, each Governing Body's Committees, Advisory Boards- Historic Districts Review Board, Planning Commission, and Archeological Review Committee for an Official Recommendation

which is a Code requirement for any changes that occur to the respective parts of Chapter 14. Member Biedscheid and others along with a subcommittee focused on the Historic overlay have been working with Mr. Alvarado. Mr. Alvarado reiterated that Phase 1 is mostly focused on Code hygiene, structural improvements, fixing inconsistencies, different typos and matters like that. A draft will be provided and will be in ordinance form when presented. At that point no other amendments can be accepted except those from the Governing Body.

Ms. Janice Biletnikoff, Project Manager for the General Plan Amendment stated the update to the General Plan will be a revision to the 1999 General Plan and will set an approximate 25-year vision for how the city will evolve. The Plan itself does not carry the weight of Law; however it is the foundation for the Land Development Code, which is the Law. The process will take two and a half years to three years. The Update has two components: The Plan and the Digital Platform. The Plan update will include revised text, maps, and graphics. The digital platform will serve public engagement efforts. It will also be maintained as an ongoing GIS based informational resource for the community well into the future by becoming our information hub for property data, Land Development entitlements, and all things planning.

Member Bienvenu stated he thinks that there needs to be some set of qualifications and the announcements and then vetting, so that they're sure that's an actual representative cross section of the committee.

Ms. Biletnikoff thanked members and stated they'll take that into consideration in creating in finalizing.

#### **G. OLD BUSINESS**

There were no Old Business cases to be discussed.

#### **H. NEW BUSINESS**

Chair Rios asked that public comments be limited to two minutes. She also explained the appeal process.

1. **2024-009377-HDRB, 449 Camino Monte Vista**, Downtown & Eastside Historic District, Lorn Tryk, agent for Joseph and Mark Clark Rev. Trust, owner, proposes to construct a 4,695 sq. ft. residence, a 1,111 sq. ft. casita, a 436 sq. ft. accessory structure and an 877 sq. ft. garage to a maximum height of 17'-10" where the maximum allowable is 18'-0", 5'-0" to 6'-0" high yard and retaining walls. (Paul Duran, [paduran@santafenm.gov](mailto:paduran@santafenm.gov))

#### **BACKGROUND & SUMMARY**

The property at 449 Camino Monte Vista is a vacant lot in the Downtown and Eastside Historic District. The lot previously held a single-family residence that was constructed between 1949 and 1953 in the Spanish-Pueblo Revival style. The structure was listed as non-contributing to the Downtown & Eastside Historic District. On April 28, 2015, under case H-11-081, the HDRB approved demolition of the non-contributing structure and approved new construction of a 1,568 square foot residential structure to the maximum allowable height of 18'-0" with a pitched roof exception request. While the previous non-contributing structure was demolished, the residential structure, as approved, was not constructed.

The applicant now proposes to:

- 1) Construct a 4,695 sq. ft. single-family residence to a maximum height of 17'-10" where the maximum allowable is 18'-0",
- 2) Construct a 1,111 sq. ft. casita to a height of 14'-0",
- 3) Construct a 435 sq. ft. accessory structure (guest bedroom) to a height of 13'-3",
- 4) Construct a 342 sq. ft. accessory structure (exercise studio) to a height of 17'-9",
- 5) Construct an 877 sq. ft. garage to a height of 13'-10",
- 6) Construct a 107 sq. ft. pergola to a height of 10'-0",
- 7) Construct 5'-0" to 6'-0" high yard and retaining walls,
- 8) Install Exterior Lighting, and,
- 9) Install HVAC ground mounted with a yard wall screening at a height of 4'-0".

### **STAFF RECOMMENDATION**

Staff recommends approval of Case #2024-009377 subject to condition that the applicant constructs the structures with red brick coping which is recognized as a character defining feature for Territorial design style. With this condition staff finds 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.

Chair Rios asked in reference to this application if they are asking for three independent buildings plus a pergola and if the Residence, Casita, and Accessory Building amount to a total of over 7,000 sq. ft even though they are not attached to each other. She also asked for clarification that the Lot Coverage is 40% and inquired if the Applicant had gone over 40%.

Mr. Duran stated the Lot Coverage was 29% and the Applicant does have a PZR, so the applicant has not exceeded that.

Chair Rios Clarified 29 %

Mr. Duran verified

Chair Rios then also asked Mr. Duran to verify the proposed height for the front wall and gate.

Mr. Duran stated the proposed wall height was 6 feet max and 5'-6' for the Entrance Gate.

Chair Rios asked if this is located at a dead end and asked how Mr. Duran would describe the public visibility of this large project.

Mr. Duran explained from Camino Atalay public visibility is minimal from the coyote fencing since it provides enough coverage. Vehicle traffic would be able to see the top of the roofscape. On Camino Monte Vista any traffic would be able to see the structures but no more than what they would see from their neighbors.

Chair Rios asked Mr. Duran if he felt this project is in harmony with the Streetscape.

Mr. Duran replied that if the Applicant constructs with red brick coping on the structures, then Staff agrees that it would be more in line to what's already established on that streetscape.

Member Degnan asked if the Coyote fence would be 6' across the front of the property facing onto the Street.

Mr. Duran stated they are proposing to build a CMU wall to a maximum height of 6 feet.

Member Biedscheid inquired if there was a wall height calculation for the Street.

Mr. Duran stated as far as he knew the Applicant had the right to build up to 6 feet per the Zoning Code, but didn't have the height calculation and stated he could get that information.

Member Biedscheid thought we had some guideline for the front of properties to not go that high, but maybe the sides of the property can.

Mr. Duran stated it is dependent on the zoning of the Property. So, if this is a residential compound zoning then they have the ability to build up to 10'. The Applicants have different underlying zoning codes depending on the property's location.

Ms. Lamboy stated staff can get a wall height calculation for them and maybe they can defer that portion of the application until next hearing.

Member Bienvenu stated that he did think they need that because in addition to the underlying zone we have specific wall height requirements that are based on the streetscape, so without that it's difficult to know whether this would meet the standard. It seems like mainly low walls in that area, but I think that we shouldn't approve any heights without an exception for any beyond what's calculated for the streetscape and that would be true for the gate as well. Also, regarding the vehicle gate we have fence and wall and gate guidelines that require gates to be fenestrated. Has there been any consideration of fenestration for the gate.

Mr. Duran stated no he hasn't discussed anything besides the Territorial Design Style versus from what was previously proposed, but they did add that.

Member Bienvenue stated that since the first application it seems that they have added Territorial style coping.

Mr. Duran stated that it is correct.

Chair Rios asked for clarification from Mr. Duran if he's saying that the underlying zoning, allowing higher heights, overrides the historic.

Mr. Duran stated he would defer to Management, Gary Moquino at that time.

Mr. Moquino stated that he has a calculation for that street that is 57" and whatever is more restrictive is what is regulated. Even though it says 10' if Historic says 6' , then that is what they will use.

Chair Rios acknowledged and clarified, unless the Board says it is too much or too high.

Mr. Moquino said yes.

Ms. Lamboy confirmed the maximum wall height for that streetscape is 57" and that if they want a higher height of wall than what is permitted, they would have to request an exception.

### **APPLICANT PRESENTATION**

Mr. Tryk stated the lot coverage was 22.3% and compared the area of roof to the neighborhood. We're at 7,200 sq. ft. We are surrounded by 8,000 sq. ft on the south, 7,300 sq. ft on the south. These properties are directly adjacent to us. There is 9,192 sq. ft. on the East and 5,462 sq ft. on the west and 5,935 sq. ft on the North. Mr. Tryk would argue that their project is quite in line with the projects that are around them.

Chair Rios asked if those buildings that he's talking about with large square footage are

one building or is it a multitude of buildings.

Mr. Tyrk stated in some cases it's one building, in some cases it's multiple. He deliberately broke this building up into pieces to lower the scale, give it more of a compound feel and deliberately put the garage up towards the front to minimize the amount of driveway. He doesn't know where this notion came in about a vehicle gate, he wasn't proposing a vehicle gate and what you were looking at was a picture of the courtyard gate. There is no vehicle gate also he was not proposing a wall along the street there is an existing fence there he was proposing to keep it. It's already been approved by the H-Board and He didn't see any reason to go there again.

Chair Rios clarified that Mr. Tryk is not proposing a wall or a gate on the front.

Mr. Tryk stated he was not and that he was proposing a masonry wall between him and his neighbors to the West, which is 6 ft high, but not the front of the property. He stated that it was mentioned the buildings around him are typically higher than what he's proposing. To the South it's 22' to the West is 24' to the east is 29' and 19'-8". He thinks from the standpoint of coverage size and height they are in keeping with what is around them and he hoped the Board would appreciate that he is going that extra mile with Territorial style not just with the brick coping but with painted shutters and two divided light windows, and thick walls. The walls are between 12" and 22" thick. He is really doing his best to make an exemplary building or buildings in this case.

### **PUBLIC HEARING**

No members of the public had comments.

### **BOARD DISCUSSION/ACTION:**

Member Bienvenu asked for clarification about the wall along the property side, if there was any concern about it since they don't have streetscapes. He was going to imagine that they don't have to worry about the height of that wall.

Mr. Duran stated that was correct and the applicant can build up to 6'.

Member Bienvenu stated that utilizing so many very traditional territorial features was to really be commended in this case the only issue he would have had was coping when it was first presented, but that had been resolved as well and he took it then from staff's perspective that the brick coping is shown in the plans in sufficient detail, for them to approve what's been offered and he didn't see need to see any revised plans.

Mr. Duran sated the applicant will need to provide the best plan set to pull a Permit.

**MOTION:** In Case 2024-009377-HDRB, 449 Camino Monte Vista, Member Bienvenu moved to approve the project as submitted subject to condition that the structures are constructed with red brick coping as indicated by staff and as indicated in the revised drawings. Member Mather seconded the motion.

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

To view the entire recording of this hearing, **see** the YouTube video at: <https://www.youtube.com/watch?v=Vk1h9FgJWNQ> (31:48 – 58:56)

2. **2024-009399-HDRB, 465 Camino Manzano**, Downtown and Eastside Historic District, Richard Martinez, agent for Craig Smith and Carolyn Kenney, property owners, propose to remodel the north entrance portal, construct exterior fireplace in courtyard, recess to the garage, raise courtyard wall to 8', replace gate with 6'-8" board gate, replace windows and doors, and construct an 8' tall coyote fence and request (2) exceptions to 14-5.2(D)(2)(c) additions, canales and downspouts are not permitted on a primary façade and 14-5.2(D)(2)(d) additions are not permitted to the side of the existing footprint unless the addition is set back a minimum of ten (10) feet from the primary façade on a contributing structure.

### **BACKGROUND & SUMMARY**

The single-family residence at 465 Camino Manzano is listed as contributing to the Downtown and Eastside Historic District. The main residential structure was built in 1947 on a 0.47-acre lot. The structure now totals approximately 3,270 sq. ft. of heated space. The partial two-story structure was built in the Spanish Pueblo Revival and Territorial architectural design styles as seen by the adobe block and wooden viga construction materials, flat roof with rounded parapets, recessed doors and windows, and wooden casement divided lite windows. The north façade, which was recently designated as the primary, has a wooden two-story portal which once overlooked an orchard on the property.

The evolution of the structure is well documented by Mr. John Murphey's 2024 Historic Cultural Property Inventory (HCPI) form. Murphey (2024:16) demonstrates how the structure developed between 1947, 1958, post-1958, and post-1978. Murphy (2024:15) concludes that the north façade of the two-story structure expresses the design intention of the Dodge family and holds the most preserved integrity of the structure and recommended the north façade as primary. Earlier this year (February 2024), the HDRB

made a determination to upgrade the status of the structure to contributing and designate the north façade as primary as recommended by Mr. Murphey. In keeping with the historian's recommendation, the HDRB's determination, and the preservation of the primary north façade including the portal, the proposed changes to the primary north façade should be taken into consideration that the changes will not change the architectural vocabulary of the structure in which actions have been made to preserve.

The proposed remodel also includes replacing all the windows and several doors at the residence excluding those located on the primary north façade. In Mr. Ra Patterson's 2023 historic window and door assessment concludes that windows G, H, L, M, N, S and U and doors #1, 2, 3, 5, 7, 8, and 9 are not historic. Windows A, B, C, E, F, I, J, P, Q, R, and V and doors #4 and 6 are historic and restorable. Windows D, K, O, S, T, W, and X are historic but rotted and beyond repair and need to be replaced. Mr. Patterson also states that all the windows and doors with copper sills should have the copper removed due to adverse effects to the wall and sills. The window removal process may destroy the window entirely and the windows with copper sills will need to be replaced either historic or non-historic. Staff agree with Mr. Patterson's assessment and recommends the HDRB approve the historic architect's window and door assessment.

Previous Historic Districts Review Board (HDRB) cases include:

On February 27, 2024, in Case No. 2024-007828-HDRB, Member Guida moved to upgrade the status of the structure from non-contributing to contributing, per staff's recommendation and designate the north façade of the 1958 building as primary, inclusive of the two-story portal, noting that the portal had been altered over time and that many parts of it and its detailing are non-historic materials. The motion was seconded by Member Bienvenu with a friendly amendment, because he doesn't know that the Board has established that those are non-historic materials in the alterations because if it happened prior to 1973 they'd still be historic. He agreed that the Board should state that it acknowledges that there have been alterations to the portal and that the Board would be open to hearing more evidence to establish the historic status or significance. Member Guida accepted as friendly. The motion passed by (5-0) roll call vote with Members Aguilar-Medrano, Biedscheid, Bienvenu, Guida, and Valdo voting in favor and none voting against.

The current request (Case 2024-009399-HDRB) is for a remodel which includes the following:

- 1) Front portal remodel that completely changes the character of the portal, for which two exceptions are requested.
- 2) Raise courtyard wall to 8'-0" and replace existing gate with 6'-8" door for which an exception is requested.
- 3) Add exterior fireplace in courtyard.

- 4) Create a recess for a garage.
- 5) Document existing coyote fence on top of existing retaining wall along south/rear property line and existing replacement coyote fence on top of retaining wall along the east/side property boundary for which the property owner received a violation for constructing the coyote fence without construction permit or Historic Preservation Division review.
- 6) Remove and replace all windows on non-primary facades.
- 7) Add two new windows on a non-primary facade.
- 8) Interior remodel.

### **STAFF RECOMMENDATION**

Staff found that the applicant did not meet the exception criteria for 2 of the 3 exceptions and recommends denial of those exceptions. Staff found that the applicant met the criteria for the exception to 14-5.2(D)(2)(d) and recommends approval. Staff recommends approval of the other items in the application as it complies with 14-5.2(D) General Design Standards for all Historic Districts, and 14-5.2(E) Downtown and Eastside Design Standards.

Chair Rios asked Mr. Duran if he agreed with the window assessment that was made.

Mr. Duran said he did.

Chair Rios asked if Mr. Duran could indicate which windows and where the windows were located that he felt were historic that should be refurbished.

Mr. Duran stated he could get that information at another time, but in the Ray Patterson's Window Assessment it showed the numbers of the Historic windows in that packet.

Chair Rios asked Mr. Duran if some historic Windows have already been replaced, yes or no.

Mr. Duran replied that is correct. There has been work on this house and on this property throughout time, since it was constructed, so some of the windows in their initial conception have changed, some have not and on the northwest side you can clearly see some of those windows have been there since the time of inception um other windows throughout that property have been replaced repaired restored. The applicant is proposing to replace all the windows on the property excluding the ones on the North Primary facade so staff is recommending that the HDRB approve the historic window assessment by Ray Patterson given that there's Windows outside of that North Primary facade that may be impacted.

Chair Rios asked for clarification as to why the Applicant wished to add another 2' to

their existing 6' wall in the courtyard.

Mr. Duran did not have an answer.

Chair Rios stated she would ask the Applicant. She then verified that this address is located at the very end of the driveway and inquired if the public visibility is limited.

Mr. Duran stated there is an Acequia located on the South end of this property people do have access to that area and walkway due to it being public access, but the visibility is very minimal the high walls would conceal visibility.

Chair Rios asked for Mr. Duran to explain the two exceptions he thought the Applicant did not meet.

Mr. Duran stated on February 2024 Mr. Sarason had brought the North primary facade to the Board and the Board approved the North Primary façade, including the portal and given that the Architectural Historian (Mr. John Murphy), the Board and Staff recommended preservation of this portal. The applicant is now proposing a design that may impact its' integrity which is to be preserved. The removal of corbels, beams, flooring rucking, and putting down spouts on that North elevation, would be inconsistent of the historian's recommendation, Board's motion, for designation and the preservation of this North Primary façade. Staff are working towards preserving this North façade.

Chair Rios asked if there was anything else that Mr. Duran disagreed with.

Mr. Duran replies there was not.

Chair Rios asked members if there were any questions or comments

Member Bienvenu thanked Mr. Duran for his presentation and clarifying that last point and stated he believed what they were being asked to address, even though there was actually quite a long list of items in the packet, at least from staff's perspective was the Portal, everything else Staff should approve. He was a little confused by the windows because he thought they were pretty well settled on the idea that they do not have jurisdiction over historic windows except on a primary façade- that's been a major bone of contention. He thinks it's a problematic feature of our ordinance because the ordinance specifically states in so many words, if not exact words, that windows should be repaired and replaced when they're on primary facades and then it goes on to exclude windows and doors from other provisions regarding historic material. He then asked how do they square with a request that we somehow protect the historic nature of windows and doors on the non-primary facades which members would love to do, but doesn't think they have authority to.

Mr. Duran stated that staff stands by the historic architect's assessment and given that

Mr. Patterson does many, if not most historic window and door assessments and recommends that many of them can be restored, staff stands by the historic architect's decision. He thought it was the board's purview to make that decision.

Member Bienvenu stated he was just looking at the language and he thinks this is why they're stuck in this case. 5.2 (D)(5) which regards windows, doors, and other architectural features and then under (a) for all facades of the primary facades of contributing structures historic windows shall be repaired or restored wherever possible, so we're very clear on that. Unfortunately though (b) then says for all facades of contributing structures architectural features finishes and details, other than doors and windows shall be repaired rather than replaced and I just can't square the language of those two provisions with the ability to require replacement for windows and doors that are not on the primary facade although I would like to have a note made that I think that should be addressed in the update to the code but as the ordinance reads today, he thinks that regardless of the architectural or the door experts assessment he thinks the applicant has the right to make those changes, but even though he agrees with staff that it would be nice if the applicant did not choose to do so. He had no further comment.

### **APPLICANT PRESENTATION**

Mr. Martinez presented a drawing that stated the historic report on the house was written by John Murphy and it states the main house looks over two fir trees and a lawn with a two-story façade and has double porch design unique for Santa Fe, Territorial style and continues to describe the structure. He states that in photographs of an earlier survey the railing had been replaced and he proposed that there was a previous portal there, but not currently. Due to the portal having a canale that comes off of the second story it caused rot. What he is proposing is to place a downspout. He is not wanting to take down the portal he just wants to add some things keeping with the design. On the side of the house the wall is 10 feet from the façade and needs an exception. The wall is being raised since the owner wants to have a private room on this side and that is why they request an exception for the wall height. He stands for questions.

Member Degnan asked why Mr. Martinez doesn't make use of the northeast canale since it wouldn't look pleasant. She then asked if Mr. Martinez could make a downspout for the existing canale.

Mr. Martinez stated he can but he's proposing that the side walls be very narrow and the front walls be more wide and wants to utilize the width to mount the down spout. He does not want it to look packed on and in his design he wants the downspout to be part of the design to the portal. He stated that it doesn't have to be on the front of the house and it can be on the side, whatever the Board decides he will do.

Member Bienvenu stated that when we designated the primary facade everything that's just been presented was presented at that time. It was a request not to designate

the portal or to exclude the portal from the primary designation for the same reasons that you brought forward tonight, and the board obviously did not agree. The board designated the portal as part of the primary and in doing they referenced both the HCPI which recommended that the portal be included in the primary facade designation. Also, the description of the residence in the HCPI included the portal's special importance to the design. I'm looking at this picture, but I wish I had a picture of what exists because what the HCPI was referencing, or the owner builder was referencing the design from the territorial period in the latter part of the 19th century. Which was longer utilized at the time this house was built in the 40's and the historian showed that it was more protected. I think there was even a photograph of San Francisco Street included in his HCPI there to show this exact type of two-story balcony. They were tall commonly at that time and they were spindly. I mean they look pretty much like that without the stucco on the top but in essence they are a very narrow square post holding up a portal or porch with a railing. They were more or less tacked on in front of commercial buildings on San Francisco Street. So, given that that was was precisely part of what we were protecting there was a reference to it and there was also knowledge that a portal in this exact location had existed in the original footprint from the time the house was built. The only thing that was questionable was the reference I think that was made in the HCPI and perhaps by you from your personal inspection that there may have been some non-historic materials that were now present but that was very vague even the reference in the HCPI to the posts. There wasn't any indication as to how historical these posts were. There was no suggestion if they were recent and constructed to look older than they actually were. They could still date back to the original structure's construction. We did go ahead and designate the entire porch and as I recall we made a specific note in the findings that we would be open to any further information that would be presented as to whether any specific materials like for example the railing that would say was demonstrably non-historic. We would take that in account in future consideration of any applications, but I don't know that I don't see anything that's been presented in that regard and even if it were that any would apply to specific aspects of the portal. To me we have a portal that is probably almost certainly historic that may have had some modifications specifically called out by the historian as worth protecting and was protected by the Board. Now the portal would be replaced by you in a new design that be for an aesthetic preference. So given that, I just don't see how the Board could find the exception criteria for this specific alteration have been met. Everything else in the application though is perfectly fine.

Mr. Martinez wanted to clarify that they are not proposing any replacement, it's an encasement. All the elements would remain but there would be walls built around them.

Chair Rios asked members if anyone had any comments or questions.

Member Mather inquired if there was any archival footage of this house, or any photographs that Mr. Martinez could provide.

Mr. Martinez said they do not show detail, but yes.

Member Biedscheid asked Mr. Martinez to clarify if he is proposing to completely remove and replace the portal or is he leaving the wood elements and encasing them in stucco.

Mr. Martinez stated he is leaving the corner posts, he is encasing them in Stucco to hold up the strip of Stucco at the top and then putting a strip of stucco in the center the ends of the bottom beams are not visible.

Mr. Karnes stated he wanted to briefly go over the three exceptions. The first being that the exception does not damage the character of the district. Staff response in the report states that the proposed design alters the historic status of the north portal and therefore would damage the character of the district and the recommendation was that that criteria is not met. I would submit that all exception requests by definition would alter the historic status of what is there today that's why it is an exception request and that's not the question. The exception criteria question is whether the design Richard showed you would damage the character of the district. These materials that are proposed to be added primarily the stucco wrapping, they exist throughout the district and I ask how can it be objectively said that this design that Richard showed would damage the character of the district if these materials and this type of design exist throughout the district and still define that the design is not congruous with the character of the district. This design is completely consistent with the character of the district and the existing house as Richard described the question is not whether the design would alter the historic status and staff's conclusion that the design would do so is not responsive to the question stated in the exception criteria as to whether this design would damage the character of the district.

Mr. Karnes continued as to a hardship the staff report states Mr. Duran acknowledged the drainage issues, which is a hardship that is what the question asks for and is satisfied in the staff report. Mr. Duran went on to say that the design would impact the north façade's historic Integrity. Again, that statement in response to this question is not responsive. The question is limited to whether there is a hardship or not, the answer to that is yes. So, I would submit that the second criteria is satisfied.

Mr. Karnes concluded that the third criteria addressing consideration of all design options with a full range of design options, here again staff instead of addressing the applicant's response that's before you, staff elevated its previous non-responsive conclusion to say that the proposed design will remove the current historic integrity of the portal. Therefore, does not satisfy that exception criteria. That's not the question here the question is whether a full range of design options was considered and as Richard has explained to you that was done here and the applicant selected this particular design option and thereby satisfied the criteria. The responses before you in your packet address and respond to each of the three criteria and staff's responses in no way demonstrate that the criteria are not satisfied. I think if you focus on the aspects

of the design that Richard has put before you, we have demonstrated that the three exception criteria are satisfied. This also applies to the downspout that as Member Biedscheid pointed out, is a functional and substantive part of the application. We submit that those criteria have been addressed and satisfied as well. With that I'll address any questions you might have and thank you for your consideration

Chair Rios asked if Mr. Martinez had concluded his presentation.  
Mr. Martinez stated that he had.

### **PUBLIC HEARING**

John Eddy, 14 Avenida Campo Verde, was sworn. Mr. Eddie stated that the original structure is definitely and recognizably "carpentorial". He made up that adjective, but the carpentry that went into the building is going to be changing. This is because the massing of the portal based off the drawing that was provided, it is going from predominantly wood to a very strong masonry element. So, the massing is completely different and changes the character of the house because it is not as airy as the existing design.

Mr. Moquino stated since the Board was asking about the railing earlier anytime a construction permit is issued for items such as this non-compliant railing, the applicant would have to come into compliance and the railing would have to change to be in compliance.

Stefanie Beninato, PO Box 1601, Santa Fe, was sworn. Ms. Beninato stated that the board has not inquired about the 8' tall fence and she feels that it is important. She does not believe this is a compound and to her understanding, 8' fences are only allowed in compounds or if your property is a residential property next to a commercial property. She wasn't sure if this was something the Board could even grant an exception to, and she does agree with Mr. Eddie that the new design would completely change the look of the building by having the masonry end walls. She didn't hear anything new in the presentation about the portal or its history or new documentation. A lot of time was spent discussing it before and the Board designated it as primary, and she didn't hear any more rationale as to how the exception criteria were met. She thinks there are ways of creating drainage with the way it looks, and she is sure there's ways to drain without damaging the foundation of the portal.

Mr. Duran clarified to the Board that the property is zoned in the RC8 Residential Compound Zoning District, therefore, it has different underlying zoning code for fences.

### **BOARD DISCUSSION/ACTION:**

**MOTION:** In Case 2024-009399-HDRB, 465 Camino Manzano, Member Bienvenu moved that findings be entered, that the exception criteria for modification of the portal which is part of the primary façade have not been demonstrated to have been met. He noted that the board specifically, earlier this year, designated the north facade including the two-story portal to be the elevation with features that define the character of the structure's architecture and that the board further found that some elements of the portal may be non-historic and invited the applicant to present additional evidence demonstrating which materials are non-historic in any future application. That the applicant has not offered no new information as to what is historic and non-historic in what has been presented. With respect to the first criteria did not damage the character of the district, that is because this is an alteration of the distinctive characteristics of what the Board has designated as the primary façade, that it damages the character of the district because the board has already found that those characteristics should be protected. With respect to the second criteria required to prevent a hardship to the applicant or an injury to the public welfare that the applicant has not presented sufficient evidence of any hardship that would result from denial of the application and the preservation of the existing portal. With respect to the third criteria to strengthen the unique heterogeneous character of the city by providing a full range of design options that also has not been met in this case because there has been no demonstrated need to have alternative design options that would alter the defining characteristics of this primary facade nor that that would be necessary to strengthen the character of the city nor has it been demonstrated that sufficient other design options to solve any actual problems have been demonstrated as opposed to design and aesthetic considerations have been sufficiently considered. Based on those findings I move that the board deny the request for the alteration to the portal and find that the second request for exceptions with regard to the canale and downspout are thereby rendered moot and do not need to be decided and that the third request for exceptions that the applicant has presented sufficient information to find that they have been met for the reason set forth in the staff report. To conclude, the motion would be that the project be approved as submitted with the exception of the alteration to the portal. Member Degnan seconded the motion.

Member Biedscheid asked for a discussion and stated for the record that this project is not removing historic material, as the applicant described it would be encasing the material, and it may be removable at some point to take the stucco off of the corner post. Although there's not been any new evidence of historic assessment of the portal

none of that is being removed. So, in my mind we're actually preserving the portal as constructed. I think it's reasonable to assume that the corner posts which aren't aligned and are diminutive and have contributed to the deferred maintenance, which is a hardship for the applicant, are not well constructed and I think the other design option might be just to add larger posts, but that would then potentially constitute removal of historic material. So, I think we would also be unhappy with that proposal. So short of leaving it as is I think this is a pretty sensitive request for the exception of a of a minimal nature for consideration.

**VOTE:** The motion passed by (3-0) roll call vote with Members Mather, Degnan, and Bienvenu voting in favor and Biedscheid voting against.

To view the entire recording of this hearing, **see** the YouTube video at: <https://www.youtube.com/watch?v=Vk1h9FgJWNQ> (59:04 – 1:58:38)

3. **2024-009398-HDRB, 346 Hillside Ave., Downtown & Eastside Historic District, Contributing**, Martinez Architecture Studio, agent for Martha Davis, owner, requests to alter a previous approval including removing a fireplace, changes to windows, doors, exterior stairs, patio, installing a water feature, HVAC, skylights, constructing fencing with pedestrian and vehicle gates to the maximum allowable height of 4'-11", and adding a standing seam metal roof. An exception is requested to 14-5.2(D)(6) for changing the roof material not in-kind.

### **BACKGROUND & SUMMARY**

The property located at 346 Hillside contains both a single-family residence and a studio. The main residence is listed as contributing to the Downtown and Eastside Historic District, and the detached studio is listed as non-contributing to the Downtown and Eastside Historic District.

The home was constructed around 1920 in a simplified craftsman bungalow style. The fenestration is symmetrical on the north elevation, with a front door flanked by large windows. The hipped roof had brick red asphalt shingles. The kitchen addition on the east elevation, constructed between 1948-1958, has a flat roof (see Figure 2).

A sunroom on the south elevation was approved for removed in 2004, but the addition which was approved to replace it under case H-04-035 was never built. At that time a non-historic portal on the north elevation which connected to the kitchen was also approved for removal. The rear door "floats" and it is likely that there were concrete stairs similar to the ones further east on the south elevation that led to the backyard (see aerials). A tall wall on the west elevation connects the residence with the studio,

which was likely a garage.

A status review with primary façade designation was heard under case #2022-006142-HDRB. At that time, the HDRB retained the main residence's contributing status and assigned the north elevation, west elevation, and the northernmost portion of the east elevation excluding the kitchen addition at the southeast corner (with flat roof) as the primary facades and designated the garage/studio as a non-contributing structure.

In 2023, under case #2022-006237-HDRB the HDRB approved additions to the east and south elevations (non-primary), a portal on the south elevation and a deck and stone planters on the south elevation of the main residence. They further approved the removal of a portal on the south of the studio with an addition and portal to replace it. Later under case 2024-007809-ADMIN a roof mounted mini split system was added to the overall project.

During construction, the applicant made unauthorized changes to the board approved design (Case #2022-006237) and constructed items not previously considered or approved by the HDRB. On 10/25/2024 Historic Preservation inspectors issued a Stop Work Order (Red Tag) to the owner for the unauthorized alterations.

#### **APPLICANT'S REQUEST:**

The applicant now requests approval of the unauthorized and unapproved items, including:

- 1) Replace the shingle roof with a charcoal-colored metal roof. An exception to section 14-5.2(D)(6) for changing the roofing material not in-kind is requested.
- 2) Eliminate the fireplace in the new addition design (Studio).
- 3) Eliminate a bedroom window under the portal of the addition (Studio).
- 4) Install a roof mounted HVAC on the main residence. The HVAC unit will not be publicly visible.
- 5) Reconstruct the stairs on the north side of the kitchen to bring them up to current code.
- 6) Install guard and handrails at the steps.
- 7) Install skylights. The skylights are not publicly visible.
- 8) Install exterior lighting.
- 9) Construct an 18" high coyote fencing on top of the existing 4'6" tall yard wall for a total height of 72" in the rear of the property.
- 10) Construct coyote fencing along the street frontage to the maximum allowable height of 59". Staff notes that this fence currently stands at 86" in height and is planned to be cut down. The 73" high metal pedestrian and 69" high metal vehicular gate along the street frontage that were installed in 2020 will be retained in this newer fencing.

As stated in the previous case (2022-006237-HDRB) for this property's alteration: "The character of the proposed renovation treatments is divergent from the historic character of the main residence. Unique architectural features on the historic building speaks to the place and time it was built as in the 1920s the bungalow was a very popular building type. This structure does not express that which is described in the Downtown and Eastside design standards; as a contributing building and the standards associated with additions set forth in Section 14-5.2(D)(2)(a) having similar materials and architectural treatments. The proposed windows and doors do not illustrate compatibility with the historic windows and doors on the residence."

Relative to the studio, the architectural vocabulary is very modern in nature and is not of "Old Santa Fe Style" or "Recent Santa Fe Style." The cantilevered portal element and large glass doors on the south elevation is inconsistent with the design standards that are set forth for non-contributing buildings in the Downtown & Eastside District.

It is the opinion of staff that, as designed, the proposed additions will impact the overall architectural integrity of the building and could threaten the contributing status of the residence."

Changing the roof of the contributing structure further diverts from the character of the contributing building as there is no evidence that the roof material has ever been metal. The dark color of the metal roof is also not present on the streetscape. Therefore, staff recommends denial of the roofing material change for this contributing structure.

It should be noted that no evidence has been provided by the applicant as to a historic existence of a metal roof on the historic structure. Section 14-5.2(D)(5)(b) states, "*For all façades of significant, contributing and landmark structures, architectural features, finishes, and details other than doors and windows, shall be repaired rather than replaced. In the event replacement is necessary, the use of new material may be approved. The new material shall match the material being replaced in composition, design, color, texture, and other visual qualities. Replacement or duplication of missing features shall be substantiated by documentation, physical or pictorial evidence.*" Without any documentation regarding the roof material, it is conjectural as to whether metal roofing existed historically.

Staff has done some research of historic aerials, and it is inconclusive as to the material of the roof. The only evidence available is the 1984 HCPI which stated that the roof had asphalt shingles.

#### **STAFF RECOMMENDATION**

Staff finds that the exception criteria have not been met and recommends denial of the exception request to replace the shingle roof with a charcoal-colored metal roof. Otherwise, staff recommends approval of Applicant's Request Items 2-15 of the application as they comply with 14-5.2(D) General Design Standards for all Historic

Districts, and 14-5.2(E) Downtown and Eastside Design Standards. Two motions will be required in this case.

Ms. Lamboy presented in Ms. Lani McCulley's place, for 346 Hillside Ave. She stated this was originally her case and this structure is a single-family structure bungalow that was constructed approximately in the 1920's. At the time when she presented this case there was a status review well as an addition to the south elevation. The status review involved designation of a primary façades along with the overall character of the building and history that was provided to the Board and that which can found in the HCPI. That what we're hearing this evening is regarding the metal roofing that was put onto the house without a permit or approval by this board. The metal roofing is a material that can be found on historic homes; however, with Bungalows and especially those that were sold by Sears, Roebuck, and Company or the like they all had asphalt shingles. Asphalt shingles were invented in 1903. This was the country's first affordable housing type because it was brought in on the train and the construction materials were there. Asphalt shingles were an economical way of constructing or providing for roofing. My own house in Denver is a bungalow very much like this and it has asphalt shingles historically. The applicant has not provided any evidence that there was previously any metal roofing and that is concerning to staff. In addition to put that type of finish or feature there, the applicant has to provide pictorial evidence or some sort of physical evidence that there was metal roofing at one point. This is an illustration of the PRI construction as it looks today and as you can see this changes the overall character of the building significantly. So, with reference in reference to this case 2024-9398 for the request to alter the roofing material staff recommends denial on the basis that it does not meet the exception criteria for 14- 5.2 (D)(6) in the replacement of roofing materials and that there has been no substantiation or evidence provided to illustrate that the structure once had a metal roof.

Chair Rios thanked Ms. Lamboy and clarified that she was indicating that the applicant went forward and put the roofing material without permission and that on the south part of the house the changes that were made were already approved administratively, by staff.

Ms. Lamboy stated that it is correct for both questions and that the details were only included in the packet for their review, but yes, they were already approved administratively. The reason that this entire case is coming before the board is because of the roofing material and so instead of approving something administratively you know for the rest of the other changes I just wanted to point out that staff could approve those administratively. We decided to bring the whole package to you.

Chair Rios asked if the Coyote Fence was also part of this application.

Ms. Lamboy stated that is correct.

Chair Rios asked what the height of that fence was.

Ms Lamboy states the height of the existing fence was 6' and this fence she believes is 6'.

Chair clarified there was a fence there before.

Ms. Lamboy stated that is correct.

Chair Rios asked what the fence was made of.

Ms. Lamboy stated she would defer to the Applicant to answer that.

### **APPLICANT PRESENTATION**

Mr. Martinez had already been sworn in and stated there was a fence there before and in their first application that they submitted to the Board. They got approval for the addition, and they stated they were going to replace the front coyote fence, posts were replaced. The structure of the fence was already there and he's coming before the Board because Staff insists, they come back for something they have already received approval for and then of course the roof as well. He wanted to go through the history of the Application. On 11-14-22 is when the first application for the petition was submitted and approved by the HDRB at the hearing of January 10<sup>th</sup> 2023, then they applied for an Administrative Approval on April 14, 2023, there were changes that he was eliminating such as the outdoor fireplace, window and they never received an approval even though they were submitted to the staff and were included on their permit. It was not their intention to deceive anyone, they just got the approval and went forward with it. Then on June 14, 2024, it was brought up again since the case manager that they had left. The current application they submitted for the roof was submitted on September 10, 2024, but since it took 3 months the owner decided to move forward and replace the roof since it was in such bad shape. Mr. Martinez stated he was there to receive approval for the roof. The gates and fence were red tagged during the inspection of the property for the house because the front fence was too tall. He then presented pictures and showed that the fence existed before the owner purchased the place and all he did was replace the posts. The gates also existed. The picture was taken March 30, 2022, and submitted with the original submittal.

Mr. Martinez then went on to talk about the roofing and how it is very Historic. The proposed roof is charcoal gray standing seam roof. They have no documentation that it was used on this house, but he thinks it was very possible that it was always a metal roof, but he will let Mr. Karnes also give his presentation.

Chair Rios asked for clarification that she heard him state that it was possible that it was

always a metal roof.

Mr. Martinez then stated he didn't mean always, but it was possible that it was originally metal.

Chair Rios then asked Ms. Lamboy if a height calculation in reference to the fence for this area had been done.

Ms. Lamboy stated she wasn't sure if there had been one and asked Mr. Moquino if Lani had conducted one.

Mr. Moquino stated, yes, that there is a maximum allowable height of 4'-11".

Ms. Lamboy stated anyway the maximum height of a fence is 6' and so that would be higher than what the underlying zoning allows.

Mr. Martinez stated he did get approval in the first submittal, but that he was not informed that he had to replace it at a different height.

Chair Rios asked Mr. Martinez if when he got approval if it was with the Board.

Mr. Martinez confirmed by saying yes and the project was approved as submitted and the original submittal stated removing the front fence which was submitted.

Chair Rios asked if Ms. Lamboy if she agreed with that.

Ms. Lamboy stated she does not agree with that because she was looking at the packet that was submitted to the Board and there was no note of replacement.

Mr. Martinez looked onto Ms. Lamboy's computer showed her on the existing site plan there was an existing coyote fence.

Chair Rios then verified with Ms. Lamboy that there was (In audioable)

Ms. Lamboy stated, yes, it did say to replace existing coyote fence.

Chair Rios clarified and asked that the existing fence had been approved by the Board.

Ms. Lamboy states it was illustrated on the plans but wasn't considered was the zoning regulations relative to that being higher than the permitted zoning height and also the case there was no height submitted to the Board she would state that was not fully approved because that was not part of the packet.

Mr. Martinez stated he asked the owner and is proposing a compromise and to make

the fence the same height as the gates.

Member Degnan asked Mr. Martinez how tall the metal gates were on the right side of the image they were viewing.

Mr. Martinez stated an answer which was inaudible.

Ms. Degnan verified Mr. Martinez said about 6 feet tall.

Ms Lamboy addressed Chair Rios stating she found a note on the site plan as well from that last time to replace the coyote fencing inside other existing fencing and so she will own a mistake, but at that time she was thinking it was an existing new fence inside an existing fence on the interior property line. Mr. Martinez knows that they do have to do height calculations for the streetscape and since that wasn't considered as part of the application, she would consider that fence height approved for the streets.

Mr. Martinez stated there was no intention of deceiving, they thought they were doing exactly what they were supposed to do.

Mr. Karnes stated he was going to speak on the roof rather than the fence. Ms. Lamboy testified that the original material of the roof; however, we don't know what it was since there is no evidence of what it was. However we do know that the pre-existing asphalt shingle roof was replaced with the metal roof. It leaked and it was non-historic. They know that the staff report asserts that the new roof is black in color. The application itself is in the materials, it indicates the roof being charcoal not black. The roof is not black, it's gray, The Historic Overlay Code does not regulate roof color. There are at least two roofs, one to the east and another to the west that are both green. The applicant has demonstrated hardship the pre-existing asphalt shingle roof leaked substantially that's why the applicant decided on her own to replace it and that's acknowledged in the staff report. The staff report, however, just like in the previous case it goes on to say that the acknowledges the hardship but goes on to say the applicant "needs to clarify why it is a hardship to install a new asphalt shingle roof". That's not part of the question that's before you the criteria is whether there's a hardship, a leaking roof is a hardship. So, I submit that the exception criteria has been satisfied now will a charcoal color metal roof damage the character of the district, We submit no it would not. Gray roofs and metal roofs exist throughout the district. This is consistent with and in harmony with existing roofs in the area within the Downtown and Eastside Historic District. Finally, did the applicant consider other design options? Absolutely! The application acknowledges that the applicant considered another asphalt shingle roof and decided for reasons of longevity, expense and effectiveness that she wanted to put a metal roof on the house. That's the applicant's prerogative and she chose a metal roof. So, in response to the question were design alternatives considered? Yes, indeed they were. So, again the pre-existing asphalt shingle roof was not historic and what are we trying to do here? We're trying to preserve the nature of an asphalt shingle roof. It is not addressed

anywhere in the historic overlay code. I don't think that's the intent of the code. We submit that the exception criteria have been satisfied and we ask for your approval with respect to the roof exception request.

### **PUBLIC HEARING**

John Eddy, previously sworn in, stated that the fence was something that was missed admittedly by staff and fell through the cracks and it appears that what the applicant would like to do is to have a non-conforming existing fence and gate approved because it was too high to begin with. Mr. Eddie confirmed his understanding with Ms. Lamboy who verified that he was correct. Mr. Eddie stated he's seen the Board struggle with this before where something is already there and they have to deal with it, but if it's non-conforming then he thinks it should be taken back to square one. The applicants brought this to you in spirit to work things out. As for the roof, it's counterintuitive to me as a builder that someone would take off a metal roof and replace it with asphalt shingles. I've never seen that happen and it's not logical to me, that that roof has ever had metal on it. It's pure conjecture. The design of that roof lends itself to asphalt shingles. It's a very low pitch roof. Northern New Mexico roofs which went to metal largely have a much higher pitch to them. So, the character of that house as I see it, lends itself to asphalt shingles. Asphalt shingles do wear out. Metal roofs wear out slower, but asphalt shingles can be replaced. That roof looks right with an asphalt shingle roof and I do think that that was what was originally on there, though it's pure conjecture.

Stefanie Beninato, previously sworn, stated she agreed with Mr. Eddie her concern is that the roof changed and whether it was ever a metal roof. If it was, then why would you take it away and put asphalt. Given that the applicants have been before the Board it would seem that they should have known that they needed approval for the change in material.

Mr. Martinez stated the color that is on the roof is the closest to the original that they originally submitted back in September.

### **BOARD DISCUSSION/ACTION:**

**MOTION:** In Case 2024-009398-HDRB, 346 Hillside Ave., Member Bienvenu moved to adopt the staff's recommended findings that the exception criteria have not been met with respect to the unauthorized alteration of the roofing material in the staff report and would deny the exception request for those reasons to replace the shingle roof with metal roof. There's no request for exceptions coming before us on the fence and I was under the impression from the staff report that the applicant had agreed to reduce the height to the maximum allowed. Staff notes the

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

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

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

Member Mather seconded the motion.

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

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

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

#### **BACKGROUND & SUMMARY**

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

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

time.

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

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

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

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

Section 14-5.2(D)(1)(a) states, "*The status of a significant, contributing, or landmark structure shall be retained and preserved. If a proposed alteration will cause a structure to lose its significant, contributing, or landmark status, the application shall be denied.*"

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

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

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

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

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

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

### **STAFF RECOMMENDATION**

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

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

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

### **APPLICANT PRESENTATION**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chair Rios clarified that Ms. Beninato said 5½’.

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

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

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

### **PUBLIC HEARING**

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

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

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

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

#### **BOARD DISCUSSION/ACTION:**

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

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

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

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

to staff.

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

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

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

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

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

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

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

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

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

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

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

Ms. Beninato stated that was not much direction.

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

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

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

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

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

Mr. Ruybalid stated this was out of order.

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

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

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

canales, stucco, and hardscape. An exception is requested to 14-5.2 (D)(6) to replace the roof not in-kind.

### **BACKGROUND & SUMMARY**

The commercial property at 710 Canyon Road includes two structures. The front building faces the street and was constructed before 1912. The front building is contributing to the Downtown and Eastside Historic District. The back building was built in 1988 and is non-contributing due to age.

The front structure is a square structure with thick adobe walls and a pitched brown terneplate metal roof. The northwest corner has a long narrow 1973 addition. The south elevation ground level features an addition which according to the Historic Survey was constructed between 1966 & 1973. The addition is constructed with a flat roof and frame with a single glazed door opening near the west end. A portal traces the edge of the addition and continues along the east side of the wing. The owner believes the portal most likely was constructed as part of the 1987 approval; however, the case file is not available for confirmation.

In October 2024, the HDRB assigned the north elevation as the primary façade due to the craftsman influence of unpainted patterned shingles, narrow wood windows, knee braces, pediments, terneplate roof, and thick adobe walls.

### **APPLICANT REQUEST:**

The applicant now proposes the following exterior alterations:

1. Replace the 3,475 sq. ft. of existing terneplate or crimped metal roofing with a standing seam roof in reddish brown color. An exception is requested to section 14-5.2(D)(6) to replace the roof in a material that is not in-kind.
2. Demolish approximately 323 sq. ft. of the south portal. The eastern portion of the portal will remain. The southern portion will not be reconstructed. It is being removed to protect the building from damage from the significant tree and to save the tree.
3. Relocate the door of the south façade to the west so that it will be under the remaining portion of the portal.
4. Replace the concrete flooring throughout the portal area (both the remaining portal and the removed portal section) with flagstone (fossil creek) flooring.
5. Raise approximately 62 linear feet of the south parapet to a height of 24" above the roof to conceal skylights.
6. Replace the 1,755 sq. ft of existing roofing of the building flat roof area and remaining portal to be removed to decking (damaged decking to be replaced) and replaced with tan colored TPO roofing system.
7. Existing canales on the south and east of the structure will be replaced with new wood, metal lined canales/ scupper Painted to match Buckskin stucco.
8. Replace white dome with aluminum frame skylights in the northwest wing with

one 24" X 24" and two 24" X 48" white dome with aluminum frame on 8" curbs to match the existing. The tops of the skylights will be approximately 18" above finished roof and will not be publicly visible.

9. Replace six 24" X 48" white dome with aluminum frame skylights on the southern addition of the main building with three 36" x 120" pyramid skylight with white glazing and aluminum frame on a 12" curb. The tops of the skylights will be approximately 20" above the finished roof. The skylights are to the rear of the building and will not be publicly visible.
10. Re-Stucco with El Rey cementitious "Buckskin" to match the existing stucco.
11. Paint the portal, exterior door, and trim, in Sherwin Williams Puro White.

### **STAFF RECOMMENDATION**

Staff finds that the exception criteria have not been met and recommends denial of the exception to replace the roof not in-kind. Otherwise, staff recommends approval of the applicant's requested items 2-11 (see Applicant Request) as they comply with 14-5.2(D) General Design Standards for all Historic Districts, and 14-5.2(E) Downtown and Eastside Design Standards. Two motions will be required in this case.

Mr. Moquino presented this case in Ms. McCulley's absence.

Chair Rios asked if she heard Mr. Moquino correctly indicate that they want to replace this turnplate metal roof with a standing seam.

Mr. Moquino stated that was correct.

Chair Rios stated she thought she heard on the field trip that they were to find a material that was closely related to the existing material.

Mr. Moquino stated that is correct. They want to replace it with a standing seam, but there is material out there that is similar. The one they have now is a 3V and there is a 5V out there that they can replace it with.

Chair Rios clarified that the existing roof has a turn plate metal, but it seems like there is a seam in the middle of the panel.

Mr. Moquino stated that it is crimped in the middle of the panel.

### **APPLICANT PRESENTATION**

Ms. Marie Hamilton stated that when her husband built the back building her husband imitated the roof that's in the front, so they could look alike and maybe that's why it passed inspection, but her husband went through some extreme effort. Ms. Hamilton stated she didn't know they could replace the front roof with a crimp, and they don't really have objection to that. They just thought that the standing seam that's on the back

roof was logical for them to replace it like that. But they didn't really know that they could replace the front roof with a similar product.

Chair Rios asked if the applicants were willing to do that.

Ms. Hamilton stated she thought so, she doesn't have much objection to it. She doesn't know what the difference is or the longevity. She did know that the roofs across the street were standing seam and just thought if they were doing it then the roofing they would've been putting on would be more interesting. She just doesn't know much about the crimped material.

Chair Rios asked Mr. Moquino if he had any knowledge of it.

Mr. Moquino stated not really, but the only difference between the 3V and the 5V is the spacing of the area.

Chair Rios verified that it is very similar to what they have.

Mr. Moquino stated that is correct.

Mr. Aida stated that he was hoping to match the roof that's already there since he didn't want two different types. He did check, but they no longer make the 3V crimp system, but they do have the 5V. It's going to look a lot smaller and then it would also have the double crimps on the edges and one in the middle, so it would be doubling up on the seams.

Ms. Hamilton stated she thought it would be better for the property if those roofs were closer together and if you compare what's in the neighborhood there isn't anything that looks nearly as interesting or as nice as this roof that they have in the back.

Mr. Aida stated he did contact MBCI which is a huge roofing company and they stated they could match what they currently have. They have something very similar.

Chair Rios asked if they had something similar to what's already existing or similar to what is being shown

Mr. Aida clarified the one that is being shown and stated they said that the only way to get a 3V crimp is to have it special ordered and even then he doubts that anyone would want to attempt making that.

Mr. Bienvenu stated the issue from staff's perspective obviously from the staff report and at least from his perspective as a Board member is he can understand the applicants thought that they would want to match the back because it's all one property, but from a historic perspective their goal is to match the historic property that's in the

front. So, it seems to him it would be most important to come up with a solution that is as close to the existing metal roof that's on the front structure as opposed to trying to make it consistent with a non-historic structure in the back even if it's quite aesthetically pleasing. From the historic preservation perspective, they look to always match in-kind and he gathers that they can't do that exactly in this case but staff is suggesting that the closest to an in-kind match be the 5V to match the 3V. For clarification I think that's the justification for the staff report.

Ms. Hamilton stated she can understand that, and she also thinks Mr. Aida makes a lot of sense as well because he doesn't even know if somebody is willing to make the material so the roofs match.

Member Bienvenu stated that is what Staff is recommending.

Mr. Aida stated he thought that it would not be approved because it was 5V crimp and it looked different and the other one looked closer to this than this one, but if the Board suggests and okays it and the owner agrees that they would be okay with it.

Ms. Hamilton asked if it came in red.

Mr. Aida stated that won't be the color of the roof and they will match the color of the roof to its existing color and the 5V crimp is something that comes from MBCI so it would be readily available, and they would have to work with the color a little bit.

Chair Rios asked if Mr. Aida thinks with this crimped metal roof that he could match it more closely to what exists.

Mr. Aida stated, as far as color.

Chair Rios asked everything else wise?

Mr. Aida stated you can see how the crimps look different you're going to have one crimp then you're going to have a double then you're going to have one then you're going to have a double. It's going to look a little different from this one than from the other one. The one that we suggested is just one crimp each. As far as the color goes, we would have to get with MBCI and see what they can do about how closely they can match it.

Ms. Lamboy stated they often run into these issues when there's old materials, old ways of constructing things and then new codes and that necessitate slight changes and so certainly staff enforce the code in that. The statement is the existing roof styles and material shall be maintained, or replaced in-kind, if necessary, so even though this isn't exactly in-kind what has been illustrated here on the back portion, which doesn't have

the double CRM it is under the Board's authority to allow, for this newer material to apply with current code, but still maintains the overall aesthetic of what the roof once was. That's a possibility, but according to the code you know staff can't recommend for that, but that was sort of a roundabout way of saying that you have the authority to allow for minor modifications considering the current materials we have available. So, the Board has to consider both of these to make a determination.

Member Bienvenu asked for clarification and asked if they wouldn't need an exception and to find all the exception criteria been met to approve the metal that would match the roofing material that would match the new structure in the back as opposed to the 5V.

Ms. Lamboy stated yes, the Board would need differently from the Staff, as to the exception criteria. The hardship being is that they cannot find the old material exactly in-kind.

Member Bienvenu clarified they wouldn't need to find the exception criteria to have been met in order to approve the replacement with the 5V because that is in Ms. Lamboy's opinion as close to in-kind as is needed.

Ms Lamboy stated as this gentleman stated there's actually a double type of crimp that's at the edge that would be problematic, and it wouldn't be the same in profile as you see with the other material that they have on the back building.

Member Bienvenu stated he was confused because he thought that staff was saying we do not find that the exception criteria have been met for the material as proposed which is the standing seam so, you should deny it. I thought that what was meant but we would find that the ordinance is met and could approve if we desire because that's an available in kind.

Ms. Lamboy stated based on the conversation this evening and the applicant pointing out that there's a double crimp at the edge that would impact visually the difference. She felt that information is revealing and that potentially it's more similar.

Mr. Moquino stated that it is correct the double crimp hold on the 5V, but the existing only has one, but it's the same material, so between the 3V and the 5V.

Member Bienvenu stated he was still confused.

Mr. Moquino stated if the applicant wanted to go with a standing seam then that would be a different type of material and if they go with a 5V that would be in-kind material with which the exception criteria would need to be met.

Member Biedscheid stated she thinks there's a consideration for color. The Applicant seems to think they can replicate the color correctly with the standing seam and there

might be a question about the 5V crimp color. They wouldn't want a bright red color on that roof.

### **PUBLIC HEARING**

Ms. Beninato, previously sworn, stated it seems like the definitions change depending on how you want the outcome to be done, this is the original roof and if it's supposed to be replaced in-kind that's what needs to be there. It can be custom done there may not be a warranty on it if it's custom done, so there is that option. Then the question is really whether a totally new material which is the 5V would really be in-kind either which is not because of the changes at the edges and this standing seam roof is also different but is more visually the same as the original roof. If you're not going to have them, go to the trouble and possibly expense of actually having a custom roof, put in because aesthetics are so important and roofing is so important to the status of a building then I would suggest that you actually allowed the standing roof.

### **BOARD DISCUSSION/ACTION:**

**MOTION:** In Case 2024-009479-HDRB, 710 Canyon Road, Biedscheid moved to approve the application with a standing seam roof, as requested by the applicant noting that the roof cannot be replaced in-kind due to the unavailability of the original 3V crimped turn plate roof and that the standing steam roof will most closely match the current pattern in terms of the spacing of the seams and the color that the 5V recommended by staff based on testimony presented tonight is not the closest match visually. Member Degnan seconded the motion.

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

To view the entire recording of this hearing, **see** the YouTube video at: <https://www.youtube.com/watch?v=Vk1h9FgJWNQ> (3:51:18 – 4:17:32)

I. **NEXT MEETING:** Tuesday, January 14, 2025

J. **ADJOURN**

**Motion:** Member Mather moved to adjourn the meeting at 9:58 pm. The motion was seconded by Member Degnan. (4:19:58)

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

Submitted by:

Mariah Kavanaugh, Planner Technician  

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City of Santa Fe Land Use Department

Approved by:

*Cecilia Rios*  

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Cecilia Rios, Chair  
  

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