City of Santa Fe
Governing Body
Findings of Fact and Conclusions of Law

Appeal # 2026-12776-APPL
Appellant's Name – Max Scoular and Sparrow Otero, LLC
Agents' Names – David Rasch and Max Scoular
Address – 515 Paseo de Peralta

THIS MATTER came before the City of Santa Fe Governing Body for a public hearing on September 30, 2026, to consider the appeal of Max Scoular and Sparrow Otero, LLC, ("Appellant") from the decision of the City's Historic Districts Review Board ("HDRB" or "Board") in Case # 2026-12126-HDRB. In a hearing May 26, 2026, the Board approved a project application to construct a 3,470-square-foot, two-story addition to a significant historic house in the Downtown and Eastside Historic District. The house is at 515 Paseo de Peralta, which adjoins the Appellants' property. The Appellant asked the Governing Body to reverse the Board's decision and disapprove the proposed addition.

I. RECORD ON APPEAL

The Record on Appeal included the following documents:

1. Memorandum dated September 25, 2026, for the September 30, 2026, Governing Body Meeting, from Frank Ruybalid, Assistant City Attorney;
2. Exhibit A, Verified Appeal Petition and Attachments, filed July 8, 2026 (amended Sept. 9, 2026);
3. Exhibit B, HDRB Findings of Fact and Conclusions of Law, approved September 22, 2026;
4. Exhibit C, Excerpts from Board Meeting Minutes of the May 26, 2026, Board meeting;
5. Exhibit D, Historic Preservation Staff Report, dated May 26, 2026;
6. Exhibit E, Streetscape Height Calculations
7. Exhibit F, Preliminary Zoning Review, dated March 2, 2026;
8. Exhibit G, Revised Application (DNCA Architects), dated May 21, 2026;
    (1) Cover Letter, dated May 21, 2026
    (2) Site Plans and Elevation Drawings
    (3) Roof, Windows & Materials Detail
9. Exhibit H, Revised Application Excerpts (DNCA Architects), dated March 16, 2026;
    (1) Cover Letter, dated March 16, 2026
    (2) Appendix: Historic Photographs
    (3) Window Assessment (RPA & Associates, LLC), dated January 19, 2026
    (4) Structural Engineer's Report, dated May 20, 2025
    (5) Historic Cultural Properties Inventory, dated June 30, 2025
10. Exhibit I, HDRB Subcommittee Discussion Summary, dated May 1, 2026; and
11. Exhibit J, City of Santa Fe Zoning Map (screenshot)

II. FINDINGS OF FACT

After conducting a public hearing, the Governing Body hereby FINDS, as follows:

A. Proceedings before the Governing Body Appeal

1. The Historic Preservation Staff reviewed the application and related materials and information submitted by the Applicants, Georges and Tina Feghali, for conformity with applicable SFCC requirements and provided the Board a written report of its findings ("Staff Report"), which evaluated the factors relevant to the application.
2. In the project application, the Applicants requested three exceptions to Santa Fe City Code 1987 ("SFCC"):
   (a) To SFCC Section 14-4.6(E)(2)(II)(a), for an addition to a primary façade of a significant structure;
   (b) To SFCC Section 14-4.6(E)(2)(II)(c), for an addition which exceeds 50 percent of the historic footprint of a significant structure; and
   (c) To SFCC Section 14-4.6(E)(1)(I), for removal of historic materials or alteration of architectural features and spaces that embody the status of a significant structure.
3. The HP Staff recommended to the Board that the project application be approved, and recommended a finding that the Applicant had conclusively demonstrated the exception criteria for the three exceptions sought by the Applicants.
4. The Staff recommended approval of the other elements of the project application for which no exceptions were required, as they comply with SFCC Sections 14-4.6(E), General Design Standards for all Historic Districts, and 14-4.6(G)(2), Downtown and Eastside Historic District standards.
5. At a public hearing May 26, 2026, the Board heard presentations by the Land Use Staff, and the project architects Devendra Contractor, AIA, and Rebecca Wood, AIA. The Board also heard sworn public comment from Elizabeth West, John Berkenfield, and the Appellant Max Scoular, who attended the hearing in person; and from Anthony Guida and Jordan Young, who participated by teleconference.
6. At the conclusion of the hearing the Board voted 5-0 to:
   a. Approve the three exceptions requested in the application;
   b. Grant a one-foot discretionary height allowance for a 24-foot structure where the streetscape height restriction is 23 feet, pursuant to SFCC Section 14-4.6(F)(2)(II) (f); and
   c. Approve all other elements of the project application for which no exceptions are required.
7. On September 22, 2026, the Board adopted written Findings of Fact and Conclusions of Law reflecting its decision regarding the project application.
8. As reflected by the Board's written decision, the Board's decision to approve the project was based on its findings that the Applicants had conclusively demonstrated that all exception criteria were met for the three exceptions: (1) for an addition to a primary façade of a significant structure; (2) for an addition which exceeds 50 percent of the historic footprint of a significant structure; and (c) for removal of historic materials or

alteration of architectural features and spaces that embody the status of a significant structure.

B. Appeal to Governing Body

9. On July 8, 2026, the Appellants timely filed a Verified Appeal Petition, asking the Governing Body to reverse the decision of the Board and deny the project. The Appellants submitted an Amended Appeal Petition September 9, 2026, to correct an erroneous pagination.
10. The Appellants provided notice of the Governing Body Hearing in accordance with the notice provisions of City Resolution # 2011-24(V)(E).
11. SFCC Section 14-2.1(B)(5)(IV)(b) sets forth the valid grounds for an appeal of a Board decision and provides that an appeal may be filed for the following reasons:
    a. To contest noncompliance of a final action with SFCC Chapter 14 or Sections 3-21-1 through 3-21-14 NMSA 1978;
    b. To contest the application of SFCC Chapter 14; or
    c. To appeal a decision lacking substantial evidence to support it.
12. In the Verified Appeal Petition, the Appellant argued that:
    a. The HDRB should have required the project Applicants to fulfill exception criteria for a two-story addition to a significant structure, which is restricted by SFCC Section 14-4.6(E)(2)(III)(a);
    b. The addition was measured improperly, was 29 feet high, not 24 feet high, and the HDRB should have required the Applicants to fulfill exception criteria for an exception to the streetscape height restriction set forth in SFCC Section 14-4.6(F) (2)(II)(a);
    c. The exception criteria for an addition exceeding 50 percent of the existing structure's historic footprint, prohibited by SFCC Section 14-4.6(E)(2)(II)(c), was not conclusively demonstrated; and
    d. The alterations to this significant, historic structure would cause it to lose its significant status, in disregard for the Historic Districts code, SFCC Section 14-4.6(E)(1)(I).
13. Under SFCC Section 14-2.2(B)(7), the Governing Body conducts a *de novo* hearing on an appeal of a final action of a Land Use Board.
14. A public hearing took place in the City Council Chambers September 30, 2026.
15. At the outset of the hearing, City Councilor Pat Feghali recused herself from voting on the case due to her familial relationship with the property owners at 515 Paseo de Peralta.
16. Mayor Michael Garcia presided, City Councilors Elizabeth Barrett, Paul Bustamante, Amanda Chavez and Lee Garcia were present, and these five members of the Governing Body decided the appeal. Councilor Alma Castro viewed the hearing by a remote medium but did not vote. Councilor Pilar Faulkner was absent.
17. The Appellant appeared in person, and the Board heard presentations and closing statements by the City Attorney's Office; the Appellant Tom Scoular and his agent David Rasch; property owner Georges Feghali, and architects Rebecca Wood, AIA, and Devendra Contractor, AIA, DNCA Architects, Santa Fe.
18. The Governing Body also heard the sworn testimony of local resident Stefanie Beninato, who testified by a remote medium.

19. Members of the Governing Body directed questions to and received additional information from Ms. Wood, Mr. Contractor, Mr. Rasch, Assistant City Attorney Frank Ruybalid and City of Santa Fe Land Use Director Heather Lamboy.

III. CONCLUSIONS OF LAW

Under the circumstances and based upon the record and the evidence and testimony submitted at the hearing, the Governing Body CONCLUDES as follows:

1. The Governing Body has the power and authority to hear and decide the matter that is the subject of the Appeal.
2. Per SFCC Section 14-2.1(B)(5)(IV)(d)(2), the Historic Districts Review Board's decision at the May 26, 2026, hearing on this case became a final action, subject to appeal, on June 3, 2026, which was the 35th day after May 26, 2026.
3. The Appellants timely appealed the Board's decision to the Governing Body and complied with the procedural requirements set forth in the Santa Fe City Code.
4. The addition proposed by the property owners did not comply with the Historic Districts code in the following respects:
    a. The proposed addition would enlarge the footprint of the 2,776-square-foot house, which has a significant status, by 2,254 square feet, which is more than 50 percent of the historic footprint, prohibited by SFCC Section 14-4.6(E)(2)(II)(c);
    b. The proposed addition would connect to a primary façade of a significant structure, prohibited by SFCC Section 14-4.6(E)(2)(II)(a-b), which requires additions to be set back a minimum of 10 feet from the primary façade; and
    c. The proposed reconstruction of a stairway on the south façade would result in the removal of historic materials and alteration of architectural features and spaces that embody the status of a significant structure, which is prohibited by SFCC Section 14-4.6(E)(1)(I).
5. The Appellants Max Scoular and Sparrow Otero, LLC, did not challenge the HDRB's approval of the modifications to the south façade of the structure (§ 4(c), above). The Appeal addressed only the addition to the north primary façade of the structure (§§ 4(a-b), above).
6. For approval of the project, the Applicant property owners were required to conclusively demonstrate the exception criteria to the General Design Standards set forth in SFCC Section 14-4.6(E)(2)(II) for each of two exceptions, described in §§ 4(a-b), above. The exception criteria are that the alterations to the historic structure:
    a. Do not damage the character of the district;
    b. Are required to prevent a hardship to the applicant or an injury to the public welfare; and
    c. Strengthen the unique heterogeneous character of the City by providing a full range of design options to ensure that residents can continue to reside within the historic districts.
7. The Applicants have conclusively demonstrated the exception criteria set forth in SFCC Section 14-4.6(D)(2)(II)(a-c), for an exception to build an addition exceeding 50 percent

of the historic footprint of a significant building. The facts supporting the exception criteria are:

(a) The existing single-family structure is the only living unit on a .344-acre lot, in a neighborhood where the density is 21 units per acre, meaning that the lot is underutilized;

(b) The garage, shed and retaining wall between the two buildings are structurally unsound, approved for demolition, and the addition will replace the garage and shed, infill the area between the two buildings and replace the defective retaining wall; and

(c) The additional living space will allow the owners to age in place, and the addition will contain an accessory dwelling unit, consistent with the medium density of the neighborhood.

8. The Applicants have conclusively demonstrated the exception criteria set forth in SFCC Section 14-4.6(D)(2)(II)(a-c), for an exception to build an addition which connects to a primary façade, not set back a minimum of 10 feet from the primary façade. The facts supporting the exception criteria are:

(a) The addition is at the rear of the structure, on the side opposite the street, it replaces non-contributing units of the residence, and most of the original north façade will remain intact;

(b) The structural integrity of the existing shed, garage and rear retaining wall is compromised, and are unusable to the property owners; and

(c) Demolition has been approved by the HDRB for the structures to the north of the residence, and for them to be replaced by an addition that does not connect to the house would limit the owners' use of the addition.

9. The height of the addition was properly measured by the Land Use Staff at 24 feet, per SFCC Section 14-4.6(F)(2)(III)(a), and the excess over the 23-foot height restriction is permissible under SFCC Section 14-4.6(F)(2)(II)(f). The lot at 515 Paseo de Peralta is a sloping site where the difference in the natural grade along the structure's foundation exceeds two feet, and the Applicants have demonstrated that the increase in height will be constructed only in the form of building setbacks from the street.
10. This Appeal should be denied because the Applicant property owners:

(a) Have conclusively demonstrated the criteria for the two exceptions to Historic District standards approved by the Historic District Review Board that were the subject of the Appellants' Verified Appeal Petition; and

(b) The approved height of the proposed addition complies with the Historic Districts Code.

IV. VOTE AT THE HEARING

1. Councilor Amanda Chavez made a motion to DENY the appeal with respect to the first exception, to build an **addition exceeding 50 percent of the historic footprint** of a significant building, and to uphold the HDRB's final action, finding that the Applicant property owners have conclusively demonstrated the exception criteria, and adopting facts in support of the criteria. Councilor Paul Bustamante seconded the motion.
2. The Governing Body voted four (4) in the affirmative and one (1) in the negative on Councilor Chavez' first motion and the motion passed.

3. The following members of the Governing Body voted **yes** on the first motion to deny the appeal and to uphold the HDRB's final action: Councilors Amanda Chavez, Elizabeth Barrett, Lee Garcia and Paul Bustamante. Mayor Michael Garcia voted **no** on the first motion.
4. Councilor Alma Castro, by a remote medium, voted on the first motion, but withdrew her vote over a concern that there was no record of her participation.
5. Councilor Amanda Chavez made a second motion to DENY the appeal with respect to the second exception, to build an **addition on the primary façade** of a significant building, and to uphold the HDRB's final action, finding that the Applicant property owners have conclusively demonstrated the exception criteria, and adopting facts in support of the criteria. Councilor Elizabeth Barrett seconded the motion.
6. The Governing Body voted three (3) in the affirmative and two (2) in the negative on Councilor Chavez' second motion and the motion passed.
7. The following members of the Governing Body voted **yes** on the second motion to deny the appeal and to uphold the HDRB's final action: Councilors Amanda Chavez, Elizabeth Barrett and Paul Bustamante. Mayor Michael Garcia and Councilor Lee Garcia voted **no** on the second motion.
8. Councilor Amanda Chavez made a third motion to DENY the appeal with respect to the challenge to the **excess height** of the proposed structure, and to uphold the HDRB's final action, because the project application is controlled by SFCC Section 14-4.6(F)(2)(II)(f), which under specific circumstances permits an allowance over the streetscape height restriction on a sloping site. Councilor Paul Bustamante seconded the motion.
9. The Governing Body voted four (4) in the affirmative and one (1) in the negative on Councilor Chavez' third motion and the motion passed.
10. The following members of the Governing Body voted **yes** on the third motion to deny the appeal and to uphold the HDRB's final action: Councilors Amanda Chavez, Elizabeth Barrett, Lee Garcia and Paul Bustamante. Mayor Michael Garcia voted **no** on the third motion.
11. Councilor Alma Castro did not vote on the second or third motions.
12. Councilor Pat Feghali had recused herself and did not participate in the decision.
13. Pursuant to Santa Fe City Charter, sec. 5.01, Mayor Michael Garcia only votes on an issue before the governing body in the case of a tie or when the vote will provide the necessary number of votes required by law for taking action. The Mayor voted because five is the necessary number of votes required by law for taking action.

WHEREFORE, IT IS ORDERED ON THE 10th DAY OF NOVEMBER, 2026, BY THE GOVERNING BODY OF THE CITY OF SANTA FE: Considering the foregoing findings and conclusions, the Governing Body DENIES the appeal, upholds the Historic District Review Board's decision, and approves the application.

_____ _____
Michael J. Garcia, Mayor Date

FILED WITH THE CITY CLERK:

Geralyn Cardenas, City Clerk _____ Date _____

APPROVED AS TO FORM:

Frank Ruybalid _____ Date _____
Assistant City Attorney