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February 25, 2020

To the Historic District Review Board:

We'd like to offer you some background and concerns on the controversial signs and murals on Old Pecos Trail regarding the property known as 509 Camino Lejo owned by Guthrie Miller ("Miller property"). We will use the terms murals/sign to include all of the visual presentations affixed to the Miller property wall and "wall sign" specifically to the one separate bounded sign "attached to and erected parallel to the face of the...wall."

In 2016 a complaint to the City Attorney was made that a standalone wall sign (billboard type) was put up on the Miller property without a permit. At the time we believe that the wall sign was on a city right-of-way. The City Attorney's office through Zachary Shandler instructed the property owner, Guthrie Miller, to remove the sign, which he did. He then applied for a permit and received the right to erect **for one year** a 16 square foot temporary sign (within City Code 14-8.10(F)(3)). This temporary sign permit (#16-3078) authorized the "political/campaign" sign until January 5, 2018, at which time the sign should have been dismantled. It was not and has continued with various messages up to the present.

Miller signed a statement on the sign permit "I am to comply with all conditions indicated on the review sheets." He also affirmed, "...I hereby agree to abide with all the laws of the City of Santa Fe as well as with all the conditions stated above." This would have included his removing the sign as of 1/5/18, which was not done, and his applying for a permit for the existing murals/sign, which he did not do in advance of their being erected. [Note that erecting a sign is defined as follows (*italics added*): "To build, construct, attach, hang, place, suspend or affix and includes the *painting* of wall signs."]

To our knowledge and according to an email from assistant city attorney Sally Paez no extension or additional permit was applied for and the murals and original wall sign have remained.

We suggest the murals/sign now violate numerous city ordinances for the historic review district – even more than those cited by Lisa Gavioli Roach, Historic Preservation Division Manager. We believe the appeal should be denied based solely on these violations of the City Code.

Further we suggest it would be a bad precedent for the Board to provide retroactive approval for these murals/signs. It would initiate the "it's easier to ask for forgiveness rather than

permission” approach, which could lead to many more signs or murals of almost any content sprouting throughout the Historic District, creating chaos out of what has been until now a very disciplined process.

Here are the violations of the murals/sign based on the City Code as we read it:⁺

1. As noted above, the wall sign’s permit expired on January 5, 2018, and no renewal was requested. As noted in 14-5.2(D)(10) murals and signs require applications be approved (or disapproved) in advance by the Land Use Department and a permit be issued before being erected.
2. As mentioned in the letter by Ms. Roach, the material used is not permitted by Santa Fe City Code Sections 14-5.2(A)(1)(c) and 14-5.2(F)(2)(a)(i-ii) & (g).
3. The Historic preservation district sign code [14-8.10(H)(4)] prohibits signs “painted on walls. No sign shall be displayed from any fence or wall or open *lot* unless it is deemed necessary to the conduct of a *business* by the division, in which event a waiver of regulations can be allowed.” Further all signs require that they advertise “a bona fide business conducted in or on the premises...” [14-8.10(H)(9)] The Miller murals/sign advertise no such business.
4. Wall signs (including murals, which are painted signs) are restricted in the Historic District to a maximum allowable size of 15% of the façade on which it is placed and cannot exceed 20 square feet. [14-8.10(C)(26)] The Miller property murals measure approximately 337 square feet. Along Old Pecos Trail the murals/sign (approximately 236 square feet) exceed 24% of the wall portion.
5. Within the Historic district, only walls under portales may have mural decorations. These murals/sign are on a wall without a portale. [City Code section 14.5-2(E)(1)(b)]
6. To maintain the proper Santa Fe style, “publicly visible portions of the building and [adjoining] walls shall be of one of the old Santa Fe styles” [City Code section 14.5-2(E)(2)(e)]. Further, in the Code:

Color and design of signs are to be within the general tenor of the Historic District as follows [14-8.10(C)(11)]: The effort of design of signs in the historic district is to keep a moderate, attractive and compatible styling so as not to cause erratic or disturbing distractions from the architectural beauties of the *city*...

We do not think these murals/sign meet this goal.

⁺ In the City Code quotes we have removed the hyperlinks.

7. City Code 14-5.2(G)(3)(a)(i) states, "It is intended that exterior *wall* materials express a monolithic and massive appearance. Stucco, brick, slump block, and stone are allowed. Materials such as aluminum siding, metal panels, mirrored glass, and unstuccoed masonry *units* or cement are not allowed. Wood siding is not allowed for an entire *wall*..." The material used for the murals do not conform to this provision.

8. The wall and fence composition is repeated in City Code 14-5.2(G)(3)(c):

Walls and fences visible from the *street* shall be built of brick, *adobe*, rock, masonry, wood, coyote fencing, wrought iron, slump block, or similar materials. *Walls* of unstuccoed concrete block or unstuccoed concrete, chain link, metal wire, or similar materials are prohibited, except where the *wall* or fence is not visible from the *street*...

The Miller wall is clearly visible from the street.

9. Though not specific to the Historic District alone, it does not appear that these murals/sign are "political signs" based on the generic City Code, as "political signs" are related to "candidates" or "campaign materials" as defined in city Code 9-3.3.

10. All signs that are intended to be read from off the premises must get a building permit, per City Code 14-8.10(A)(2) and 14-8.10(B)(2), "*Building* permits shall be secured for all signs, including signs in the historic districts, except where stated otherwise. (Ord. No. 2002-37 § 98)". Again, Miller failed to obtain the requisite permits.

11. Signs cannot have more than three colors and two lettering styles (14-8.10(B)(4)). These murals/sign have at least six (6) colors and multiple lettering styles.

12. "Prohibited Signs" are outlined: "The advertising on any sign shall pertain only to a *business*, industry, or pursuit conducted on or within the *premises* on which such sign is erected or maintained." [14-8.10(C)(1)]. The murals/sign are not advertisements and are not related to a business, industry or pursuit. Hence they appear to be "prohibited."

13. Further, in the same section of the Code [14-8.10(C)(1)(a)], "no more than two freestanding signs shall be permitted on any lot." There are eight (8) murals/sign on Miller's lot.

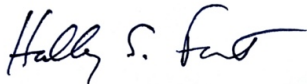
14. In the Historic District the murals/signs on the Miller property do not conform to any of the exempted signs listed in 14-8.10(C)(18).

15. Miller did not obtain a permit as required under 14-8.10(C)(19). He also knew, or should have known, he needed a permit, as he had already had his notice of requiring a permit with his prior temporary sign permit. He has apparently allowed or purposely permitted

murals/sign which we believe are not permitted and are not conforming with the City Code.

Based on the foregoing, we request the Board deny the appeal and order the removal of the murals and sign.*

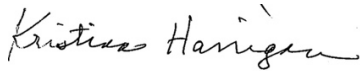
Sincerely,



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* This memo was originally prepared by Halley Faust and Brian Yapko. The signatories agree with these statements; most live in the Historic Review District.

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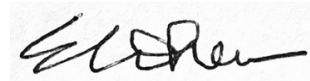
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