



County of Los Alamos

Los Alamos, NM 87544
www.losalamosnm.us

Agenda - Final County Council - Special Session

Randall Ryti, Council Chair; James Robinson, Vice-Chair; Denise Derkacs; David Izraelevitz; David Reagor; Sara Scott, and Sean Williams, Councilors

Friday, December 3, 2021

1:00 PM

Due to COVID-19 concerns, meeting will be
conducted remotely.

<https://us06web.zoom.us/j/81318107569>

Members of the Public can, also, join this meeting session to make public comment via Zoom by pasting into their browser the following:

<https://us06web.zoom.us/j/81318107569> once the session has started.

or by Telephone:

US: +1 720 707 2699 or +1 253 215 8782 or +1 346 248 7799 or +1 646 558 8656 or
+1 301 715 8592 or +1 312 626 6799

Webinar ID: 813 1810 7569

1. OPENING/ROLL CALL
2. APPROVAL OF AGENDA
3. HEARING

- A. [15157-21](#) Hearing of NM Innovation Triangle LLC's objection to "Incorporated County of Los Alamos Resolution No. 21-30, A Resolution Declaring the Hotel Structure, Commonly Referred to as "The Hilltop House" Located at 400 Trinity Drive, Los Alamos, New Mexico, A Menace to the Public Comfort, Health, Peace, and Safety and Ordering Removal of the Hilltop House, and Associated Ruins, Rubbish, Wreckage, and Debris from Los Alamos County" as provided for NMSA § 3-18-5(D).

Presenters: County Council - Special Session

Attachments: [A - Los Alamos County Resolution No. 21-30.pdf](#)
[B - Objection and Request for Hearing Res. 21-30.pdf](#)
[C - NMSA § 3-18.pdf](#)

- B. [15159-21](#) Closed Session for Deliberations of a Public Body in Connection with an Administrative Adjudicatory Proceeding Pursuant to NMSA §

10-51-1 (H) (3)

Presenters: County Council - Special Session

C. [15161-21](#) Possible Final Action on this Proceeding.

Presenters: County Council - Special Session

4. ADJOURNMENT

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the County Human Resources Division at 662-8040 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact the personnel in the Office of the County Manager at 663-1750 if a summary or other type of accessible format is needed.



County of Los Alamos

Staff Report

December 03, 2021

Los Alamos, NM 87544
www.losalamosnm.us

Agenda No.: A.

Index (Council Goals):

Presenters: County Council - Special Session

Legislative File: 15157-21

Title

Hearing of NM Innovation Triangle LLC's objection to "Incorporated County of Los Alamos Resolution No. 21-30, A Resolution Declaring the Hotel Structure, Commonly Referred to as "The Hilltop House" Located at 400 Trinity Drive, Los Alamos, New Mexico, A Menace to the Public Comfort, Health, Peace, and Safety and Ordering Removal of the Hilltop House, and Associated Ruins, Rubbish, Wreckage, and Debris from Los Alamos County" as provided for NMSA § 3-18-5(D).

Attachments

A - Los Alamos County Resolution No. 21-30
B - Objection and Request for Hearing Res. 21-30
C - NMSA § 3-18-5

INCORPORATED COUNTY OF LOS ALAMOS RESOLUTION NO. 21-30

A RESOLUTION DECLARING THE HOTEL STRUCTURE, COMMONLY REFERRED TO AS “THE HILLTOP HOUSE,” LOCATED AT 400 TRINITY DRIVE, LOS ALAMOS, NEW MEXICO, A MENACE TO THE PUBLIC COMFORT, HEALTH, PEACE, AND SAFETY AND ORDERING REMOVAL OF THE HILLTOP HOUSE, AND ASSOCIATED RUINS, RUBBISH, WRECKAGE, AND DEBRIS FROM LOS ALAMOS COUNTY.

WHEREAS, pursuant to N.M. Const. Art. X, § 5 the Incorporated County of Los Alamos (“County”) is vested with all powers granted to municipalities including the powers granted by NMSA § 3-18-5 to address dangerous buildings and debris; and

WHEREAS, the Fire Marshal for the Incorporated County of Los Alamos, New Mexico has found and declared the structure, hereafter referred to as the Hilltop House, located at 400 Trinity Drive, Los Alamos, NM, and identified as the “400 Trinity Drive Building” on a survey plat prepared for New Mexico Innovation Triangle LLC and recorded in the Real Estate Records of the County Clerk on April 13, 2020 in Book 188, Page 634 as Document No. 242749 to be a “clear and inimical threat to human, life, safety, and health.” (See Fire Marshall’s October 18, 2021 order attached to this Resolution as Exhibit “A.”); and

WHEREAS, the Hilltop House located on the Parcel is so ruined, damaged and dilapidated from a lack of regular maintenance and damage that the structure is now unsafe and a threat to the public’s health, safety and welfare; and

WHEREAS, no timely action has been taken by the owner, New Mexico Innovation Triangle, LLC, to remove the Hilltop House, its ruins, rubbish, wreckage and debris from the county; and

WHEREAS a public hearing was held by the Council of the Incorporated County of Los Alamos after notice as required by law.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Incorporated County of Los Alamos that:

Section 1. The determination of the Fire Marshal of the Incorporated County of Los Alamos, New Mexico is that the Hilltop House is so ruined, damaged, and dilapidated, and the premises so covered with ruin, rubbish, wreckage, or debris as to be a menace to public comfort, health, peace and safety. See Exhibit “A.”

Section 2. The Council of the Incorporated County of Los Alamos, New Mexico (“Council”) hereby declares the Hilltop House located on the Parcel a menace to the public comfort, health, peace and safety.

Section 3. Council hereby orders the Hilltop House, its ruins, rubbish, wreckage, and debris located on the Parcel removed from the County of Los Alamos.

Section 4. Council orders **New Mexico Innovation Triangle LLC** to:

(A) Commence removing the Hilltop House, its ruins, rubbish, wreckage and debris within ten (10) days after service of a copy of this Resolution or of the posting and publishing of a copy of this Resolution, and continue to work diligently and substantively in order to fully complete

removal of the Hilltop House, its ruins, rubbish, wreckage and debris from Los Alamos County no later than March 30, 2022, leaving the parcel in a clean, level, and safe condition suitable for further occupancy or construction with all excavations filled; or

(B) Within ten (10) days after service of a copy of this Resolution or of the posting and publishing of a copy of this Resolution, file a written objection to the findings stated herein with the County Clerk asking for a hearing before the County Council.

Section 5. If **New Mexico Innovation Triangle, LLC** fails to commence removing the Hilltop House, its, ruins, rubbish, wreckage and debris as prescribed in this Resolution within:

(A) Ten (10) days of being served a copy of this Resolution or of the posting and publishing of this Resolution; or

(B) Within five (5) days of the determination by Council that any timely filed written objection is not well taken, and that this Resolution shall be enforced; or

(C) After the District Court enters a judgment sustaining the determination of the County Council;

Then, the County may remove the Hilltop House, and its ruin, rubbish, wreckage, and debris from Los Alamos County at the cost and expense of the owner. The reasonable cost of the removal incurred by the County shall constitute a lien against the building, structure, ruin, rubbish, wreckage or debris so removed and against the lot or parcel of land from which it was removed. The lien shall be foreclosed in the manner provided in Sections 3-36-1 through 3-36-6 NMSA 1978.

Section 6. In addition to **New Mexico Innovation Triangle LLC** any party holding a legal or equitable interest or having a recorded security interest in the property shall have standing to file objections in the same manner provided to **New Mexico Innovation Triangle LLC** in Section 4(B) of this resolution. **Enterprise Bank & Trust**, and **Encompass Studio, LLC** do have recorded security interests in the Parcel that may be extinguished if a County lien is imposed pursuant to NMSA § 3-18-5 and foreclosed in the manner provided in Sections 3-36-1 through 3-36-6 NMSA 1978.

Section 7. **Enterprise Bank & Trust** and **Encompass Studio LLC** shall be served with a copy of this resolution in the same manner as **New Mexico Innovation Triangle LLC**.

Section 8. **Enterprise Bank & Trust** and **Encompass Studio LLC** are hereby given notice that within ten (10) days after service of a copy of this Resolution or of the posting and publishing of a copy of this Resolution, each may file a written objection to the findings stated herein with the County Clerk asking for a hearing before the County Council.

PASSED AND ADOPTED this 29th day of October 2021.

**COUNCIL OF THE INCORPORATED
COUNTY OF LOS ALAMOS**

Randall T. Ryt

**Randall T. Ryt,
Council Chair**

ATTEST:

Naomi D. Maestas

**Naomi D. Maestas,
Los Alamos County Clerk**





LOS ALAMOS

Los Alamos Fire Department



NOTICE and ORDER OF THE FIRE MARSHAL OF THE INCORPORATED COUNTY OF LOS ALAMOS, NM

DECLARATION OF UNSAFE CONDITIONS

and

NOTICE OF FIRE CODE VIOLATIONS

at

400 TRINITY DRIVE

LOS ALAMOS, NM 87544

(COMMONLY REFERRED TO AS "THE HILLTOP HOUSE")

that present a

**CLEAR AND INIMICAL THREAT TO HUMAN LIFE,
SAFETY, AND HEALTH**

COUNTY COUNCIL

Randall T. Ryti
Council Chair

James N. Robinson
Council Vice-Chair

COUNCILORS

Denise Derkacs
David Izraelevitz
David Reagor
Sara Scott

Sean Jameson Williams

COUNTY MANAGER

Steven Lynne

FIRE CHIEF

Troy Hughes

DEPUTY FIRE CHIEF

Steven Dawald

COMES NOW, the Fire Marshal, pursuant to Article II, Chapter 22 of the Code of Ordinances of the Incorporated County of Los Alamos, and issues this order and notice declaring that unsafe conditions exist at 400 Trinity Drive, NM 87547 ("Property"), and the states as follows:

1.

Pursuant to the International Fire Code (2021) as adopted in Article II, Chapter 22 of the Code of Ordinances ("IFC" or "Fire Code"), section [A] 112.2 corrections and abatement of Fire Code violations are the responsibility of the "owner" and "owner's" authorized agent.

We Walk With P.R.I.D.E.

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999 Central Avenue, Suite 200

Los Alamos, NM 87544

P 505.662.8301 F 505.662.8302

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EXHIBIT "A"

2.

Pursuant to Chapter 2 of the Fire Code an "Owner" is defined as "Any, person, agent, operator, entity, firm or corporation having any legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding an interest or title to the property..."

3.

A search of the real estate records maintained by the County Clerk as well as other records identifies the following are owners and/or authorized agents of the owners of the Property responsible for the corrections and abatement of the Fire Code violations found and described herein.

New Mexico Innovation Triangle, LLC
4001 Indian School Rd., NE
Albuquerque, NM 87110

John Rizzo, an authorized agent of
New Mexico Innovation Triangle, LLC
4001 Indian School Rd, NE
Albuquerque, NM 87110

Larry Hawker, an authorized agent of
New Mexico Innovation Triangle, LLC
4001 Indian School Rd., NE
Albuquerque, NM 87110

John Mahoney, an authorized agent of
New Mexico Innovation Triangle, LLC
4001 Indian School Rd., NE
Albuquerque, NM 87110

Enterprise Bank & Trust
c/o Corporation Service Company

MC-CSC1
726 E. Michigan Dr.
Suite 101
Hobbs, NM 88240

Greg Leyendeker, President of
Enterprise Bank and Trust,
an authorized agent of Enterprise Bank and Trust
320 Gold SE, Suite 100
Albuquerque, NM 87102

Liddie Martinez, Los Alamos Region President
and Director of Community Engagement, Enterprise Bank & Trust
an authorized agent of Enterprise Bank and Trust,
1200 Trinity Drive
Los Alamos, NM 87544

Encompass Studio, LLC
241 W Charleston, STE 155
Las Vegas, NV 89102

Barrett Powley, an authorized agent of
Encompass Studio, LLC
241 W Charleston, STE 155
Las Vegas, NV 89102

4.

On September 29, 2021, the hotel structure on the Property was inspected pursuant to an inspection order issued by the First District Court of New Mexico in *In the Matter of an Inspection Order for the Inspection of Commercial Vacant Property and Two Accessory Building at 400 Trinity Drive, Los Alamos, NM*, Cause No. D-132-SW-2021-00001.

5.

Pursuant to the International Fire Code (2021) as adopted in Article II, Chapter 22 of the Code of Ordinances ("IFC"), Section [A] 114.4 a report on the unsafe conditions found at the Property on September 29, 2021, has been filed in the records of the Los Alamos Fire Department. ("Report") A copy of the Report is attached as Attachment "A" to this order.

6.

Based on the inspection of the Property, the Fire Marshal finds that the Property violates the following Sections of the IFC:

A. IFC2021P1 - 311.2.3 - Fire separation. - Fire-resistance-rated partitions, fire barriers and fire walls separating vacant tenant spaces from the remainder of the building shall be

maintained. Openings, joints and penetrations in fire-resistance-rated assemblies shall be protected in accordance with Chapter 7 of the IFC.

B. IFC2021P1 - 311.4 - Removal of hazardous materials. - Persons owning or having charge or control of a vacant building containing hazardous materials regulated by Chapter 50 of the IFC shall comply with the facility closure requirements of Section 5001.6 for the underground tanks beneath the Property.

C. IFC2021P1 - 311.3 - Removal of combustibles. - Persons owning, or in charge or control of, a vacant building or portion thereof, shall remove therefrom all accumulations of combustible materials, flammable or combustible waste or rubbish and shall securely lock or otherwise secure doors, windows and other openings to prevent entry by unauthorized persons. The premises shall be maintained clear of waste or hazardous materials.

D. IFC2021P1 - 311.2.1 - Security. - Exterior and interior openings open to other tenants or unauthorized persons shall be boarded, locked, blocked or otherwise protected to prevent entry by unauthorized individuals.

E. IFC2021P1 - 114.1.1 - Unsafe conditions. - Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress, inadequate light and ventilation, or that constitute a fire hazard, are otherwise dangerous to human life or the public welfare, or involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the fire code official deems necessary and as provided for in this section. A vacant structure that is not secured against unauthorized entry shall be deemed unsafe.

F. IFC2021P1 - 114.1.2 - Structural hazards. - Where an apparent structural hazard is caused by the faulty installation, operation, or malfunction of any of the items or devices governed by this code, the fire code official shall immediately notify the building code official in accordance with Section 114.1.

G. IFC2021P1 - 506.2 - Key box maintenance. - The operator of the building shall immediately notify the fire code official and provide the new key where a lock is changed or rekeyed. The key to such lock shall be secured in the key box.

H. IFC 311.2.2 Fire protection systems are to remain in an operable condition at all times. Exceptions are allowed for vacant premises to permit systems to be placed out of service where here the premises have been cleared of all combustible material and debris of all combustibles which is not the case here.

NOTE: The above is based solely on the observations made during the September 29, 2021 inspection of the hotel structure and does not constitute a list of all IFC violations that may exist on the Property. This is only a list of what was discovered on September 29, 2021. Further evidence may reveal other IFC violations as well as other life and safety violations contained in other life safety codes.

7.

The factual basis, descriptions, and explanations of the violations of the IFC identified above are contained in the Report in Attachment A and are adopted here as if stated here. In essence, the inspection reveals a hotel structure that remains unsecured where curious and/or misguided teenagers and persons without housing have entered the structure and its many nooks and crannies throughout including the higher floors. The inspection reveals a structure that is difficult to secure from entry due to the significant degradation of the windows, doors, and other entrance points due to failure to maintain the building. The inspection reveals an enormous amount of combustible material inside a structure that has no working fire suppression or fire alert system. The inspection revealed an enormous amount of mold due to moisture entering the building from a degraded roof that would likely collapse quickly in a fire. The structure contains a large vertical shaft from the ground to the roof that creates a natural chimney allowing a fire to travel quickly to the higher floors and the roof. The floors and walls throughout the structure show a profound level of degradation and disrepair. The walls and floors contain a patchwork of large holes that run vertically and horizontally throughout creating an almost "Swiss Cheese effect" throughout the structure.

Given the conditions outlined above and more particularly in the Report, the entire hotel structure is a rapid burning fuel package. A fire in this hotel would rapidly engulf the entire structure. This rapid burning fuel package would most likely produce flying embers that could precipitate other adjacent fires, a wildland fire event, and respiratory emergencies for anyone in

proximity. Any person in one of the higher floors or sequestered away in one of the many nooks and crannies would likely perish in such a fire. Finally, given the catastrophic fire threat, the hotel structure poses, firefighters would not enter this structure during a fire even to save human life because of the extreme threat this would pose to the life of the firefighter because of the very high potential for structural collapse.

8.

Based on the above, the Fire Marshal finds and declares that unsafe conditions exist at the Property, and the hotel structure itself constitutes a clear and inimical threat to human life, safety, and health requiring immediate abatement.

9.

Based on the clear and inimical threat to human life, safety, and health posed by this Property, and pursuant to [A] 114.1 and [A] 114.7 Summary Abatement is mandated, and the Owners are IMMEDIATELY ORDERED TO:

A. Erect and maintain a secure fence around the complete perimeter of all structures located on the Property that is at least 8 feet in height placed not less than 10 feet away from any existing structure on the Property, and board-up all doors to include frames to a minimum of the first floor and until the Fire Marshal determines that the Property is no longer presents a clear and inimical threat to human life, safety, and health, or have a security guard continuously present on the Property 24 hours a day until the Fire Marshal determines that the Property no longer presents a clear and inimical threat to human life, safety, and health.

B. Contact the New Mexico Petroleum Storage Tank Bureau (NMED) at (505) 699-4006 to bring the underground petroleum storage tanks present on the property into compliance with all applicable state laws, rules, and regulations.

C. Commence any and all construction, alterations, repairs, or removals necessary to complete abatement of existing fire code violations in the hotel structure by March 30, 2022; or

D. Commence and complete a total demolition of the hotel structure by March 30, 2022.

E. Provide the Fire Marshal proof that substantial and immediate action is taking place as follows:

1. The owner(s) shall provide proof to the Fire Marshal by November 24, 2021, that all necessary permits for the construction, alterations, repairs, or removals necessary to complete the abatement of existing fire code violations in the hotel structure have been obtained; or

2. The owners shall provide proof to the Fire Marshal by November 24, 2021, that all permits necessary for total demolition of the hotel structure have been obtained.

10.

Based on the observations made during the September 29, 2021 inspection, the apparent required repairs and improvements to the hotel structure include, but are not limited to:

1. Securing the building from entry through repairing all entrance points.
2. Removing all combustible materials from the building.
3. Removal of all hazardous materials from the property.
4. Bringing the underground storage tanks into compliance with all applicable local, state, and federal laws, rules, and regulations.
5. Restore and repair the existing fire alarm system.
6. Upgrade the fire protection system to a fire sprinkler system due to the size of the hotel structure exceeding 12,000 sq. ft.
7. Repair all fire separation and assemblies.
8. Mitigation of mold.
9. Evaluation of the structural integrity of the building in order to make all necessary repairs to make the structure safe for future use, and safe operations by firefighters in case of fire in the structure.

NOTE: The above is based solely on the observations made during the September 29, 2021 inspection, and does not constitute a list of all repairs that may be required if other violations are found during additional inspections, or additional repairs that may be required by other codes such as the Building Code. Remedying these deficiencies will require additional inspections, plans, and approval as prescribed through the established permitting process as outlined in the County Building and Fires Codes. Additional reports, code analysis, and hiring of design professionals necessary for

the permitting process as well as all other costs of remedying this matter will be at the cost of the owners and their authorized agents.

11.

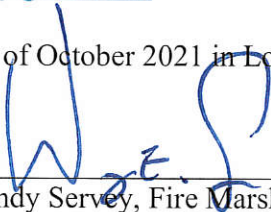
The Hilltop Spa and the convenience store (gas station) located on the Property were not inspected on September 29, 2021, because no keys were available, and no easy entrance was available without causing damage that would only increase the security issues at this Property. However, all evidence points to similar IFC violations likely existing in these structures. It would behoove the owners to address any IFC violations in these structures as additional inspections will occur given the overall disrepair of the Property and the danger this Property presents to the community.

12.

Pursuant to the Fire Code, each owner receiving this notice is required to declare immediately to the Fire Marshal their acceptance or rejection of the terms of this Order. Each owner's declaration regarding their acceptance or rejection of the terms of this Order shall immediately be sent in writing, preferably by electronic mail, to:

Wendy Servey, Fire Marshal
Los Alamos County Fire Department
999 Central Avenue, Ste. 200
Los Alamos, NM 87544
(505) 695-3643
wendy.servey@lacnm.us

SO ORDERED AND DECLARED this 18th day of October 2021 in Los Alamos, NM.



Wendy Servey, Fire Marshal
Los Alamos Fire Department
Incorporated County of Los Alamos

CERTIFICATE OF SERVICE

I, Wendy Servey as Fire Marshal for the Incorporated County of Los Alamos hereby certify that on this 18th day of October 2021 this ordered has been served on each owner by sending a copy of this order via CERTIFIED U.S. MAIL/RETURN RECEIPT REQUESTED to the following:

CERTIFIED MAIL NO: 70182290000789857092

New Mexico Innovation Triangle, LLC
c/o John Mahoney, as registered agent of service,
4001 Indian School Rd., NE
Albuquerque, NM 87110

CERTIFIED MAIL NO: 70182290000189857085

John Rizzo, an authorized agent of
New Mexico Innovation Triangle, LLC
4001 Indian School Rd, NE
Albuquerque, NM 87110

CERTIFIED MAIL NO: 70182290000189857078

Larry Hawker, an authorized agent of
New Mexico Innovation Triangle, LLC
4001 Indian School Rd., NE
Albuquerque, NM 87110

CERTIFIED MAIL NO: 70182290000189857061

John Mahoney, an authorized agent of
New Mexico Innovation Triangle, LLC
4001 Indian School Rd., NE
Albuquerque, NM 87110

CERTIFIED MAIL NO: 70182290000189857054

Enterprise Bank & Trust
c/o Corporation Service Company
MC-CSC1
726 E. Michigan Dr.
Suite 101
Hobbs, NM 88240

CERTIFIED MAIL NO: 70182290000189857047

Greg Leyendeker, President of
Enterprise Bank and Trust,
an authorized agent of Enterprise Bank and Trust,
320 Gold SE, Suite 100
Albuquerque, NM 87102

CERTIFIED MAIL NO: 70182290000189857030

Liddie Martinez, Los Alamos Region President
and Director of Community Engagement, Enterprise Bank & Trust
an authorized agent of Enterprise Bank and Trust,
1200 Trinity Drive
Los Alamos, NM 87544

CERTIFIED MAIL NO: 70182290000189857023

Encompass Studio, LLC
241 W Charleston, STE 155
Las Vegas, NV 89102

CERTIFIED MAIL NO: 70182290000189857016

Barrett Powley, an authorized agent of
Encompass Studio, LLC
241 W Charleston, STE 155
Las Vegas, NV 89102

I, Wendy Servey as Fire Marshal for the Incorporated County of Los Alamos hereby further certify that on this 18th day of October 2021 this order was posted in or about a conspicuous place at 400 Trinity Drive, Los Alamos, NM 87544.



Los Alamos Fire Department Fire Marshal's Office

999 Central Avenue, Suite 200, Los Alamos, NM 87544

P: 505-662-8301



Business Inspection Inspection Result

Status
In Progress

Inspected by
Wendy Servey

Completed at
09/29/2021 11:24

Business Address	Suite	City	State	Zip
400 TRINITY DR	--	LOS ALAMOS	NM	87544
Business Name	Building Type			
Hilltop Hotel	Commercial			

Item	Result	Remarks
Provide address numbering which is visible from the street	Fail	See County Addressing Ordinance for direction on visible addressing for Central Ave., and Trinity Dr.
Provide / update key box for fire access	Fail	NOTE: During the inspection keys to all areas were not available or marked properly for entry. Inspectors with the assistance of the owners on site could not access Hilltop Spa area, nor attached gas station area off of Central. As the building vacant this is note to rectify when building status changes from vacant.
Code		
IFC2021P1 - 506.2 - Key box maintenance. - The operator of the building shall immediately notify the fire code official and provide the new key where a lock is changed or rekeyed. The key to such lock shall be secured in the key box.		
Maintain, repair, inspect and / or test fire alarm system	Fail	Per IFC 311.2.2 Fire protection systems are to remain operable condition at all times. Exceptions are allowed for vacant premises to permit systems to be placed out of service. Currently, structure is not meeting exception 1.) Where the premises have been cleared of all combustible material and debris of all combustibles and in the opinion of the fire code official, the type of construction, fire separation distance and the security of the premises do not create a fire hazard.

Item	Result	Remarks
Repair holes in required fire resistive construction	Fail	VERTICAL OPENINGS are exhibited throughout the structure on all floors compromising the fire resistive construction of the vacant structure. As a result fire and or superheated smoke has easy access to spread quickly via the ceiling/floor levels as fire desires to travel upwards. Voids spaces can allow fire to hide before becoming visible and ceiling fires are difficult to extinguish. The pictures are a sampling of vertical openings found during inspection and are not be representative of all vertical opening violations.

Code

IFC2021P1 - 311.2.3 - Fire separation. - Fire-resistance-rated partitions, fire barriers and fire walls separating vacant tenant spaces from the remainder of the building shall be maintained. Openings, joints and penetrations in fire-resistance-rated assemblies shall be protected in accordance with Chapter 7.



Item	Result	Remarks
Repair holes in required fire resistive construction 2nd Instance	Fail	HORIZONTAL OPENINGS are exhibited throughout the structure on all floors compromising fire resistive construction of the vacant structure. Walls are left in various stages of construction or repair. As a result, little to no fire compartmentalization is possible allowing for rapid and extreme fire spread. The pictures are a sampling of horizontal opening found during inspection and are not be representative of all horizontal opening violations.


Code

IFC2021P1 - 311.2.3 - Fire separation. - Fire-resistance-rated partitions, fire barriers and fire walls separating vacant tenant spaces from the remainder of the building shall be maintained. Openings, joints and penetrations in fire-resistance-rated assemblies shall be protected in accordance with Chapter 7.



Item	Result	Remarks
Provide / repair self or automatic closing fire rated assemblies	Fail	CHASES, STAIRWAYS, ELEVATOR AND OTHER VERTICAL SHAFTS building construction that is present does not provide adequate protection and needs remediation. Non-sprinklered building requires 2-hour separation for fire rated assemblies. These areas will continue to act as a natural chimney's and aid vertical fire travel for vacant and occupied buildings. The structure has a existing utility chase that located in the middle of the building being 2 ft. wide that runs the length of the structure from floor to attic and from the Hilltop Spa to the attached gas station store area. Exterior stairways are enclosed to create an interior stairs which are "open" without the necessary fire protection provided. Additionally, two chase ways exist from the exterior main entrance carport area that extend from floor to ceiling with no protection which would easily allow for fire to spread to the main structure. Exposed steel members providing no protection from fire expediting collapse which remains a danger to life for unauthorized persons and firefighters. The elevator shaft was not able to be evaluated for level of fire protection provided during the time of inspection.



Item	Result	Remarks
Identify and remove hazardous materials, flammable or combustible liquids, or cylinders in vacant building.	Fail	Pool chemicals (chlorine) in pool atrium area and miscellaneous containers, cylinders, flammable liquids found throughout structure.
Code		
IFC2021P1 - 311.4 - Removal of hazardous materials. - Persons owning or having charge or control of a vacant building containing hazardous materials regulated by Chapter 50 shall comply with the facility closure requirements of Section 5001.6.		
		

Underground tanks are to be maintained and or inspected by the State agency having authority.	Fail	Underground tanks are regulated by New Mexico Petroleum Storage Tank Bureau (NMED) with timelines to test and inspect out of service tanks. (505) 699-4006. According the Bureau last inspection was June 2017 and since the tanks are out of service, they must be emptied, secured and site assessment needed to ensure idle tank (longer than 12 months) has not been leaking. Title 20, Chapter 5 of New Mexico Administrative Code.
Code		
IFC2021P1 - 2306.2.1 - Underground tanks. - Underground tanks for the storage of Class I, II and IIIA liquid fuels shall comply with Chapter 57.		

Item	Result	Remarks
Removal of all combustibles in vacant structure.	Fail	Per IFC 311.2.2 for Vacant Premises. Fire protection systems shall be maintained in an operable condition at all times. (3) Exceptions are listed to address exposed to freezing temperatures, buildings less than 12,000 sq. ft., and where premises have been cleared of all combustible materials, debris etc. All combustibles need to be cleared to bare concrete floor.

Code

IFC2021P1 - 311.3 - Removal of combustibles. - Persons owning, or in charge or control of, a vacant building or portion thereof, shall remove therefrom all accumulations of combustible materials, flammable or combustible waste or rubbish and shall securely lock or otherwise secure doors, windows and other openings to prevent entry by unauthorized persons. The premises shall be maintained clear of waste or hazardous materials. Exceptions:
 1. Buildings or portions of buildings undergoing additions, alterations, repairs or change of occupancy in accordance with the International Building Code, where waste is controlled and removed as required by Section 304. 2. Seasonally occupied buildings.



Item




Item	Result	Remarks
Ensure unauthorized entry does not occur to protect public safety.	Fail	Strong visual evidence of unauthorized entry and or potential illegal activity. Security measures need to be reinforced immediately to fortify locks (pin to locking mechanism can slid out of stucco with no force required). Chain link is bent to allow access on entryway and exterior stairwells. Boarding of all exterior doors and windows to second floor required.

Code

IFC2021P1 - 311.2.1 - Security. - Exterior and interior openings open to other tenants or unauthorized persons shall be boarded, locked, blocked or otherwise protected to prevent entry by unauthorized individuals. The fire code official is authorized to placard, post signs, erect barrier tape or take similar measures as necessary to secure public safety.



Item	Result	Remarks
Insanitary conditions found in structure. (mold, rodent droppings and human feces in toilets).	Fail	
Code		
IFC2021P1 - 114.1.1 - Unsafe conditions. - Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress, inadequate light and ventilation, or that constitute a fire hazard, are otherwise dangerous to human life or the public welfare, or involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the fire code official deems necessary and as provided for in this section. A vacant structure that is not secured against unauthorized entry shall be deemed unsafe.		
		

Item	Result	Remarks
Structural hazards.	Fail	During inspection of the premises on the 3rd floor (3) holes were found in the floor or floor was covered with wood planking suggestive of a hole in the floor (picture not available). The above picture was taken and this hole in the floor was from a previous structural engineer review of J. Randall who was evaluating the occupant loading capacity. (2015). In his review, he suggested to a previous owner how to add steel beams to increase occupant loading capacity safely. During the fire inspection 9/29/21 on the third floor the floor and roof in intermittent areas may have had more give or bounce upon walking. Further evaluation will be needed by a professional to ensure structural integrity. Open holes or weak floors or roofs could constitute a clear threat to human life, safety and or health of the public (unauthorized entry) or firefighters operating in a fire condition. Further orders or notice will be given by the fire code official to remove or remedy the conditions and shall be referred to the building code official for any repairs, alterations, remodeling, removing or demolition required. (IFC 114.1 General, and IFC 114.2 Structural hazards.)

Code

IFC2021P1 - 114.1.2 - Structural hazards. - Where an apparent structural hazard is caused by the faulty installation, operation or malfunction of any of the items or devices governed by this code, the fire code official shall immediately notify the building code official in accordance with Section 114.1.



Declaration of Unsafe Structure.	Fail	Right of entry inspection conducted 9/29/21 from 0911 a.m. to 1124 a.m.
----------------------------------	------	-------------------------------------------------------------------------

Code

IFC2021P1 - 114.1 - General. - If during the inspection of a premises, a structure, or any building system, in whole or in part, constitutes a clear and inimical threat to human life, safety or health, the fire code official shall issue such notice or orders to remove or remedy the conditions as shall be deemed necessary in accordance with this section, and shall refer the building to the building official for any repairs, alterations, remodeling, removing or demolition required.

Item	Result	Remarks
Unsafe conditions found that constitute a fire hazard and dangerous to human life and public welfare.	Fail	See this inspection report for LAF-2021-0000005 for details. This report shall also serve as the record of report as stated in IFC 114.3. Record. Additional fire code notices, methods of service and restoration or abatement direction will be initiated as outlined in International Fire Code (IFC) (2021 ed.) Sections 114.4 - 114.6.
Code		
IFC2021P1 - 114.1.1 - Unsafe conditions. - Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress, inadequate light and ventilation, or that constitute a fire hazard, are otherwise dangerous to human life or the public welfare, or involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the fire code official deems necessary and as provided for in this section. A vacant structure that is not secured against unauthorized entry shall be deemed unsafe.		

Inspection Signatures

Occupancy Contact Signature

Unable to sign:

Owner not present at time of completion. Inspection report completed after inspection date to perform fire code research for a vacant occupancy, as this was not a typical business inspection, because the building is not occupied. Owner will receive a copy of inspection as well as additional notices as prescribed by the adopted fire code.

Larry Hawker
Building Owner
702-400-5800
larryhawker@gmail.com

Inspector Signature



Wendy Servey
Division Chief
505-695-3643
wendy.servey@lacnm.us

Certificate Of Completion

Envelope Id: 88018A4717244C419C507F35311C071C

Status: Completed

Subject: Please DocuSign: 20211029_ Resolution No. 21-30_Clean and Lien_FINAL REDUX II_with Ex. A.pdf

Source Envelope:

Document Pages: 24

Signatures: 2

Envelope Originator:

Certificate Pages: 3

Initials: 0

Melissa Salmon

AutoNav: Enabled

Stamps: 1

melissa.salmon@lacnm.us

Envelopeld Stamping: Enabled

IP Address: 198.99.209.76

Time Zone: (UTC-07:00) Mountain Time (US & Canada)

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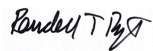
Location: DocuSign

10/29/2021 3:16:21 PM

melissa.salmon@lacnm.us

Signer Events**Signature****Timestamp**

Randall T. Ryt



Sent: 10/29/2021 3:17:44 PM

randall.ryti@lacnm.us

Viewed: 10/29/2021 3:19:27 PM

Chair, County Council

Signed: 10/29/2021 3:37:28 PM

Security Level: Email, Account Authentication (None)

Signature Adoption: Uploaded Signature Image

Using IP Address: 65.144.169.42

Electronic Record and Signature Disclosure:

Accepted: 10/29/2021 3:19:27 PM

ID: 835be1c0-19aa-40eb-bab3-d5972c00dc10

Company Name: Incorporated County of Los Alamos

Naomi Maestas



Sent: 10/29/2021 3:37:29 PM

anna.sanchez@lacnm.us

Viewed: 10/29/2021 4:29:46 PM

Signing Group: Clerks

Signed: 10/29/2021 4:30:16 PM

Security Level: Email, Account Authentication (None)



Signature Adoption: Uploaded Signature Image

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Electronic Record and Signature Disclosure:

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In Person Signer Events**Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp****Intermediary Delivery Events****Status****Timestamp****Certified Delivery Events****Status****Timestamp****Carbon Copy Events****Status****Timestamp****Witness Events****Signature****Timestamp****Notary Events****Signature****Timestamp**

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	10/29/2021 3:17:45 PM
Certified Delivered	Security Checked	10/29/2021 4:29:46 PM
Signing Complete	Security Checked	10/29/2021 4:30:16 PM
Completed	Security Checked	10/29/2021 4:30:16 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

AGREEMENT TO USE DOCUSIGN FOR ELECTRONIC SIGNATURES

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Los Alamos County ("County") may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, for this Electronic Record and Signature Disclosure (ERSD), and confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session.

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

Pursuant to the New Mexico Uniform Electronic Transactions Act, you hereby agree to conduct transactions with the County by electronic means through DocuSign. You agree that your electronic signature represents your intent to sign the electronic record and is the means by which you indicate an intent to bind yourself with the document in a manner that has legal significance; it constitutes legally-binding evidence of your intention with regard to the document. You further agree that your electronic signature as used through DocuSign is the legal equivalent of a handwritten signature. You confirm that you can access this information electronically, which will be similar to other electronic notices and disclosures that we may provide to you, that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, by selecting the check-box next to 'I agree to use electronic records and signatures,' you consent to receiving and signing documents as described herein; select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

STATE OF NEW MEXICO
COUNTY OF LOS ALAMOS

IN RE INNINCORPORATED COUNTY OF LOS ALAMOS RESOLUTION NO. 21-30

A RESOLUTION DECLARING THE HOTEL STRUCTURE, COMMONLY REFERRED TO AS "THE HILLTOP HOUSE," LOCATED AT 400 TRINITY DRIVE, LOS ALAMOS, NEW MEXICO, A MENACE TO THE PUBLIC COMFORT, HEALTH, PEACE, AND SAFETY AND ORDERING REMOVAL OF THE HILLTOP HOUSE, AND ASSOCIATED RUINS, RUBBISH, WRECKAGE, AND DEBRIS FROM LOS ALAMOS COUNTY.

OBJECTION AND REQUEST FOR HEARING

To: Los Alamos County Clerk, Naomi Maestas
1000 Central Avenue, Suite 240, Los Alamos NM 87547

New Mexico Innovation Triangle, LLC, whose address is 4001 Indian School Rd., NE, Albuquerque, NM 87110 ("NMIT"), by and through its undersigned attorneys SOMMER KARNES & ASSOCIATES LLC, as the owner of the real property located at 400 Trinity Drive, Los Alamos, NM 87547 ("Property"), pursuant to NMSA 1978 § 3-18-5C, hereby objects to the Resolution No. 21-30 passed by the Los Alamos County Council on October 29, 2021, and hereby request as hearing as provided for by Section 3-18-5C.

Respectfully submitted,

Sommer Karnes & Associates LLP
Attorneys for NMIT

By: /s/ Karl H. Sommer

Karl H. Sommer
khs@sommerkarnes.com
125 Lincoln Ave, Suite 221
Santa Fe, New Mexico 87501
Telephone: (505) 989-3800

Sommer Karnes & Associates, LLP

Street Address
125 Lincoln Ave. Suite 221
Santa Fe, New Mexico 87501

Mailing Address
Post Office Box 2476
Santa Fe, New Mexico 87504-2476

Telephone: (505) 989.3800
Facsimile: (505) 288-3601
Email: khs@sommerkarnes.com

NOV 8 PM 1:25

MESSENGER REQUEST FORM

Requested by:	Juella Montoya	Date	11/08/21	
Client/Matter ID:	Mahoney & Rizzo			
Deadline Date:	11/08/21		Rush Job:	
Deliver		Pick-up		File
District Court		SW Title		American Surety
Court of Appeals		PRC		Sec. of State
				Other
				Check Attached
Please hand deliver envelope to Los Alamos County Clerk Naomi Maestas at 1000 Central Avenue, Suite 240 Los Alamos, NM 87544. Thank you!!				
Please call if unable to complete		Okay to leave package if no answer		
Billing Entry:				
Indicate if you want return of request form indicating date, time and signature of person accepting delivery:		Yes	X	No
Date: 11/08/21	Time: 1:24	Signature: Naomi D. Maestas		

N.M. Stat. Ann. § 3-18-5

Current with legislation through all 2021 regular and special sessions.

Michie's™ Annotated Statutes of New Mexico > Chapter 3 Municipalities (Arts. 1 — 66) > Article 18 Powers of Municipalities (§§ 3-18-1 — 3-18-32)

3-18-5. Dangerous buildings or debris; removal; notice; right of municipality to remove; lien.

A.Whenever any building or structure is ruined, damaged and dilapidated, or any premise is covered with ruins, rubbish, wreckage or debris, the governing body of a municipality may by resolution find that the ruined, damaged and dilapidated building, structure or premise is a menace to the public comfort, health, peace or safety and require the removal from the municipality of the building, structure, ruins, rubbish, wreckage or debris.

B.A copy of the resolution shall be served on the owner, occupant or agent in charge of the building, structure or premise. If the owner, as shown by the real estate records of the county clerk, occupant or agent in charge of the building, structure or premise cannot be served within the municipality, a copy of the resolution shall be posted on the building, structure or premise and a copy of the resolution shall be published one time.

C.Within ten days of the receipt of a copy of the resolution or of the posting and publishing of a copy of the resolution, the owner, occupant or agent in charge of the building, structure or premise shall commence removing the building, structure, ruin, rubbish, wreckage or debris, or file a written objection with the municipal clerk asking for a hearing before the governing body of the municipality.

D.If a written objection is filed as required in this section, the governing body shall:

- (1)**fix a date for a hearing on its resolution and the objection;
- (2)**consider all evidence for and against the removal resolution at the hearing; and
- (3)**determine if its resolution should be enforced or rescinded.

E.Any person aggrieved by the determination of the governing body may appeal to the district court by:

- (1)**giving notice of appeal to the governing body within five days after the determination made by the governing body; and
- (2)**filing a petition in the district court within twenty days after the determination made by the governing body. The district court shall hear the matter de novo and enter judgment in accordance with its findings.

F.If the owner, occupant or agent in charge of the building, structure or premise fails to commence removing the building, structure, ruins, rubbish, wreckage or debris:

- (1)**within ten days of being served a copy of the resolution or of the posting and publishing of the resolution; or
- (2)**within five days of the determination by the governing body that the resolution shall be enforced; or
- (3)**after the district court enters judgment sustaining the determination of the governing body, the municipality may remove the building, structure, ruins, rubbish, wreckage or debris at the cost and expense of the owner. The reasonable cost of the removal shall constitute a lien against the building, structure, ruin, rubbish, wreckage or debris so removed and against the lot or parcel of land from which

it was removed. The lien shall be foreclosed in the manner provided in [Sections 3-36-1 through 3-36-6 NMSA](#) 1978.

G.The municipality may pay for the costs of removal of any condemned building, structure, wreckage, rubbish or debris by granting to the person removing such materials, the legal title to all salvageable materials in lieu of all other compensation.

H.Any person or firm removing any condemned building, structure, wreckage, rubbish or debris shall leave the premises from which the material has been removed in a clean, level and safe condition, suitable for further occupancy or construction and with all excavations filled.

History

1953 Comp., § 14-17-4, enacted by Laws 1965, ch. 300; 1967, ch. 123, § 1; 1977, ch. 126, § 1.

Annotations

Notes to Decisions

Time limits.

Dismissal of plaintiffs' claim that the amount of the lien imposed by defendant city after the city cleaned up plaintiffs' property was unreasonable, was reversed because the time deadlines did not apply to the action; the city's setting of the amount of the lien was not a "resolution" or "determination" that was governed by the time limits. [Henderson v. City of Tucumcari, 2005-NMCA-077, 137 N.M. 709, 114 P.3d 389, 2005 N.M. App. LEXIS 64 \(N.M. Ct. App.\)](#), cert. denied, 115 P.3d 229, 2005 N.M. LEXIS 285 (N.M. 2005).

Dismissal of plaintiffs' negligence claim (alleging that defendant city was overzealous in its cleanup of plaintiffs' property and removed everything, including topsoil and valuable cars) was reversed because the time deadlines did not apply to the action. [Henderson v. City of Tucumcari, 2005-NMCA-077, 137 N.M. 709, 114 P.3d 389, 2005 N.M. App. LEXIS 64 \(N.M. Ct. App.\)](#), cert. denied, 115 P.3d 229, 2005 N.M. LEXIS 285 (N.M. 2005).

Michie's TM Annotated Statutes of New Mexico

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End of Document



County of Los Alamos

Staff Report

December 03, 2021

Los Alamos, NM 87544
www.losalamosnm.us

Agenda No.: B.

Index (Council Goals):

Presenters: County Council - Special Session

Legislative File: 15159-21

Title

Closed Session for Deliberations of a Public Body in Connection with an Administrative Adjudicatory Proceeding Pursuant to NMSA § 10-51-1 (H) (3)



County of Los Alamos

Staff Report

December 03, 2021

Los Alamos, NM 87544
www.losalamosnm.us

Agenda No.: C.

Index (Council Goals):

Presenters: County Council - Special Session

Legislative File: 15161-21

Title

Possible Final Action on this Proceeding.