



***Environmental  
Planning  
Commission***

***Agenda Number: 7  
Project Number: 1001620  
Case Number: 13EPC-40136  
October 10, 2013***

***Staff Report***

<b><i>Applicant</i></b>	City of Albuquerque Planning Department
<b><i>Request</i></b>	<b>Text Amendment to Zoning Code: §14-16-4-1 (B) ROA 1994, Administration and Enforcement, Fee.</b>
<b><i>Location</i></b>	City-wide

***Staff Recommendation***

***That a recommendation of APPROVAL of 13EPC-40136 be forwarded to the City Council based on the Findings beginning on Page 5.***

***Staff Planner  
Catalina Lehner, AICP-Senior Planner***

***Summary of Analysis***

This request is for a text amendment to Zoning Code §14-16-4-1(B) ROA 1994, Amendment Procedure, Fee. The EPC's role is to make a recommendation to the City Council.

The proposed text amendment would amend sub-section B, Fee, of Amendment Procedure (§14-16-4-1), to include new language to establish a fee for administrative approval of original site development plans. The proposed fee, \$385, is the same as the fee for site development plans that are required to go through a public hearing process.

The request generally furthers the intent of the City Charter and the Zoning Code.

The request was announced in the Neighborhood News and posted on the Planning Department website. Staff has not received any inquiries or comments as of this writing.

The request is very limited in scope. Staff recommends that an Approval recommendation be forwarded to the City Council.

City-wide

City Departments and other interested agencies reviewed this application from 09/03/2013 to 09/13/2013. Agency comments used in the preparation of this report begin on Page 10.

## ***I. INTRODUCTION***

### ***Request***

This request is for a text amendment to §14-16-4-1(B) ROA 1994, Amendment Procedure, Fee, of the City's Comprehensive Zoning Code. The purpose of the proposed text amendment is to allow a fee to be charged for administrative review and approval of site development plans that are being reviewed for the first time. These "original" site development plans are not required to go through a public hearing process, but are required to be reviewed administratively by City Staff.

### ***Scope***

The proposed text amendment is to Zoning Code §14-16-4-1(B) ROA 1994, Amendment Procedure, Fee, which is an ordinance of general application. The proposed text amendment would apply City-wide. This request is considered legislative in nature.

### ***Environmental Planning Commission (EPC) Role***

The task of the Environmental Planning Commission (EPC) is to make a recommendation to the City Council regarding the proposed text amendment. The City Council is the City's Zoning Authority and will make the final decision. The EPC is a recommending body with review authority.

## ***II. OVERVIEW***

### ***Context & Background***

Lately, more emphasis has been placed on administrative review of original site development plans. This trend has come to the forefront now because several of the more recently adopted sector development plans, including the Downtown 2010 SDP, specify an administrative review process for site development plans that comply with the sector development plan requirements. Administrative review does not require a public hearing before a decision-making body, which can potentially result in quicker turn-around time for applications. Streamlining the development process through administrative review and approval is seen as an incentive to comply with the intent and goals of the sector development plan and its requirements.

Administrative review and approval of a site development plan is similar to the review required for site development plans going before the EPC and/or Development Review Board (DRB). A proposed site development plan still has to be reviewed by Planning and Engineering staff, as well as other appropriate agencies to determine compliance with the City's regulations. Currently, no fee is charged for administrative approval of a site development plan and as development grows in the city, this lack of fees will result in lost revenue for the city. Therefore, it is warranted to charge the same fee for administrative review of an original site development plan as for review of an original site development plan that goes before the EPC and/or DRB (\$385).

### III. ANALYSIS

Citations are in regular text; *Staff analysis is in bold italics.*

#### A) CHARTER OF THE CITY OF ALBUQUERQUE

The Citizens of Albuquerque adopted the City Charter in 1971. Applicable articles include:

##### Article I, Incorporation and Powers

“The municipal corporation now existing and known as the City of Albuquerque shall remain and continue to be a body corporate and may exercise all legislative powers and perform all functions not expressly denied by general law or charter. Unless otherwise provided in this Charter, the power of the city to legislate is permissive and not mandatory. If the city does not legislate, it may nevertheless act in the manner provided by law. *The purpose of this Charter is to provide for maximum local self government.* A liberal construction shall be given to the powers granted by this Charter.” (emphasis added)

***Adding provisions to the ROA 1994, specifically the Comprehensive Zoning Code, to allow a fee to be charged for administrative approval of original site development plans is an exercise in local self-government and therefore generally furthers the intent of Article I of the City Charter.***

#### B) COMPREHENSIVE CITY ZONING CODE

##### ***Preface & Intents***

Authority and Purpose (summarized): The Zoning Code is Article 16 within Chapter 14 of the Revised Code of Ordinances of Albuquerque, New Mexico, 1994 (often cited as ROA 1994). The administration and enforcement of the Zoning Code is within the City’s general police power authority for the purposes of promoting the health, safety, and general welfare of the public. As such, the Zoning Code is a regulatory instrument for controlling land use activities for general public benefit.

Role of Land Use Boards (aka Amendment Procedure, summarized): The City Council is the zoning authority for the City of Albuquerque and has sole authority to amend the Zoning Code. Through the City Charter, the City Council has delegated broad planning and zoning authorities to the Environmental Planning Commission (EPC). The EPC is advisory to the City Council regarding proposed text amendments to the Zoning Code.

***The proposed text amendment generally furthers the Zoning Code goal of promoting the health, safety and welfare of the citizens because, in an overarching sense, it supports the goals and intent of several sector plans to streamline the development process through administrative review of site development plans. The incentive to streamline the process will hopefully encourage quality development that is in line with the sector plan goals.***

#### C) ALBUQUERQUE/BERNALILLO COUNTY COMPREHENSIVE PLAN

The Comprehensive Plan, the Rank I planning document for the City, contains goals and policies that provide a framework for development and service provision. The Plan’s goals and policies serve as a means to evaluate development proposals and text amendments requests.

*In this case, the proposed text amendment is very limited in scope. Staff does not find any goals or policies that apply to the request to allow a fee to be charged for administrative approval of original site development plans.*

**D) Process & Sector Development Plans**

Some sector development plans specify an administrative review and approval process. The language usually states that review is by the “Planning Director or his/her designee.” The Planning Director delegates the work to Staff, which typically means Planning Staff who are similarly tasked with site development plan review for the EPC or DRB. The following table identifies sector plans that specify an administrative review process:

<b>Sector Plan</b>	<b>Adopted</b>	<b>Page(s)</b>	<b>Specifics of Staff Approval</b>
Downtown 2010 SDP	2000	70	Staff can approve site plans and renovations for permitted uses in each district. “Review Required” uses go to the EPC.
East Gateway SDP	2010	5.7-5.9	Minor deviations and deviations < 10% of a dimensional standard. Sites 5 ac or >, except for LRFs, provided Plan requirements are met.
EDO Regulatory Plan	2005	4	Staff with architectural review committee (ARC), allowed in 5 of 7 development categories.
Mesa del Sol Level B Plan	2008	106	Level C submittals (site development plans) for allowed uses go to the Planning Director with advice of the City Engineer.
Uptown SDP	2009	95-99	All site development plans for building permit are reviewed and approved administratively.
Volcano Cliffs SDP	2011	45	Development that complies with the zoning regulations and all applicable General Standards may proceed directly to Building Permit.
Volcano Heights SDP	2013	23	Administrative review of development for which significant infrastructure coordination and deviations are not needed.
Volcano Trails SDP		19	Review and approval of site development plans is by the DRB.

Note: Proposed text amendments are in the works to add administrative approvals for certain types of projects for the Nob Hill Highland SDP, and to allow further administrative approvals in the DT2010 SDP.

**IV. COMMENTS**

**CONCERNS OF REVIEWING AGENCIES / PRE-HEARING DISCUSSION**

Few agency comments were submitted. Long Range Planning Staff noted that this amendment will bring the fee structure in line with the development process and will make the fee schedule fair for all

applicants. Hydrology Staff has no objection, but suggests using a different routing sheet than the Administrative Amendment (AA) routing sheet. The pre-hearing discussion meeting was held on September 18, 2013. Agency comments begin on p. 10.

***NEIGHBORHOOD CONCERNS***

The proposed text amendments were posted on the Planning Department's main web page and announced in the September/October 2013 issue of the Neighborhood News (NN, see attachment). Staff had sent a brief article to Office of Neighborhood Coordination (ONC) Staff for inclusion in the NN. As of this writing, Staff has not received any inquiries or comments.

***VII. CONCLUSION***

The proposed text amendment to Zoning Code §14-16-4-1(B) ROA 1994, Amendment Procedure, Fee, is to allow a fee to be charged for administrative review and approval of original site development plans that are not required to go through a public hearing process such as the EPC and/or the DRB. Interdepartmental review by Staff from Transportation, Utilities and Hydrology would be part of the process.

The proposed text amendment, which would apply City-wide, was announced in the Neighborhood News and posted to the Planning Department's main web page. Staff has not received any inquiries or comments as of this writing.

The EPC's role is to make a recommendation to the City Council. Staff finds that the proposed text amendment generally furthers the intent of the City Charter and the Zoning Code. Staff recommends that an approval recommendation, with a condition, be forwarded to the City Council.

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***RECOMMENDED FINDINGS- 13EPC-40136, October 10, 2013- Zoning Code Text Amendment***

1. The request is for a text amendment to §14-16-4-1(B) ROA 1994, Amendment Procedure, Fee, of the City's Comprehensive Zoning Code. The purpose of the proposed text amendment is to allow a fee to be charged for administrative review and approval of original site development plans that are not required to go through a public hearing process, but are required to be reviewed administratively by the Planning Director. Interdepartmental review by City Staff would be part of the process.
2. The proposed text amendment is to Zoning Code §14-16-4-1(B) ROA 1994, Amendment Procedure, Fee, which is an ordinance of general application. The proposed text amendment would apply City-wide, so the request is considered legislative in nature.
3. The EPC's task is to make a recommendation to the City Council regarding the proposed text amendment. The City Council is the City's Zoning Authority and will make the final decision. The EPC is a recommending body.
4. Several recently-adopted sector development plans specify an administrative review process for site development plans. Administrative review, however, is similar to that of a development proposal going to public hearing before the Environmental Planning Commission (EPC) and/or Development Review Board (DRB).
5. Currently, no fee is charged for administrative approval of a site development plan and as development grows in the city, this lack of fees will result in lost revenue for the city. Therefore, it is warranted to charge the same fee for administrative review of an original site development plan as for review of an original site development plan that goes before the EPC and/or DRB (\$385).
6. The Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Comprehensive Zoning Code are incorporated herein by reference and made part of the record for all purposes.
7. Intent of the City Charter: Adding provisions to the ROA 1994, specifically the Comprehensive Zoning Code, to allow a fee to be charged for administrative approval of original site development plans is an exercise in local self-government and therefore generally furthers the intent of Article I of the City Charter.
8. Intent of the Zoning Code (§14-16-1-3): The proposed text amendment generally furthers the Zoning Code goal of promoting the health, safety and welfare of the citizens because, in an overarching sense, it supports the goals and intent of several sector plans to streamline the development process through administrative review of site development plans. The incentive to streamline the process will hopefully encourage quality development that is in line with the sector plan goals.

9. The proposed text amendment was posted on the Planning Department's main web page and announced in the September/October 2013 issue of the Neighborhood News, published by the Office of Neighborhood Coordination (ONC). As of this writing, Staff has not received any inquiries or comments.

**RECOMMENDATION**

**That a recommendation of APPROVAL of a Text Amendment to Zoning Code §14-16-4-1(B) ROA 1994, Amendment Procedure, Fee, be forwarded to the City Council based on the preceding Findings.**

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*Catalina Lehner, AICP  
Senior Planner*

cc: City of Albuquerque, City Council, Attn: Chris Melendrez, P.O. Box 1293, Abq. NM 87102  
City of Albuquerque, Planning Department, P.O. Box 1293, Abq. NM 87102

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## CITY OF ALBUQUERQUE AGENCY COMMENTS

### PLANNING DEPARTMENT

#### Code Enforcement

Reviewed- No comments.

#### Office of Neighborhood Coordination (ONC)

Citywide. 09/03/13 – Staff Planner to provide ONC with a newsletter (NL) article for the September/October 2013 issue – siw

The following was published in the Neighborhood News:

**Project #1001620, 13EPC-40136: Proposed Text Amendments to the Zoning Code** – The Environmental Planning Commission (EPC) will consider text amendments to Zoning Code Section 14-16-4-1(B)(3), Amendment Procedure, at its regularly scheduled public hearing on October 10, 2013.

The Amendment Procedure section would be amended to establish a fee for “original plan approval by the Planning Director.” Fees are already established for original approval of site development plans that go through a public hearing process such as EPC or Development Review Board (DRB). However, currently there is no fee for approval of a site development plan that is not done in a public hearing, i.e. administratively (by Staff). Recent sector development plans have tended to move from site plan approvals by the EPC and/or DRB in favor of administrative (Staff) approval. Also, sometimes an SU-1 or SC zoned site allows new development to be approved administratively. The same fee for approval at a public hearing (\$385) is proposed for administrative approval. The proposed text amendments would apply City-wide.

Please contact Catalina Lehner-AICP, Senior Planner, at (505) 924-3935 for more information.

#### Long Range Planning

Setting Fees for Administrative Approval of Site Development Plans.

This amendment will bring the fee structure in line with the development process. The City provides a free review for some applicants, while charging a fee to others for the same service. This will make the fee schedule fair for all applicants.

### CITY ENGINEER

#### Transportation Development Services

Reviewed, no comments.

#### Hydrology

- Hydrology has no objection to the fee, but suggests a routing sheet different than the Administrative Amendment routing sheet is used to route the plans.

**DEPARTMENT of MUNICIPAL DEVELOPMENT**

**Transportation Planning**

- Reviewed, and no comments regarding on-street bikeways or roadway system facilities.

**Traffic Engineering Operations (Department of Municipal Development):**

- No comments received.

**Street Maintenance (Department of Municipal Development):**

- No comments received.

**New Mexico Department of Transportation (NMDOT):**

- No comments received.

**RECOMMENDED CONDITIONS FROM CITY ENGINEER, MUNICIPAL DEVELOPMENT and NMDOT:**

Conditions of approval for the proposed Text Amendments shall include: None.

**WATER UTILITY AUTHORITY**

**Utility Services**

**ENVIRONMENTAL HEALTH DEPARTMENT**

**Air Quality Division**

**Environmental Services Division**

**PARKS AND RECREATION**

**Planning and Design**

No Comments.

**Open Space Division**

**City Forester**

**POLICE DEPARTMENT/Planning**

No Crime Prevention or CPTED comments concerning the proposed Amendment to Zoning Code or Subdivision Regulatory Text request at this time.

**SOLID WASTE MANAGEMENT DEPARTMENT**

**Refuse Division**

**FIRE DEPARTMENT/Planning**

**TRANSIT DEPARTMENT**

<b>Project # 1001620                  13EPC-40136                  AMENDT TO ZONING                  CODE OR SUBDN REGS                  TEXT.                   CITYWIDE.</b>	Adjacent and nearby routes	None.
	Adjacent bus stops	None.
	Site plan requirements	None.
	Large site TDM suggestions	None.
	Other information	None.

**COMMENTS FROM OTHER AGENCIES**

**BERNALILLO COUNTY**

**ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY**

**ALBUQUERQUE PUBLIC SCHOOLS**

<b>Project #1001620                  13EPC-40136 AMND                  ZONING CODE OR                  SUBDN REGS TEXT</b>	The City of Albuquerque proposes to amend the Zoning Code to allow collection of for Administrative Approval of site development plans without a public hearing and interdepartmental review. APS does not oppose this proposal.
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**MID-REGION COUNCIL OF GOVERNMENTS**

**MIDDLE RIO GRANDE CONSERVANCY DISTRICT**

**PUBLIC SERVICE COMPANY OF NEW MEXICO**

PNM has no comments based on information provided to date.