

CITY OF ALBUQUERQUE



PLANNING DEPARTMENT
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OFFICIAL NOTIFICATION OF DECISION

November 13, 2015

COA Council Services
City/County Building
9th Floor
Albuquerque, NM 87102

15EPC-40058 Text Amendment to Zoning Code

LEGAL DESCRIPTION:

To amend the Zoning Code to make secondary dwelling units (SDUs) a permissive use in the R-2 and R-G zones, a conditional use in the RO-1, RA-1, R-LT and R-T zones, and to add a definition. City-Wide.

(REMAND FROM CITY COUNCIL)

Staff Planner: Catalina Lehner

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On November 12, 2015, the Environmental Planning Commission (EPC) voted to forward a recommendation of APPROVAL of Project #10001620/15EPC-40058, a Text Amendment to the Zoning Code, based on the following findings and subject to the following conditions of approval:

Albuquerque

FINDINGS:

New Mexico 87103

www.cabq.gov

1. The request is for a recommendation to City Council regarding text amendments to Zoning Code §14-16-1-5(B) ROA 1994, Definitions; §14-16-2-2, RO-1 Rural and Open Zone; the RA-1 Residential and Agricultural Zone (§14-16-2-4); the R-LT Residential Zone (§14-16-2-8); R-T Residential Zone (§14-16-2-9); §14-16-2-10, R-G Residential Garden Apartment Zone, and §14-16-2-11, R-2 Residential Zone, to define, allow and regulate secondary dwelling units (SDUs).
2. The proposed text amendments are found in Bill No. F/S O-14-20. The F/S version of the bill differs from the original version primarily because different zoning categories are associated with conditional uses. The zones where SDUs would be permissive remain the same (R-G and R-2). Regarding conditional uses, SDUs would still be conditional in the RO-1 zone, but the R-1 zone was replaced by the RA-1, R-LT and R-T zones. Also, language has been added to address issues, such as proof of occupancy and enforcement, which arose during the first EPC process.
3. The overarching intent of the proposed text amendments is to allow another housing option, the need for which has come to the forefront due to shifting demographics. In particular, the aging population is increasing and many people cannot afford to live in a costly, all-inclusive retirement home (or even a relatively inexpensive one). People need options to be able to assist their parents or other relatives. Additional housing options are also needed for millennials.

OFFICIAL NOTICE OF DECISION

Project #1001620/15EPC-40058

November 12, 2015

Page 2 of 6

4. The proposed text amendments would make SDUs a permissive use in the R-G and R-2 zones, make them a conditional use in the RO-1 and RA-1, R-LT and R-T zones, and add requirements regarding allowed height, parking and design so that SDUs are regulated and will contextually fit in to a neighborhood.
5. Bill No. O-14-20 was introduced at City Council on August 18, 2014 and subsequently referred to the Planning Department for review. The Environmental Planning Commission (EPC) heard the case on October 9, 2014 and voted to forward a recommendation of denial to the City Council. The EPC was concerned about enforcement difficulties, unintended consequences, and how to deal with density issues City-wide, since areas have different characteristics.
6. On August 3, 2015, the Council voted to remand the case to the EPC for reconsideration. The EPC's task is to make a recommendation to the City Council regarding the proposed text amendments as found in Bill No. F/S O-14-20. The City Council is the City's Zoning Authority and will make the final decision.
7. 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.
8. Intent of the City Charter:

Adding provisions to the ROA 1994 to allow and define secondary dwelling units is an exercise in local self-government (City Charter, Article 1). Amending the Comprehensive Zoning Code to allow SDUs and associated regulations generally expresses the Council's desire to ensure the proper use and development of land, and to generally promote and maintain an aesthetic and humane urban environment (City Charter, Article IX).
9. Intent of the Zoning Code (§14-16-1-3):

The application for text amendments to the Zoning Code (the RO-1 Rural and Open Zone, R-1 Residential Zone, R-G Residential Garden Apartment Zone, R-2 Residential Zone, and Definitions), was filed in accordance with Zoning Code requirements. The text amendments generally further the Zoning Code goal of promoting the health, safety and welfare of the citizens. Allowing and defining secondary dwelling units would positively impact the built and natural environment and the overall health and welfare of the City. However, as the zoning authority for the City of Albuquerque, the City Council will make the final determination.
10. The request furthers the following Comprehensive Plan Goal and policy:
 - A. Developing & Established Urban Goal: The request would allow additional variety and choice in housing options. Another, more affordable housing option would be available for senior and young people needing and/or wanting to live near their families. Multi-generational living as a lifestyle would be promoted. Restrictions regarding ownership, height, size and architectural character would ensure compatibility and a visually pleasing built environment.

OFFICIAL NOTICE OF DECISION

Project #1001620/15EPC-40058

November 12, 2015

Page 3 of 6

- B. Policy II.B.5d- neighborhood/ environmental conditions/resources: The request would allow SDUs. Regulations for their height, size and design would help the new dwelling units respect existing neighborhood values by visually integrating them with the neighborhood. The location and intensity would respect carrying capacities because only one secondary dwelling unit would be allowed per premises. The height restriction would respect scenic resources. Social and perhaps cultural resources would generally be respected because multi-generational housing would be facilitated.
11. The request furthers the Housing Goal and Housing Policy II.D.5a in the Comprehensive Plan, Section D. Community Resource Management.
- A. Housing Goal: In general, the proposed text amendments would help increase the supply of affordable housing. SDUs, limited in size, would be more affordable for seniors and young people (and others) than many retirement homes and apartments.
- B. Housing Policy II.D.5a- affordable housing: The proposed text amendments would help increase the supply of affordable housing. Limited in size, SDUs would by nature be more affordable than larger dwellings. Also, they are intended for either the owner or relatives who need standard housing for a reasonable proportion of income.
12. The request partially furthers Transportation & Transit Policy II.D.4c- transit ridership. In some cases, SDUs would be located near major and enhanced transit streets such as Central Ave., Menaul Blvd., Coors Blvd., etc. This has the potential to add transit ridership, but in a limited fashion since the dwelling units are one per lot and small in size.
13. Removal of the R-1 zone, in which SDUs were proposed to be a conditional use with the original legislation, greatly reduces the locations where SDUs would be allowed in the City and significantly affects the scope of the legislation. R-1 is a common and wide-spread zone. RA-1, R-LT and R-T zoning is relatively uncommon. The R-G and R-2 zones, in which SDUs are permissive under the original and revised legislation, are also relatively uncommon when compared to the R-1 zone.
14. The revised, proposed legislation addresses some concerns raised with consideration of the original O-14-20, such as occupancy and ownership, impact to R-1 neighborhoods, and irregularly shaped lots. However, enforcement of the occupancy requirement and tracking of SDUs could still be difficult for Code Enforcement Staff and the requirement for off-street parking could still be difficult to meet in many situations. An unintended consequence is that accessory dwelling units could become more attractive to build. They are currently unregulated and would not be subject to the Bill's requirements regarding height, size and design.
15. Minor Conditions for Recommendation of Approval are suggested for clarification.
16. The proposed text amendments were posted on the Planning Department's main web page and were announced in the October/November 2015 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 and is unaware of any opposition.

17. Based on testimony given at the EPC hearing on November 12, 2015, the EPC respectfully requests that the City Council reconsider the inclusion of the R-1 zone.

CONDITIONS:

Notes: New language is [+underlined and bracketed+]. Deleted language is [underlined, bracketed and struck through]. Planning Staff's suggested language is indicated by grey highlighting. Page references are to the F/S version of the legislation.

Albuquerque Code of Ordinances, Chapter 14- Zoning, Planning & Building, Article 16- Zoning Code, Section 1-5(B), DEFINITIONS

1. Page 1, Lines 9 & 10:

Section 1. Subsection 14-16-1-5(B), the Definitions section of the Zoning Code, is amended to add the following definition [s in alphabetical order]:

Albuquerque Code of Ordinances, Chapter 14- Zoning, Planning & Building, Article 16- Zoning Code, Subsection 2-2(B)(1), the RO-1 RURAL AND OPEN ZONE; Subsection 2-4(B), the RA-1 RESIDENTIAL and AGRICULTURAL ZONE; Subsection 2-8(B), the R-LT RESIDENTIAL zone; Subsection 2-9(B), the R-T RESIDENTIAL zone; Subsection 2-10(A)(2), the R RESIDENTIAL GARDEN APARTMENT ZONE; and Subsection 2-1(A)(2), the RESIDENTIAL ZONE.

2. Page 2, Line 25; Page 4, Line 18; Page 6, Line 11; Page 8, Line 3; Page 9, Line 26; Page 11, Line 17:

There shall be a minimum [+separation+] of 10 feet [separation]

3. Page 2, Line 20; Page 3, Line 25; Page 4, Line 30; Page 6, Line 3:

[Parking: One off street space per unit.] Remove from the R-LT, R-T, R-G and R-2 zones.

4. Page 2, Lines 21-24; Page 3, Lines 26-29; Page 4 & 5, Lines 31 & 32 and 1 & 2; Page 6, Lines 4-7:

[a.][+i.+] Design. The design of the secondary dwelling unit shall relate to the design of the primary dwelling unit by use of similar exterior wall materials or finishes, [+colors, +] architectural style and elements, including but not limited to roofing materials and roof pitch.

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **NOVEMBER 30, 2015**. The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-4-4 of the Zoning Code

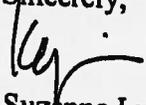
A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed. It is not possible to appeal EPC Recommendations to City Council; rather, a formal protest of the EPC's Recommendation can be filed within the 15 day period following the EPC's decision.

You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. Successful applicants are reminded that other regulations of the City Zoning Code must be complied with, even after approval of the referenced application(s).

ZONE MAP AMENDMENTS: Pursuant to Zoning Code Section 14-16-4-1(C)(16), a change to the zone map does not become official until the Certification of Zoning (CZ) is sent to the applicant and any other person who requests it. Such certification shall be signed by the Planning Director after appeal possibilities have been concluded and after all requirements prerequisite to this certification are met. If such requirements are not met within six months after the date of final City approval, the approval is void. The Planning Director may extend this time limit up to an additional six months.

SITE DEVELOPMENT PLANS: Pursuant to Zoning Code Section 14-16-3-11(C)(1), if less than one-half of the approved square footage of a site development plan has been built or less than one-half of the site has been developed, the plan for the undeveloped areas shall terminate automatically seven years after adoption or major amendment of the plan: within six months prior to the seven-year deadline, the property owners shall request in writing through the Planning Director that the Planning Commission extend the plan's life an additional five years. Additional design details will be required as a project proceeds through the Development Review Board and through the plan check of Building Permit submittals for construction. Planning staff may consider minor, reasonable changes that are consistent with an approved Site Development Plan so long as they can be shown to be in conformance with the original, approved intent.

DEFERRAL FEES: Pursuant to Zoning Code Section 14-16-4-1(B), deferral at the request of the applicant is subject to a \$110.00 fee per case.

Sincerely,

for Suzanne Lubar
Planning Director

SL/CLL

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OFFICIAL NOTICE OF DECISION

Project #1001620/15EPC-40058

November 12, 2015

Page 6 of 6

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