

CITY OF ALBUQUERQUE, NEW MEXICO


**RULES OF PROCEDURE
for the
DEVELOPMENT REVIEW BOARD**

Adopted March, 1982

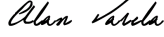
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RECOMMENDED:


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Development Review Board
By: Jolene Wolfley, Chairperson

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Alan M. Varela, Planning Director

APPROVED:

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Lawrence Rael
Chief Administrative Officer

The Development Review Board (“DRB”) was created in 1982 to offer efficient considerations of technical standards, a one-stop shop for property owners and developers alike, which would have otherwise required an applicant to meet individually with the City staff experts from divisions and departments across the city. The vision continues to be that the DRB streamlines the application process by bringing together key department staff responsible for the specialized/expert review of projects in a forum where the staff and applicant meet to discuss projects and the public can ask questions and share input for those decisions. The DRB is not a policy making board and performs no administrative adjudicatory functions regarding individual legal rights, duties or privileges. The DRB members, by consensus, apply the technical standards and requirements established in the Integrated Development Ordinance (“IDO”), the Development Process Manual (“DPM”), and all applicable Albuquerque Bernalillo County Water Utility Authority ordinances. Once an application is approved, the key departments are all in one place at one time to sign and move projects along.

The DRB is intended to meet three general goals:

- Implement a more effective review and approval process for the City and the applicant.
- Implement a mechanism for discussions where all key departments/agencies and the applicant receive the same information and interface as a group, thereby establishing the same base for analysis of the proposal and its relevant impact on each department’s/agency’s specialization area.
- Facilitate better coordination, planning and judgment leading to quality development in the City of Albuquerque.

The DRB is charged with administering the City IDO and DPM. IDO Section 14-16-6-2(D)(1) lists the membership of the DRB. IDO Section 14-16-6-2(D)(2) details the responsibilities of the DRB.

ARTICLE I – RULES

Section 1. Authorization for Rules: These Rules of Practice and Procedure (“Rules”) of the Development Review Board are authorized pursuant to Section 2-15-1 et al., of the Revised Ordinances of Albuquerque, New Mexico 1994, as amended, and the IDO Section 14-16-6-2(D). In the event of a conflict between the Rules, city ordinances or resolutions of the City Council, and/or state or federal laws; city ordinances, resolutions of the City Council, and/or state or federal laws shall control.

Section 2. Interpretation of Rules. The Rules shall be construed and administered by the DRB and its staff to secure an efficient determination of every matter or proceeding before the DRB while adhering to ordinances and laws, and the stated goals of those ordinances, laws, that govern that particular matter or proceeding.

Section 3. Control of Rules. The Rules shall control the conduct of business before the DRB. All DRB members, City staff, and those appearing before the DRB or having business in front of the DRB shall adhere to the Rules.

Section 4. Suspension of Rules. Except for Rules matching or mandated by charter, statutory or ordinance provisions, the Rules, or any part thereof, may be temporarily suspended by unanimous vote of the DRB members present.

Section 5. Not Covered by Rules. Any matter not covered by the Rules shall be governed by Roberts' Rules of Order (latest edition), or, if not covered by Roberts' Rules of Order, then by a decision of the DRB Chairperson, subject to the right of appeal. A violation of Roberts' Rules of Order not brought to the attention of the Chairperson during the proceeding and prior to vote at issue shall not be a basis for an appeal.

Section 6. Amendment of Rules. Any amendment to these Rules must be made following the requirements and procedures for rule making stated in Section 2-15-1 ROA 1994.

Section 7. Dissemination of Rules. Copies of the Rules shall be available to the public upon request from the City Clerk and shall be published on the City website for the DRB.

Section 8. Citation to Rules. A particular rule of the Rules may be cited by giving the Roman numeral of Article first, then the Section number, followed by the subsections if any. For example, the rule concerning appealing decisions of the DRB would be cited or called 'Rule I.8.A(1)(a)'.

ARTICLE II – ORGANIZATION AND MEETINGS

Section 1. Members of the Board. As described in the IDO, the DRB shall be composed of six (6) members, who are employees of the City of Albuquerque and the Albuquerque Bernalillo County Water Utility Authority ("ABCWUA") representing the following:

- 14-16-6-2(D)(1)(a) City Planning Department Director or designee (chair of the DRB)
- 14-16-6-2(D)(1)(b) City Engineer designee for hydrology (who may also function as a designee for AMAFCA)
- 14-16-6-2(D)(1)(c) City Engineer designee for transportation
- 14-16-6-2(D)(1)(d) Zoning Enforcement Officer or designee
- 14-16-6-2(D)(1)(e) Parks and Recreation Department representative
- 14-16-6-2(D)(1)(f) ABCWUA representative

Section 2. Designation of Members. Each department director/agency will designate a member and an alternate(s). All designation shall be made in writing to the Planning Director with concurrence of the Chief Administrative Officer ("CAO") for the City. Each member and alternate shall serve until a replacement has been assigned. Any member or alternate may be removed by

the responsible director with written notice to the Planning Director with the concurrence of the CAO. In case of an emergency, absence of designate member(s), the appropriate department Director can sit for, or can designate a temporary alternate for the absent member.

Section 3. Duties.

- A. Chairperson: The Planning Director or designee shall designate a Chairperson and an alternate. In the temporary absence of the DRB Chairperson, and the alternate, another DRB member designated by the Chairperson or the Planning Department Director shall chair the DRB. The Chairperson's duties include:
1. Manage and administer all meetings of the DRB to include requiring appropriate decorum, preserve order, decide all points of order and procedure. The Chairperson may restrict or limit times for the public to speak at a DRB meeting including taking steps necessary to maintain public order. This authority includes but is not limited to halt or limit repetitive, irrelevant or inappropriate comments. The Chair may allow the public to address comments and/or questions directly to the applicant and the board members if deemed appropriate and productive.
 2. Prepare all Notice of Decisions and Actions of the DRB and ensure that the Notices are available at least five days before the next regularly scheduled meeting.
 3. Signs transmittals to the Environmental Planning Commission ("EPC"), Mayor/CAO.
 4. Represents the DRB before the EPC, City Council and other appellant bodies. The chairperson may appoint any member to appear in his/her behalf.
 5. Oversees the scheduling of matters which come before DRB.
 6. Coordinate with the Planning Department to ensure that the Planning Department provides the necessary staff support for reports, meeting recordation, filing, preparation of decision documents and other appropriate tasks.
 7. Notifies and requests additional department, agency, or other representatives are present at meetings, when necessary, for a comprehensive review and approval process.
 8. Ensure that a file is maintained in the Planning Department listing persons from all departments and divisions who are authorized to sign plats and communicate with the signing authority and the County Treasurer and County Clerk's Offices.
- B. Board Members: The designated Board Members or alternates will attend all meetings of the DRB, providing the expertise in each of their specialty areas and

each must be authorized to sign documents and plats on behalf of the City and ABCWUA.

1. The appearance of impropriety will be avoided. Board Members will recuse themselves from participating in a matter if a conflict of interest exists or appears to exist, including for example, a direct or indirect financial conflict of interest, or if circumstances exist which would impair or appear to impair the independence of judgment of the Board Member. Notwithstanding the foregoing, Board Members, as experts for the City and the ABCWUA, have a duty to perform their staff duties on behalf of the City and ABCWUA and should only recuse themselves for good reason. As the DRB is not a policy making board, Board Members may be present for any matter heard by the DRB and are not required to leave any meeting for any action before the DRB.
 2. By the very nature of the DRB being a non-policy making board, staffed by City and ABCWUA employees whose responsibilities include assisting citizens with their development endeavors, DRB Board Members may communicate with any applicant about their application at any time, both outside and during DRB meetings.
 3. Electronic signatures of DRB members are allowed.
- C. Administrative Assistant: The Planning Director shall provide an administrative Assistant for the DRB (“DRB Admin”), who shall attend all meetings of the DRB.
1. The DRB Admin will prepare and distribute copies of the DRB agenda and other materials as directed by the Chairperson.
 2. The DRB Admin will record and maintain minutes of all matters considered by the DRB. These summary minutes consist of actions of the DRB. The recordings of the DRB meeting will be maintained by the DRB Admin and made available to the public upon request. The audio recordings of the meeting will be kept in a digital format acceptable to the City and will be provided to the public upon request in the format in which it exists at the time of the request. Any requests for the recordings can be made of the City’s Record Custodian.
- D. Legal Counsel:
- The City Attorney or a designated representative will be the legal counsel for the DRB.
- Legal counsel will, when possible, attend all DRB meetings. A lack of Legal Counsel will not prevent a DRB meeting if Legal Counsel is necessary and not available.

E. Committees:

1. The Chairperson, with concurrence of a majority vote of the DRB, may create committees and assign responsibilities and authority in writing, as deemed necessary or desirable. DRB members and/or other City Staff may serve on these committees.
Committees shall handle specific project areas, special problems and carry out the duties as specifically assigned by DRB at the time of committee creation. The DRB shall select the members and the committee will select its chairperson.
 - a. Committees established by the DRB shall proceed by these rules of procedure.
 - b. When related staff development review committees are established by other bodies, such as the design team established by the Sidewalk Ordinance, the DRB shall make recommendations as appropriate for implementation.
2. The DRB will establish criteria and standards to allow staff to exercise administrative approval on specific types of requests. The criteria and standards must be appended to these rules prior to delegation of authority. A consensus is required to establish or amend the criteria or standards.

Section 4. Meetings.

- A. All regular meetings of the DRB will be open to the public and will be held on a regularly scheduled basis. The DRB is a consensus board of City and ABCWUA staff, where each designee, using their unique expertise, is required to review and make decisions/recommendations concerning various parts of the applications presented to the board. The DRB is not a policymaking body and its City and ABCWUA staff members, as such, may, from time to time, meet for the purposes to review and confer with each other and/or the applicant concerning applications before the DRB. No meeting outside the advertised DRB meeting will adopt any proposed resolution, rule, regulation or take any formal action. The DRB members may meet with applicants outside a meeting to address questions and issues with the application or project.
- B. All regular meetings of the DRB will be held in the Plaza del Sol basement/garden level meeting room, at 600 Second Street, NW or through a virtual meeting. Notice of the location and time of the meeting will be posted in the lobby of the Plaza Del Sol building and on the City's website. If the meeting is held virtually, notice of

the meeting will contain detailed information including web address and/or phone numbers.

- C. For all meetings, a required quorum consists of six (6) members or their alternates. A quorum is necessary to conduct DRB business. In the case of the emergency absence of designated member(s), the appropriate department director can sit for, or designate, a temporary alternate for the missing representative(s).
- D. For regularly scheduled meetings, the DRB Admin will prepare an agenda, the previous meeting's minutes/action sheet and Notices of Decisions at least five (5) days prior to each DRB meeting.
- E. For special meetings, the DRB Admin will prepare the agenda and post notice in the lobby of the Plaza Del Sol building and on the City's website at least seventy-two (72) hours prior to the DRB meeting.
- F. All revised/supplemental application submittals must be received digitally by the DRB Admin by noon on the Friday before the scheduled Wednesday meeting date. Materials received after this deadline may result in the deferral of the application or may be reviewed only in extraordinary circumstances, as determined by the Chairperson. If a DRB member has pre-approved a submittal and/or agreed before the meeting, the materials can be submitted at the meeting.
- G. All regularly scheduled meetings of the DRB will be public meetings. Notwithstanding the foregoing, DRB Staff members and Chairperson may meet to fulfil their responsibilities as City staff and these meetings shall not be considered official meetings of the DRB and will not be required to comply with the Open Meetings Act. DRB will use the Open Meetings Act as guidance for conducting public meetings.
- H. At regularly scheduled DRB meetings for major cases, the DRB will allow public comment. For minor cases, the DRB will allow public comment when possible and practicable. The Chairperson may restrict or limit times for the public to speak at a DRB meeting including taking steps necessary to maintain public order. This authority includes but is not limited to halt or limit repetitive, irrelevant or inappropriate comments. The Chairperson may allow the public to address comments and/or questions directly to the applicant and the board members if deemed appropriate and productive.

ARTICLE III. AUTHORITY AND DECISIONS

Section 1. Authority. The DRB, by ordinance, has the authority to consider, review, deny and approve applications requiring review by the DRB, as set forth in the IDO and DPM.

Section 2. Decisions.

- A. Approval. A consensus of the six (6) members is necessary to advise and exercise administrative approval on items before the DRB. Failure to achieve a consensus

is deemed a denial for purposes of the decision unless a deferral is agreed to in writing by the applicant or verbally requested at the DRB meeting.

- B. Delegation of approval. To help facilitate applications, if approval requires the signatures of DRB members on a site plan or plat, any member of the DRB may accept delegation for the matter if it would not result in any redesign of the project. DRB members may accept delegation on infrastructure lists for minor edits. To accept delegation, a deadline to have all unresolved issues completed will be established. If the unresolved issues are not resolved prior to the deadline, the matter will be placed on the DRB agenda. If the unresolved issues are corrected or met, it will be the responsibility of the applicant to notify the DRB Chairperson and obtain the remaining DRB member(s) signature(s). The conditions for final sign off and the Notice of Decision must appear in the DRB file.
- C. Deferrals. Applicants may make a written request for a deferral of their application any time prior to the meeting by contacting the DRB Admin by email. If the applicant has not requested a deferral in writing prior to the meeting, the applicant is expected to attend the DRB meeting.
The DRB may defer the agenda item to a specific date, by consensus vote of the DRB members.

- 1. At the recommendation of any DRB member, if an applicant requests a deferral on a whole project application for more than a year from the date of the first scheduled meeting and/or makes no substantial submittals that demonstrate a furtherance of the application, the application will expire. This rule is made to protect the communities from situations where an applicant who makes application under one set of rules/ordinances and then fails to pursue the application for years and demands development under the old rules/ordinances that no longer reflect best practices or what is in the best interest of the community.
- 2. A deferral at the request of the DRB or of the applicant is not a final decision of the DRB.

- D. Failure to appear; Failure to request deferral.
If an applicant is not present when the item is announced by the DRB Chairperson, the application will be deferred to the end of the meeting agenda. If an applicant fails to appear at a scheduled DRB meeting and fails to make a timely written request for a reasonable deferral, the DRB members may agree to defer actions on the application for up to two weeks. If the applicant has failed to appear and pursue the application for multiple scheduled DRB meetings and has failed to request a deferral in writing, the DRB may recommend the application be denied as a final action.

- E. Denial. Failure to achieve a consensus is deemed a denial for purposes of the decision unless a deferral is agreed to in writing by the applicant or verbally requested at the DRB meeting. Incomplete submissions are grounds for deferral. Inaccurate, false or misleading information is grounds for denial.
- F. Final decision. An approval or denial is a final decision of the DRB.

Section 3. Appeals. All appeals of DRB final decisions will be governed by the IDO.