



DEVELOPMENT REVIEW BOARD RULES OF PROCEDURE

Draft — November 8, 2019

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 staff members, by consensus, apply the technical standards and requirements established in the Integrated Development Ordinance and the Development Process Manual. 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:

1. Implement a more effective and less time-consuming review and approval process for both the City and the applicants.
2. Implement a mechanism for discussion where all key departments and applicants 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 specialized area.
3. Facilitate better coordination, planning and judgment concerning private development to ensure technical standards have been met pertaining to land use, zoning, infrastructure and transportation, which will lead to better quality and more transparent decisions.

The DRB is charged with administering the City’s Integrated Development Ordinance (hereafter “IDO”) and the Development Process Manual (“DPM”). Section 14-16-6-2(D)(1) of the IDO lists the membership of the DRB. Section 14-16-6-2(D)(2) of the IDO details the responsibilities of the DRB.

ARTICLE 1 – RULES

Section 1. Authorization for Rules: These Rules of Practice and Procedure (“Rules”) of the Development Review Board are authorized pursuant to Section 2-6-1-4(C), ROZ 1994, 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 chair, subject to the right of appeal. A violation of Roberts' Rules of Order not brought to the attention of the DRB 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 2-6-1-4(C) of the City ordinance.

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 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) City Planning Department Director designee of a ~~Zoning-zoning Enforcement-enforcement Officerofficer~~
- 14-16-6-2(D)(1)(e) Parks and Recreation Department Director designee
- 14-16-6-2(D)(1)(f) ABCWUA representative.

Section 2. Designation of Members. Each department director will designate a member and an alternate. 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. ~~In compliance with the Open Meetings Act,~~ 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. {Should this be eliminated here because the exact text appears in Article II, Section 4. G (Meetings)}
 - (2) Have prepared all Notice of Decisions and Actions by 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 CAO, Environmental Planning Commission ("EPC"), and any appellate body of the DRB.
 - (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 that come before the DRB.
 - (6) Work 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 departments, agencies and 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 person from all departments and divisions who are authorized to sign plats and communicate the signing authority with the County Treasurer and County Clerk's offices.
- B. Staff Board Members: The designated Staff 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 the Water Authority.

(1) The appearance of impropriety will be avoided. Staff 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 Staff Board Member. Notwithstanding the foregoing, Staff Board Members, as experts for the City and the Water Authority, have a duty to perform their staff duties on behalf of the City and Water Authority and should only recuse themselves for good reason. As the DRB is not a policy making or quasi-judicial board, Staff 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 and non-quasi-judicial board, staffed by City and Water Authority employees whose responsibilities include assisting citizens with their development endeavors, DRB Staff Board Members may communicate with any applicant about their application at any time, both outside and during DRB meetings.

C. Administrative Assistant: The Planning Director shall provide an administrative assistant for the DRB (“DRB Admin”) and the assistant will 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 Chair.

(2) The DRB Admin will record and maintain summary minutes of all matters considered by the DRB. These summary minutes will normally consist of information of the person speaking on the matter, findings and 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 the DRB from meeting. The DRB Chairperson may cancel or defer- a DRB meeting if Legal Counsel is necessary and not available.

Section 4. Meetings.

A. All regular meetings of the DRB will be open to the public and will be held on a regular scheduled basis. The DRB is a consensus board of City and Water

Authority 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 Water Authority 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 to address questions and issues with the application or project.

- B. All regular meetings of the DRB will be held at the Plaza del Sol basement/garden level meeting room, at 600 Second Street, NW. However, depending upon items to be discussed, the meeting may be held at a different location, in which case, at least twenty-four (24) hour advanced notice will be posted in the lobby of the Plaza Del Sol building and on the City's website.
- 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 the agenda, the previous meeting's minutes/action sheet and Notices of Decisions at least five (5) days prior to each DRB meeting.
- E. 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 will 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.
- F. ~~The DRB will follow the Open Meetings Act.~~—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.
- G. At regularly scheduled DRB meetings and when possible and practicable, the DRB may allow public comment. ~~In compliance with the Open Meetings Act,~~ 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. Limiting public comment and/or questions will not be a valid reason to appeal a DRB action.

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. A consensus of all six (6) members of the DRB is necessary to advise and exercise administrative approval of an agent items before the DRB. Failure to achieve a consensus is deemed a denial for purposes of the appeal unless a deferral is agreed to in writing by the applicant or verbally requested and approved at the DRB meeting.
- B. Delegation of approval. To help facilitate applications, if approval requires the signatures of DRB members, and at least four (4) DRB members or their alternates are willing to sign on behalf of the DRB and the remaining members are willing to allow the other two members to accept delegation for the minor issues to be resolved, then the non-signing members may accept delegation for the remaining members and the matter will be removed from the agenda. To accept delegation, a deadline to have all unresolved issues completed will be established. If the unresolved issues are not resolved prior to that deadline, the matter will be restored to 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 to obtain the remaining DRB member signatures. The conditions for the 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 and DRB Chairperson 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 an agenda item to a specific future date upon the consensus of the DRB members.
- D. Failure to appear; Failure to request deferral. Indefinite deferrals will not be granted. 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. At the recommendation of any DRB member, if an applicant requests deferrals 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 applicant may be subjected to the most current requirements of the IDO, regardless of the ordinance requirements in place at the time of application. 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.

- F. A deferral at the request of the DRB or of the applicant is not a final decision of the DRB. An approval or denial is a final decision of the DRB.

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