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OFFICIAL NOTIFICATION OF DECISION

January 18, 2024

City of Albuquerque
City Council
1 Civic Plaza NW
Albuquerque, NM 87102

Project # PR-2018-001843
RZ-2023-00050 – Text Amendment to Integrated Development Ordinance (IDO) – Small Area – The Northwest Mesa Escarpment View Protection Overlay Zone – VPO-2

LEGAL DESCRIPTION:

The City of Albuquerque Council Services Department, requests to amend the text of the Integrated Development Ordinance (IDO) regarding Tribal Engagement, which affects a small area, the Northwest Mesa Escarpment View Protection Overlay Zone – VPO-2.

Staff Planner: Mikaela Renz-Whitmore

On January 18, 2024, the Environmental Planning Commission (EPC) voted to forward a recommendation of DENIAL to the City Council of Project # PR-2018-001843, RZ-2023-00050 – Text Amendment to Integrated Development Ordinance (IDO), Small Area, based on the following Findings and subject to the following Conditions for Recommendation of Denial.

RECOMMENDED FINDINGS:

1. The request is for a text amendment to the Integrated Development Ordinance (IDO) for a small area as part of the Annual Update required by IDO Subsection 14-16-6-3(E). The proposed Small-area amendment, when combined with the proposed City-wide amendments, are collectively known as the 2023 IDO Annual Update.
2. The text amendment to this small area in the City is accompanied by proposed Citywide text amendments, which were submitted separately pursuant to IDO Subsection 14-16-6-7(D) and are the subject of another Staff report (RZ-2023-00040).
3. The small area text amendment is a proposed change requested by Council Services that affects the Northwest Mesa Escarpment View Protection Overlay zone (VPO-2), as established in the IDO.
4. This small area text amendment is a component of a Citywide amendment for tribal engagement proposed in PR-2018-001843 / RZ-2023-00040, which would require the City to refer applications for development within the Northwest Mesa View Protection Overlay Zone (VPO-2) to tribal representatives as commenting agencies. Tribal representatives would have the same timeframes

for comments as other commenting agencies – 15 days for decisions requiring a public hearing and policy decisions. VPO-2 is not included in the proposed Citywide requirement to offer a Pre-submittal tribal meeting.

5. The IDO applies to land within the City of Albuquerque municipal boundaries. The IDO does not apply to properties controlled by another jurisdiction, such as the State of New Mexico, federal lands, or lands in unincorporated Bernalillo County or in other municipalities.
6. The EPC's role is to make a recommendation to the City Council regarding the proposed amendment to IDO text for this small area. As the City's Planning and Zoning Authority, the City Council will make the final decision. The EPC is a recommending body to the Council and has important review authority. Because the proposed change affects properties only in a small area, this is a quasi-judicial matter.
7. The Albuquerque City Charter, Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Integrated Development Ordinance (IDO) are incorporated herein by reference and made part of the record for all purposes.
8. The request furthers the following relevant City Charter articles:
 - A. Article I, Incorporation and Powers. Amending the IDO via text amendments is consistent with the purpose of the City Charter to provide for maximum local self-government. The revised regulatory language and process in the IDO helps implement a preponderance of relevant goals and policies within the Comprehensive Plan and therefore can help guide future legislation.
 - B. Article IX, Environmental Protection. The IDO is an instrument to help promote and maintain an aesthetic and humane urban environment for Albuquerque's citizens, and thereby promote improved quality of life. The proposed Small Area text amendment to the IDO would help ensure that land is developed and used properly. Tribal governments and representatives would become commenting agencies for development proposed within the Northwest Mesa Escarpment View Protection Overlay Zone (VPO02); therefore, Commissions, Boards, and Committees would be better able to facilitate effective administration of City policy in this area with the approval of this amendment.
9. The request generally furthers the following relevant City Charter articles:
 - A. Article XVII, Planning. In general, amending the IDO through the annual update process is an instance of the Council exercising its role as the City's ultimate planning and zoning authority. The IDO will help implement the Comprehensive Plan and ensure that development in the City is consistent with the intent of any other plans and ordinances that the Council adopts.
 - B. Section 2. In general, amending the IDO through the annual update process will help the Mayor and his designees to administer the City's land use plan – the Comprehensive Plan – to achieve its vision for future growth and development through development that is regulated by the IDO.
10. The request partially furthers the following Comprehensive Plan Goal and Policies from Chapter 4: Community Identity:

- A. Goal 4.1 Character: Enhance, protect, and preserve distinct communities.
- B. Policy 4.1.4 Neighborhoods: Enhance, protect, and preserve neighborhoods and traditional communities as key to our long-term health and vitality..
- C. Policy 4.1.5 Natural Resources: Encourage high-quality development and redevelopment that responds appropriately to the natural setting and ecosystem functions.
- D. Goal 4.2 Process: Engage communities to identify and plan for their distinct character and needs.
- E. Policy 4.2.2 Community Engagement: Facilitate meaningful engagement opportunities and respectful interactions in order to identify and address the needs of all residents.

While providing the opportunity for tribal governments and representatives of traditional tribal communities to engage in the development review process is intended to result in development that is more appropriately designed to respond to the unique natural setting surrounding the Petroglyph National Monument to create a distinct community, tribal entities already have the opportunity to comment on cases in the same way as the general public; therefore, the proposed change is not necessary.

11. The request partially furthers the following Comprehensive Plan Goal and Policies from Chapter 5: Land Use:

- A. Goal 5.7 Implementation Processes: Employ procedures and processes to effectively and equitably implement the Comp Plan.
- B. Policy 5.7.5 Public Engagement: Provide regular opportunities for residents and stakeholders to better understand and engage in the planning and development process.

Tribal communities have been stewards of this cultural landscape for millennia, and providing the opportunity for their review/comment on proposed development is intended to help guide development to be sustainable and result in a distinct community surrounding the Petroglyph National Monument and the surrounding area, which was the intent of establishing the NW Mesa Escarpment VPO-2. The request is consistent with Policy 5.2.1 Land Uses.

Property owners and developers expressed concern that this change in the process could add delays and additional development cost; therefore, the proposed change may not result in efficient development process and would not further this goal and policy.

12. The request does not meet the Review and Decision Criteria in Subsection 14-16-6-7(E) of the IDO, as follows:

- A. Criterion A: The proposed small area amendment is consistent with the health, safety, and general welfare of the city as shown by furthering (and not being in conflict with) a preponderance of applicable Goals and Policies in the ABC Comp Plan, as amended, and other applicable plans adopted by the City.

The proposed IDO text amendment only partially furthers some goals and policies; therefore, the proposed amendment does not further a preponderance of applicable Goals and Policies.

- B. Criterion B: If the proposed small area amendment is located partially or completely in an Area of Consistency (as shown in the ABC Comp Plan, as amended), the applicant must demonstrate that the proposed amendment would clearly reinforce or strengthen the established character of the surrounding Area of Consistency and would not allow development that is significantly different from that character. The applicant must also demonstrate that the existing zoning regulations are inappropriate because they meet any of the following criteria:
1. There has been a significant change in neighborhood or community conditions affecting the small area.
 2. The proposed zoning regulations are more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).

The proposed amendment does not meet Criterion 14-16-6-7(E)(3)(b) because the small area is located partially in an Area of Consistency, but it is not more advantageous to the community because it does not further a preponderance of Goals and Policies in the Comprehensive Plan.

- C. Criterion C: If the proposed small area amendment is located wholly in an Area of Change (as shown in the ABC Comp Plan, as amended), the applicant must demonstrate that the existing zoning regulations are inappropriate because they meet at least one of the following criteria:
1. There has been a significant change in neighborhood or community conditions affecting the small area that justifies this request.
 2. The proposed zoning regulations are more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).

This criterion is not applicable because the small area includes Areas of Consistency.

- D. Criterion D: If the proposed amendment changes allowable uses, the proposed amendment does not allow permissive uses that would be harmful to adjacent property, the neighborhood, or the community, unless the Use-specific Standards in Section 16-16-4-3 associated with that use will adequately mitigate those harmful impacts.

This criterion is not applicable because the proposed amendment does not change allowable uses.

- E. Criterion E: The applicant's justification is not based completely or predominantly on the cost of land or economic considerations.

The small area amendment meets Criterion 14-16-6-7(E)(3)(e) because the request is not completely or predominantly justified based on the cost of land or economic considerations.

13. For a Text Amendment to IDO – Small Area, the required notice must be emailed, mailed, published, and posted on the web. (See Table 6-1-1.) Email notice was sent to the two representatives of each Neighborhood Association and Coalition registered with the Office of Neighborhood Coordination (ONC) as required by IDO Subsection 14-16-6-4(K)(2)(a). On December 6, mailed notice was sent to 8,861 property owners within the Northwest Mesa Escarpment View Protection Overlay zone and within 100 feet of the boundary, but not to property owners within 660 feet, which was an error. A recommended condition of approval revises the small area to the VPO-2 boundary, which would coincide with the provided mailed notice. The City published notice of the EPC hearing as a legal ad in the ABQ Journal newspaper. Notice was posted on the Planning Department website and on the project website.
14. City staff held public review meetings about the IDO Annual Update, including small area amendments, on October 12-13 and November 17, 2023 via Zoom.
15. For a Text Amendment to IDO – Small Area, a pre-submittal neighborhood meeting must be offered to Neighborhood Associations that include or are adjacent to the small area. A neighborhood meeting was held on October 28, 2023 via Zoom.
16. The EPC held a study session regarding the proposed 2023 IDO amendments on December 7, 2023. This was a publicly-noticed meeting, but public comments were not taken.
17. As of this writing, City Council has scheduled a post-submittal facilitated meeting as requested by the Santa Fe Village Neighborhood Association to discuss the proposed amendment on January 10, 2024.
18. As of this writing, 1 written comment have been received from the public about this component of the tribal engagement amendment, and approximately 6 public comments were pinned on the exhibit posted online. All comments have been in support.
19. Participants expressed support during the pre-submittal neighborhood meeting.
20. Public testimony from the hearing on January 18, 2024 from property owners with undeveloped land within the Northwest Mesa Escarpment View Protection Overlay Zone (VPO-2) expressed concerns that the proposed amendment would add a layer of complexity in the development process that could contribute to delays and additional development costs. The EPC finds this argument compelling and does not support the proposed amendment.
21. Because the EPC is a recommending body for this IDO text amendment for a small area, the City Council will be the ultimate decision-maker. If City Council considers adopting this amendment, EPC has approved a Recommended Condition that edits the proposed amendment to remove the 660-foot distance from the VPO-2 so that only applications within the VPO-2 will be referred to tribal representatives. This change aligns with the mailed notice provided to property owners within the VPO-2 and those within 100 feet.
22. On January 11, 2024, EPC approved 4 conditions that changed the text of the Citywide tribal engagement amendment (PR-2018-001843 / RZ-2023-00040, Conditions #28-31). These

conditions will be reflected in the revised amendment that will be transmitted to City Council for consideration on this small area component of the Citywide tribal engagement amendment.

RECOMMENDED CONDITION FOR RECOMMENDATION OF DENIAL:

1. In the proposed Subsection 14-16-6-4(J)(10), revise the language to delete “660 feet of” so that tribal referrals take place for applications proposing development within the Northwest Mesa Escarpment View Protection Overlay zone boundary.

APPEAL: It is not possible to appeal an EPC Recommendation to the City Council, since this is not a final decision. For more information regarding the appeal process, please refer to Section 14-16-6-4(V) of the Integrated Development Ordinance (IDO), Administration and Enforcement.

Sincerely,



for Alan M. Varela,
Planning Director

AV/MRW/MJ

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