



CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Planning Department

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

January 17, 2025

TO: Brook Bassan, President, City Council

FROM: Alan Varela, Planning Director 
[Alan Varela \(Jan 18, 2025 14:21 MST\)](#)

SUBJECT: AC-25-01, PR-2018-001577, SI-2024-01470

Five appellants—the Santa Fe Village Neighborhood Association (SFVNA); West Side Coalition of Neighborhood Associations (WSCONA); the Native American Voters Alliance (NAEVA), a non-profit organization; and individuals Jane Baechle and Michael T. Voorhees—appeal the Environmental Planning Commission (EPC) decision to approve a Site Plan for the Mesa Film Studio proposed for Double Eagle II (DEII) Airport Lease Area 2 (an approximately 60-acre portion of the Double Eagle II Airport property, consisting of Tract A-1 Plat of Tract A-1 & Tract L-1 Parcels 1-5 Double Eagle II Airport, Tracts C, E, F, K Bulk Land Plat of Double Eagle II Airport and Adjacent Lands, Tract D-1-A-2 and Tract S-1-A Parts of Tracts D-1-A-1, D-1-A-2 & S-1-A of amended Bulk Land Plat for Aerospace Technology Park, Tract N-1 Bulk Lands Part of Tracts N-1, O-1 & N-2 Parcels 1, 2, 3 & 4 Double Eagle II Airport and Adjacent Lands, Tract S-2 Bulk Land Plat for Aerospace Technology Park Tracts D & S of Double Eagle II Airport and Adjacent Lands), located at 7401 Paseo del Volcan NW, Atrisco Vista Blvd. NW and Shooting Range Access Rd. intersection, approximately 4,100 acres (C-4, C-5, C-6, D-4, D-5, D-6, E-4, E-5, E-6, F-4, F-5, F-6, G-4, G-6).

REQUEST

This is an appeal of the EPC's decision to approve a Site Plan – EPC for the development of a film studio on Lease Area 2, an approximately 60-acre portion of the approximately 4,100-acre DEII Airport property zoned Non-residential Sensitive Use (NR-SU). The proposed development consists of light manufacturing, office, and other non-residential uses (i.e., Warehousing, Restaurant, Mobile Food Truck, and Mobile Food Truck Court) related to a film studio. The NR-SU zone district requires a Site Plan that establishes allowable uses and development standards that are negotiated through the review/decision by EPC for the proposed and future development within the Site Plan boundary. The Site Plan must also be in compliance with the Master Plan for the DEII Airport.

The Site Plan application was submitted and accepted as complete October 10, 2024, subject to the Integrated Development Ordinance (IDO) effective as of August 3, 2024 and the DEII Airport Master Plan amended by City Council on August 5, 2024.

EPC DECISION

The EPC heard and approved the request at a quasi-judicial hearing on December 19, 2024. The decision was based on testimony at the hearing and 35 Findings of Fact with 14 Conditions of Approval that are elaborated in the Official Notification of Decision (NOD) dated December 19, 2024.

APPEAL

The IDO establishes appeal procedures in §14-16-6-4(U). All five appellants made an appearance of record by providing written and verbal comments at the December 19, 2024 public hearing.

Appellants need to demonstrate to the Land Use Hearing Officer that their property rights or other rights have been specially and adversely affected by the decision, pursuant to IDO §14-16-[6-4\(U\)\(2\)\(a\)](#). The appellants do not appear to meet the criteria for other parties with standing to appeal.

The IDO's Criteria for Decision of an Appeal [IDO §14-16-[6-4\(U\)\(4\)](#)] is whether the decision-making body or the prior appeal body made one (1) of the following mistakes:

6-4(U)(4)(a) The decision-making body or the prior appeal body acted fraudulently, arbitrarily, or capriciously.

6-4(U)(4)(b) The decision being appealed is not supported by substantial evidence.

6-4(U)(4)(c) The decision-making body or the prior appeal body erred in applying the requirements of this IDO (or a plan, policy, or regulation referenced in the review and decision-making criteria for the type of decision being appealed).

The appellants assert that the EPC decision erred regarding all three criteria.

Accordingly, the appellants argue that:

- (1) The proposed plan was predetermined by Council's approval of a ground lease and agreement between the City of Albuquerque and Mesa Media Holdings LLC ([EC-24-94](#)), with subsequent Film Studio Site Plan – EPC procedures irregular and rushed; the withdrawal of the appeal for the DEII Site Plan was meant to bypass EPC rules and procedures, resulting in a violation of Appellant due process.
- (2) The proposed film studio is not consistent with the DEII Master Plan nor the IDO, as neither specifies nor defines "film production," and neither allows for permanent film production as a permissive use.
- (3) EPC Findings are not consistent with the Comprehensive Plan and present a major threat to the Petroglyph National Monument.
- (4) There was Commissioner bias, Commissioner discussion in violation of the New Mexico Open Meetings Act, and tampering with EPC public records.
- (5) There was not meaningful public outreach.

RESPONSES

The EPC applied the requirements of the IDO based on substantial evidence in the record. The Official

Notification of Decision contains 34 Findings and 14 Conditions of Approval that support the EPC's decision. The Findings were developed based on thorough analysis contained in the Staff report.

1. **Appellant:** Commissioner MacEachen should be recused for bias expressed at the November 21, 2024, EPC hearing. At that hearing, it appeared that Commissioner MacEachen expressed irritation with Commissioner Carver for questioning whether the required notices for the hearing had been properly given, apparently stating that if Commissioner Carver had concerns about moving ahead with the MFS application, Commissioner Carver should have expressed those concerns privately with Commissioner MacEachen, and that Commissioner Carver was not a "team player".

Staff Response: The December 19, 2024 case was heard anew. Any materials associated with any previous hearing were not to be considered. EPC Commissioners have a duty to hear cases presented to them, and recusal should only occur if a conflict of interest exists as defined by Article XII of the Charter of the City of Albuquerque or by any ordinance governing boards and commissions. Commissioners may recuse themselves to avoid the appearance of impropriety if circumstances exist which would strongly appear to impair the independence of judgment of the Commissioner, but such a recusal is not mandatory. See Environmental Planning Commission (EPC) Rules of Practice and Procedure, Article III, Section 6. Recusals.

2. **Appellant:** The EPC has not complied with the submission and notice requirements of the EPC's Rules of Practice and Procedure, effective date April 15, 2021 ("EPC Rules") (from the City's website), particularly Article III, Section 2.E, concerning the record and timing of submissions. It appears that the EPC and the Planning Department are not following the EPC Rules. Appellants object to this rushed, irregular proceeding for the Mesa Film Studio application. Appellants object to consideration of any analysis or advocacy submissions by the Planning Department for which the public has not had at least 15 days prior notice. The application presents complicated issues of fact, policy, and law that deserve thorough consideration.

Staff Response: The applicant provided public notice of the application as required by IDO [Table 6-1-1](#) and IDO [§14-16-6-4\(j\)\(3\)\(c\)](#) to property owners within 100 feet. There are no recognized Neighborhood Associations within 660 feet that were required to be noticed via email or mail [IDO [§14-16-6-4\(j\)\(2\)](#)].

The EPC and the Planning Department followed the EPC Rules and regulations and standard practices by posting all materials received by the deadlines established in Article III, Section 2.E as part of either the Staff report (posted online December 12, 2024) or as 48-hour materials (posted online December 17, 2024) on the EPC webpage (<https://www.cabq.gov/planning/boards-commissions/environmental-planning-commission/epc-agendas-reports-minutes>).

A full record of the December public hearing was made as a sound and video recording, available to any person to listen to, copy, or transcribe the recording during regular business hours. An official transcript of the hearing is included in the record for this appeal.

It is unclear what is meant by an advocacy submission by the Planning Department, but the appellant is likely referring to the Staff recommendation of approval in the Staff report for EPC consideration. Staff recommendations are a typical part of the EPC process, and EPC, as the decision-making body, may reject the recommendation and adopt alternative findings for denial or may continue the case to a subsequent hearing for more consideration.

3. **Appellant:** The Planning Department should have placed in the record and the EPC should have considered the entire record of the AC-24-26 proceeding. Some unanswered questions from the

EPC hearings involve why the Aviation Department withdrew its application for the proposed “as-built” Site Plan for the Double Eagle II Master Plan area.

Staff Response: The AC-24-26 material was submitted by the Appellant on December 03, 2024 and posted on December 12, 2024 as part of the Public Comment in the Staff Report. The decision criteria for a Site Plan – EPC are established in IDO §14-16-6-6(I)(3). EPC found that the proposed Site Plan met the decision criteria for approval in Finding #28. Previous applications are not included in the criteria for approval.

4. **Appellant:** The EPC effectively prejudged its approval of the application by the EPC’s decision in AC-24-26, in which the EPC approved the “Design Standards” of the “as-built” Site Plan specifically with the Mesa Film Studio project in mind.

Staff Response: The prior Site Plan approval was appealed on August 29, 2024. Pursuant to IDO §14-16-6-4(T)(1), a decision that is appealed is no longer final. An applicant can withdraw an application until it is final. The Double Eagle II Airport Site Plan – EPC was withdrawn by the applicant on October 28, 2024. Pursuant to IDO §14-16-1-7(C), the Site Plan was reviewed and decided based on the regulations and plans in effect when the application was accepted as complete by the City. A Site Plan – EPC application for a film studio for the DEII Lease Area 2 was submitted October 10, 2024, deferred on November 21, 2024 due to a publication error, and heard on December 19, 2024. As noted in #3 above, the EPC found that the request met the decision criteria for approval [IDO §14-16-6-6(I)(3)] in Finding #28. The prior Site Plan was not in effect at the time the application was accepted as complete and was not included in the decision criteria for the request.

5. **Appellant:** The entire City government quasi-judicial decision apparatus as currently constituted under the IDO including the EPC should not be involved as a “quasi-judicial” decision-maker for the land use approvals necessary for the Mesa Film Studio project, because the City Council already committed to the Mesa Film Studio project in the lease for the property, and the Planning Department and Aviation Departments essentially are applicants for the project. The quasi-judicial decision-makers for the application should not be partial to the project.

Staff Response: Pursuant to the City Charter, the City Council is the City’s land use and zoning authority. The City Council established the EPC and delegated decision-making authority for Site Plan – EPC applications in the IDO §14-16-6. The EPC Commissioners serve as unpaid volunteers and are not members of the immediate family of any elected City official. See ROA 1994, Section 2-6-1-3. Thus, the EPC Commissioners have no inherent bias in favor of the City or applications involving City properties. EPC held a quasi-judicial hearing on the application pursuant to IDO §14-16-6-4(L)(3). EPC found the Site Plan to meet the review and decision criteria for approval in IDO §14-16-6-6(I)(3) [Finding #28].

- 6a. **Appellant:** The Mesa Film Studio project is “Film Production” under the IDO and is not allowed in a NR-SU zone. Film production is not “light manufacturing” (even if NR-SU allowed light manufacturing). Approval of the project would require amendment of the IDO to allow long-term “film production,” amendment of or change from the NR-SU zoning category, and amendment of the DEII Master Plan to establish design standards for the DEII Master Plan area. Film Production is not an accessory to an airport.

Staff Response: IDO §14-16-7-1 defines film production as a temporary use.

The IDO establishes an airport as a sensitive use that requires NR-SU zoning [§14-16-2-5(E)(2)(a)], and the NR-SU zone district allows accessory uses listed in [Table 4-2-1](#) if they are found to be

compatible with the primary sensitive use [IDO §14-16-[2-5\(E\)\(3\)\(b\)](#) and IDO §14-16-[4-1\(A\)\(4\)\(b\)](#)]. The requested accessory uses in this case included light manufacturing, office, and other non-residential uses (i.e., Warehousing, Restaurant, Mobile Food Truck, and Mobile Food Truck Court).

According to [Table 2-5-9](#), allowable uses for the NR-SU zone district are “[as] negotiated from among those listed in §14-16-[4-2](#).” IDO §14-16-[7-1](#) defines “Allowable Use” as “[a] land use allowed in a particular zone district by [Table 4-2-1](#) as a primary or accessory use, whether allowed permissively or conditionally” with approved uses for each property and any related standards to be recorded “in the approved Site Plan for that property on file with the City Planning Department” [IDO §14-16-[4-1\(A\)\(4\)\(b\)\(4\)](#)]. IDO §14-16-[7-1](#) defines “Accessory Use” as “[a] land use that is subordinate in use, area, or purpose to a primary land use on the same lot or, in any Mixed-use or Non-residential zone district, the same premises.”

Because the DEII Airport Lease Area 2 is within the boundaries of the existing Rank 3 DEII Airport Master Plan, the Site Plan is required to comply with the Master Plan in effect when the application was accepted as complete [IDO §14-16-[1-7\(C\)](#)]. On August 5, 2024 the City Council amended the DEII Airport Master Plan to allow non-aeronautical land uses on the airport property, including commercial, lodging, light industrial, educational, film studio, and renewable energy generation (EPC PR #2018-001577, SI-2024-00321 and [R-24-71](#).)

- 6b. **Appellant:** The City in its rush to approve the Mesa Film Studio project is overriding important guardrails for quasi-judicial decisions and its own controlling planning and zoning documents.

Staff Response: See responses to #3, #5, and #6.a above.

7. **Appellant:** It appears that Chair Hollinger “closed” the EPC meeting in violation of the New Mexico Open Meetings Act, and that the EPC Commissioners then continued to discuss and make decisions about the matter outside the open portion of the hearing.

Staff Response: More information is needed to confirm, but Staff believes this claim is being made about the November 21, 2024 hearing. The case was deferred and heard anew at the December 19, 2024 hearing.

8. **Appellant:** It appears that the EPC or someone with delegated authority of the EPC destroyed or tampered with the EPC public records to delete the “break” EPC discussions on November 19, 2024 (which discussions apparently included Planning Department staff as well as EPC members).

Staff Response: The case was deferred at the November 19, 2024 hearing and heard anew on December 19, 2024.

9. **Appellant:** The City should update the DEII Master Plan before approving ad hoc piecemeal site plans like the Mesa Film Studio proposal.

Staff Response: The DEII Master Plan was updated August 5, 2024 to allow non-aeronautic uses on DEII.

The NR-SU zone district requires a Site Plan that establishes allowable uses and development standards prior to development. The IDO does not require an entire premises to be included in a proposed Site Plan, and no Site Plan is in effect for Lease Area 2. EPC found the proposed Site Plan to meet the decision criteria for approval in §14-16-[6-6\(D\)\(3\)](#) [Finding #28].

10. **Appellant:** The Mesa Film Studio application is not consistent with the DEII Master Plan.

Staff Response: The Site Plan does not include any provisions that conflict with the DEII Master Plan. The DEII Master Plan does not include any development standards. The controlling Rank 3 Double Eagle II Airport Master Plan was developed by City Aviation and approved by City Council to guide the development, maintenance, and operation of public resources or facilities and any other development on the City-owned property. As noted in #6.a above, the DEII Airport Master Plan amended on August 5, 2024 allows non-aeronautical land uses on the airport property, including commercial, lodging, light industrial, educational, film studio, and renewable energy generation (EPC PR #2018-001577, SI-2024-00321 and [R-24-71](#).) For the purposes of the State Constitution, the Master Plan is a duly adopted plan or any of its parts for the development of an area within the planning and platting jurisdiction of a municipality for the general purpose of guiding and accomplishing coordinated, adjusted, and harmonious development.

- 11. Appellant:** The DEII Master Plan and the IDO do not provide adequate standards for the EPC to decide the Mesa Film Studio application.

Staff Response: The IDO is created pursuant to authority granted in Article I of the Charter of the City of Albuquerque, which was originally adopted at a special election on June 29, 1971, pursuant to Article X, Section 6 of the Constitution of the State of New Mexico. The City enacted the IDO to comply with State law (IDO §14-16-[1-2](#)). The IDO is applicable to City activities or development on properties owned or leased by the City [IDO §.14-16-[1-4\(C\)](#)]. Appropriate compliance with the IDO is required by IDO §14-16-[1-7](#).

The IDO establishes an airport as a sensitive use that requires NR-SU zoning [IDO §14-16-[2-5\(E\)\(2\)\(a\)](#)], and the NR-SU zone district requires a Site Plan to establish allowable uses and standards for development [IDO §14-16-[2-5\(E\)\(3\)](#)].

Decision criteria for a Site Plan – EPC are established in IDO §14-16-[6-6\(I\)](#). The EPC found that the Site Plan met the decision criteria for approval pursuant to IDO §14-16-[6-6\(I\)\(3\)\(a-h\)](#) [Finding #28].

See response to #10 above pertaining to the DEII Master Plan.

- 12. Appellant:** The DEII Master Plan does not contemplate or authorize ad hoc piecemeal site plans such as the proposed MFS Site Plan. The DEII Master Plan does not change the area’s NR-SU zoning.

As a Rank 3 Plan for City facilities, the DEII Master Plan does not require Site Plans or establish NR-SU zoning.

See responses to #9 and #11 above for IDO requirements related to NR-SU zoning and related Site Plans.

- 13. Appellant:** The application appears to involve a zone map amendment. A zone map amendment is not justified under the IDO or state law.

Staff Response: The proposed request is for a Site Plan – EPC to establish allowable uses and development standards for the Lease 2 area, as required by IDO §14-16-[2-5\(E\)](#) and §14-16-[6-6\(I\)\(a\)](#) for properties zoned NR-SU. Any proposed development will need to meet or amend the proposed Site Plan standards and conform to relevant IDO standards, where the proposed controlling Site Plan is silent [IDO §14-16-[2-5\(E\)\(3\)\(c\)](#)].

- 14. Appellant:** The Mesa Film Studio project approval and EPC Findings 19 through 28 are in error

because the proposed Site Plan is not consistent with the Comprehensive Plan, particularly for failure to protect the Petroglyph National Monument.

Staff Response: The IDO is intended to implement the goals and policies of the Comprehensive Plan [IDO §14-16-1-3(A)]. IDO §14-16-5-2(J) (Major Public Open Space Edges) establishes regulations for development next to Major Public Open Space, including the Petroglyph National Monument, to minimize negative impacts on Major Public Open Space.

As required by IDO [Table 2-5-9](#), the Site Plan establishes development standards that are generally consistent with the IDO (Findings #19, 20, 22-25, 27, 28, 30, 35). Since the DEII Airport property abuts Major Public Open Space to the west, north, and east, the Site Plan meets the requirements in IDO §14-16-5-2(I)(1) (Lots within 330 Feet of Major Public Open Space) and IDO §14-16-5-2(I)(2) (Lots Adjacent to Major Public Open Space) (Findings #30 and 35).

- 15. Appellant:** The Mesa Film Studio Site Plan is effectively an amendment to the DEII Master Plan and should be processed as such.

See responses to #6a and #10 above.

- 16. Appellant:** The EPC lacks authority under the IDO to approve a Master Plan amendment or a Site Plan within a Master Plan.

See responses to #5, #9, #11, and #12 above.

- 17. Appellant:** The pre-application meetings for the Mesa Film Studio application were inadequate because they assumed the enactment of the 4,200 “as-built” Site Plan with Design Standards before consideration of any Mesa Film Studio application.

Staff Response: The IDO effective as of August 3, 2024 does not require pre-application meetings with Neighborhood Associations, formerly known as Pre-submittal Neighborhood Meetings. The meetings that took place were above and beyond IDO requirements.

- 18. Appellant:** City Staff have made numerous repeated promises to Appellants and others that the City intends to proceed with an update to the DEII Master Plan with community input. The City should be estopped from proceeding with or supporting ad hoc piecemeal development proposals so close to the Petroglyph National Monument.

See response to #9 above.

- 19. Appellant:** The IDO decision criteria for Site Plan - EPC approval are not satisfied.

Staff Response: The EPC found that the request met the decision criteria for approval [IDO §14-16-6-6(I)(3)] in Finding #28.

- 20. Appellant:** The procedures including decision criteria for the Mesa Film Studio project were not established in open meetings.

Staff Response: The IDO establishes procedures for applications in §14-16-6. Procedures and requirements, including decision criteria, are established in [Table 6-1-1](#), IDO §14-16-6-4 (General Procedures), and IDO §14-16-6-6(I) (Site Plan – EPC). The IDO was drafted with numerous public meetings that provided opportunities for input, and the IDO was first adopted and subsequently amended through legislative processes involving public hearings that followed the Open Meetings

Act and provided opportunities for public comment. The IDO is publicly available online.

- 21. Appellant:** The ZEO has not issued a written determination under IDO Section 4-1(B) for the unlisted use of long-term Film Production.

Staff Response: See response to #6.a above. The proposed land uses (i.e., Light Manufacturing, Office, Warehousing, Restaurant, Mobile Food Truck, and Mobile Food Truck Court) are listed in IDO [Table 4-2-1](#); therefore, IDO §14-16-[4-1\(B\)](#) does not apply.

- 22. Appellant:** The Site Plan does not mitigate significant adverse impacts to the surrounding area particularly the Petroglyph National Monument.

See response to #14 above.

- 23. Appellant:** Based on the whole record, the EPC and the Planning Department denied Appellants due process.

Staff Response: The Planning Department and the EPC followed IDO procedures and held a quasi-judicial public hearing on December 19, 2024 that provided an opportunity for public comment and cross examination [IDO [Table 6-1-1](#), IDO §14-16-[6-4\(L\)\(3\)](#), and IDO §14-16-[6-6\(I\)](#)].

CONCLUSION

The EPC acted within its authority and voted to Approve the Site Plan based on Findings #1-34 and Conditions of Approval #1-14. The EPC carefully considered relevant factors in arriving at its decision based on substantial evidence in the record. The decision is supported by the record.

APPROVED:

/ Mikaela Renz-Whitmore /

Mikaela Renz-Whitmore, Division Manager
Urban Design & Development Division
Planning Department






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Final Audit Report

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