City of Santa Fe

Agenda

CITY CLERK'S OFFICE
DATE 9/23/15 TIME 2:55pm
SERVED BY
RECEIVED BY

ARCHAEOLOGICAL REVIEW COMMITTEE HEARING
THURSDAY, October 1, 2015 at 4:30 PM
CITY COUNCILORS CONFERENCE ROOM
CITY HALL - 200 LINCOLN AVENUE, SANTA FE, NM

A. CALL TO ORDER
B. ROLL CALL
C. APPROVAL OF AGENDA
D. APPROVAL OF MINUTES: NA
E. MATTERS FROM THE FLOOR
F. ACTION ITEMS

1) Case #AR-29-2015. Historic Downtown Archaeological Review District. Archaeological Monitoring Plan for Proposed Sewer Line at 207-209 Delgado Street. Ron Winters for New Wave Ventures LLC. (David Rasch)

2) Case #AR-08-1988. Historic Downtown Archaeological Review District. Archaeological Testing Report for 0.32 acres at 330 Garcia Street. Lone Mountain Archaeological Services, Inc. for Parks Construction, Inc. (David Rasch)

3) Case #AR-24-2012. Historic Downtown Archaeological Review District. Archaeological Monitoring Report for PNM Installation of Electric Lines during Phase VIII of Downtown Systems Improvement Project on Griffin and Catron Streets. Office of Archaeological Studies for Public Service Company of New Mexico. (David Rasch)

G. DISCUSSION ITEMS

1) Discussion Draft of the Santa Fe Archaeological Review Districts Overlay Zoning Ordinance (Section 14-3.13)

H. MATTERS FROM THE COMMITTEE
I. ADMINISTRATIVE MATTERS AND COMMUNICATIONS
J. ADJOURNMENT

Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6520 five (5) working days prior to date.

SUMMARY INDEX
ARCHAEOLOGICAL REVIEW COMMITTEE HEARING
Thursday, October 1, 2015

ITEM	ACTION	PAGE
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved	1
APPROVAL OF MINUTES	None	2
MATTERS FROM THE FLOOR	None	2
ACTION ITEMS		
CASE #AR-29-15. HISTORIC DOWNTOWN ARCHAEOLOGICAL REVIEW DISTRICT. ARCHAEOLOGICAL MONITORING PLAN FOR PROPOSED SEWER LINE AT 207-229 DELGADO STREET. RON WINTERS FOR NEW WAVE VENTURES, LLC.	Approved	2-3
CASE #AR-08-1988. HISTORIC DOWNTOWN ARCHAEOLOGICAL REVIEW DISTRICT. ARCHAEOLOGICAL TESTING REPORT FOR 0.32 ACRES AT 330 GARCIA STREET. LONE MOUNTAIN ARCHAEOLOGICAL SERVICES, INC., FOR PARKS CONSTRUCTION, INC.	Postponed	3-8
CASE #AR-24-2012. HISTORIC DOWNTOWN ARCHAEOLOGICAL REVIEW DISTRICT. ARCHAEOLOGICAL MONITORING REPORT FOR PNM INSTALLATION OF ELECTRIC LINES DURING PHASE VII OF DOWNTOWN SYSTEMS IMPROVEMENT PROJECT ON GRIFFIN AND CATRON STREETS. OFFICE OF ARCHAEOLOGICAL STUDIES FOR PUBLIC SERVICE COMPANY OF NEW MEXICO	Approved w/corrections	8-11

ITEM	ACTION	PAGE
DISCUSSION ITEMS		
DISCUSSION DRAFT OF THE SANTA FE ARCHAEOLOGICAL REVIEW DISTRICTS OVERLAY ZONING ORDINANCE	Information/discussion	11-24
MATTERS FROM THE COMMITTEE	None	24
ADMINISTRATIVE MATTERS AND COMMUNICATIONS	Information/discussion	25
ADJOURNMENT		25

MINUTES OF THE
CITY OF SANTA FE
ARCHAEOLOGICAL REVIEW COMMITTEE HEARING
City Councilors Conference Room
October 1, 20, 2015

A. CALL TO ORDER

The Archaeological Review Committee Hearing was called to order by David Eck, Chair, at approximately 4:45 p.m., on October 1, 2015, in the Historic Preservation Conference Room, City Hall, Santa Fe, New Mexico.

B. ROLL CALL

Members Present
David Eck, Chair
James Edward Ivey
Derek Pierce
Gary Funkhouser

Members Excused
Tess Monahan, Vice-Chair

Others Present
David Rasch, Historic Preservation Division
Lani McCulley, Administrative Secretary, Historic Preservation Division
Zachary Shandler, Assistant City Attorney
Don L. Helberg for Melessia Helberg, Stenographer

NOTE: All items in the Committee packet for all agenda items are incorporated herewith to these minutes by reference, and the original Committee packet is on file in, and may be obtained from, the City of Santa Fe Historic Preservation Division.

C. APPROVAL OF AGENDA

MOTION: Derek Pierce moved, seconded by Gary Funkhouser, to approve the Agenda as presented.

VOTE: The motion was approved unanimously on a voice vote.

D. APPROVAL OF MINUTES

There were no minutes for approval.

E. MATTERS FROM THE FLOOR

There were no matters from the floor.

F. ACTION ITEMS

1) CASE #AR-29-15. HISTORIC DOWNTOWN ARCHAEOLOGICAL REVIEW DISTRICT. ARCHAEOLOGICAL MONITORING PLAN FOR PROPOSED SEWER LINE AT 207-229 DELGADO STREET. RON WINTERS FOR NEW WAVE VENTURES, LLC. (DAVID RASCH)

BACKGROUND & SUMMARY:

At the request of David Smith, Project Architect, Ron Winters has prepared a monitoring plan for the proposed installation of a new sewer line at 207-209 Delgado Street. The plan must comply with 4.10.17 NMAC Standards for Monitoring and serves as an alternative means of compliance with Section 14-3.13 of the City of Santa Fe Land Development Code. The project will begin at the driveway on the south side of 207 Delgado at which point a 3' wide trench will extend 190' east along the southern side of the residences at 207 and 209 Delgado Street.

STAFF RECOMMENDATION:

Staff recommends approval of the monitoring plan, as it meets the requirements of the City of Santa Fe Archaeological Review District Ordinance (14-5.3 and 14-3.13).

Chair Eck thanked Ms. McCulley for the staff report. He asked Ms. McCulley if she has anything to add and she said no.

Mr. Winters said you can see on the map in the packet, the red line is where the sewer will go, and it's down a driveway. He said he had nothing else to add.

Gary Funkhouser

Mr. Funkhouser had no comment.

Derek Pierce

Mr. Pierce had no comment.

Jake Ivey

Mr. Ivey had no comment.

Chair Eck

Chair Eck had no comment.

MOTION: Gary Funkhouser moved, seconded by Derek Pierce, with respect to Case #AR-29-2015, to approve the Archaeological Monitoring Plan for the proposed sewer line at 207-209 Delgado Street, requested by Ron Winters for New Wave Ventures, LLC, as it meets the requirements of the City of Santa Fe Archaeological Review District Ordinance (14-5.3 and 14-3.13)

VOTE: The motion was approved unanimously on a voice vote.

2) **CASE #AR-08-1988. HISTORIC DOWNTOWN ARCHAEOLOGICAL REVIEW DISTRICT. ARCHAEOLOGICAL TESTING REPORT FOR 0.32 ACRES AT 330 GARCIA STREET. LONE MOUNTAIN ARCHAEOLOGICAL SERVICES, INC., FOR PARKS CONSTRUCTION, INC. (DAVID RASCH)**

BACKGROUND & SUMMARY:

In 1988, the 0.32 acre lot at 330 Garcia Street was surveyed by Southwest Archaeological Consultants, Inc., in anticipation of residential construction. Prior to ARC review, the case was withdrawn from the agenda and no archaeological clearance was issued. The previous survey resulted in the recovery of 1,760 artifacts and the identification of a segment of the Acequia de Analco (LA 67063). New residential construction is now proposed for the property and archaeological clearance is required. Lone Mountain Archaeological Services resurveyed the lot and hand excavated a trench across the previously identified ditch, finding no remains of the site. No further research is recommended. However, should any cultural deposits be encountered during construction, it is recommended that work cease temporarily, pending notification of the City and further evaluation.

STAFF RECOMMENDATION:

Staff recommends approval of the testing report, as it meets the requirements of the City of Santa Fe Archaeological Review District Ordinance (14-5.3 and 14-3.13)

Chair Eck thanked Ms. McCulley for the staff report and asked if she has anything to add, and Ms. McCulley said no.

Doug Boggess said it was with optimism that he looked at this and said it's already been surveyed. He said he brought this to Ms. Roach's attention and asked her what she wanted him to do. He suspects she read the same page on the outside of the original report and oh this is really all we need to do. He said once he got into writing the report and he understands why the traditions of fussiness as this Committee has come to be known for over the years, why they *[inaudible]*. He said it has explained a great deal of why some things are asked for now.

Chair Eck asked if there are any observations we need to make about the place itself.

Mr. Boggess said, "I think the condition, as I described it, I suspect somebody has smoothed things over, mechanically moved things around. There's kind of dirt piled up on the wall surrounding the property, and they described it as being kind of rutted in the 1980's. It's now very flat and smooth. There's some wonderful vegetation and a sprinkler system, so I think somebody used it as a garden in recent years."

Gary Funkhouser

Mr. Funkhouser said there is a comment at the bottom of page 41, paragraph 1, line 4, which says, *"One large piece of construction hardware has been left in one corner of the lot."* He said he is curious as to what it is.

Mr. Boggess said he is sure what it is.

Mr. Funkhouser said a bulldozer would suggest some of the prints you see.

Mr. Boggess said he isn't handy with construction material, but it looks sort of like when you're digging a trench and you stick a brace down there to keep the trench *[inaudible]*.

Chair Eck asked if it is part of the trench box, and Mr. Boggess said, "Yeah, I think."

Chair Eck said photographs are always wonderful.

Mr. Funkhouser said on page 42, paragraph 1, line 5 under Testing Results, add " be" between "may" and "more."

Mr. Funkhouser said the site record for 67063, at the very bottom of the front page, under Condition, "Any portion of the ditch that remains at this location has removed by the large trees identified marking the route." He asked about the large trees.

Mr. Boggess said in his experience the roots tend to push through things.

Mr. Funkhouser said if it is pretty visible in this large *[inaudible]*, the question is, has the site boundary been modified. There is an argument to change the site boundary so this is no longer recorded, it's no longer contributing to the other part of the site *[inaudible]*.

Chair Eck said that is an excellent preface to later discussion.

Derek Pierce

Mr. Pierce said it seems to him there are two issues. One, is does the original survey still hold water. It is almost 30 years old. It sounds like the conditions on the ground have changed substantially and many of the fifteen hundred or so artifacts that were dismissed as not 75 years old back then, well could be now. So he thinks that's tenuous. The second point to consider, even if we do accept the previous survey, is how do we get up to the minimum threshold of excavation. They're not there yet.

Mr. Pierce asked Mr. Boggess if he knows the nature of what they're proposing to do on this plot.

Mr. Boggess said it's actually on his page 6, there is a whole basis for there being a site here " is that they drew a line linking a line of vegetation on the aerial photographs in 1988 and said this is obviously a ditch." He said they told David Snow about it, so he drew it in his Acequia Report. So this original 1988 survey is what we used to call the *locus classicus* for there even being a lateral in that street, following that street. He said he hasn't been on any of the other lots on that street, so he doesn't know if there is or isn't a ditch anywhere else along there. He knows the whole reason that it is called out that there is a ditch there is this original 1988 report. He said, "So, I probably was a little too wishy-washy in my LA form on that point."

Mr. Pierce said the disappearing alignment doesn't bother him as much as the sheer number of artifacts that were found, particularly the prehistoric. He said every test unit back in 1988 seemed to turn out 15, 20 historic sherds on the site, which is a little dicey.

Mr. Pierce said the reason he asked the nature of the undertaking, had to do with the second point, getting us to the 2%. He said it doesn't sound like they were doing something you could monitor to get to the 2%. You might have to look at further test excavation to get to that threshold.

Mr. Boggess said he had an experience a few years ago with a different set of members on this Committee, where he put a trench where he thought it should go to get him to 2%. My other choice would have been an in-use driveway that was not going to be built on that a little old lady walked up and down to get her mail every day. And I was told I was being shady and dishonest and probably not a very ethical archaeologist for not having dug the trench there. He said, "So, I'm a little gun-shy on saying this is how I want to fix it."

Mr. Pierce said, originally, he thought if it was something like the last case, where it is a nice long sewer line, you could have just monitored during construction, and then be off the hook, but that doesn't sound like it's an option here. He said he doesn't have an answer to the questions he just posed.

Chair Eck said, "I'm sure we'll have lots of suggestions."

Jake Ivey

Mr. Ivey said he has no further comment and thinks we "should cut to the chase."

Chair Eck

Chair Eck said he has an editorial comment about the old effort, which is that he can't imagine accepting a boatload of excavation, terminating at 30 cm, in an ostensibly, but not proven to be, sterile deposit, constitutes enough work to say that we have hit bottom. Too, everybody realizes we need something more to get up to 2%. He said, "My gut feeling is that a two-pronged effort would be perfect. One, a hand unit someplace where it makes some sense, and let's make sure we find sterile, and demonstrate sterile and document sterile. Two, a backhoe trench, guesstimating it's a fairly standard machine, about 10 meters long ought to do it, and I would center it on the alignment that is the purported ditch and get as close as possible to one limit or the other of the property, and hope that all this remodeling that you observed, has not removed all evidence of the trench, ditch, whatever."

Mr. Ivey said, "One clarification I want to stick in. You mean an excavation at right angles to the old trench, because the way you phrased it, it sounded like he would be digging right down the middle of it."

Chair Eck said, "At right angles, so that we have a chance. We are, are we not, a long centerfield throw to home from the River."

Mr. Boggess said yes.

Chair Eck said, "It could be laterally, it could be *[inaudible]*. If it's *[inaudible]* it's going to be pretty darned hard to see. The lateral should be a little more obvious. In your opinion, are the areas near the north and south limits of this lot somewhat less remodeled than the heart of it."

Mr. Boggess said, "The issue of those, if you go to page 17, you will see there is some vegetation there, that's where the standing trees are. And I think, according to somebody who has reviewed the up, someone else, for some reason they have inscribed on here that the trees are not to be molested, and I think someone probably has told them that."

Chair Eck said, "That's a good idea. So we would want to stay as far away from those as possible, so as not to kill them by routing toward them."

Mr. Boggess said, "Basically, these trees were there in 1988, and they're clustered on both sides of the property and it was the line those trees made that suggested the presence of a ditch."

Chair Eck said, "Then following that, the alignment of your little hand trench is kind of away from said trees."

Mr. Boggess said, "Yes, it's right in the middle of the lot."

Chair Eck said, "So if you were to punch a backhoe trench across this, cater to the alignment, let's say immediately south of your hand trench, that location would work."

Mr. Boggess said, "Sure. And I think for a hand unit, it would it be acceptable to go in someplace where they've reported finding a lot of stuff. Yes. Okay."

Chair Eck said, "And make sure you punch it deep. If you start finding big cobbles, I'll believe it's sterile, as long as they're not in nice little rows."

Mr. Boggess said, "I may be shooting myself in the foot here, and costing my client an aggravation, but I was distressed by the historic background."

Mr. Pierce said, "I did notice that you mentioned in here that further testing is possible, archival research."

Chair Eck said, "Yes. And I think, to follow up what you were alluding to earlier is that you can consolidate and update in support of improving the site forms, and completely rewriting someone's dissertation. But it should end up being a report much like any other report, with all the usual sections in it. You can borrow heavily from whatever you have in hand, but you will be having new data and new analyses, new profiles, pictures, and hopefully an answer."

Mr. Pierce asked if we could get the chain of title from the original 1988 Report.

Chair Eck said, "It's mentioned, I wouldn't say it's exhaustive."

Mr. Boggess said it's about a page, spilling over 2-3 lines on the next page.

Chair Eck said, "It its defense, it touches on the same things that others we have seen touches on." He said he would love to hear more about the football game.

Chair Eck said, "In terms of documentation, do you think there is anything else that needs to be done on what's at hand, or just rely on Doug to present a cohesive report of new investigations."

Mr. Funkhouser said that's a good question, and asked what we are doing for final consideration.

Chair Eck said, "I don't think I know enough to say anything definitive, so I guess I'm sort of leaning toward postponing until such time as *[inaudible]*. I need a motion, second and vote to that effect."

MOTION: Derek Pierce moved, seconded by Gary Funkhouser, to postpone consideration of Case #AR-08-1988, the previous work at 330 Garcia Street, Santa Fe, New Mexico.

VOTE: The motion was approved unanimously on a voice vote

Chair Eck said as soon as you can, we will get you on the agenda again, and we'll take it up.

Mr. Boggess said, "I have about a 700 site group, and I have 120 sites left to, no it's 140 as of this morning, left to edit, by October 20, 2015."

3) CASE #AR-24-2012. HISTORIC DOWNTOWN ARCHAEOLOGICAL REVIEW DISTRICT. ARCHAEOLOGICAL MONITORING REPORT FOR PNM INSTALLATION OF ELECTRIC LINES DURING PHASE VII OF DOWNTOWN SYSTEMS IMPROVEMENT PROJECT ON GRIFFIN AND CATRON STREETS. OFFICE OF ARCHAEOLOGICAL STUDIES FOR PUBLIC SERVICE COMPANY OF NEW MEXICO. (DAVID RASCH)

BACKGROUND & SUMMARY:

At the request of PNM, OAS undertook archaeological monitoring of utility trenching associated with Phase VII of the Downtown Systems Improvements Project along Griffin Street, in accordance with a monitoring plan approved by the ARC on September 6, 2012. A total of 1,975 linear feet of trench were excavated and monitored in Phase VIII. Monitoring resulted in the documentation of several features, including two disarticulated burials. This report represents preliminary findings and a final report is forthcoming.

STAFF RECOMMENDATION:

Staff recommends approval of the monitoring report, as it meets the requirements of the City of Santa Fe Archaeological Review District Ordinance (14-5.3 and 14-3.13).

Chair Eck thanked Ms. McCulley for her memorandum, and asked if she needs to add anything to that, and Ms. McCulley said no.

Jessica Badner said she has two things to address. The first one is on page xviii, on the 3 rd line from the bottom. She said Features 1 and 4 should be Features 2 and 4. She said that creates a logic error because she is referring to Features 2 and 4 which are burials 1 and 2. The next logic error is on page 28, on Feature 1, 6 lines from the bottom, and it refers to LA 144329, which should be " LA 151 instead, and that should render the paragraph logical."

Gary Funkhouser

Mr. Funkhouser had no comment.

Derek Pierce

Mr. Pierce said starting on page 8, the same paragraph she started with, line 4 from the bottom reads, "*Two disarticulated burials (Features 1 and 4) and a midden exposure (Feature 3)*. Add a period after "(Feature 3)."

Ms. Badner noted Feature 1 should be Feature 2.

Mr. Pierce said on page 1, paragraph 4, line 1, "*Ceramic seriation and location of the burial associated with LA 144329.*" He asked if LA 144329 is a historic site.

Ms. Badner said it is, and that would be very early for that historic site.

Mr. Pierce said he thought he read later on that the burial was associated with Santa Fe Black and White.

Ms. Badner said, "Yes. I guess proximity is a better association with that one. The issue with that site, and we're revisiting it for a different project, is that it's so close to 1051. And Cherie Scheick's excavation in 2005 says that once she got there, there had already been quite a bit of earth moving by the contractor. So she finds a Spanish Colonial in that area. But if you look at the amount of excavation she did, it's not exhaustive. So the questions becomes, to what site do you credit that burial, if you credit the burial to a site at all. And that was *[inaudible]* as far as association goes. It could be a sub-site, and maybe that's a better choice, I don't know."

Mr. Pierce said, "Yes, if you are going to go strictly with proximity, which isn't a bad approach, that's fine, but I would probably drop the ceramic seriation because it doesn't make sense. You're associating with Black and White ceramics on an historic site."

Mr. Pierce said, "I was looking at the LA forms at the end, and I realized these are preliminary as well, just so everyone is aware, the addition of new features to a site dictates the full form, a two-page update."

Mr. Pierce said he has no further comment.

Jake Ivey

Mr. Ivey said, "Going back to your page 1, our page 11, in the midst of the other concerns about ceramics and whatnot, I had a question about Feature 10 of the burial, the articulated burial, that was reinterred on the spot. Did you reinter it on the spot. I see you stated reinterred at the end, but do you mean when you found it, it clearly had been taken out and then reinterred."

Ms. Badner said, "She [Nancy?] had thought the burial as it was found had been tossed up and out of an old trench, and then reinterred in that same area, if you read her disposition at OAS that was done. Is that your question."

Mr. Ivey said, 'No. I'm thinking of the actual position as found at the time."

Ms. Badner said, "When we encountered the burial, it was in an area that was already disturbed, and so it has what Nancy had thought was some sort of legacy line that went through there. And so what she had conveyed to me was that, and if I remember it correctly, she thought the burial had been brought up before the excavation and then maybe sort of shoved aside by somebody before we ever got there. Does that answer you question."

Mr. Ivey said, "Yes, it's just that that kind of activity, finding a burial, taking it out, reinterring it, usually happens in a cemetery."

Ms. Badner said, "I don't think she means like on excavations of individuals. I think what she saw was that somebody accidentally hit it while digging a line a while ago."

Mr. Ivey said, "What you're saying is there are no other burials anywhere in that area."

Ms. Badner said, "No. There is a burial actually quite close, but it's a different person."

Chair Eck said, "Nancy's analysis indicates that parts are not compatible."

Ms. Badner said, "It's actually very close to the other burial. It's about 12 feet away. The original burial was done by Alyssia Abbott and I believe that it was also not coffined, and it was also a partial individual. So the burial we found, I went through GPS and went back to Alyssia Abbott's report and found, surprise, as opposed to what the ARMS said, it is really not 15 feet away. And so I asked the MP to look at her analysis again to determine whether there could potentially be the same individual in the area. And she looked at it with fresh eyes, asking that question, and said no, it's a different burial. So they are close."

Chair Eck said, "I would say, probably within 4 feet of one another."

Ms. Badner said, "And as far as reinterrment goes, by us, that would have been in consultation with *[inaudible]*."

Mr. Pierce said, "I would like to follow up on something you just said, which I don't know when or if the monitoring plan was submitted. It wasn't approved. I think everyone should be aware if ARMS says it's within 30 or even 50 or 100 feet, it would not be wise to take that as gospel, and should go back to the excavation report and verify the location. And I get the sense maybe that wasn't done originally, it was done after the discovery."

Ms. Badner said, "It was done by me."

Chair Eck said, "And in fact, it would be obvious, except somebody repaved the street in the interim, because the old trench has a very clear end, and we know exactly where the person was with respect to the end of that trench. I expect your trench is just right off the end of that one."

Ms. Badner said, "It may have been, I don't know exactly. I do know one thing. The ARMS location of it was, I think was on the other side of the street and that may be where I didn't get *[inaudible]*."

Mr. Pierce said the margin of error is large enough that even if it's on the other side of the side of the street, before you checked, I'm sure you realized that. Then it occurred to me that you probably didn't."

Two people talking at the same time here and couldn't transcribe

Mr. Ivey said he has no further "meaningful comment."

Chair Eck

Chair Eck said, "I don't think I can add anything useful."

MOTION: Gary Funkhouser moved, seconded by Derek Pierce, with respect to Case #AR-24-2012, to approve the Monitoring Report for PNM installation of electric lines during Phase VIII of the Downtown Systems Improvement Project on Griffin and Catron Streets, as requested by Jessica Badner, Office of Archaeological Studies for PNM, with the stated corrections, as it meets the requirements of the City of Santa Fe Archaeological Review District Ordinance (14-5.3 and 14-3.13).

VOTE: The motion was approved unanimously on a voice vote.

Mr. Pierce said the tough thing about legacy reports is, not only is the person gone, but the budget is long gone as well. He said he appreciates the work Ms. Badner has done on all of these.

Chair Eck said, "Let's make that unanimous. We all appreciate the work you have done on all of these."

G. DISCUSSION ITEMS

1) DISCUSSION DRAFT OF THE SANTA FE ARCHAEOLOGICAL REVIEW DISTRICTS OVERLAY ZONING ORDINANCE. (SECTION 14-3.13).

A copy of a draft dated 09/02/15, *14-2-7 Archaeological Review Committee,* is incorporated herewith to these minutes as Exhibit "1."

Chair Eck noted the material in the packet that talks about this and presents what has been put together to date by the subcommittee, primarily by Lisa Roach and Zachary Shandler.

Chair Eck said the idea is to review the 3 pages of Exhibit "1," and then move on to the subsequent sections in "bite size chunks," and then hopefully, reach the end of this effort.

Chair Eck said what he sees here is different that what he remembers seeing then, so he is unsure where the break point is.

Mr. Shandler said Ms. Roach went back and included all the sections. He said 14-2.7 starts with the Committee powers and such. He said the last time you were considering the permit section.

Chair Eck said the idea is to get through the end of part 3 in discussions today. He asked how the Committee would like to start.

Mr. Shandler said it appears at least one member has marked up the assignment as is.

Mr. Funkhouser said he has the other one marked-up as well.

Mr. Shandler recommended moving forward with the homework assignment, commenting we can always backtrack for additional homework.

Chair Eck said we will start with 14-3.13 on page 6 of the presentation [Exhibit " 1"]. He said the purpose and intent was borrowed from another Ordinance and used as an introduction here.

Mr. Shandler said, "I'm going to walk through the method, and you can interrupt with corrections or comments. As the Chair said there currently was no purpose in 14-3.13. So what I did, the opening paragraph under A is language I stole from Lisa Roach that she created. I then stole language from one of the 3 Code Sections, 13.5.3. That's the Purpose and Intent section, and language was stolen from a lot of other places. And then B Archaeological Review Districts, I think in the draft you may be looking at, I originally had printed, we talked a great deal about it. But in the draft in front of you today, Lisa decided let's keep 14-5.3 and impose the *[inaudible]* here. So the version you have today, the Archaeological Review Districts is much shorter than last time, and more of a reference than the other Code citation."

Mr. Shandler continued, "In (c)(1) what I tried to do is to spell out all the possible permits for someone walking into the Land Use Department might try to pull as the first step. And then if someone does request one of these permits, then you can look at what District you are in to see what your requirements are. I think those requirements in the 3 different Districts are identical to the current Code. And then I guess in (3) we tried to call out if you're going for utility work, because a lot of the projects you see are utility work. We tried to make that kind of its own paragraph, using the current measurements. And then I tried to call out to our colleagues here in the City as well, which has its own paragraph, telling our colleagues in the City what the requirements are before they pull a permit, and I'll just stop there. One of the things we talked about is should the thresholds for the 3 different Districts be identical to make it simple. And I think the group decided no, there was actually a logic to having a different dedication for measurements, depending on what they define as an archaeological item, so that could be a point of discussion."

Mr. Funkhouser said part of 3(a) is carried into 4(a) where it mentions the 60 linear feet for utility projects, but then 3(b) and 3(c) don't get carried down to here. It also has that line in 4(a) which is not about utilities. And the ranks for 3(b) and 3(c) are not in 4(b). He said, "What I'm saying is you take the 60

out of the (a) here, or collapse them all into one thing, because this repeats the utility, but these don't talk about the utility even though utility is mentioned in the paragraph above. Don't you think. So that was just like a copy page issue. And just a general point, when the concept of that was originally done, it was not sent into utility projects and we're just now under an onslaught of the amount of work being done. But that was the main thing."

Mr. Pierce said he has an observation and a quick question. He said in the Statement of Purpose and Intent under number 1, it looks like a typo, but the phrase "and settlement" is repeated on line 3 of (1)."

Chair Eck said that is, "...Spanish colonization and settlement, and settlement and developments under Mexican and American governments," could be one interpretation, and Mr. Pierce agreed.

Mr. Pierce asked what is a secondary permit and what does that entail.

Mr. Rasch said it is mechanical, plumbing, electrical permits, but not for structures.

Mr. Pierce asked if the term "secondary permit," is defined elsewhere in the City Code.

Mr. Rasch said he doesn't think it is in Chapter 14, but it may be in the Building Code, Chapter 7.

Mr. Shandler said it's not in the current Code, but it might have been in the Code " way back when."

Mr. Rasch said perhaps we get rid of the word "secondary permit," and just have the word "permit."

Mr. Funkhouser asked if utility permit could be put in the *[inaudible]* so that's all in one place.

Mr. Pierce said utility could be an excavation permit, but it could be other different things as well.

Chair Eck asked the page and line this starts on.

Mr. Pierce said page 7, (c)(a) through (d).

Chair noted there are line numbers in the left margin.

Mr. Pierce said this is on line 36.

Mr. Funkhouser said the utility projects are referenced in the same section.

Mr. Pierce said it seems tempting to just say "or other permits," but that's too vague because it could be an application for a liquor license which has nothing to do with ground disturbance.

Mr. Rasch suggested "land development permit."

Mr. Pierce said if it has a definition somewhere, maybe that could just be copied into 14.

Chair Eck said, or it could say, "Secondary permit as defined in and list the citation." He said if that gets changed we would need to change it here too.

Mr. Ivey asked if it is going to be clear you're using the term "secondary" as a title for a specific kind of thing.

Chair Eck said (a), (b) and (c) tend to be relatively easy marks, someone presents themselves at the permitting window and somebody says, oh you need to talk to the archeologist.

Mr. Rasch said it would be a land development permit, and in the land development permits there are two types. Primary and secondary. Primaries are structures and secondaries are the mechanical things.

Chair Eck said that could be sewer hookup and electrical and whatever.

Mr. Funkhouser said we do have policy in the one category.

Mr. Rasch said yes, within land development permits.

Mr. Pierce suggested, "Secondary permit as defined in 14-5-whatever,"

Mr. Rasch thinks it's in Chapter 7, because he doesn't see a definition in Chapter 14.

Chair Eck said that's one way to do it that's relatively easy and we don't have to change language here, but if it changes, then this Committee and the City's Historic Preservation folks should scratch their head to see if that change matters, and we would need to change our perspective on that here. He said at least we wouldn't have to completely replace the language. He asked Mr. Shandler his opinion on whether a reference is the smoothest way to handle this, or if we should belabor a definition.

Mr. Shandler said, "I think a reference would be nice."

Chair Eck said, "My gut feeling is that I don't want to lose the thread of Gary's point here, but I think after we kick that around, I would like to go back to the very beginning and in a very pedantic way go through this thing line by line, just so everybody is happy with the fact that we've looked at it, thought about it, looked at each other and nodded and went on to the next line."

Chair Eck continued, "Back to what you were saying Gary, the 60 feet mentione d in item 3(a) and 4(a). If an applicant has requested any type of permit to conduct utility work, then (a), (b) and (c) under 3. Under 4, it's really targeted on the City itself and what the City is doing on its own property. And the City may not necessarily be considered the applicant in the sense of item 3. At least from the discussions we've had here with various folks representing other parts of the City. It's pretty clear there is a vast difference of opinion on what the City ought to be doing, and how they should go about doing it. So I think

the reason it's stated in both places is because it's really aimed at two difference audiences, but the desire was to have kind of the same threshold kick in for all parties so that nobody is special."

Mr. Funkhouser said then shouldn't 550 be moved down to this one, which is this District, and then shouldn't this *[inaudible]* so that... "I'm just saying that the utility only went into this one, but it's not mentioned in the other two Districts. So if you want to make it that criteria we should just make it so that it's one or the other."

Mr. Pierce said, "I would say that in 4(b) and 4(c) you are going to insert the clause 'for utility installation of 550 feet,' right after the two acres or more, to mirror what is in the other piece."

Chair Eck said, "And because of the different audience, those last two (b) and (c), are phrased in terms of an acreage as opposed to a footage, because the thought was we were talking to a different group of folks needing direction."

Mr. Pierce asked, "Does the City ever install its own utilities."

Too many people talking here at the same time

Chair Eck said, "I can see that the City is going to put 1,000 feet of electrical line in some park because they're installing some lighting someplace, and on the other hand.... *[the Chair was interrupted here and several people talking at the same time]*, if the park is one acre or more, it is already required. Can you get a 550 foot thing inside a less than one acre park. You could, although it's not likely because an acre is 210 feet on the side."

Mr. Pierce said, "Except that's what I'd recommend, is just inserting that clause right after the one acre and the two acre in (b) and (c)."

Mr. Ivey said, "But the acre could be 10 feet wide and X number of feet long."

Chair Eck asked if we have any parks that are shaped like that.

Mr. Ivey said, "What happens now, doesn't tell us what happens in the future."

Mr. Funkhouser said, "These are simply linear utility projects, and I can assume for the Downtown District."

Mr. Pierce said, "Jake's right, though. You could, for instance, take a long strip next to the Camino Real and make a park out of it, it's a buffer on either side..."

Again, too many people talking at the same time to transcribe

Chair Eck said, "It would be very long and narrow."

Mr. Ivey said, "You could make a trail along the River if you want a line of lighting for the sidewalk, you want a sidewalk, linear."

Mr. Piece said it's better to plan for the unlikely than to not plan.

Mr. Ivey said if you start planning for the unlikely, you get into real trouble. But you should have a plan that is flexible enough to cover, hopefully, whatever we can think of."

Chair Eck said, "Whatever Jake can think of."

Mr. Ivey said he has seen a lot of long, linear developments.

Chair Eck said, "So, yes it is possible we can have very odd shaped parks that could get under the acreage. Does that make sense then."

Mr. Shandler said yes.

Chair Eck asked Mr. Shandler if he thinks it covers a base that might have been left uncovered.

Mr. Shandler said, "I agree."

Mr. Rasch said private property owners, including some archaeologists, such as Steven Post, have challenged the City on the current language that says, " Utility main." He asked if we are changing that language to any "utility premises." He said "main" has been a big *[inaudible]*, that a lateral gas line is not a main gas line. And so we've been challenged by archaeologists that we don't need archaeology. He said we've always practiced "any utility" not a "utility main."

Mr. Pierce said, "Yes for instance the first case tonight. A sewer line would not have been a main, but what you call a feeder or a lateral. I would be in favor of removing the word 'main'."

Mr. Shandler said it is being removed.

Chair Eck asked where it used to be found.

Mr. Shandler said, "It's currently in this section in 4. Here's the current language about Historic and *[inaudible]*, and different Districts, and then the main is in the exemption. We've kind of reconfigured this, so that the 60 and 550 are being incorporated into another section, the District section. So we don't even use the word utility main, so it's just utilities. But if you want to put in some more specific language, and have it maintained in there."

Chair Eck said, "I think the reason the subcommittee ended up not liking the term 'main' and why it got taken out is just.... Let's say Tom Ford wants to supply something on the hilltop property he owns, it's 3,000 feet to get there. It's not a main, it doesn't serve anybody else, but 3,000 feet.... I would like to defend our removal of that term from any consideration whatsoever."

Chair Eck continued, "Now back to the challenge. What you're saying David is that somebody who may have owned property or may have represented someone who owns property wherein a 120 foot utility was being proposed, and they were arguing they didn't have to do archaeology because it wasn't a main."

Mr. Shandler said, "Correct."

Chair Eck said, "Adopting the position of an unwashed landowner, I have a lot and it is served by utilities. Whether you call the line connecting the big pole to the next big pole a main, or whether you call a line connecting that collective installation to my house a main, depends entirely upon whether you are an electrician or a utility company representative. Because the electricians call everything outside my house a main. And so my little connection that doesn't go anywhere else is a main from that perspective. And so, arguing that mains are not mains when you feel like it, could be a real problem. If we can avoid the whole issue, I think that would be grand."

Mr. Funkhouser said it could be specific possibly to some physical thing that could be in bounds.

Chair Eck said, "If we're comfortable with the length of the threshold, even *[inaudible]*, this should be a selling point. Have we beat that to death Gary."

Mr. Funkhouser said, "I believe so, Mr. Chairman."

Chair Eck said, "So back to the very beginning of this thing, there used to be just a blank spot at the beginning of the Ordinance that begged the presence of a Statement of Purpose and Intent, is that what we're calling it here."

Mr. Pierce said, "Yes, it was a section title and then just reserved."

Chair Eck said, "We got all of the binders of all of our examples on that sleepy lot forever."

Chair Eck said, "Purpose and Intent. So, without reservation, we felt the need to insert some language and Lisa has written a very nice paragraph for this pamphlet that was created to try to help people navigate the City's system, and we shamelessly borrowed it wholesale without attribution, except in the comment. We can add to it if you want."

Mr. Pierce and Mr. Ivey said they like it.

Mr. Pierce said, "I like that it points out both private and public development in addition to pertinent State and federal requirements. I really like that part, so I think it's well done."

Chair Eck said, "Without being pedantic about it, it recognizes that there are other things outside this document. And we go on later to actually refer specifically to certain things in other bodies of legislation as appropriate. So it's not like it would be a shock to see a reference later to State Code, having established that relationship up front."

Chair Eck said, "Define Items which are cut and pasted from 14-5.3, which in simple language, 14-5.3 is what."

Mr. Shandler said it is the District section, the overlay.

Chair Eck said, "And since we're not actually in the business of modifying that Ordinance."

Mr. Shandler said, "You will be on page 18, you will eventually talk about that as well."

Chair Eck said then we'll get there sooner or later. He said, "Suffice it to say, if we change it here, we'll probably not change it there and visa versa. Right now, it's a direct quote from what exists."

Chair Eck said, "So Item B, we had inserted language, and I think Gary has the example of that handy."

Mr. Funkhouser said, "I think, again, it's good."

Chair Eck said, "Which brings us then to Item C and that list of permits. Are building, grading and excavation the primary group, or are they part of the primary group."

Mr. Rasch said yes, those would all be primary.

Chair Eck asked if there are others in the primary group.

Mr. Funkhouser said the Land Development Code includes all these things.

Mr. Pierce asked, "Mr. Chair, were you wondering if you could do primary and secondary permits and be done with it."

Chair Eck said, "It crossed my mind, but then I started thinking well, maybe these are the 3 we need to be concerned about and why I asked if there were more others, different flavors, because we don't want to belabor everything we aren't concerned about by using a more general term. It would mostly be for the building permit, grading permit and excavation permit. If a guy walks in saying I need permits, he's probably going to use one of those words, not I need a primary permit."

Mr. Rasch said, "I think we're seeing things of building permit to construction permit, but I don't know if that's happened yet. Because there are other structures than buildings. You can build a wall and it's not a building, but it's a structure."

Chair Eck said, "Okay. This is testimonial from a very unhappy colleague who told me all about his adventures with City permits. He's not building a building. He's not building at all. He is in fact building a fence, but he needed a building permit, which is a collective term – you're building something. A construction permit might be a little clearer, yes. Dare we anticipate that change."

Mr. Rasch said, "It was with the last Land Use Director that we were supposed to change it, and I think we still call it the Building Permit Division, not the Construction Permit Division."

Mr. Pierce asked, "Can we hedge our bets by saying building or construction permit."

Chair Eck asked, "Or is it silly to introduce terms."

Mr. Shandler said, "Probably we could hedge our bet."

Chair Eck said he likes hedging a bet because it usually pays off, and minimizes your maximum regret. It doesn't win you the lottery, usually.

Chair Eck said, "Chair Eck said, "So an applicant has requested one of these. The applicant shall determine which of the thresholds is applicable. Would the applicant have the tools to do that. Is the applicant the person who is qualified to do that, or is it the guy behind the desk about to issue him said permit who should be doing that."

Mr. Rasch said, "I think in this case, for your Code, the applicant is the certified archaeologist. We're writing to those certified individuals for this Code reference. Aren't we."

Mr. Ivey asked, "Who comes to your office, just the archaeologist or the person or who."

Mr. Rasch said, "Yes, the property owner will come to us and the first thing we'll say is, you're in such and such a District, this is your threshold, you need to hire a certified archaeologist. And then the archaeologist knows the Code."

Chair Eck said, "This struck me by begging the question of who is actually making this determination, because the archaeologist isn't here asking for a building permit, and he's probably not in your office asking what he's supposed to do, because theoretically he already knows. It's the poor applicant, the homeowner who is lost in the wake of the bureaucracy that is trying to figure out what he needs to do. Would it be better if it said something like, and Zack's not here. If an applicant has requested one of the above stated permits, the applicant shall request a determination of which of these, and you're the people he requests it of."

Mr. Rasch said, "Yes."

Chair Eck said, "Then maybe we could say so."

Mr. Rasch said, "We're hoping eventually to train the permit front desk staff and we will identify those simple issues. Right now, they're not and it's our staff."

Mr. Funkhouser said it's simply not the applicant, commenting that is the word that is messing up the second part, because now we're talking about the applicant making a decisions other than a representative board, a City/County applicant board. "Yes. I'm with that, Mr. Chair."

Mr. Pierce said, "I would leave it as just a determination from the Land Use Department to have the flexibility."

Mr. Funkhouser said once they have requested one.

Chair Eck said, "And that will serve one of my no-brainers because of what I deal with every day, because people aren't told they have a concern, they aren't aware they have a concern. Therefore when they read something that says, if you have any concerns, you must... they don't, so they don't. And they skate by without doing anything."

Chair Eck said, "So, have we captured this recommended phrase well enough to make sure Zack gets it. Okay. I won't belabor this too terribly much longer. On the other hand, I might want to cut it off until we've gotten some place that ya'll are uncomfortable with. These really come to the 3 Districts and what the thresholds are. The subcommittee kicked this around more than a football in a soccer match, and ended up leaving it exactly the way it was."

Mr. Pierce said so 2 and 3 are unchanged, right, and Chair Eck said yes.

Mr. Rasch said then you're going to have square footage in one District and lot size and acreage in two others, which is always very confusing because it's not consistent.

Mr. Pierce said telling someone it's .08 of an acre is also rather confusing too.

Chair Eck said, "Because they cannot visualize such things."

Mr. Rasch asked, "And you decided against the Kearney Cemetery District."

Chair Eck said, "I wouldn't say we decided against it, but there was considerable discussion about why the District, what it would accomplish and are there other means of handling the same concern. And while I'm certain they're not all convinced that we have a solution, it struck me, at least, that there is another way to do it which could be more broadly applied, and consistent across even multiple districts, rather than just a small piece of something carved out of the two Districts where it happens to be."

Mr. Shandler said he has to leave for the Planning Commission, and he will try to get with staff to get everything written up.

Chair Eck said we only have one real substantive thing in terms of worthsmithing that you might find useful, and Lani has captured that.

Mr. Shandler departed the meeting

Mr. Funkhouser ask what is meant by subdivision plat or rezoning application.

Chair Eck said, "The gist of the situation, is it not, is that somebody has a chunk of land and it's not going to be in the Downtown Historic District, because chunks of land this size don't exist, over 10 acres, and seeks to subdivide it and get approvals from all aspects of the City for carving this up into 28 lots with 14 streets, 3 open spaces and whatever they're going to do. Then this kicks in."

Mr. Rasch said, "There was another loophole in the Ordinance where someone would have a lot that in its current state, met the threshold for required archaeology. And they came into the Land Use Department to subdivide the lot into lots that are smaller than the threshold. They got away with it without doing archaeology. I think we're trying to catch that."

Chair Eck said when you're going from one 10.5 acre thing to two 5.25 acre things, this would theoretically catch it.

Mr. Funkhouser said, "It's just a definition of its terms, because in my mind, what I was thinking is it would be similar to saying it's this threshold, or it's part of some common plan of development. It's how I was seeing it, and it's just the terms having to find the new way. It's like the other term in here, it was subdivision plat, it doesn't say it's a secondary permit, do we need to do 5 somewhere. I don't know what the....."

Mr. Rasch said, "Subdivision plat is probably defined in Chapter 14, and rezoning probably is also."

Mr. Funkhouser asked if those should be referenced there.

Mr. Rasch said, "What they do in our Code was very frustrating to me until I realized what it was. In the existing Code, everywhere you see an italicized word, that word is defined in Chapter 14. That's what the italics mean. I finally figured that out."

Chair Eck said, "I just realized in trying to track what ya'll were just saying that I got lost. And I got lost because in C(2)(a) through (c), the order of things is different than it is elsewhere. Here, it talks about Downtown, then Suburban, then River and Trails. And I believe in the Review Districts Ordinance and elsewhere, it's Downtown, River and Trails and then Suburban. So it affects item 2 and item 3. The (a), (b), (c) order is different from what is presented in the Districts Ordinance and it should be consistent."

Chair Eck continued, "So, River and Trails should be (b) and Suburban should be (c) in both cases. And then that makes the progress of numbers perhaps a little easier to absorb, because you're getting further away from the heart of the concern, and therefore the requirements of..."

Chair Eck continued, "And since Item 4 is City focused, it doesn't need to follow that same pattern and it doesn't.... it has a different (a), (b) and (c) logic."

Chair Eck continued, "The object of going through this is not to solve all problems. It's to get us to talk about things before we are in front of the inquisition. When we do trot this out for broader comment, 'Katie, bar the door'."

Mr. Funkhouser asked, "What if they just did the size *[inaudible]*."

Chair Eck said, "This is not specific to parks. It's something else. There are other things and I think by saying the way we've done, we've covered everything. There shouldn't be anything that can fall through the cracks."

Mr. Funkhouser said there is still the dilemma of what is the nature of the project if it is a multiple *[inaudible]*.

Chair Eck said, "And that's a problem and if introducing a definition section to this whole Ordinance is something you want to do, we can do it."

Mr. Funkhouser said, "Because we're measuring unique individual space, and I'm also talking about projects."

Mr. Pierce said, "Maybe that qualification belongs in the section that deals with project *[inaudible]*. You cannot subdivide a project under *[inaudible because several people talking at once]*."

Chair Eck said, "We can certainly put it there. And if we had no other things that begged a definition at some grand level, that's the easiest way to do it, rather than have a definition section that has only one definition. What do you think David."

Mr. Rasch said, "I remember the parks issue that came up. Parks had one acre or more, but the project was all in parks. That was a rough one that the City is still not cooperating on, I think, but I'm not sure."

Chair Eck said, "I'll be teaching remedial math at the Community College next semester. You can send them all."

Mr. Funkhouser said, "The thing as phrased here doesn't leave them out, because it says the activity will take place on a parcel. But it says 'takes place on the parcel,' it doesn't say the parcel or the area or the operation had to be bigger than something, just that it's on something. So it doesn't matter how big the area is of actual disturbance, it's how big. So the question then was, were those bigger parks individual pieces."

Chair Eck said, "There were individual parks that were less than one acre, but we were looking at the project as the whole 27 parks. And that caused a conniption."

Mr. Funkhouser said, "The area of disturbance is not just all the holes, it's how you get to the holes, where you store equipment, where people walk or drive, so you could cumulatively add, which we chose not to like hold it."

Mr. Pierce said, "I think the conclusion the Committee came to on that particular case, was that it was either a single project of 300 acres, whatever it was. Or if they want to do one park at a time, then each park is a case, not 30 parks as one case, each park would be a case."

Mr. Funkhouser said they were contending that there was a single pool of money for it. He said, "In fact if you give something a name, but you say you have a plan, then you have a plan for all of it. And you can't have a plan and then go, oh, this park is not part of the plan right now, it just rests down there. I anticipate this happening again, and frankly, several times is enough."

Mr. Pierce said, "I think perhaps we ought to keep that in the back of our minds for when we come to *[inaudible]*."

Chair Eck said, "Yes, and it's in here someplace. There's discussion of phasing. I just don't remember where it is."

Mr. Funkhouser said, "It will come up, so that's fine."

Mr. Ivey asked, "How are the limits of the Santa Fe Trail different, because it says it will occur on all lots that are over 2 acres, or will occur in any lot that has a distance back of.... This is on page 8, line 8-11, which says, "....any part lying within the area identified as the Santa Fe Trail..."

Mr. Rasch said, "We're using the Pitel alignment for our map. I have geo reference, so now we have it as a GIS layer."

Chair Eck said, "It says it is any part lying within."

Mr. Rasch said, "What we practice is, we look at that overlay map of the known fragments. And if the parcel is within an alignment, we say you're in a replication. So we kind of draw our lines between the existing fragments and those are the alignments we look for."

Responding to Mr. Funkhouser, Chair Eck said, "It's the basis of, but it is the arbiter who decides how to apply it, and it sounds as though there's been an argument to connect the dots and treat that as the area of concern, but that's still linear and doesn't get at the question of where is the edge."

Mr. Ivey said, "For example, if you have a chunk of activity that's going to happen somewhere in that field, can we say, all right, if you connect the lines, none of them seem to cross this particular spot, so therefore it doesn't apply."

Mr. Rasch said, "Yes, we have done that. It's not if the alignment hits the lot. If the alignment is at the east side of the lot and the development way over here on the west side of the lot and it doesn't meet the River & Trails threshold, they're going to do this development without clearance."

Mr. Ivey said, "Actually, I can't see any way around it, the ways you guys are working this."

Mr. Pierce said he thinks he has seen cases where the rut kind of divides the parcels, where it's the parcel boundary.

Chair Eck said that's practical and how many people divided themselves for the past 400 years is, "It's from this here road, which wasn't a trail, to there and so."

Chair Eck said, "I'm not speaking for City staff, but one thing that might be helpful is to take Pitel & Tigges, and you connect the dot extensions thereof, make that a shape file and then buffer the shape file in all its parts by some acceptable distance and then that defines your area of concern. If you are within, we think we need to worry about it. If you're not, we're pretty darned sure you don't. And that would be a systematic way of doing it."

Mr. Pierce said, "For purposes of this draft, it seems you could just say, if you look within the Santa Fe Trail as determined by.... We don't know what mechanism the City will use to determine it, but they have to say so, not that they just happen to read Pitel & Tigges and say unhuh."

Chair Eck said, "I think half the cases that Ron has brought that are in the Suburban District where he did the investigation and there was no indication of the trail, is because the trail was one property boundary or the other. You can't see it because it's obscured by all the stuff associated with building the fence on the lot lines. It's gone, but that's where it was."

Mr. Ivey asked, "Does it need to be tied to this specific publication, or would you rather state it the way this is."

Mr. Pierce said it's better to leave the Land Use Department as the arbiter of where this thing is.

Mr. Ivey said, "My little antenna were saying, maybe we shouldn't mess with that."

Mr. Pierce said I think maybe just say that the City makes the final determination.

Chair Eck asked if he has a phrase he can insert here that would do that. "Per the decision of the Land Use Department, or whatever, or Land Use Department staff."

Mr. Pierce said Mr. Shandler will come up with the language to get the intent. He said the intent is that any part lying within the area identified as the Santa Fe Trail determined by the City.

Mr. Funkhouser said it would become debatable beyond that.

H. MATTERS FROM THE COMMITTEE

There were no matters from the Committee.

I. ADMINISTRATIVE MATTERS AND COMMUNICATIONS

Lani McCulley said the Land Use Director has determined that we are going to limit our meetings to once a month.

Chair Eck said then that will be the first Thursday of the month and Ms. McCulley said that is correct. Chair Eck noted the meeting date isn't likely to conflict with any holidays.

Mr. Pierce said he likes that, noting we haven't had an agenda with 6-7 cases on it for a long time.

Chair Eck asked if this is effective immediately.

Mr. Rasch said yes. He said they were thinking about it temporarily because they are under-staffed. He said in looking at the Senior Planner position, that person whoever it will be, will have a hearing the first, second, third and fourth weeks of every month. It is therefore very difficult for that person to take a vacation and the reason we don't keep people, we burn them out.

Mr. Funkhouser asked a timeframe in terms of testing plans, monitoring reports and such, so the applicants can move forward with construction on their property.

Mr. Rasch said even going to once a month is not as restrictive as the H-Board or the Planning Commission.

Mr. Pierce said the change does make it more important for us to have a quorum, commenting he likes the change.

Mr. Funkhouser said it is okay as long as we don't end up with 15 items on the agenda.

Mr. Pierce asked staff if they will prepare a new schedule of meetings, noting we just received one.

Mr. Rasch said the Ordinance provides that this Committee shall meet at least once a month. He said staff will redo the meeting schedule and submit a revised schedule to the Committee.

I. ADJOURNMENT

There was no further business to come before the Committee.

MOTION: Jake Ivey moved, seconded by Gary Funkhouser, to adjourn the meeting.

VOTE: The motion was approved unanimously on a voice vote, and the Committee was adjourned at approximately 6:25 p.m.

David Eck, Chair

Melessia Helberg, Stenographer

14-2.7 Archaeological Review Committee

A. Designation

There shall be an archaeological review committee of the *city*, which shall be referred to as the "archaeological review committee" or the "ARC".

B. Delegation

The *governing body* and the planning commission hereby delegate their authority, as set forth generally in Chapter 3, Articles 19 through 21 NMSA 1978, to the ARC as described in this section, except for those powers retained by the *governing body* and the planning commission in the Santa Fe City Code.

C. Powers and Duties

(1) The ARC shall meet at least once a month, unless there are no agenda items, and at such other times as the chair may determine. The ARC shall have the review and decision-making responsibilities set forth in Table 14-2.1-1, to be carried out in accordance with the terms of Chapter 14. In addition, the ARC shall:

(a) in accordance with Section 14-3.13, hold hearings to review *reconnaissance* reports, the recommended *significance* status of *archaeological sites*, the recommended treatment plan of *cultural remains* and final reports. The ARC may review and act on stages or portions of on-going archaeological studies. The ARC shall vote to approve, conditionally approve or disapprove requests for archaeological clearance *permits*;

(b) qualify or disqualify persons for inclusion on the *city*'s list of approved archaeologists, historical archaeologists and historians upon review of resumes and related documents as set forth in this section;

(c) establish a *city* register of recognized *archaeological sites* and shall establish criteria for such a register; and

(d) hear appeals of *final actions* of the *land use director* interpreting or applying archaeological review district regulations pursuant to Section 14-5.3.

(2) The ARC may:

Exhibit "10"

(a) advise the HDRB in regard to *applications* to that board for new construction, exterior *alteration*, demolition or on other matters relating to archaeology within the historic districts;

(b) direct *applicants* to the *state* historic preservation division for information regarding *state* or federal law and regulations on the tax benefits of donating archaeological *properties* or easements;

(c) recommend to the *governing body* that land containing *archaeological sites* of major interest to the *city* be purchased as part of the *city*'s parks, recreation and *open space* system; and

(d) recommend the expenditure of money from the *city* archaeological fund for projects meeting the criteria for archaeological fund projects set forth in Section 14-3.13 (Archaeological Permits). Expenditures of one thousand dollars ($1,000) or less may be approved by the *land use director*. Expenditures over one thousand dollars ($1,000) must be approved by the *governing body*.

(3) When both a HDRB and an ARC review are required of a single project, the reviews may occur at the same time.

D. Membership and Procedures

(1) Composition

The ARC consists of five members. One member shall be a historian, three members shall be archaeologists or historical archaeologists and one member shall be a representative of the construction, *development* or real estate community.

(2) Appointment and Term

The mayor, with the consent of the *governing body*, shall appoint each member of the ARC. Members of the ARC serve two-year overlapping terms, maintaining the original overlap of ARC terms. Members serve until their successors have been appointed and qualified.

E. Qualifications for ARC Members; Qualifications for Archaeologists, Historical Archaeologists and Historians

(1) ARC Members

All archaeologists, historical archaeologists and historians appointed as ARC members shall meet the qualifications set forth in this section.

(2) Archaeologists

All archaeologists in actual direct charge of archaeological *reconnaissance* or treatment required for an archaeological *permit* shall meet the following minimum qualifications, as provided in a resume or by other means:

(a) hold a master's degree in archaeology, anthropology or a closely related field with a specialization in archaeology or have equivalent training or field experience the sufficiency of which is determined by the ARC;

(b) have at least two years' experience in directing archaeology projects, including at least six months of field experience in the southwestern United States;

(c) be listed in the *state* historic preservation division directory of archaeologists as a principal investigator or supervisory archaeologist. This requirement shall not apply to archaeologists who are currently on the *city*'s list of approved archaeologists as of the effective date of Ordinance No. 2007-9 (April 23, 2007) or to archaeologists appointed as members of the ARC.; and

(d) hold a current New Mexico *state* burial excavation *permit* for any location where human remains of historic age are found. (Ord. No. 2012-11 § 2)

Comment [RLG1]: Insert this language, which was omitted for Archaeologists in the current code.

(3) Historical Archaeologists

All historical archaeologists in actual direct charge of *excavation* of historic period sites shall:

(a) meet the minimum qualifications for an archaeologist set forth in Subsection 14-2.7(E)(2);

(b) have a minimum of one year of experience in directing historical archaeology projects or equivalent training or field experience the sufficiency of which is determined by the ARC;

(c) have demonstrated experience in the historic downtown archaeological review district; and

(d) hold a current New Mexico *state* burial excavation *permit* for any location where human remains of historic age are found. (Ord. No. 2012-11 § 2)

(4) Historians

All historians in actual direct charge of *archival research* and analyses of land titles or historic maps shall meet the following minimum qualifications:

(a) hold a master's degree in history or have equivalent professional experience or demonstrate equivalent training, the sufficiency of which is determined by the ARC; and

(b) demonstrate the ability to carry out *archival research*.

(5) Waiver of Qualifications

Qualifications for archaeologists, historical archaeologists, and historians may be waived by the ARC in its discretion for good cause shown.

Comment [RLG2]: Add historians here, as they were omitted from this subsection in the current code.

(6) List of Qualified Individuals

Archaeologists, historical archaeologists and historians qualified by the ARC as meeting the qualifications provided in this section shall be placed on a list maintained by the *land use director* for all archaeological compliance work conducted in the Historic Downtown Archaeological Review District. Guidelines for documenting applicable experience and education for meeting the requirements of this section are as follows:

Comment [RLG3]: Discussion with subcommittee focused on only requiring City approval for archaeologist in the HDARD, and allowing the state professional standards to apply for the R&T and Suburban districts.

(a) Archaeologists, historical archaeologists, or historians who wish to be included on City's list of qualified individuals must provide the following items to City staff for review and approval by the Archaeological Review Committee:

i. a current curriculum vitae, including names and contact information of supervisory personnel and/or clients familiar with their job performance for all employment listed on the curriculum vitae;

ii. proof of education, including transcripts, certified copies of degrees or training certificates, or other evidence acceptable to the Committee;

iii. a table or chart summarizing in terms of days, months, or years, all professional experience conducting archaeological and/or historical investigations in the Historic Downtown Archaeological Review District; and

iv. certified copies of all current archaeological permits

Comment [RLG4]: External Policy 15

(b) Archaeologists, historical archaeologists, or historians who wish to remain on the City's list of qualified individuals must provide a current vitae to City staff on an annual basis, in lieu of submitting an updated vitae with every report submittal.

Comment [RLG5]: External Policy 12

(7) Standards

(a) Archaeologists, historical archaeologists and historians are responsible for reports and performance that exhibit a high standard of professionalism and competence, including the following standards:

(i) any *reconnaissance* reports, treatment plans and final reports that are accepted by the ARC with minor typographical, formatting or content errors and upon which an archaeological clearance *permit* is approved shall be returned with corrections to the *land use director* within forty-five days of the date the *permit* was approved. Failure to fulfill this requirement shall result in refusal by the *land use director* of any new *application* for an archaeological clearance *permit* until a corrected report has been submitted;

(ii) *reconnaissance* reports, treatment plans and final reports that are not approved by the ARC and resubmitted to the *land use director* without the necessary corrections shall be rejected by the *land use director* and no new *application* for an archaeological clearance *permit* shall be accepted by the *land use director* until a corrected report has been accepted and an archaeological clearance *permit* has been approved by the ARC;

(iii) rejection of three or more *reconnaissance* reports, treatment plans or final reports in a twelve-month period may result in the ARC removing the archaeologist, historical archaeologist or historian from

the list of qualified archaeologists, historical archaeologists and historians for twelve months; and

(iv) failure to submit a final report within the one-year time limit, or any extension of time provided by the ARC as set forth in Section 14-3.13, may result in the ARC removing the archaeologist, historical archaeologist or historian from the City's list of approved archaeologists, historical archaeologists and historians for the Historic Downtown Archaeological Review District.

Comment [RLG6]: See previous comment.

(v) if an archaeologist, historical archaeologist or historian is removed from the City's list of approved archaeologists, historical archaeologists and historians for the Historic Downtown Archaeological Review District, the consultant may re-apply to the Archaeological Review Committee for inclusion on the City's list of approved consultants after previous obligations have been met.

Comment [RLG7]: External Policy 1

(b) The *land use director* shall notify the following, in writing, of the actions taken in Subsection 14-2.7(E)(7)(a):

(i) the *state* historic preservation officer;

(ii) the affected archaeologist, historical archaeologist or historian; and

(iii) the *property owner* and the *applicant*.

(c) The affected archaeologist, historical archaeologist or historian may submit a written appeal to the ARC of the *final actions* taken by the *land use director* in Subsection 14-2.7(E)(7)(a).

(d) Decisions of the ARC may be appealed to the *governing body* as set forth in Section 14-3.17.

14-3.13 Archaeological Clearance Permits

(A) Purpose and Intent

The City of Santa Fe Archaeological Clearance Permits were created for the purpose of preserving Santa Fe's valuable archaeological resources, providing the means for identifying sites and mitigating any adverse effects of development. These requirements pertain to both private and public development activities and are in addition to pertinent State and Federal requirements. The purpose of the permitting process is to:

(1) recognize the value of archaeological resources from all periods of history and prehistory, including prehistoric Native American settlements, Spanish colonization and settlement and settlement and developments under Mexican and American governments;

(2) provide the means for identifying archaeological sites by requiring surveys and test excavations, depending on the district, through the development review and construction permit process;

(3) provide the means by which archaeological sites may be evaluated for their potential contribution to cultural, educational, historic, economic and scientific concerns;

(4) establish a procedure for treatment of archaeological resources on private and public land, thereby mitigating the information loss from the sometimes unavoidable destruction of archaeological resources and providing for the treatment of those resources that can be preserved; and

(5) provide methods for the emergency treatment of archaeological resources found through unexpected discovery.

Comment [SZA8]: This paragraph is new language that Lisa Roach wrote for the ARC pamphlet.

Comment [SZA9]: These five parts are cut and paste from 14-5.3

(B) Archaeological Review Districts

Three archaeological review districts are established to be known as the Historic Downtown, the River and Trails, and the Suburban Archaeological Review Districts. The boundaries of these districts are established as set forth in subsection 14-5.3(C).

Comment [RLG10]: Reference to Section 14-5.3 regarding district boundaries.

(C) Applicability of Archaeological Clearance Permit Process

(1) An applicant requesting the following permits may also need to request an archaeological clearance permit:

a) Building permit;
b) Grading permit;
c) Excavation permit; or
d) Secondary permit.

(2) If an applicant has requested one of above-stated permits, the applicant shall determine which of the following thresholds is applicable, based upon Archaeological Review District:

a) If in the Historic Downtown Archaeological District and the permitted activity will involve ground disturbance of more than two thousand five

Comment [SZA11]: This is an attempt to clearly state which permits may trigger an arch permit

hundred (2,500) square feet, then the activity will need an archaeological clearance permit.

b) If in the Suburban Archaeological Review District and is done in conjunction with a subdivision plat or rezoning application and the permitted activity will occur in a lot that is over ten (10) acres, then the activity will need an archaeological clearance permit.

c) If in the River and Trails Archaeological Review District and is done in conjunction with a subdivision plat or rezoning application and the permitted activity will occur in a lot that is over two (2) acres or will occur in any lot that has any part lying within the area identified as the Santa Fe Trail, then the activity will need an archaeological clearance permit.

(3) If an applicant is requesting any type of permit to conduct utility work, the applicant shall determine which of the following thresholds is applicable, based upon Archaeological Review District:

a) If in the Historic Downtown Archaeological District and the permitted activity will involve a utility installation of sixty (60) feet or more, then the activity will need an archaeological clearance permit.

b) If in the Suburban Archaeological Review District and the permitted activity will involve a utility installation of five hundred and fifty (550) feet or more, then the activity will need an archaeological clearance permit.

c) If in the River and Trails Archaeological Review District and the permitted activity will involve a utility installation of five hundred and fifty (550) feet or more, then the activity will need an archaeological clearance permit.

(4) If a development activity will take place on City-owned property, the following thresholds apply:

a) If in the Historic Downtown Archaeological Review District and the development activity will involve ground disturbance of more than two thousand five hundred (2,500) square feet or utility installation of sixty (60) linear feet or more, then the activity will need an archaeological clearance permit.

b) If in the River and Trails or Suburban Archaeological Review District and the development activity will take place on a City Park parcel that is one (1) acre or more, then the activity will need an archaeological clearance permit.

c) If in the River and Trails or Suburban Archaeological Review District and the development activity will take place on a City-owned parcel that is two (2) acres or more, then the activity will need an archaeological clearance permit.

(D) <u>Exemptions</u>

Comment [SZA12]: The feet determination are cut and paste from current code language

(1) No archaeological clearance permit is required for an individual City Park project on a parcel that is less than one (1) acre in the River and Trails or Suburban Archaeological Review District.

(2) No archaeological clearance permit is required for an individual City project on a parcel that is less than two (2) acres in the River and Trails or Suburban Archaeological Review District.

Comment [SZA13]: I recommend meeting with Public Works Department staff to determine whether this exemption is or is not still needed

(3) No archaeological clearance *permit* is required for a demolition *permit* except as follows: For demolition requests for *structures* which are more than seventy-five years old and which are part of a project requiring an archaeological clearance *permit*, staff for the Archaeological Review Committee shall issue a report to the historic districts review board as set forth in Section 14-3.14. The report shall state whether demolition will damage possible archaeological *artifacts*. If the Board determines that damage may occur, then it may refer the case to the Archaeological Review Committee requesting that requirements for an archaeological clearance *permit* be met before a demolition *permit* is issued.

(4) Applicants who are requesting archaeological approval from federal agencies are exempted from requirements of the Archaeological Review Districts Ordinance, except that applicants must submit evidence to city staff of the application to the federal agency. In addition the applicant shall submit to city staff the inventory report and other reports made to the federal agencies.

(5) Applicants requesting a lot split subdivision are exempted from the requirement of archaeological review districts and for archaeological clearance permits.

(6) In the River and Trails or Suburban Archaeological Review Districts, applicants with inheritance transfer subdivisions are also exempted.

(7) Applicants whose land is in areas where archaeological inventory, excavation, or other treatment has previously been completed, are exempted from the inventory, excavation, or other treatment as required, upon submitting evidence for such work to city staff. An exemption from any one requirement for a clearance permit does not exempt the applicant from other requirements of the Archaeological Review Districts Ordinance.

(8) In the Historic Downtown Archaeological Review District, no clearance permit is required for projects for which a construction permit application was made before September 30, 1987. In the river and trails and suburban districts, no clearance permit is required for projects for which application has been made for review by the Planning Commission before September 30, 1987.

(E) Procedures to Obtain an Archaeological Clearance Permit

Comment [SZA14]: The goal is to re-format the code so it is step-by-step-by-step

(1) Pre-Application Conference. Prior to submission of any application for an archaeological clearance permit, an applicant shall request a pre-application conference, to be conducted pursuant to Section 14-3.1(E).

(2) Requests for Archaeological Clearance. Applicant who needs an archaeological clearance permit shall request to be on the Architectural Review Committee's agenda. An Archaeological Clearance Permit must be issued by the

Archaeological Review Committee prior to the issuance of a building, grading, excavation or secondary permit where applicable.

(3) Inventory and Testing Procedures in the Historic Downtown District. Inventory shall be completed by an archaeologist, hired by the applicant, meeting the professional qualifications set forth by the State Historic Preservation Division and City requirements. Inventory requiring archaeology dealing with historic period sites shall be completed by person qualified as a historical archaeologist and as a historian. As a minimum, inventory shall consist of:

Comment [SZA15]: The subcommittee still wanted City requirements for those working in the Downtown District

(1) Statement of cultural history and setting, based upon previously completed and accepted archaeological and documentary research, including a summary of relevant cultural/historical periods with bibliographic references and a summary table and map of previous archaeological activities in the vicinity;

Comment [RLG16]: External Policy 13

(2) Archival research and analysis of land titles, historic maps, the archaeological records management systems (ARMS) files of the state of New Mexico, and other existing data;

(3) Visual survey of the property for evidence of archaeological features, artifacts or culturally altered landscapes at least seventy-five years old. Visual surveys must adhere to the State of New Mexico Standards for Survey and Inventory, NMAC 4.10.15 ; and

Comment [RLG17]: Wherever possible, utilize state standards by reference.

(4) Test excavations encompassing a minimum of two percent of the total lot area. At least eighteen (18) square feet shall be dug by hand after which further excavations may be made by mechanical equipment. Excavations shall proceed to a depth where no archaeological features or artifacts are encountered, or until the maximum depth to which excavations can be safely made. Test excavations must adhere to the State of New Mexico Standards for Excavation and Test Excavation, NMAC 4.10.16;

(5) Inventory report, which complies with State of New Mexico Standards and including NMCRIS Investigation Abstract Form, Laboratory of Anthropology Site Record Forms (if applicable), Historic Cultural Properties Inventory Forms (if applicable), and other relevant State documents.

(4) Inventory Procedures for River and Trails and Suburban Districts. Inventory shall be completed by an archaeologist, hired by the applicant, meeting the professional qualifications set forth by the State Historic Preservation Division. Inventory requiring archaeology dealing with historic period sites shall be completed by person qualified as a historical archaeologist and as a historian. As a minimum, inventory shall consist of:

Comment [RLG18]: Eliminate the City's approval of archaeologists and historians for the River and Trails and Suburban Districts.

(1) Statement of cultural history and setting, based upon previously completed and accepted archaeological and documentary research, including a summary of relevant cultural/historical periods with

bibliographic references and a summary table and map of previous archaeological activities in the vicinity;

Comment [RLG19]: External Policy 13

(2) Archival research and analysis of land titles, historic maps, the archaeological records management systems (ARMS) files of the state of New Mexico, and other existing data;

(3) Visual survey of the *property* for evidence of *archaeological features, artifacts*, or *culturally altered landscapes* at least seventy-five years old. Visual surveys must adhere to the State of New Mexico Standards for Survey and Inventory, NMAC 4.10.15.

(4) Inventory report, which complies with State of New Mexico Standards and including NMCRIS Investigation Abstract Form, Laboratory of Anthropology Site Record Forms (if applicable), Historic Cultural Properties Inventory Forms (if applicable), and other relevant State documents.

(5) Committee Meeting to Approve Inventory Report. Upon the completion of the inventory, the applicant shall request an agenda item for approval of the report and the report shall be submitted by the applicant to the Archaeological Review Committee containing materials prepared to the specifications of the Committee.

(6) Archaeological Clearance Permit Issuance or Treatment Required.

a) At a hearing the Committee shall review the applicant's Inventory Report and vote to approve or disapprove the recommended significance status and if required, the recommended treatment of archaeological resources. The determination made by the Committee for treatment shall be a condition of approval for the archaeological clearance permit;

b) If the project site is determined by the Committee not to be significant, then no further treatment is required and an archaeological clearance permit shall be issued.

c) If the project site is determined by the Committee to be significant and the Committee determines that the data potential of the site is exhausted because a sufficient sample has been taken and no subsurface cultural remains exist, then no further treatment is required and an archaeological clearance permit shall be issued.

d) If the project site is determined by the Committee to be significant, then the Committee may vote to require a Treatment Report to be submitted to the Committee prior to the issuance of the archaeological clearance permit.

(G) Special Santa Fe Trail Requirements in River and Trails District

Comment [SZA20]: This is an attempt to move up the SF Trail Requirements earlier in the Code so applicants are better aware of them

(1) The remnants of the Santa Fe Trail are shown on the map located in the City Land

Use Department and incorporated herein by reference.

(2) For development within such an area as set forth by subsection (1) above, the applicant is required to submit an Inventory Report which identifies on an aerial map of at least a scale of one inch equals four hundred (400) feet the precise location of the trail remnants, and which recommends measures for the on-site preservation of the trail remnants. The committee shall approve the inventory report before the issuance of an archaeological clearance permit.

(3) In no case shall the remnants of the Santa Fe Trail be disturbed by the *development*, except upon the approval of the Archaeological Review Committee. Criteria for approval by the Committee for allowing disturbance of the trail remnants shall be as follows:

(a) The trail remnants have been mapped and photographed and such information has been provided to *city* staff; and

(b) The portion of the trail remnants to be disturbed is ten percent or less of the total square footage of tracks on the *applicant's* site; or

(c)The square footage of the trail remnants constitutes more than sixty percent of the total square footage of the *lot* and preservation of all of the trail remnants would constitute a "taking" of the *lot*.

(H) Procedures to Obtain an Archaeological Clearance Permit for Utilities or Request for Alternative Means of Compliance

Comment [SZA21]: This is an attempt to give utilities its own paragraph

(1) Pre-Application Conference. Prior to submission of any application for an archaeological clearance permit, an applicant shall request a pre-application conference, to be conducted pursuant to Section 14-3.1(E).

(2) Requests for Staged Approval. Applicants who need a staged, phased or partial approval shall request to be on the Archaeological Review Committee's agenda to request approval of a staged plan for archaeological compliance. The applicant is encouraged to notify staff and the Archaeological Review Committee early in the development process if such a request is anticipated.

Comment [RLG22]: External Policy 2

(3) Requests for Archaeological Monitoring. Applicants who need an archaeological clearance permit for utility installations or wishes to make a request for monitoring as an alternative means of compliance shall request to be on the Architectural Review Committee's agenda to request approval of a Monitoring Plan. The Committee must approve the Monitoring Plan prior to the commencement of ground disturbing activities. The Committee may approve a

Monitoring Plan for a project that requests utility boring on a case-by-case basis, but utility boring should be minimized in the Historic Downtown District.

Comment [SZA23]: This is new language about "boring" on a case-by-case basis

(a) Monitoring Plan. Monitoring Plan shall be completed by an archaeologist, hired by the applicant, meeting the professional qualifications set forth by the State Historic Preservation Division and City requirements if in the Historic Downtown District. As a minimum, a Monitoring Plan shall satisfy the State of New Mexico Standards for Archaeological Monitoring, NMAC 4.10.17.

(b) Monitoring Report. Upon approval of the Monitoring Plan by the Archaeological Review Committee, archaeological monitoring activities may proceed, and a Monitoring Report shall be prepared and submitted to the Committee for review and approval. As a minimum, a Monitoring Report shall satisfy the State of New Mexico Standards for Archaeological Monitoring, NMAC 4.10.17.

(c) Archaeological Clearance Permit or Treatment Required. At a hearing the Committee shall review the applicant's Monitoring Report and vote to approve or disapprove the recommended significance status and if required, the recommended treatment of archaeological resources. The determination made by the Committee for treatment shall be a condition of approval for the archaeological clearance permit. Courses of action include the following:

i. If the project site is determined by the Committee not to be significant, then no further treatment is required and an archaeological clearance permit shall be issued.

ii. If the project site is determined by the Committee to be significant and the Committee determines that the data potential of the site is exhausted because a sufficient sample has been taken and no subsurface cultural remains exist, then no further treatment is required and an archaeological clearance permit shall be issued.

iii. If the project site is determined by the Committee to be significant, then the Committee vote to require a Treatment Report to be submitted to the Committee prior to the issuance of the archaeological clearance permit.

(3) Requests for Alternatives to the Two Percent Testing Requirement in the Historic Downtown Archaeological Review District.

Comment [RLG24]: External Policy 3.

a) The Archaeological Review Committee shall consider on a case-by-case basis scheduling alternatives for the two percent testing requirement in the Historic Downtown Archaeological Review District if the following conditions are met:

i. At least one percent of the lot must be test excavated prior to the request being made, provided that the remainder of the required excavations shall be made during trenching for foundations or utilities. If this is not possible, the archaeologist may present another alternative for review and approval by the Archaeological Review Committee;

ii. The applicant must receive written approval from the Archaeological Review Committee to utilize any scheduling alternative.

(I) Treatment Requirements. If the project site is determined by the committee to be significant and to contain further potential data, then the recommended Treatment Plan shall be reviewed by the Archaeological Review Committee and shall include the following procedures:

Comment [SZA25]: The treatment language is cut and paste from the existing Code.

Comment [RLG26]: External Policy 4

(1) If surface remains exist, then collections shall be made; and/or

(2) If subsurface cultural remains do exist, then the test pits shall be expanded, artifacts shall be collected, and an excavation shall be made of archaeological features such as hearths, living surfaces, or other non-portable cultural remains. In addition further archival research shall be conducted concerning human occupation and the land use of the project site; or

(3) The site shall be treated with a protective open space designation, such that no subsurface disturbance takes place. This procedure is intended as an alternate to surface collection and/or excavation. The choice of alternatives is made by the applicant. The Committee may recommend but not require that this course of action be taken. In accordance with the New Mexico Cultural Properties Preservation Easement Act (NM Stat § 47-12A-3 (1995)), a Cultural Properties Preservation Easement shall be dedicated and recorded on a scaled plat of survey, prepared by a licensed New Mexico surveyor with the open space described by metes and bounds and labeled on the final plat. A note shall be placed on the final plat to state, "No Activity Which Disturbs Ground Surface Shall Occur Within the Boundaries of the Cultural Properties Preservation Easement Reflected on this Plat." The Committee shall approve the final plat prior to issuance of an Archaeological Clearance Permit.

(4) Following approval by the Committee of the Treatment Plan and subsequent implementation of treatment activities, a Treatment Report is required, containing a description of the collection, excavation, research, and other procedures, and a summary of the findings. The report shall be submitted by the applicant to and approved by the committee before an archaeological clearance permit is issued. A final report is due within one year of the date of the issuance of the clearance permit. Upon request of the archaeologist, the committee may grant a one-year's extension.

(J) Approval Criteria / Archaeological Significance

Sites identified as significant shall be those that have yielded or may be likely to yield information important to the study of prehistory or history. These shall be those:

(1) With cultural remains that are more than seventy-five (75) years old; and
(2) With cultural remains that are directly associated with events or developments that have made an important contribution to local history or prehistory; or
(3) With cultural remains that are directly associated with the lives of persons significant in local history; or
(4) Areas where a high frequency, density, diversity, or a substantial number of prehistoric cultural remains are present; or
(5) Areas having cultural remains known to rarely occur in the Santa Fe area; or
(6) Any site containing human remains over seventy-five (75) years old.

(K) Other General Provisions

(1) Appeals. Any aggrieved person may appeal a final action of the Archaeological Review Committee to the governing body pursuant to Section 14-3.17.
(2) Maximum Funding Limit.

Comment [RLG27]: The Subcommittee did not review these limits, but they should be adjusted.

(a) In the Historic Downtown Archaeological Review Districts, in no case shall the applicant be required to spend more than one percent of the valuation of the property shown on the building permit in providing reports and other information requested by the Archaeological Review Committee.
(b) In the River and Trails Archaeological Review District, in no case shall the *applicant* be required to spend more than three thousand dollars ($3,000) dollars plus one hundred dollars ($100) per acre for the treatment of an *archaeological site*.
(c) In the Suburban Archaeological Review District, in no case shall the *applicant* be required to spend more than four thousand dollars ($4,000) plus one hundred dollars ($100) per acre for the treatment of an *archaeological site*.
(d) The definition of treatment of an *archaeological site* is as set forth in this chapter. The procedures for treatment are set forth above.

(3) Maximum Time for Excavations and for Excavation of Significant Sites. In the historic downtown archaeological review district, in no case shall the archaeologist be required to spend more than 15 eight hour equivalent days in carrying out test excavations, or an additional 20 eight hour equivalent days in carrying out additional excavation of significant sites.

Comment [RLG28]: Are these limits appropriate?

(4) Ownership of Artifacts. All artifacts discovered as a result of an inventory, testing or further treatment, with the exception of human remains, are the property of

14-5.3 ARCHEOLOGICAL REVIEW DISTRICTS

(Ord. No. 2011-37 § 6)

Comment [SZA34]: One pitch to the Council is the re-write combines to code sections 14-3.13 and 14-5.3 together so people don't have to go searching and searching for requirements. It combines the two sections together.

Comment [RLG35]: Is it a good idea to remove this section from the Overlay Zoning Districts? We may need to retain the two components – district boundary definitions in the Overlay Zoning section, and archaeological clearance permits in the Permits section.

(A) Purpose

To promote the economic, cultural and general welfare of the people of Santa Fe, the *governing body* deems it essential that the qualities relating to the unique cultural traditions, prehistory and history of Santa Fe, which attract tourists and residents alike, be preserved by establishing three archaeological review districts. The purpose of these districts is to:

(1) recognize the value of archaeological resources from all periods of history and prehistory, including prehistoric Native American settlements, Spanish colonization and settlement and settlement and *developments* under Mexican and American governments;

(2) provide the means for identifying *archaeological sites* by requiring surveys and test *excavations*, depending on the district, through the *development* review and construction *permit* process;

(3) provide the means by which *archaeological sites* may be evaluated for their potential contribution to cultural, educational, historic, economic and scientific concerns;

(4) establish a procedure for treatment of archaeological resources on private and public land, thereby mitigating the information loss from the sometimes unavoidable destruction of archaeological resources and providing for the treatment of those resources that can be preserved; and

(5) provide methods for the emergency treatment of archaeological resources found through unexpected discovery.

(B) Application to State and Its Agencies,Political Subdivisions or Instrumentalities

Pursuant to Sections 3-22-1 through 3-22-6 NMSA 1978 (Historic Districts and Landmarks), the provisions of this section apply to the *state* and its agencies, political subdivisions and instrumentalities, as well as to any other entity or activity in the archaeological review districts. The State shall be notified of the actions of the Archaeological Review Committee as follows:

Comment [RLG36]: Need to check references here and perhaps restate. The wording is confusing.

(1) SHPO Notification. Whenever the Archaeological Review Committee is considering a case on city property, public right-of-way or otherwise on State

Comment [RLG37]: This is an attempt to rewrite the language in 14-5.3 to make it more clear when things go to SHPO

jurisdiction, the Committee's recommendation shall be forwarded to the New Mexico State Historic Preservation Office (SHPO) for final approval before work proceeds.

(C) Establishment of Districts; Boundaries

(1) Districts Established

Three archaeological review districts are established, to be known as the historic downtown, the river and trails and the suburban archaeological review districts.

(2) Boundaries

The boundaries of the historic downtown, the river and trail and the suburban archaeological review districts are as shown on the official zoning map. The boundaries are determined by the following criteria:

(a) Historic Downtown Archaeological Review District

The center of Santa Fe since 1610 and occupied by Native Americans prior to that time, land within the historic downtown archaeological review district has a high potential of containing *significant cultural remains* and is part of the historic core of Santa Fe;

(b) River and Trails Archaeological Review District

An area of prehistoric Native American occupation, settled by early Spanish colonists, and being primary transportation routes important to the settlement of Santa Fe, the river and trails archaeological review district has a high potential of containing *significant cultural remains* and is part of the Santa Fe river *floodplain*, escarpment, or ridges above the escarpment, and land adjacent to those areas, and contains historic trails such as Santa Fe Trail, Galisteo Road and Agua Fria;

(c) Suburban Archaeological Review District

Land within the suburban archaeological review district has a moderate potential of containing *significant cultural remains* and is not a part of the historic downtown or river and trails archaeological review districts.

(3) Map Revisions

The archaeological review districts may be revised upon a recommendation of the archaeological review committee as approved by the *governing body*. In revising the district boundaries the committee shall follow the criteria set forth in Subsection 14-5.3(C)(2).

(D) Archaeological Clearance Permit Required

An archaeological clearance *permit* is required for certain types of *development* activity within the archaeological review districts, as described in Section 14-3.13. (Ord. No. 2014-31 § 9)

Comment [SZA38]: