

# MEMO

## **RZ: 13-22: Text Amendment: Site Plan Appeal Process Clarified**

**TO: Council Public Works Committee**  
**From: MAPC/Planning Department, Otis T. Spriggs,**  
**Date: January 2, 2014**  
**Re.: Text Amendment Proposal**

The existing Code language is below extracted from the Jonesboro Code of Ordinances. Currently there is an unclear area in the language regarding site plan reviews. **The code does not specify who may file appeals of Site Plan decisions.** This is specifically what needs to be modified and clarified in the Code Language. This proposed amendment seeks to clarify the sections below.

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### **\*\*\*EXISTING CODE LANGUAGE:**

#### **Sec. 117-32. Zoning and building permits.**

(a) It shall be unlawful to commence the construction, reconstruction, moving, demolition or structural alteration of any building until a zoning permit and a building permit has been issued. No building permit shall be issued unless the proposed construction or use is in full conformity with all the provisions of these regulations and other applicable building laws, ordinances, or regulations. A zoning permit shall also be required for the use or reuse of property, buildings, or structures where building permits are not required. Compliance with paved parking and other site standards shall be achieved as a condition a change of use for commercial, industrial and multifamily purposes. In addition, a zoning permit evidencing compliance with the provisions of this chapter shall be a prerequisite to the issuance of a city privilege or occupation license.

(b) All applications for building permits shall be accompanied by a plan in duplicate drawn to scale, showing the size of the building to be erected and its location on the zoning lot, the location of any existing buildings or structures, location and dimensions of all driveways and parking or loading areas, drainage and such other information as may be necessary to provide for the administration of this chapter.

(c) Site plans, sealed by a professional engineer licensed in the state shall be required in accordance with the city stormwater management/drainage ordinance for all development or redevelopment proposals. Multifamily development plans of five or more units and all commercial developments shall be sealed by an architect licensed in the state.

(d) Site plans shall be required for all multifamily development proposals of five units or more, as well as for all new commercial and industrial development and substantial redevelopment. Such plans shall be reviewed and approved at the staff level, subject to appeal by the applicant to the Metropolitan Area Planning Commission; provided that, large-scale

commercial development of over 75,000 square feet of gross floor area, and multifamily developments of more than 48 units shall be approved by the Metropolitan Area Planning Commission. **Site plan decisions by the MAPC shall be subject to appeal to the city council. Complete requirements for site plans are included in the appendices hereto.**

(e) The design professional, engineer, architect, or landscape architect, preparing and sealing site plans as prescribed under this section shall periodically inspect the construction of all site improvements shown on and required by the site plan approved by the city planner and/or the Metropolitan Area Planning Commission and shall verify that, to the best of the design professional's knowledge, all improvements have been constructed and completed in accordance with said plan. A letter verifying this fact shall be submitted to the city planner prior to issuance of a certificate of occupancy. (Zoning Ord., § 14.44.02; Ord. No. 3429; Ord. No. 07-3165, 12-18-2007)

**Sec. 2-89. Appeals to council.**

Appeals to the city council of decisions of commissions and boards shall be in writing signed by the party appealing, dated and filed with the clerk within 30 days following the decision of the board and/or commission. The appeal shall set forth the objection to the decision rendered by said commission and/or board.

Decisions shall be considered final if no appeal is perfected within the 30-day period. (Ord. No. 09:001, § 1(2.20.06), 1-20-2009)

**\*\*\*Below is the language to be presented to the MAPC on December 10<sup>th</sup> for consideration to recommend to Council to have the text amended.**

Jonesboro Code of Ordinance Chapter 117: **Sec. 117-32. Zoning and building permits.**

**Section (d) shall be amended to read:**

(d) Site plans shall be required for all multifamily development proposals of five units or more, as well as for all new commercial and industrial development and substantial redevelopment. Such plans shall be reviewed and approved at the staff level, subject to appeal by the applicant to the Metropolitan Area Planning Commission; provided that, large-scale commercial development of over 75,000 square feet of gross floor area, and multifamily developments of more than 48 units shall be approved by the Metropolitan Area Planning Commission. ~~Site plan decisions by the MAPC shall be subject to appeal to the city council. Complete requirements for site plans are included in the appendices hereto.~~

**(ADD)**

If the Metropolitan Area Planning Commission denies a **Site Plan** application, the reasons for such action shall be given to the applicant within 15 days from the date of the decision. The applicant may appeal such commission action (denial), to the city council within 30 days of the commission's action. The appeal shall be in writing to the city clerk, and shall specifically state why the Metropolitan Area Planning Commission's findings and decision was arbitrary, capricious, or otherwise inappropriate.

Appeals of final administrative or quasi-judicial approvals by the Metropolitan Area Planning Commission shall be taken before the County Circuit Court.

**Below is the language extracted from the State Code:**

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**Supplemental Information: State of Arkansas**

Arkansas Code of 1987 Annotated Official Edition  
Title 14 Local Government  
Subtitle 3. Municipal Government  
Chapter 56 Municipal Building And Zoning Regulations -- Planning  
Subchapter 4 -- Municipal Planning  
A.C.A. § 14-56-425 (2013)

**14-56-425. Appeals to circuit court.**

(a) (1) Appeals from the final administrative or quasi-judicial decision by the municipal body administering this subchapter shall be taken to the circuit court of the appropriate county using the same procedure as for administrative appeals of the District Court Rules of the Supreme Court.

(2) The final administrative or quasi-judicial decision shall be tried de novo with the right to a trial by jury.

(b) (1) Appeals from the passage of legislative rezoning decisions by the municipal governing body administering this subchapter shall be taken to the circuit court of the county in which the rezoning was authorized using the same procedure as for administrative appeals of the District Court Rules of the Supreme Court.

(2) The legislative rezoning decision shall be reviewed by the court, and the decision shall be upheld unless it is arbitrary or capricious or lacking a rational basis.

**HISTORY:** Acts 1957, No. 186, § 7; 1965, No. 134, § 2; A.S.A. 1947, § 19-2830.1; Acts 2013, No. 749, § 1.