



**Environmental
Planning
Commission**

**Agenda Number: 12
Project Number: 1004075
Case #: 08EPC 40047
August 21, 2008**

Staff Report

Agent	Denish + Kline Associates
Applicant	Forest City Covington NM LLC
Request	Amendment to a Level B Sector Development Plan for a Planned Community (Mesa del Sol)
Legal Description	Mesa del Sol, Tracts 1A – 16A
Location	Generally North of the Pueblo of Isleta, South of Los Picaros Rd., mostly East of I-25 and West of Kirtland Air Force Base.
Size	Approximately 3,100 acres
Existing Zoning	PC (Planned Community)
Proposed Zoning	No change

Staff Recommendation

DEFERRAL of 08EPC 40047, based on the findings beginning on Page 15, to the September 18, 2008 hearing.

Staff Planner
Catalina Lehner, AICP-Senior Planner

Summary of Analysis

This request is for an amendment to the Mesa del Sol Level B Community Master Plan (the “Level B Plan”) to add wireless telecommunications facilities (WTFs) to the Level B Plan. Addressing WTFs after EPC approval constitutes an amendment to the Plan. This request was first scheduled for the June hearing, but was deferred twice at the applicant’s request.

Pursuant to the Planned Communities Criteria (PCC) document, the EPC (not the City Council) is the approval body for the proposed amendment, which is partially consistent with the intent of the PCC and partially complies with the Level A Plan’s community principles.

Staff believes that additional time is warranted to work on procedural issues and obtain information. Without further refinement at this stage, problems could arise in the future and necessitate more amendments to the Level B Plan.

The Mountain View NA was notified. A facilitated meeting was not held and Staff has not received any comments. Staff recommends a 30-day deferral.

City Departments and other interested agencies reviewed this application from 05/05/2008 to 05/16/2008. Agency comments used in the preparation of this report begin on Page 18.

I. AREA CHARACTERISTICS:

Surrounding zoning, applicable plans, and land uses:

	<i>Zoning</i>	<i>Comprehensive Plan Area; Applicable Rank II & III Plans</i>	<i>Land Use</i>
<i>Site</i>	PC (Planned Community)	Reserve Area Planned Communities Criteria (PCC)	Manufacturing, movie studio, undeveloped
<i>North</i>	M-1, SU-1/Urban Regional Park, PC	Reserve Area, PCC	Manufacturing, Recreation playfields & amphitheater, undeveloped
<i>South</i>	PC, N/A (Isleta Pueblo)	Reserve Area, PCC and N/A	Undeveloped, Isleta Pueblo, manufacturing & commercial (near I-25)
<i>East</i>	PC	Reserve Area	Undeveloped, then Kirtland Air Force Base
<i>West</i>	M-1, SU-1/Urban Regional Park, A-1, PC	Developing Urban; Southwest Area Plan (SWAP)	Manufacturing & commercial (various), undeveloped, landfill, recreation playfields & amphitheater

II. INTRODUCTION

Request & Process

This request is for an amendment to the Mesa del Sol Level B Community Master Plan (the “Level B Plan”) with respect to wireless telecommunications facilities (WTFs). The proposed amendment, also known as the WTF Plan for the Level B Plan area of Mesa del Sol, discusses the type, approximate location, height and process with respect to WTFs in the Level B Plan area. Because these issues are not addressed in the Level B Plan, adding them after EPC approval would constitute an amendment to the Plan. This request was first scheduled for the June hearing, but was deferred twice at the applicant’s request to continue to work on outstanding issues.

The Planned Communities Criteria (PCC) Policy Element document, which delineates Level B plan requirements, specifies that the Environmental Planning Commission (EPC) is the approval body for Level B plans. Therefore, the EPC is the approval body for the proposed amendment, which will not be required to be forwarded to the City Council.

In addition, the PCC Policy Element document creates a very flexible framework through which Planned Communities that are zoned PC are allowed to essentially “write their own rules” that differ from City ordinances of general application. In this case, the ordinance from which the proposed plan

amendment varies is the O-06-40, the City's WTF regulations found in Zoning Code §14-16-3-17. See also the Zoning section and Section III of this report.)

Context

The subject site is the Level B Plan area, which is approximately 3,100 acres generally located north of the Pueblo of Isleta, south of Los Picaros Rd., mostly East of Interstate-25 and west of the buffer with Kirtland Air Force Base (see attachment). This irregularly shaped area has been informally referred to as the "pterodactyl" due to its resemblance to the prehistoric creature.

The Level B Plan area is part of the approx. 13,420-acre area known as Mesa Del Sol. The Level B Plan area includes a 40-acre secure employment area near KAFB, the southwestern portion of the Employment Center, the Urban Center, the Community Center, Mesa del Sol Boulevard, the Central Park, Village Center 1, some residential areas, some land on the Escarpment, and a strip of commercial area near Interstate 25. Not included are the rest of the Employment Center, three other planned Village Centers and lands held by the University of New Mexico.

Background & History of Mesa del Sol (in brief)

Mesa del Sol, which was annexed in January 1993 and the City Council established SU-2 for PC (Planned Community) zoning (Enactment 5-1993, AX-92-1/Z-92-26). The Council also adopted the interim "Mesa del Sol Master Plan" (1983). In 1997, the City Council approved an amendment to the interim Master Plan for a recreational and performing arts facility (Enactment 8-1997). The EPC approved a zone map amendment from SU-2 for Planned Community to SU-1 for Urban Regional Park for the 644 acre area (Z-96-88). In 1998, the EPC approved a Level C Site Development Plan for an Urban Regional Park.

In January 2006, the Council adopted The Level A Community Master Plan for Mesa del Sol (Enactment R-2006-005), which superseded the 1983 interim Mesa del Sol Master Plan. The EPC heard this case in August, October and November 2005 (Project #1004260, 05EPC-00987). The Level A Plan, which covers approx. 13,420 acres, emphasizes mixed-use centers, multi-modal transportation, job creation and sustainability. The Level B Community Master Plan (the "Level B Plan"), which was approved by the EPC in January 2007 and did not require Council approval, includes development standards for the mixed-use centers and detailed technical appendices (Project #1004075, 06EPC-01444).

Development Agreements: The Level A Development Agreement (2006) between the City of Albuquerque and the applicant outlines cost-sharing strategies to ensure that this planned community will not be a net expense to local government.

There are two Level B Development Agreements. The Phase I Development Agreement with the City addresses transportation, infrastructure, open space, public incentives and the definition of "no net expense". The other Level B Development Agreement, which is with the Albuquerque/Bernalillo County Water Utility Authority (WUA), specifies the terms for water and wastewater service provision. Both development agreements have been finalized and fully executed.

Relevant Case: A number of cases in Mesa del Sol have come through the Planning Department processes, some through the EPC and many through the Development Review Board (DRB). EPC cases include Advent Solar (Project #1004097), the Community Center (Project #1004873), Buildings 2 & 3 (Project #1004872), the Fire Station (Project #1005542) and Albuquerque Studios (Project #1004818).

Of particular relevance to the proposed amendment is case of the Mesa del Sol Elevated Reservoir (aka Water Tower), which the EPC approved on March 15, 2007 (Project #1005355, see attachment). This request was for a site development plan for building permit for an approx. 200 ft. tall water tower and future structures such as a well, pump station and treatment facility, on an approx. 8 acre site in the Employment Center. The site development plan included several wireless telecommunications facilities (WTFs), which were panel antennas mounted around the top of the water tower's head and pedestal. The panel antennas, which would have all been collocations on an existing structure, were not to exceed 6 ft. long and could not extend above the "roofline" of what they were mounted upon.

Update: The water reservoir has been built, but no WTFs have been installed upon it. The applicant has explained that, though WTFs were approved as part of the site development plan, the Water Utility Authority (WUA) will not allow any WTFs to be placed upon the reservoir. Apparently this is due to maintenance concerns, but there is no documentation to this effect. Therefore, Staff is not sure why the approved WTFs were eliminated from consideration. Staff notes that eliminating the collocated WTFs in favor of the proposed amendment, which emphasizes free-standing WTFs, fails to take advantage of a very tall, existing vertical structure which could have served as a primary WTF (see Section IV of this report).

Zoning

In 1993, the City Council established SU-2 for PC (Planned Community) zoning for the entire, approx. 13,420 acres of Mesa del Sol. The PC zone (Zoning Code §14-16-2-29) allows "a variety of uses controlled by Plans which govern the size, configuration, land use mix, densities, and other features on sites suitable for planned communities in the Reserve and Rural areas."

Created in November 1993 by the City Council, the PC zone states that "a planned community may contain any use and development consistent with adopted plans for that planned community." In short, as long as a use is consistent with a planned community Plan it is allowed. Plans for planned communities are established pursuant to the Planned Communities Criteria (PCC) Policy Element, a document which defines planned communities and the processes associated with them (see subsequent section of this report).

In October 2006, the Council adopted a zone map amendment from SU-2 for PC (Planned Communities) to PC (Planned Communities) (Enactment O-2006-038). The zoning for Mesa del Sol is now PC, without the SU-2 designation. This zone map amendment (Project #1004620) was a "clean up" action to bring Mesa del Sol's zoning into conformance with the Zoning Code and the Comprehensive Plan.

II. ANALYSIS-CONFORMANCE WITH APPLICABLE PLANS AND POLICIES

A) Albuquerque/Bernalillo County Comprehensive Plan

The subject site is located in an area that the Comprehensive Plan has designated as “Reserve”. The Reserve Area Goal is “to allow opportunity for future development of high quality, mixed-use, largely self sufficient planned communities, bounded by permanent open-space, in appropriate outlying areas, and to protect the non-urban development areas as Rural unless such planned communities are developed.”

As mentioned, Mesa del Sol is a planned community. The Level A Community Master Plan (the “Level A Plan”) and the Level B Community Master Plan (the “Level B Plan”) have been adopted and approved. Planning Staff has extensively analyzed the Level A Plan (Project #1004260, 05EPC-00987) and the Level B Plan (Project #1004075, 06EPC-01444). The decisions made regarding these projects have found them to be in substantial conformance with applicable Comprehensive Plan Goals and policies. These analyses are not repeated in this report.

Here Staff focuses on the proposed amendment’s relationship with the Planned Communities Criteria (PCC) Policy Element, the Level A Plan and the Level B Plan, and discusses the significance of the proposed amendment with respect to the City’s regulations for wireless telecommunications facilities (WTFs) found in Zoning Code §14-16-3-17 and established via Ordinance O-06-40 (see Section IV of this report).

B) Planned Communities Criteria (PCC): Policy Element (for Comprehensive Plan Reserve Areas)

Overview: Adopted in 1990 and revised in 1991, the Planned Communities Criteria (PCC): Policy Element (often referred to as simply “the PCC”) is a document that provides guidance for the preparation of planned community master plans and a framework for City and County review of such plans. Due to the long-term nature of planned communities, criteria have been developed to allow maximum flexibility and development phasing within the three-tiered structure of Community Master Plan (Level A), Village and/or Community/Employment/Urban Center Plan (Level B), and Subdivision/Site Plan (Level C). As the level of planning becomes more detailed, specific issues will be refined in accordance with the higher ranking plan. The PCC also outlines submittal requirements.

The overarching intent of the PCC document is to allow flexibility so that planned communities can improve on development approaches of the past (PCC, p. 1). Planned communities are intended to outperform standard development in the Developing and Established Urban areas in terms of less energy and water use, fewer vehicle miles traveled (VMT) and available open space, among other variables. The PCC envisions a “substantially self-sufficient urban development” that is separated from the urban area by open space yet is “jurisdictionally tied with the City of Albuquerque” (PCC, p. 23).

Applicability: As stated, the Level A Community Master Plan (the “Level A Plan”) and the Level B Community Master Plan (the “Level B Plan”) have been adopted and approved pursuant to the

framework established in the PCC. Chapter 5 of the PCC establishes submittal requirements for the hierarchy of plan types: Level A Community Master Plan, Level B Village Master Plan and the Level C Subdivision or site development plan.

1. Though all submittal requirements must be included in a Level A Plan, the following Level A requirements are relevant to the proposed text amendment to the Level B Plan:

Land Use Requirement 3: Delineation of community-wide public and private open space, illustrating connections among land uses and to the regional open space network where proximate.

The Level A Plan delineates open space areas and the Level B Plan provides a finer level of detail about the forms of open space and parks. There is major public open space, linear parks, major urban parks, neighborhood parks, school parks and pocket parks. The text amendment proposes to locate two of the six WTFs near open space areas, and one within a linear open space area. Staff finds that the proposed locations do not show sensitivity to open space and do not further the open space concepts in Requirement 3.

Land Use Requirement 6: A conceptual strategy for providing utilities in support of the overall land use plan, which strategy must emphasize efficient use of resources, i.e. land, water and energy.

The Level A Plan (Chapter 5) addresses utility infrastructure and energy in broad terms. The Level B Plan provides a much greater level of detail. The proposed text amendment would introduce a strategy for providing wireless service in the Level B Plan area, though it does little to describe how the future WTFs are intended to fit into the larger context of Mesa del Sol and support the overall land use plan. The request partially furthers Requirement 6.

2. Though all submittal requirements must be included in a Level B Plan, the following Level B requirements are particularly relevant to the proposed text amendment to the Level B Plan:

Land Use Requirement 4: Delineation of open space system, parks, recreation areas and links among land uses, with identification for proposed ownership, management, and maintenance.

The Level B Plan provides a finer level of detail about the forms of open space and parks, as well as their management and maintenance. The text amendment proposes to locate two of the six WTFs near open space areas, and one within a linear open space area. Similar to the analysis of Requirement 3 above, Staff finds that the proposed locations do not show sensitivity to open space and do not further the open space concepts in Requirement 4.

Government and Public Services Requirement 2: Facilities Plan including detailed location, phasing of water systems, sewer systems, drainage systems, and mobility systems.

The Level B Plan provides a much greater level of detail than the Level A Plan regarding water, sewer, dry utilities, lighting and energy. The Level B Plan technical appendix document provides additional details. The proposed text amendment would introduce a strategy for providing

wireless service in the Level B Plan area, though the language used in the text amendment is unspecific in places and defines parameters rather loosely. The request partially furthers Requirement 2.

C) Mesa Del Sol Level A Community Master Plan 2006 (The “Level A Plan”)

The Level A Plan is the highest ranked plan for Mesa del Sol and will guide Level B and Level C Plans. Policy guidance comes from the Comprehensive Plan, Reserve Area Goal and Policies, and the Planned Communities Criteria (PCC). Large scale issues such as job creation, mixed-use centers, community building, multi-modal transportation and sustainability are emphasized, while details are left for the subsequent Level B and Level C plans. Wireless telecommunications facilities (WTFs) are not specifically addressed in the Level A Plan.

The Level A Plan contains five overarching principles of community building: 1) economic development, 2) district and neighborhood structure, 3) ecological sustainability and restoration, 4) diversity and balance and 5) human scale. The following apply to the proposed amendment:

Principle 1: Economic Development (p. 8 and 9)

“Economic development is one of the essential factors that drive community quality. The central idea of the practice of economic development is that we have the power at the local level to design and shape the future economy of our communities.”

Economic development is critical to Mesa del Sol, especially since one of the key goals of Mesa del Sol’s land use allocation is a jobs/housing balance that will benefit the community and the surrounding area. Economic development is dependent upon many factors, one being adequate infrastructure. The proposed amendment to the Level B Plan would specify and allow for provision of infrastructure for wireless telecommunications facilities (WTFs) in the Level B Plan area which, in a general sense, will help further Principle 1.

Principle 2: District and Neighborhood Structure (p. 10)

“...Mesa Del Sol will be structured as a series of districts, villages and neighborhoods, each with an identifiable center and edge...a hierarchy of mixed-use centers, on and below the mesa, will provide shopping, civic uses, higher-density forms of housing, and public gathering spaces at highly accessible nodes in the transportation system.”

The proposed amendment to the Level B Plan would provide approximate locations for six future WTF towers, most of which would be located in mixed-use centers. Some would be located, however, in open space and residential areas. The WTFs themselves would blend in better in the mixed-use centers than in other areas, where they are likely to be more obvious. Principle 2 is partially furthered.

Principle 5: Human Scale (p. 11)

“Streets and buildings at Mesa Del Sol will be designed to exhibit human scale detail and variation. The majority of the streets will be relatively narrow... Buildings will address the street and sidewalk

with entries, balconies, porches, and patios. Orienting buildings to streets and public spaces will bring activities and visually interesting features closer to the pedestrian and provide safety through watchful eyes.”

Balanced land use is an overarching goal of Mesa del Sol. To this end, the Level A and Level B Plans emphasize an urban form that is conducive to alternative transportation and very supportive of pedestrian activity. Building placement, massing and design can work together to foster pedestrianism. The proposed amendment would locate WTF towers, which would be up to 120 ft. tall in some areas where Principle 5: human scale could be adversely impacted. Principle 5 is not furthered.

D) Mesa Del Sol Level B Community Master Plan 2006 (The “Level B Plan”)

The Level B Plan is the mid-ranking plan for Mesa del Sol, between the Level A Plan and any Level C Plans. Level B Plans act like Rank III Sector Development Plans. Pursuant to the Planned Communities Criteria (PCC): Policy Element, the EPC approved the Level B Plan in January 2007 (Project #1004075, 06EPC-01444). Council adoption was not required. The Level B Development Agreements have been finalized and fully executed in December 2007 and January 2008, so the Level B Plan is now finalized.

The Level B Plan includes development standards for the mixed-use centers and detailed technical appendices to address transportation, infrastructure and water. The Level B Plan does not address wireless telecommunications facilities (WTFs) except for two notes found in Chapter 7-Approvals process, though telecommunications such as cable and phone lines are discussed in Chapter 5- Dry Utilities (p. 90).

One note was added to reflect a condition of approval in the Official Notice of Decision (see attachment) for the approval of the Level B Plan. This general note states that all WTFs permitted under the WTF regulations shall be integrated into building architecture, community identification features or be otherwise concealed. False pine trees are not considered concealed and non-concealed arrays are not allowed. (Note: non-concealed free-standing arrays are now prohibited pursuant to the revised WTF regulations). The other note states that temporary “cellular on wheels”, or COWS, are permitted on any site for up to 18 months.

Unlike the Level A Plan, the Level B Plan does not contain overarching principles that can be used as a basis for policy analysis. Neither includes specific goals or policies in a similar manner to other City Plans. Since the Level B Plan follows the Level A Plan, pursuant to the framework established in the PCC document, the principles of community building in the Level A Plan would also hold true for the Level B Plan. That analysis is provided in Subsection II.C of this report.

III. THE CITY'S WIRELESS TELECOMMUNICATIONS REGULATIONS, ZONING CODE §14-16-3-17 [O-06-40]

Background (in brief):

In 1999, the City Council adopted O-54-1999 to regulate WTFs. The intent of the Ordinance was to provide standards for WTF development, protect the aesthetic quality of the City without unduly restricting WTFs, protect visual character from the potential adverse effects and promote visually unobtrusive WTFs. The Ordinance also provided definitions specific to WTFs, amended zoning categories to allow WTFs as a permissive use all but the RO-1, RO-2, RA-1 and RA-2 zones, and provided standards for review and approval or denial of WTF applications.

Until recently, O-54-1999 (the "1999 regulations") was in effect. The 1999 regulations were superseded on January 21, 2008, when the updated, revised WTF regulations (the "2008 regulations") became published and effective. The updated WTF regulations, found in O-06-40, are the product of a lengthy process of coordination between the wireless industry, neighborhood representatives and Planning Staff. The EPC heard the text amendment case for O-06-40 at four hearings in the Fall of 2007 (Project #1001620, 06EPC-01144). At its November 8, 2007 special hearing, the EPC voted to recommend that an approval recommendation with conditions be forwarded to the City Council. On January 7, 2008, the City Council voted unanimously to approve the text amendments.

Basic Overview:

Section 14-16-3-17 of the Zoning Code contains Wireless Telecommunications Regulations which pertain to wireless telecommunications facilities (WTFs) in the City of Albuquerque. A WTF is defined as:

"A facility that transmits and/or receives signals or waves radiated or captured by a wireless telecommunications antenna. It may include antennas of all kinds including microwave dishes, horns, and other types of equipment for the transmission or reception of such signals, telecommunications tower or similar structures supporting such equipment, equipment buildings or cabinets, parking area, and/or other accessory development."

In the City of Albuquerque, WTFs come in various types. There are the older, very tall lattice towers, the mechanical looking free-standing poles with an array of antennas at the top (free-standing arrays), monopoles with the antennas inside, artificial pine trees with branches to hide the antennas, and other WTF such as antennas on the side of tall buildings Downtown or on a PNM pole, a clock tower such as the one at the Arroyo del Oso golf course, and relatively short poles mounted on roof tops.

The major difference between the 1999 regulations and the current (2008) regulations is that the 2008 regulations prohibit the lattice towers and free-standing array types of WTFs. Though existing WTFs are not affected, as of January 21, 2008, all WTFs have to be a concealed design that is found to comply with the concealment criteria of the regulations in Subsection (A)(15)(c). WTF applications, though each a complex case in its own right, are considered Administrative Amendments (AAs) and are processed administratively by the Planning Department by a Development Review Division (EPC) staff planner (or by a staff member of Code Enforcement if the site is straight zoned and the WTF is not concealed).

IV. ANALYSIS- THE PROPOSED AMENDMENT TO THE LEVEL B COMMUNITY MASTER PLAN FOR MESA DEL SOL

Overview:

The purpose of the proposed amendment to the Level B Plan is to describe the elements of a wireless telecommunications system in the Level B Plan area of Mesa del Sol. The Level B Plan did not elaborate regarding wireless telecommunications facilities (WTFs) as a dry utility, as it did with other dry utilities such as electric, gas and telephone and cable lines (starting on p. 86). Therefore, the Level B Plan is proposed to be amended to include parameters for WTFs.

Components:

The proposed amendment consists of two parts: the first and second pages (Part A) and the third and fourth pages (Part B). The Part A pages are currently in the Level B Plan. The bubbling shows the changes that would result from the proposed amendment. The Part B pages contain the text, illustrations and map associated with the proposed amendment. These pages will become pages 109 and 110 (incorrectly listed as 108 and 109) of Appendix B of the Level B Plan, meaning that they will be added at the back of the Plan.

Staff's analysis focuses on the Part B pages (pages 3 and 4). The following five subsections are described on page 3: 1) Introduction, 2) Description of the Basic System, 3) Mesa del Sol Exceptions to the WTF Regulations of the Zoning Code, and 4) Tertiary WTFs, and 5) Other Regulations Apply. Staff discusses and analyzes each below. Page 4 contains illustrations and a map.

Introduction: The introduction describes the location of the Level B Plan area of Mesa del Sol and states the purpose of the proposed amendment. Also described is the overall approach taken, that of proposing WTFs that are independent of buildings and can be installed immediately with the fewest number of sites and materials.

Staff notes that, though at this time there are few power poles and buildings upon which WTFs could be mounted (existing vertical structures), this will not always be the case. The introductory language should be mindful that the proposed amendment will last for many years; instead, it emphasizes the present situation without acknowledgement that the situation will change someday. Also, the word "transit oriented" should be deleted since it is not relevant to WTF provision. Same for the word "immediately", but that is because it's difficult to define.

Description of the Basic System: The basic system consists of the following four elements: Primary Wireless Telecommunications Facilities (PWTFs), Secondary Wireless Telecommunications Facilities (SWTFs), Tertiary Wireless Telecommunications Facilities (TWTFs) and Wireless Equipment Enclosures.

Quantity, design, distance and height are the major issues. Three PWTFs are proposed, one each in Village Center One, in the linear open space northwest of the Town Center, and near the northern side of the Employment Center. The PWTF will be identical ornamental towers, up to 120 ft. high. Several

carriers will be accommodated on each. The PWTFs will be located approx. 1 to 1.5 miles apart (see map on p. 2 of the submittal).

Three SWTFs are also proposed, to be located approx. 2 miles apart and be up to 60 ft. tall. The SWTFs may or may not be identical; they could be an ornamental tower, flagpole, or clock tower (and, mentioned later, any “other iconic feature”). The TWTFs, if needed in the future, cannot be free-standing but must be architecturally integrated with a building. Equipment must be enclosed and architecturally or aesthetically integrated with the WTFs. Such enclosures are not limited to solid walls or fences, but can be housed in adjacent or nearby buildings.

The proposed amendment does not explain why the proposed heights (120 ft. and 60 ft.) were chosen. The same is true regarding the distance between PWTF and SWTFs; there is no explanation. A brief explanation should be included in the amendment. Staff had requested that the reasoning behind the height and location choice be substantiated, but the applicant did not provide this information up-front. Staff’s analysis and EPC review would have benefited from having such information prior to the hearing.

Staff believes the number of carriers that can collocate on each primary ornamental tower is 6, though the applicant did not provide this information, either. Staff has been told of the reasoning for the design, which is to create an identifiable feature for the communities. This intent does not come through in the proposed amendment but should, since this text will become part of the Level B Plan. The idea that the PWTFs be identical needs to be included in 2.A.1. SWTFs could be any of the designs mentioned, including “any iconic tower” which could be construed to be almost anything. Better definition is needed for the types of SWTFs permitted.

Staff finds that the writing in this subsection is unclear and could create future ambiguities, most of which are relatively easy to remedy. For instance, a cross-reference to Subsection 3A is needed for clarity instead of stating “except as noted in this amendment”. Whether or not the SWTF ornamental tower is intended to be the same as the PWTF ornamental needs to be specified, though Staff suggests that they be different to provide some variety.

If equipment enclosures are not located inside of buildings, they could be “a solid wall or fence”. Staff suggests that a fence not be included, since this is a reference to the days when chain link fencing was allowed under the City’s WTF regulations. Chain link equipment enclosures do not adequately screen equipment and can invite trespass, and therefore should be prohibited.

Mesa del Sol Exceptions to the WTF Regulations of the Zoning Code Section 14-16-3-17: Height shall not exceed 120 ft. in all districts and the equipment housing shall not exceed 400 sf. The PWTFs shall be identical and construed to be concealed. The provisions in §14-16-3-17.12.A (1-7) shall not apply. SWTFs may be a flagpole, clock tower or “other iconic feature.” Some regulations apply to both PWTFs and SWTFs, such as abandonment if a WTF is no longer in use. Equipment enclosures must be surrounded by a wall, fence or landscape feature and reflect the architectural character of the WTF.

This subsection is critical to begin to understand how the WTFs in the Level B Plan area differ from WTFs in the rest of the City of Albuquerque with respect to the City's WTF regulations (Zoning Code §14-16-3-17). Elaboration is needed in places, particularly in 3.A.(1) and (2), where the applicant needs to precisely explain the difference between the PWFs and the City's regulations, which will make it obvious to those who don't readily know.

The reference of §14-16-3-17.12.A (1-7) is a mis-reference. Staff surmises that the applicant means to refer to §14-16-3-17(A)(15)(c), 1-6, which are known as the "Concealed Facility Criteria". The lack of clarity and explanation could prove problematic in the future.

The Concealed Facility Criteria in §14-16-3-17(A)(15)(c) require that a WTF be aesthetically integrated with its surroundings, not create a dominant silhouette, be located where screening is the greatest and not be readily visible as a WTF. The Director's Designee is tasked with performing this evaluation. The wireless industry considers certain WTF designs, such as a flagpole, light pole and false tree, to be concealed because they hide the antennas. But, this mindset is irrespective of the WTF's site and surroundings. The City's WTF regulations require that a WTF be concealed according to the Concealed Facility Criteria; a WTF is not concealed simply by design, but must be concealed by context.

Having explained this, Staff points out that a 120 ft. ornamental tower could not be found to be concealed pursuant to the Concealed Facility Criteria. This is because, at such a height, the future PWFs will tower over any buildings. Topography, nearby vegetation and other vertical elements will not help to conceal them. Deliberately, the PWFs are intended to not blend in with their surroundings; they are supposed to stand out. The reference to the Concealed Facility Criteria was added at Staff's request to explain that the PWFs cannot comply with the WTF regulations and, by virtue of being a Planned Community pursuant to the Planned Communities Criteria (PCC), are not required to.

This raises the question of whether or not the SWTFs and TWTFs could comply with the City's WTF regulations. With future development, the SWTFs may be able to comply -though this would depend on the WTF's context and an evaluation by the Director's Designee according to the Concealed Facility Criteria. The TWTFs, if any, would all be architecturally integrated and would be concealed by definition because "an architecturally integrated WTF is a concealed facility." Therefore, the TWTFs could easily, by design, comply with the City's WTF regulations.

Besides height, a notable difference between the proposed PWFs and SWTFs and the City's WTF regulations is that the City's WTF regulations have requirements specific to View Corridors and Open Space [§14-16-3-17(A)(9) and (10)]. View Corridors are established for certain streets with scenic qualities, including Alameda, Coors, Unser and Rio Grande, among others. Only architecturally integrated WTFs or collocated WTFs are allowed within 1/8 mile (660 ft.) of the edge of the right-of-way of a designated arroyo that is also a designated trail (A)(9). Only architecturally integrated WTFs or collocated WTFs are allowed within 1/4 mile (1,320 ft.) of Major Public Open Space and the Petroglyph National Monument.

The location of two of the PWTFs and two of the SWTFs is near Mesa del Sol Blvd. and linear park open space. Apparently, the applicant does not desire to protect scenic resources and open space. One of the proposed 120 ft. tall PWTFs is located right on the view line to Mt. Taylor. Staff suggests that this PWTF be slightly relocated to within the boundaries of the nearby Community Center.

Staff suggests that, as mentioned, the equipment enclosures be surrounded by a wall and not a fence. The proposed language reads “wall, fence OR landscape feature.” The language regarding landscaping, if to be included, must be an AND phrase since it would not be practical to surround WTF equipment with only landscaping. Doing so would leave equipment exposed and not safeguard the public health and safety.

Tertiary WTFs: Tertiary WTFs shall not be allowed unless the Director’s designee determines that none of the PWTFs or SWTFs can accommodate the applicant. Evidence of exceptional showing that no WTF meets the applicant’s engineering requirements, has sufficient structural strength, would cause electromagnetic interference or that another carrier won’t allow collocation and would charge more than a “commercially reasonable” rate.

Staff’s intention behind suggesting the addition of TWTFs to the amendment is twofold: 1) to allow WTFs that are not free-standing, i.e.-not all WTFs have to be free-standing, and 2) to create a way to provide additional WTFs other than the PWTFs and SWTFs, recognizing that future circumstances could change and that today’s proposed WTF plan may not be perfect.

Staff finds that 4.(2) would put the Director’s designee in the unenviable position of being “sandwiched” between an applicant and the Mesa del Sol Architectural Review Committee (ARC). This is not advisable and would prove to be problematic for the designee. Furthermore, 4.(1) would require the designee to research and coordinate if any of the PWTFs and SWTFs could accommodate another provider. It is not fitting that the designee track the number of providers; this duty is better suited to the Mesa del Sol ARC who is the leaseholder and readily knows which providers have entered into lease agreements. The ARC should be required to periodically provide update letters to the designee.

The language about “commercially reasonable rates”, which Staff believes creates a loophole, is difficult to implement. Who defines “commercially reasonable rates”? What is reasonable? Any applicant can claim that they don’t want to pay the going rate and say that this is unreasonable to them. Also, 4.(2)(c) and (d) need to be required to have an affidavit and justification, which is required for (a) and (b).

Ultimately, Staff believes that it would be illogical to utilize the designee to perform evaluation work when the basic premise of the proposed amendment is to purposefully not follow the City’s existing WTF regulations, which establish clear parameters regarding the designee’s role and authority. Procedural issues need to be clearly defined and established in the proposed amendment and, as of this writing, they have not been.

Other Regulations Apply: All WTFs are subject to the Level C review procedures of the PCC document. All Level C Plans shall follow the submittal requirements in the Zoning Code; the City has sole authority to approve or disapprove an application. Where not addressed, the requirements of §14-16-3-17 shall apply.

The dilemma here is that the PCC document states that Level C plans, which is what the WTF applications are assumed to be, are evaluated by Staff (p. 41).

Since the WTFs in the Level B Plan area are being specified in this proposed amendment, if one were to be denied it would mean an amendment to the Level B Plan. Therefore, it seems repetitive and unnecessary to re-evaluate all future WTFs. Except for the TWTFs (and maybe the SWTFs), it would be a meaningless exercise for the Director's designee to perform an evaluation of an already approved WTF as if it were the same as a WTF application for a site in the rest of the City.

At this time, Staff has no suggestion regarding how to remedy this larger issue within the context of the proposed amendment, but recognizes that a solution is needed. In other words, as of this writing, the proposed amendment does not establish a clear review process that is understood by all parties involved.

Pre-Hearing Discussion/ Concerns of Reviewing Agencies

The applicant did not attend the pre-hearing discussion meeting on May 21, 2008. Staff has received few agency comments regarding the proposed WTF amendments to the Level B Plan. Most of the comments indicate "reviewed, no comment" or "no adverse impact", except for the comment from PNM. The PNM comments states that the applicant will need to abide by the conditions or terms any easements found.

Neighborhood and Other Concerns

The Neighborhood Association (NA) required to be notified is the Mountain View NA, which the applicant notified. Staff has not received any comments as of this writing.

V. CONCLUSION

The purpose of the proposed amendment to the Level B Community Master Plan, an approximately 3,100 acre area of Mesa del Sol, is to address wireless telecommunications facilities (WTFs) in the Level B Plan area. WTFs are mentioned in the Level B Plan in a couple of places, but are not elaborated upon. This additional information constitutes an amendment to the Level B Plan. Pursuant to the Planned Communities Criteria (PCC) document, the Environmental Planning Commission (EPC) is the approval body for the proposed amendment, which will not have to be forwarded to the City Council.

Planned Communities that are zoned PC are allowed to essentially "write their own rules" that differ from City ordinances of general application. In this case, the proposed amendment differs from O-06-40, the City's WTF regulations found in Zoning Code §14-16-3-17.

Overall, the proposed amendment to the Level B Plan is *partially consistent* with the Planned Communities Criteria (PCC) and *partially furthers* the applicable community building principles in the Level A Plan.

Staff believes that additional time is warranted to continue to work on procedural issues and to obtain information to substantiate the height and distance location as requested. Upon review of the information submitted, Staff finds that the future interface between the Director's designee and the Mesa del Sol Architectural Review Committed (ARC) is unclear, as is the application review process. Without further refinement at this stage, problems could arise in the future and would necessitate another amendment to the Level B Plan. Staff recommends a 30-day deferral.

FINDINGS - 08EPC 40047, June 19, 2008- Amendment to the Level B Community Master Plan for Mesa del Sol

1. This is a request for an amendment to the Level B Community Master Plan for an approximately 3,100-acre area of Mesa del Sol, generally located east of Broadway Blvd. and south of Los Picaros Rd., encompassing land near roughly: the intersection of Broadway Blvd. and Interstate 25, between Broadway Blvd. and Interstate 25, to the south and east of the regional park and amphitheater, east of the buffer with Kirtland Air Force Base (KAFB), and a few miles north of the southern boundary with Isleta Pueblo, commonly known as Mesa del Sol Level B Plan area.
2. The Planned Communities Criteria (PCC) Policy Element document (the “PCC) specifies that the Environmental Planning Commission (EPC) is the approval body for Level B plans. Therefore, the EPC is the approval body for the proposed amendment, which will not have to be forwarded to the City Council.
3. The two Level B Development Agreements, one with the City and the other with the Albuquerque/Bernalillo County Water Utility Authority. Both development agreements have been finalized and fully executed, which makes the Level B Plan final.
4. Policy guidance for review and approval of amendments to the Level B Plan comes from the Planned Communities Criteria (PCC) and the Level A Community Master Plan. The proposed amendment to the Level B Plan demonstrates *partial consistency* with the Planned Communities Criteria (PCC) and partially furthers the applicable Community Building principles in the Level A Plan.
5. The Level A Community Master Plan (the “Level A Plan”) and the Level B Community Master Plan (the “Level B Plan”) have been adopted and approved based on extensive analysis. The decisions made regarding these projects have found them to be in substantial conformance with applicable Comprehensive Plan Goals and policies.
6. The following Level A requirements are relevant to the proposed text amendment:
 - A. Land Use Requirement 3: The text amendment proposes to locate two of the six WTFs near open space areas, and one within a linear open space area intended to preserve views. The proposed locations do not show sensitivity to open space and do not further the concepts in Requirement 3.

- B. Land Use Requirement 6: The proposed text amendment would introduce a strategy for providing wireless service in the Level B Plan area, though it does little to describe how the future WTFs are intended to fit into the larger context of Mesa del Sol and support the overall land use plan. The request partially furthers Requirement 6.
7. The following Level B requirements are particularly relevant to the proposed text amendment:
- A. Land Use Requirement 4: The text amendment proposes to locate three of the six WTFs near open space areas, and one within a linear open space area. Staff finds that the proposed locations do not show sensitivity to open space and do not further the concepts in Requirement 4.
- B. Government and Public Services Requirement 2: The proposed text amendment would introduce a strategy for providing wireless service in the Level B Plan area, though the language is unspecific in places and defines parameters rather loosely. The request partially furthers Requirement 2.
8. Planned Communities that are zoned PC, such as Mesa del Sol, are allowed to essentially “write their own rules” that differ from City ordinances of general application. In this case, the proposed amendment would result in wireless telecommunications regulations that differ substantially from the City’s WTF regulations found in Zoning Code §14-16-3-17.
9. As the approval body for the proposed amendment, the EPC has the authority to place conditions of approval on the request which would bring the proposed amendment closer to complying with the provisions found in the City’s WTF regulations.
10. Staff finds that additional time is warranted to continue to work on procedural issues and to obtain requested information. The interface between possible reviewing parties and the application review process is insufficiently clear to provide future guidance. Without further refinement at this stage, problems could arise that would necessitate another amendment to the Level B Plan.
11. The affected Neighborhood Association (NA) is the Mountain View NA, which the applicant notified as required. Staff has not received any comments as of this writing.

RECOMMENDATION - 08EPC 40047, August 21, 2008-Level B Community Master Plan for Mesa del Sol

DEFERRAL of 08EPC 40047, a Level B Community Master Plan for an approximately 3,100-acre area of Mesa del Sol, for thirty days to the September 18, 2008 hearing based on the preceding Findings.

Catalina Lehner, AICP
Senior Planner

cc: Forest City Covington NM LLC, 801 University Blvd. SE, Ste 200, Albuquerque, NM 87106
Denish + Kline Associates, 500 Marquette NW, Ste 500, Albuquerque, NM 87102
Patty Grice, Mountain View NA, 206 Fentiman Pl. SE, Albuquerque, NM 87105
Marla Painter, Mountain View NA, 506 Valley High St. SE, Albuquerque, NM 87106

AGENCY COMMENTS

- **The following agencies have not reviewed and/or commented on Project #1004075:**

City of Albuquerque

City Forrester

Environmental Health, Air Quality Division

Environmental Health, Env. Services Division

Fire Dept., Planning

Planning Dept., Advance Planning & Urban Design

Planning Dept., Zoning Code Services

Police Dept., Planning

Transit Department

Other

Bernalillo County

Middle Rio Grande Conservancy Dist. (MRGCD)

Mid-Region Council of Governments (MRCOG)

- **The following City of Albuquerque Departments reviewed and commented on Project #1004075:**

Planning Dept., Office of Neighborhood Coordination

Mountain View NA (R)

Parks & Recreation Dept., Planning & Design Division

Reviewed, no objection. Request does not affect our facilities.

Parks & Recreation Dept., Open Space Division

Open Space has no adverse comments

Solid Waste Management Dept., Refuse Division

No adverse comments.

City of Albuquerque Public Works Department

Transportation Development (City Engineer/Planning Department):

- Reviewed, no comments.

Hydrology Development (City Engineer/Planning Department):

- The Hydrology Section has no adverse comments on the Amendment to the Mesa del Sol Level B Master Plan.

Transportation Planning (Department of Municipal Development):

- Reviewed, and no comments regarding on-street bikeways, off-street trails or roadway system facilities.

Traffic Engineering Operations (Department of Municipal Development):

- No comments received.

Street Maintenance (Department of Municipal Development):

- No comments received.

New Mexico Department of Transportation (NMDOT):

- No comments received.

RECOMMENDED CONDITIONS FROM CITY ENGINEER, MUNICIPAL DEVELOPMENT,
WATER AUTHORITY and NMDOT:

Conditions of approval for the proposed Master Plan Amendment shall include:

- a. None.

➤ **The following agencies reviewed Project #1004075:**

Albuquerque Public Schools (APS)

Property zoned PC located on the east of Broadway and south of Los Picaros. The owner of the above mentioned property requests an amendment to the Mesa del Sol Level B Master Plan, for wireless transmission facilities. This will have no adverse impacts to the APS district.

Abq. Metro Arroyo Flood Control Authority (AMAFCA)

Reviewed, no comment.

Public Service Company of New Mexico

Developer must contact PNM for services to be spot. It is the applicant's obligation to determine if utility easements cross the property and to abide by any conditions or terms of those easements.