



**Environmental
Planning
Commission**

**Agenda Number:08
Project Number: 1001620
Case #: 16 EPC 40025
June 9, 2016**

Staff Report

Agent	City of Albuquerque
Applicant	City of Albuquerque
Request	Text Amendments to the Zone Code
Legal Desc.	City Wide
Current Zoning	RO-1, RA-1 and RA-2
Proposed Zoning	RO-1, RA-1 and RA-2, with acreage amended for Private Commons Development (PCD),

Staff Recommendation

That a recommendation of APPROVAL of 16 EPC 40025 be forwarded to the City Council, based on the Findings on page 5.

Staff Planner

Maggie Gould, Planner

Summary of Analysis

This is a text amendment to the RO-1, RA-1 and RA-2 zones of the City of Albuquerque Comprehensive Zoning Code.

In 2013, the Private Commons Development (PCD), regulations were amended by City Council, through a public process, to reduce the minimum acreage required for a PCD from two acres to one acre.

However the existing acreage for the zones where PCDs are allowed (RO-1, RA-1 and RA-2) was not updated. This creates an inconsistency in the Zoning Code.

The intent of the proposed Zone Code Amendment is to clarify the minimum acreage required for a PCD and correct the existing inconsistency within the PCD regulations.

The PCD does not increase housing density. The PCD allows the clustering of the allowed number of housing units to provide more open space within a development.

City Departments and other interested agencies reviewed this application from 5/2/2016 to 5/13/2016. Agency comments used in the preparation of this report begin on Page 7.

I. INTRODUCTION

Request

The request before the Environmental Planning Commission is a an Amendment to the RO-1, RA-1 and RA-2 zones of the City of Albuquerque Comprehensive Zoning Code so that acreage allowed for the Private Commons Development (PCD), which is a permissive use, is reduced from two acres to one acre. This change is consistent with minimum acreage allowed in the Private Commons Development regulations in the Zoning Code.

History

In 2013, the Private Commons Development (PCD), regulations were amended by City Council, through a public process, to reduce the minimum acreage required for a PCD from two acres to one acre. However the existing acreage for the zones where PCDs are allowed (RO-1, RA-1 and RA-2) was not updated to reflect this change. This creates an inconsistency in the Zoning Code.

The 2013 amendment also renamed the Private Commons Area, the open space portion of the development, as Parceled Commons Area (PCA) and allowed PCA's to be dedicated to the City, as the City determines to be appropriate, for use by the general public for recreation, agriculture, landscaping or open space. This portion of the request was the main purpose 2013 amendment. These changes in the PCD § 14-16-3-16 are not part of this request.

As part the review of this initial amendment staff recommended amending the definition of a PCD to a threshold of one acre to allow for more rural property to be developed with shared open space for agricultural uses and for drainage needs associated with new development.

Comments provided by the Long Range Planning Division; these comments noted that the Los Duranes Sector Development Plan had lowered the required acreage for a PCD within the plan area from two acres to one acre. The

The City Engineer noted that the additional open space could be used to accommodate stormwater runoff.

Context

Private Commons Developments allow for development of housing units on the RO-1, RA-1 and RA-2 zoned lots at the same density as allowed under these zones, but allows the units to be clustered to preserve more open space within the development. The allowance for smaller lots offers more flexibility in the development of these properties. The open space becomes a private or public parceled commons area that could be used for agriculture, landscaping, open space or recreation.

The PCD does not increase density and can be a way to add new development to an area while preserving open space. The allowance for smaller lots offers more flexibility in the development of these properties.

Purpose/Intent

The proposed Zoning Code Text Amendment is to change the minimum acreage required for a PCD in the RO-1, RA-1 and RA-2 zones and correct the existing inconsistency for the PCD regulations within the Zoning Code.

Public Process

In 2013, when the original amendments were approved, the request was advertised in the Albuquerque Journal and heard by the EPC on March 13, and forwarded to City Council with a recommendation of approval; City Council approved the change at a public hearing on June 24, 2013.

This proposed amendment was advertised in the Albuquerque Journal on May 18th, 2016 and will go through the same hearing process through EPC and City Council. The Office of Neighborhood Coordination also sent out the application material and summary of the project to the recognized neighborhood Associations.

Environmental Planning Commission (EPC) Role

The EPC is a recommending body with review authority. The EPC's task is to make a recommendation to the City Council regarding the proposed text amendments. The City Council is the City's Zoning Authority and will make the final decision.

II. PROPOSED TEXT AMENDMENTS

The amendments are provided below. Additions to the current text are underlined and deletions are indicated by strikethrough.

§ 14-16-2-2 RO-1 Rural and Open Zone

(A) Permissive Uses

(9) Private Commons Development, not less than ~~two~~ one acres in area

§ 14-16-2-4 RA-1 Residential and Agricultural Zone, Semi-Urban Area

(A) Permissive Uses

(3) Private Commons Development, not less than ~~two~~ one acres in area

§ 14-16-2-5 RA-2 RESIDENTIAL AND AGRICULTURAL ZONE

(A) Permissive Uses.

(2) Private Commons Development, not less than ~~two~~ one acres in area

Staff has no recommended additions or corrections to this amendment because it is a simple clean up that was not included the 2013 amendment.

III. ANALYSIS OF APPLICABLE ORDINANCES, PLANS AND POLICIES

Note: Policy citations are in regular text; *Staff analysis is in bold italics.*

Charter of the City of Albuquerque

The Citizens of Albuquerque adopted the City Charter in 1971. Applicable articles include:

Article I, Incorporation and Powers

“The municipal corporation now existing and known as the City of Albuquerque shall remain and continue to be a body corporate and may exercise all legislative powers and perform all functions not expressly denied by general law or charter. Unless otherwise provided in this Charter, the power of the city to legislate is permissive and not mandatory. If the city does not legislate, it may nevertheless act in the manner provided by law. *The purpose of this Charter is to provide for maximum local self government.* A liberal construction shall be given to the powers granted by this Charter.” (emphasis added)

Article IX, Environmental Protection

“The Council (City Commission) in the interest of the public in general shall protect and preserve environmental features such as water, air and other natural endowments, ensure the proper use and development of land, and promote and maintain an aesthetic and humane urban environment. To affect these ends the Council shall take whatever action is necessary and shall enact ordinances and shall establish appropriate Commissions, Boards or Committees with jurisdiction, authority and staff sufficient to effectively administer city policy in this area.”

Clarifying language to the regulations for the zones in which the Private Commons Development are allowed is benefit the city because it will remove the inconsistency in the Zone Code; this is an exercise in local self-government and falls within the City’s powers under the City Charter.

Albuquerque Comprehensive Zoning Code

Authority and Purpose (summarized): The Zoning Code is Article 16 within Chapter 14 of the Revised Code of Ordinances of Albuquerque, New Mexico, 1994 (often cited as ROA 1994). The administration and enforcement of the Zoning Code is within the City’s general police power authority for the purposes of promoting the health, safety, and general welfare of the public. As such, the Zoning Code is a regulatory instrument for controlling land use activities for general public benefit.

Amendment Process (summarized): The City Council is the zoning authority for the City of Albuquerque and has sole authority to amend the Zoning Code. Through the City Charter, the City Council has delegated broad planning and zoning authorities to the Environmental Planning

Commission (EPC). The EPC is advisory to the City Council regarding proposed text amendments to the Zoning Code.

The proposed text amendments do not change any of the underlying uses in the subject zones. The request adjusts the acreage for the Private Commons Development allowed in each zone so that is consistent with the acreage requirements in §14-16-3-16, the Private Commons Development regulations.

The approval of the 2013 amendment included this analysis:

“The RA-1, RA-2 and RO-1 zones will be affected by the amendments. There are a very limited number of properties with RA-1 and RO-1 designations, the majority of affected property is zoned RA-2. The largest concentration of RA-2 zoning is in the north valley. These zones are rural/agricultural areas. Private commons developments that provide PCA’s for a larger, consolidated open space area than would be available with larger individual lots helps to retain the rural flavor of the rural/agricultural zones. Whether the common areas are publicly owned or privately owned would not affect the intent of the rural/agricultural zones. “

This amendment allows the implementation of the 2013 amendment by changing the required acreage so that development under the PCD can occur in the subject zones.

IV. CONCERNS OF REVIEWING AGENCIES / PRE-HEARING DISCUSSION

Staff has not received any significant comments from the reviewing agencies or City Divisions.

V. NEIGHBORHOOD/PUBLIC CONCERNS

Staff has not received any comments from the neighborhoods or members of the public.

VI. CONCLUSION

This is a request for a Zoning Code Text Amendment to the RO-1, RA-1 and RA-2 zones of the City of Albuquerque Comprehensive Zoning Code to change the minimum acreage required for Private Commons Development. The request removes an inconsistency in the Zone Code because it adjusts the acreage in the subject zones to match the minimum acreage required in §14-16-3-16, Private Commons Developments.

FINDINGS – 16 EPC 40025- JUNE 9, 2016- TEXT AMENDMENT

1. This is a request for a Zoning Code Text Amendment to the RO-1, RA-1 and RA-2 zones of the City of Albuquerque Comprehensive Zoning Code to change the minimum acreage for Private Commons Development §14-16-3-16.
2. The Zoning Code, §14-16-3-16 Private Commons Developments, was amended in 2013 (13 EPC 40088) to reduce the required minimum acreage for a Private Commons Development from two acre to one acre. This amendment did not include the necessary amendments to the RO-1, RA-1 and RA-2, where the Private Commons Development are allowed permissively. This request amends the acreage required for a Private Commons Development from two acres to one in those zones in order to be consistent with the regulations of §14-16-3-16 Private Commons Developments.
3. The request removes an inconsistency in the Zone Code because it adjusts the acreage in the subject zones to match the acreage in §14-16-3-16, Private Commons Developments.
4. The Charter of the City of Albuquerque, the Albuquerque Comprehensive Plan and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes
5. The EPC is a recommending body with review authority and is therefore charged with evaluating the request and forwarding a recommendation to the City Council. The EPC's task is to make a recommendation to the City Council regarding the proposed text amendments. The City Council is the City's Zoning Authority and will make the final decision (§14-16-4-1(D)).
6. The request was advertised the Albuquerque Journal on May 18, 20 16 as required by the Zoning Code, §14-16-4-1. Registered Neighborhood Associations received the application materials and summary via e-mail.

RECOMMENDATION – 16 EPC 40025, JUNE 9TH 2016

That a Recommendation of APPROVAL of case 16 EPC 40025, to amend the text of the Zoning Code, RO-1, RA-1 and RA-2 zones, be forwarded to the City Council, based on the preceding Findings.

Maggie Gould 
Planner

Notice of Decision cc list:

City of Albuquerque Planning Department 600 Second Street NW, ABQ NM 87102

CITY OF ALBUQUERQUE AGENCY COMMENTS

PLANNING DEPARTMENT

Zoning Enforcement

No adverse comments.

Office of Neighborhood Coordination

5/4/16 – Determined that a e-mail to all our NA/HOA/Coalition Representatives (who have e-mail addresses with our office) will be sent out once receive write up from staff planner – siw

5/17/16 – Email to all our NA/HOA/Coalition Representatives (who have e-mail addresses with our office) was sent out in regards to this text amendment - siw

Long Range Planning

CITY ENGINEER

Transportation Development Services

Traffic Engineering Operations

Hydrology

Reviewed, No comment

DEPARTMENT OF MUNICIPAL DEVELOPMENT

Transportation Planning

WATER UTILITY AUTHORITY

Utility Services

No comment

ENVIRONMENTAL HEALTH DEPARTMENT

Air Quality Division

Environmental Services Division

PARKS AND RECREATION

Planning and Design

Reviewed, no comments.

Open Space Division

City Forester

POLICE DEPARTMENT/PLANNING

- No Crime Prevention or CPTED comments concerning the proposed Amending the Text in the Zoning Code request at this time

SOLID WASTE MANAGEMENT DEPARTMENT

Refuse Division

No comment

FIRE DEPARTMENT/PLANNING

TRANSIT DEPARTMENT

COMMENTS FROM OTHER AGENCIES

BERNALILLO COUNTY

ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY

Reviewed. No comment.

ALBUQUERQUE PUBLIC SCHOOLS

APS does not oppose this proposal.

MID-REGION COUNCIL OF GOVERNMENTS

MRMPO has no adverse comments

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

PUBLIC SERVICE COMPANY OF NEW MEXICO

PNM has no comments based on information provided to date.

Gould, Maggie S.

From: Winklepleck, Stephani I.
Sent: Thursday, May 19, 2016 10:49 AM
To: Gould, Maggie S.
Cc: Dicome, Kym; Henry, Dora L.
Subject: On Behalf of Stephani Winklepleck - EPC PROJECT #1001620/16EPC-40025 - TEXT AMENDMENT ON THE JUNE 9, 2016 EPC AGENDA

Maggie,

Just to let you know that we did send this information out to all our neighborhood and/or homeowner association and coalition representatives (who have e-mail addresses on file with our office) on Tuesday, May 17, 2016 @ 3 p.m. - so they are aware of this being heard at the June 9, 2016 EPC Hearing.

Have a good one.

Stephani

Stephani Winklepleck

Neighborhood Liaison

Office of Neighborhood Coordination

COA/Planning

Phone: 505-924-3914 Fax: 505-924-3913

E-mail: swinklepleck@cabq.gov

From: Martinez, Denise X.
Sent: Tuesday, May 17, 2016 3:00 PM
Cc: Winklepleck, Stephani I.
Subject: FW: On Behalf of Stephani Winklepleck - EPC PROJECT #1001620/16EPC-40025 - TEXT AMENDMENT ON THE JUNE 9, 2016 EPC AGENDA

Neighborhood Representatives:

Listed below is a **Text Amendment that will be on the June 9, 2016 EPC Agenda** and ONC is getting the word out to the neighborhood and/or homeowner association and coalition representatives with this e-mail as there will be no "Neighborhood News" Newsletter done for the May/June 2016 issue listing all the EPC Projects on the EPC Agenda for June 9, 2016.

Project# 1001620

16EPC-40025 Text Amendment to the Zoning Code's Private Commons Development Regulations

City of Albuquerque, Planning Department at 505-924-3860, agent for COA Council Services requests the above action to reduce the minimum required acreage for a private commons development from two acres to one acre, and to allow for common areas associated with a private commons development to be dedicated to the City if the City so desires. CITY WIDE

Staff Planner: Maggie Gould at 505-924-3910, e-mail: mgould@cabq.gov

Please direct any questions to the Staff Planner – Maggie Gould.

Stephani, ONC

The request before the Environmental Planning Commission is a Zone Code Amendment to the RO-1, RA-1 and RA-2 zones of the City of Albuquerque Comprehensive Zoning Code.

In 2013, the Private Commons Development (PCD), regulations were amended by City Council, via a public process, to reduce the minimum acreage required for a PCD from two acres to one acre. However the existing acreage for the zones where PCDs are allowed (RO-1, RA-1 and RA-2) was not updated. This creates an inconsistency in the Zoning Code.

The intent of the proposed Zone Code Amendment is to clarify the minimum acreage required for a PCD and correct the existing inconsistency within the PCD regulations.

The PCD does not increase housing density. The PCD allows the clustering of the allowed number of housing units to provide more open space within a development.

Maggie Gould, MCRP

Planner

City of Albuquerque, Planning Department

600 Second St. NW

Albuquerque, NM 87102

505-924-3910

mgould@cabq.gov



Supplemental Form (SF)

SUBDIVISION

- Major subdivision action
- Minor subdivision action
- Vacation
- Variance (Non-Zoning)

SITE DEVELOPMENT PLAN

- for Subdivision
- for Building Permit
- Administrative Amendment (AA)
- Administrative Approval (DRT, URT, etc.)
- IP Master Development Plan
- Cert. of Appropriateness (LUCC)

STORM DRAINAGE (Form D)

- Storm Drainage Cost Allocation Plan

S Z ZONING & PLANNING

- Annexation
- Zone Map Amendment (Establish or Change Zoning, includes Zoning within Sector Development Plans)
- Adoption of Rank 2 or 3 Plan or similar Text Amendment to Adopted Rank 1, 2 or 3 Plan(s), Zoning Code, or Subd. Regulations
- Street Name Change (Local & Collector)
- L A APPEAL / PROTEST of...**
- Decision by: DRB, EPC, LUCC, Planning Director, ZEO, ZHE, Board of Appeals, other

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department Development Services Center, 600 2nd Street NW, Albuquerque, NM 87102.
Fees must be paid at the time of application. Refer to supplemental forms for submittal requirements.

APPLICATION INFORMATION:

Professional/Agent (if any): _____ PHONE: _____
 ADDRESS: _____ FAX: _____
 CITY: _____ STATE _____ ZIP _____ E-MAIL: _____
 APPLICANT: CITY OF ALBQ. PLANNING PHONE: 924.3860
 ADDRESS: 600 2ND ST. FAX: 924.3335
 CITY: ALBQ STATE NM ZIP 87102 E-MAIL: _____
 Proprietary interest in site: _____ List all owners: _____

DESCRIPTION OF REQUEST: AMENDING THE TEXT IN THE ZONING CODE FOR P-0.1 (14-16-2-2(A)(2)) + RA-1 (14-2-4(A)(3)) + RA-2 (14-2-5(A)(1)) TO REFLECT THE REVISED LANGUAGE OF THE
 Is the applicant seeking incentives pursuant to the Family Housing Development Program? Yes. No.

SITE INFORMATION: ACCURACY OF THE EXISTING LEGAL DESCRIPTION IS CRUCIAL! ATTACH A SEPARATE SHEET IF NECESSARY.

Lot or Tract No. CITY WIDE Block: _____ Unit: _____
 Subdiv/Addn/TBKA: _____
 Existing Zoning: _____ Proposed zoning: _____ MRGCD Map No _____
 Zone Atlas page(s): _____ UPC Code: _____

CASE HISTORY:

List any current or prior case number that may be relevant to your application (Proj., App., DRB-, AX_Z_, V_, S_, etc.): _____

CASE INFORMATION:

Within city limits? Yes No Within 1000FT of a landfill? _____
 No. of existing lots: _____ No. of proposed lots: _____ Total site area (acres): _____
 LOCATION OF PROPERTY BY STREETS: On or Near: _____
 Between: _____ and _____
 Check if project was previously reviewed by: Sketch Plat/Plan or Pre-application Review Team(PRT) Review Date: _____

SIGNATURE

 (Print Name) KYM E. DICOME DATE 4.28.2016
 Applicant: Agent:

FOR OFFICIAL USE ONLY

Revised: 11/2014

	Application case numbers	Action	S.F.	Fees
<input type="checkbox"/> INTERNAL ROUTING	<u>16 EPC - 40025</u>	_____	_____	\$ <u>0</u>
<input type="checkbox"/> All checklists are complete	_____	_____	_____	\$ _____
<input type="checkbox"/> All fees have been collected	_____	_____	_____	\$ _____
<input type="checkbox"/> All case #s are assigned	_____	_____	_____	\$ _____
<input type="checkbox"/> AGIS copy has been sent	_____	_____	_____	\$ _____
<input type="checkbox"/> Case history #s are listed	_____	_____	_____	\$ _____
<input type="checkbox"/> Site is within 1000ft of a landfill	_____	_____	_____	\$ _____
<input type="checkbox"/> F.H.D.P. density bonus	_____	_____	_____	\$ _____
<input type="checkbox"/> F.H.D.P. fee rebate	_____	_____	_____	\$ _____
Hearing date <u>June 9, 2016</u>				Total \$ <u>0</u>

Project # 1001620

Staff signature & Date

PCD (14-16-3-16(A)).
 REPAIRING TO MINIMUM
 TRACT OF LAND AREA.

CITY OF ALBUQUERQUE



April 28, 2016

Karen Hudson, Chair
Environmental Planning Commission
City of Albuquerque
600 Second Street NW
Albuquerque, NM 87102

Dear Chair Hudson,

In 2013, the text of the Zoning Code's Private Commons Development (PCD) regulations (§14-16-3-16) was amended to reduce the minimum required acreage for a PCD from two acres to one acre and to allow for common areas associated with a private commons development to be dedicated to the City if they are found to be acceptable for Open Space (Council Bill No. O-31-49, Enactment No. O-2013-011). The City Council changed the PCD acreage requirement as follows:

§14-16-3-16 Private Commons Development

(A) A Private Commons Development (PCD) may be established on a tract of land containing ~~two~~ one or more acres and zoned RA-1, RA-2 or RO-1, or any zone designated for this type of development in a sector or area plan in accordance with the Zoning Code.

Unfortunately, we did not also amend the corresponding references to the PCD minimum acreage in the zoning districts that allow them, namely the RO-1, RA-1, and RA-2 zones. This current request is to amend the verbiage of the PCD acreage requirement for these three zones to comport with the amended PCD regulations:

§14-16-2-2 RO-1 Rural and Open Zone

(A) Permissive Uses

(9) Private Commons Development, not less than ~~two~~ one acres in area.

§14-16-2-4 RA-1 Residential and Agricultural Zone, Semi-Urban Area

(A) Permissive Uses

(3) Private Commons Development, not less than ~~two~~ one acres in area.

§14-16-2-5 RA-2 Rural and Agricultural Zone

(A) Permissive Uses

(2) Private Commons Development, not less than ~~two~~ one acres in area.

Because this does not increase housing density, these corrections will allow for infill development that fits in with the surrounding neighborhood context. Thank you for this opportunity to address an oversight due in part to our "nested" regulatory system where standards are often repeated without cross-references. Your positive recommendation of these minor text amendments to the City Council is appreciated.

Sincerely,

Suzanne Lubar, Director
Planning Department
600 Second Street NW Third Floor
Albuquerque NM 87102

PO Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

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1 (B) The number of dwelling units permitted in a PCD is determined by dividing
2 the site area by the minimum lot size permitted in the zone rounded to the
3 nearest whole number. However, the number of dwellings in a PCD may not
4 be more than 50. The minimum lot size to be used for determining the number
5 of dwelling units in a PCD with RA-1 zoning shall be 21,780 square feet.

6 (C) The dwelling units may be houses or townhouses or any combination
7 thereof on any size lots.

8 (D) The minimum setbacks are as follows:

9 (1) Front – 15 feet except driveways shall not be less than 20 feet long.

10 (2) Rear – 15 feet for houses and townhouses unless adjoining R-1,
11 RA-1, RA-2, or RO-1 zoned land, in which case the setback for townhouses
12 shall be 25 feet.

13 (3) Side – there shall be no required side yard setback except that there
14 shall be a minimum setback of five feet for all side yards contiguous with the
15 PCD boundary.

16 (E) A minimum of 30% of the gross area of a PCD or 100% of the area
17 gained through lot size reductions, whichever is greater, shall be set aside as
18 a Parceled Commons Area (PCA).

19 (F) The PCA may be used for agriculture, landscaping, recreation, open
20 space or any combination thereof. It may be composed of separate tracts but
21 each shall have a minimum length and width of 35 feet and shall be visible
22 from a public right-of-way. Land used for streets, driveways, parking,
23 sidewalks and private yards may not be counted as part of a PCA. No
24 buildings or structures are permitted in a PCA except those necessary for the
25 operation and maintenance of the PCA. A PCA may have underground
26 easements. The PCA shall be set aside by the developer either as a Private or
27 Public PCA. A Private PCA shall be created, subject to a finding of suitability
28 by the DRB, through a land use easement and restrictive covenants
29 acceptable to the Development Review Board (DRB). A Public PCA may be
30 created by dedication of land to the City.

31 (1) For the creation of a Private PCA:

32 (a) The covenants shall be in the form of recorded deed restrictions
33 and shall be referenced on the subdivision plat.

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1 (b) The covenants shall assure that the PCA will be protected from all
2 forms of development except as shown on an approved site development
3 plan.

4 (c) The covenants shall require individual lot owners and the members
5 of the homeowner's association, if applicable, to be jointly and severally liable
6 for maintenance of the PCA.

7 (d) A land use easement, in favor of the city, shall state the proposed
8 allowable use(s) of the Private PCA, and require that the Private PCA be
9 maintained by parties who have ownership interest in the PCD. The land use
10 easement shall state that if the responsible parties fail or refuse to act on
11 maintenance obligations as set forth in the easement, the City shall have the
12 authority to perform such maintenance as necessary to protect public health
13 and safety. The easement shall state that the city may, after written notice and
14 failure to comply within 30 days, enter upon and maintain the Private PCA.
15 The easement shall state that the cost of such maintenance plus any other
16 penalties or costs allowed by law in connection therein, shall be assessed
17 against the properties within the PCD and failure to pay assessed charges
18 may result in a municipal lien against each of the individual lots in the PCD.
19 This provision shall not be deemed to create an obligation to act on the part of
20 the city. Under no circumstances will the city maintain recreational uses.
21 Under no circumstances shall the city maintain the PCA for a period longer
22 than one year.

23 (e) The use of a PCA may be restricted to the residents of the PCD and
24 may be fenced so long as the public's view is not significantly diminished.

25 (2) For the creation of a Public PCA:

26 (a) An application for consideration of the Public PCA shall be
27 submitted to the DRB in writing at the time the need or desire for a Public PCA
28 becomes apparent, preferably at the sketch plat submittal stage. The
29 application shall state fully the grounds justifying the Public PCA and all of the
30 facts relied upon by the applicant. The application shall be processed
31 concurrently with the related plat.

32 (b) In determining whether or not the property offered as a Public PCA
33 is acceptable for that purpose, the DRB shall examine the quality of the

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1 property offered as to its proposed design, layout, improvements, location,
2 size, cost of maintenance, and general suitability for City purposes.

3 (c) If after examining the above criteria the DRB determines that the
4 creation of a Public PCA would create a net benefit to the public because the
5 property offered is clearly more beneficial to the public welfare as a Public
6 PCA as compared to the minor detriment resulting in additional burdens to the
7 City, then the DRB shall approve the creation of a Public PCA.

8 (d) If approved by the DRB, the property offered as a Public PCA shall
9 be dedicated to the City, in accordance with the Subdivision Ordinance.

10 (e) Responsibility for maintenance of the Public PCA shall be
11 determined during review by the DRB. Written acknowledgement to the DRB
12 from the relevant City department desiring to accept a Public PCA shall be
13 provided and a notation as to maintenance responsibility required on the
14 approved plat.

15 (f) If dedication of a Public PCA is not accepted by a City department,
16 then the PCA shall remain private.

17 (g) The use of a Public PCA shall be open to the public.

18 (G) A PCD is created by DRB approval of a site development plan and a
19 subdivision plat. Site plan and subdivision approval are contingent upon
20 recorded deed restrictions and easements approved by the DRB.

21 (H) The recorded deed restrictions may not be amended or repealed without
22 the City's prior written approval.

23 (I) Upon recording the plat and all required documents for a PCD, the area
24 of the PCD shall be delineated and designated with the letters "PCD" on the
25 official zone map.

26 (J) In accordance with this article, the Planning Director may void the site
27 development plan and remove the PCD designation if the property is replatted
28 to conform to the requirements of the underlying zoning district.

29 Section 3. FINDINGS ACCEPTED. The following findings, as recommended
30 by the Environmental Planning Commission are adopted by the City Council:

31 1. This is a request for text amendments to the zoning code related to
32 Private Commons Developments. Two amendments to the definitions section
33 of the Code, §14-16-1-5, would rename a Private Commons Area as Parceled

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1 Commons Area (PCA) and revise the definition of Private Commons
2 Development to include Public Parceled Commons Areas. The amendment to
3 §14-16-3-16 (Private Commons Developments) would allow for PCA's to be
4 dedicated to the City, as the City determines to be appropriate, for use by the
5 general public for recreation, agriculture, landscaping or open space.

6 2. The intent of the proposed amendments is to provide the opportunity for
7 the City to accept dedication of a commons area for public use, while still
8 allowing development to occur in accordance with the provisions of a Private
9 Commons Development.

10 3. Private Commons Developments are permitted in zones RA-1, RA-2, RO-
11 1 (Residential Agricultural and Rural Open) and as provided in a sector
12 development plan.

13 4. The Charter of the City of Albuquerque, the Albuquerque Comprehensive
14 Plan and the City of Albuquerque Zoning Code are incorporated herein by
15 reference and made part of the record for all purposes.

16 5. The EPC is a recommending body with review authority and is therefore
17 charged with evaluating the request and forwarding a recommendation to the
18 City Council. The EPC's task is to make a recommendation to the City Council
19 regarding the proposed text amendments. The City Council is the City's
20 Zoning Authority and will make the final decision (§14-16-4-1(D)).

21 6. Amending the Zoning Code is an act of self-governance and falls within
22 the City's powers (Article 1). Adding language to the regulations governing
23 Private Commons Development to allow for the City to accept the dedication
24 of land for recreational, open space, agricultural or landscape purposes to
25 benefit the general public is an exercise in local self-government and falls
26 within the City's powers under the City Charter.

27 7. The proposed text amendments generally further the intent of the
28 Zoning Code to promote the general welfare of the public because it would
29 create a new mechanism by which the City could acquire land when it is
30 determined to be in the public's best interest.

31 8. The proposed text amendments do not conflict with any of the goals or
32 policies and generally furthers the intent of the Comprehensive Plan including
33 the following:

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1 i. The proposed amendments would create a new opportunity, or
2 mechanism, for the City to advance its Open Space goals in accordance with
3 the cited policies by accepting land that is determined to be appropriate for
4 accomplishing the goal of providing relief from urbanization and offering
5 opportunities for education, recreation, cultural activities and conservation of
6 natural resources. (II.B.1.g, h, i and j.)

7 ii. The majority of property zoned for PCD's outside of sector plan
8 areas, is RA-2. RA-2 property is concentrated in the Developing and
9 Established Urban area. Private Commons Developments are consistent with
10 the Developing and Established Urban Area Goal of maximum choice in
11 housing and life styles while creating a visually pleasing built environment.
12 Clustered housing is noted in the Plan as a technique to achieve the stated
13 goal and policies. Whether commons areas are held in private or public
14 ownership does not affect established goals and policies. In individual
15 instances, public ownership and public access of such commons areas may
16 be advantageous to the greater community. (II.B.5.d)

17 iii. The zones in which PCD's are permitted are generally rural and/or
18 agricultural in nature. As such, these are areas that have unique natural
19 features that contribute positively to the visual quality of the City. Providing a
20 new "tool" by which the City could acquire and manage land that is
21 determined to be important for environmental protection and conservation
22 furthers the Developed Landscape goal of maintaining and improving the
23 natural and the developed landscapes quality and the policy of respecting
24 those features as determinants in development decisions. (II.C.8.a)

25 9. The proposed text amendments do not conflict with any of the goals or
26 policies and generally furthers the intent of the Major Public Open Space
27 Facility Plan including the following:

28 i. The Volcano Cliffs sector plan area, an area affected by the proposed
29 changes, has the potential to contribute to the City's Open Space goals for the
30 west side. The area is adjacent to Major Public Open Space and contains
31 unique geologic features. Land that might be less than desirable for
32 development due to existing geologic features, such as arroyos, can be set
33 aside as parceled commons areas where zoning permits. Whether such open

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1 space areas belong to the private sector or the public sector doesn't change
2 the overall development scenario. There may be instances where such City
3 ownership of parceled commons areas would contribute to the goals of the
4 Open Space Plan and thereby benefit the greater population as public areas.
5 (Section Four B: Planning Policies. Policy B.1.b,c and e).

6 ii. Properties affected by the proposed amendments include properties
7 zoned RA-1, RA-2, RO-1 and properties within the Los Duranes Sector
8 Development Plan. These properties are near or adjacent to the Rio Grande
9 Bosque. There may be a potential for unique public uses that are as yet not
10 anticipated that would benefit the general public. The amendments would
11 provide a mechanism, should such an opportunity arise, to accept land for
12 unique educational, agricultural or open space purposes (Rio Grande Bosque
13 Policy Five.B.1).

14 10. The RA-1, RA-2 and RO-1 zones will be affected by the amendments.
15 There are a very limited number of properties with RA-1 and RO-1
16 designations, the majority of affected property is zoned RA-2 and the largest
17 area of RA-2 zoning is in the north valley. The North Valley Area Plan
18 emphasizes retention of a rural atmosphere. Private Commons Developments
19 that provide Parceled Commons Areas for a larger, consolidated open space
20 area than would be available with larger individual lots supports the goals of
21 the plan. Whether a PCA is held privately or publicly does not affect the goal.

22 11. Property zoned VCRR (Volcano Cliffs Rural Residential) within the
23 Volcano Cliffs Sector Development Plan would be affected by the proposed
24 amendments. This zone allows PCD development. The VCRR zone is, for the
25 most part, undeveloped property that was platted decades ago. The VCRR
26 zone provides for bigger homes on larger lots consistent with current platting.
27 Clustered housing is encouraged in the plan for this zone to conserve the
28 area's natural terrain and beauty. The Rural Residential area is surrounded on
29 three sides by Major Public Open Space. Without the proposed amendments
30 to the Code, open space that results from clustered development could only
31 be held in private ownership. The opportunities for public ownership could
32 encourage dedication of important areas to implement the goals and policies
33 contained in the plan and create the possibility of a coordinated system of

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1 open space that benefits the residents of the greater Volcano Cliffs area
2 rather than just one development. The overall density and development
3 pattern will be the same whether the commons areas are held in private or
4 public ownership. The proposed amendments that address ownership of
5 common areas in association with clustered housing development support the
6 Environment and Open Space goals and policies of the Volcano Cliffs Sector
7 Development Plan (Goal A: Environment and Open Space (1), (3) and Policy 1,
8 1.5 and 1.5.a.), and Policies 2, 3, 5 and 5.f).

9 12. Properties affected by the proposed amendments include properties
10 Zoned SU2-RA-1, SU2-RA-2, and SU2-LD-R-1 within the Los Duranes Sector
11 Development Plan. The Plan reduces the minimum tract size for PUD's from 2
12 acres to 1 acre and refines PCD development to allow plazuela compounds
13 which will permit compact and or clustered development and shared
14 consolidated open space, without increasing density. The amendments are
15 not in conflict with the SDP goals and policies, and the amendments would
16 provide a mechanism, should an opportunity arise, for the City to accept land
17 for unique educational, agricultural or open space purposes.

18 13. Advanced Planning staff of the Urban Design and Development
19 Division have suggested that the Code be amended to lower the requisite two
20 Acre property size for a PCD. A lower threshold would offer greater
21 opportunity for the development of PCD's in zones which permit this type of
22 clustered housing. Overall density on a property is not affected by clustering
23 the housing on smaller lots.

24 14. Notification of the proposed amendments was provided in the
25 February/March Neighborhood newsletter and staff has had no
26 communication from parties that either support or oppose this amendment.

27 Section 4. EFFECTIVE DATE AND PUBLICATION. This legislation shall
28 take effect thirty days after publication by title and general summary.

29 Section 5. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
30 clause, word or phrase of this ordinance is for any reason held to be invalid or
31 unenforceable by any court of competent jurisdiction, such decision shall not
32 affect the validity of the remaining provisions of this ordinance. The Council
33 hereby declares that it would have passed this ordinance and each section,

1 paragraph, sentence, clause, word or phrase thereof irrespective of any
2 provisions being declared unconstitutional or otherwise invalid.

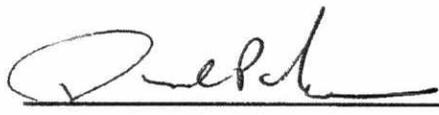
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1 PASSED AND ADOPTED THIS 24th DAY OF June, 2013
2 BY A VOTE OF: 9 FOR 0 AGAINST.

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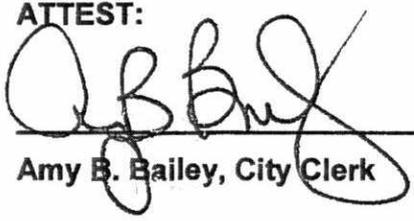
Daniel P. Lewis, President
City Council

APPROVED THIS 9th DAY OF July, 2013

Bill No. O-13-49

Richard J. Berry, Mayor
City of Albuquerque

ATTEST:



Amy B. Bailey, City Clerk

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Office of the City Clerk
P.O. Box 1293
Albuquerque, NM 87103
Phone (505) 768-3030 Fax (505) 768-2845

Richard J. Berry, Mayor

Amy B. Bailey, City Clerk

To: CITY COUNCIL

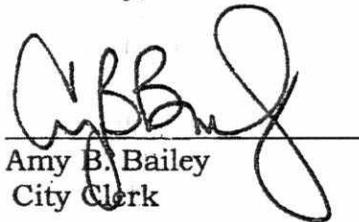
From: AMY B. BAILEY, CITY CLERK

Date: July 9, 2013

Subject: BILL NO. O-13-49; ENACTMENT NO. O-2013-011

I hereby certify that on July 9, 2013, the Office of the City Clerk received Bill No. O-13-49 as signed by the president of the City Council, Daniel P Lewis. Enactment No. O-2013-011 was passed at the June 24, 2013 City Council meeting. Mayor Berry did not sign the approved Ordinance within the 10 days allowed for his signature and did not exercise his veto power. Pursuant to the Albuquerque City Charter Article XI, Section 3, this Ordinance is in full effect without Mayor's approval or signature. This memorandum shall be placed in the permanent file for Bill No. O-13-49.

Sincerely,



Amy B. Bailey
City Clerk

Rationale and Justification for Amending the RO-1, RA-1, and RA-2 Zones

The proposed test amendments to the Zoning Code for the RO-1, RA-1, and RA-2 zones are intended to create consistency with changes made to the Private Commons Development (PCD) regulations in 2013 (Bill No. O-13-49, Enactment No. O-2013-011). These changes to the PCD regulations lowered the minimum acreage requirements for a PCD from two (2) acres to one (1) acre. Amending the acreage requirements for the RO-1, RA-1, and RA-2 zones will create consistency with what was adopted in 2013.

There are a very limited number of properties with RA-1, RA-2 and RO-1 designations. The majority of affected property is zoned RA-2 in the North Valley, and most of these lots/parcels are less than two (2) acres in size. The proposed changes do not increase densities in the three zones, but will allow for additional infill development options that fit in with surrounding neighborhood contexts.

The proposed changes support and are supported by the City Charter, the intent of the Zoning Code, and the applicable policies of the Comprehensive Plan as follows:

City Charter

- Amending the Zoning Code is an act of maximum local self-governance and falls within the City's powers (Article I).
- The decrease of the minimum lot size for a PCD allows greater opportunities for protection of environmental features and more options for infill development to ensure the proper use and development of land (Article IX).

Zoning Code Intent

The proposed text amendments will further the intent of the Zoning Code by helping to achieve Article IX of the City Charter (see above) and the city's master plan (see below). It will allow and encourage the most appropriate use of land and conserve and stabilize the value of property with context-sensitive infill development.

Comprehensive Plan

The proposed text amendments do not conflict with any applicable goals or policies and generally further the Comprehensive Plan:

- The proposed amendments would create new opportunities for appropriate infill development that offers variety and choice in housing and life styles, while creating a visually pleasing built environment. The changes to the RO-1, RA-1, and RA-2 zones do not increase allowed density, but rather allow clustering of homes and preservation of open areas on smaller properties. (II.B.5 Goal and Policies a, d, e, f, l, and o)
- The changes will allow additional opportunities for quality infill housing development with innovative housing design via a new alternative in the development review process. (II.D.5 Goal and Policies b and e)



PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION
600 2nd Street NW, 3rd Floor, 87102
P.O. Box 1293, Albuquerque, NM 87103
Office (505) 924-3860 Fax (505) 924-3339

OFFICIAL NOTIFICATION OF DECISION

March 15, 2013

City of Albuquerque
PO Box 1293
Albuquerque, NM 87102

Project# 1001620
13EPC-40088 Text Amendment to Zoning Code

REQUEST:

The City of Albuquerque Planning Department, agent for the City of Albuquerque, requests the above action to amend Section 14-16-3-16 and Definitions section of the Comprehensive Zoning Code addressing Private Commons Development regulations.

Staff Planner: Maryellen Hennessy

PO Box 1293

Albuquerque

NM 87103

On March 14, 2013, the Environmental Planning Commission voted that a Recommendation of Approval be forwarded to City Council for Project 1001620, 13EPC-40088, a request for a Text Amendment to the Zoning Code, based on the following Findings and Conditions:

FINDINGS:

www.cabq.gov

1. This is a request for a text amendments to the zoning code related to Private Commons Developments. Two amendments to the definitions section of the Code, §14-16-1-5, would rename a Private Commons Area as Parceled Commons Area (PCA) and revise the definition of Private Commons Development to include Public Parceled Commons Areas. The amendment to §14-16-3-16 (Private Commons Developments) would allow for PCA's to be dedicated to the City, as the City determines to be appropriate, for use by the general public for recreation, agriculture, landscaping or open space.
2. The intent of the proposed amendments is to provide the opportunity for the City to accept dedication of a commons area for public use, while still allowing development to occur in accordance with the provisions of a Private Commons Development.
3. Private Commons Developments are permitted in zones RA-1, RA-2, RO-1 (Residential Agricultural and Rural Open) and as provided in a sector development plan.

OFFICIAL NOTICE OF DECISION

Project #1001620, 13EPC-40088

March 14, 2013

Page 2 of 5

4. The Charter of the City of Albuquerque, the Albuquerque Comprehensive Plan and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.
5. The EPC is a recommending body with review authority and is therefore charged with evaluating the request and forwarding a recommendation to the City Council. The EPC's task is to make a recommendation to the City Council regarding the proposed text amendments. The City Council is the City's Zoning Authority and will make the final decision (§14-16-4-1(D)).
6. Amending the Zoning Code is an act of self-governance and falls within the City's powers (Article I). Adding language to the regulations governing Private Commons Development to allow for the City to accept the dedication of land for recreational, open space, agricultural or landscape purposes to benefit the general public is an exercise in local self-government and falls within the City's powers under the City Charter.
7. The proposed text amendments generally further the intent of the Zoning Code to promote the general welfare of the public because it would create a new mechanism by which the City could acquire land when it is determined to be in the public's best interest.
8. The proposed text amendments do not conflict with any of the goals or policies and generally furthers the intent of the Comprehensive Plan including the following:
 - i. The proposed amendments would create a new opportunity, or mechanism, for the City to advance its Open Space goals in accordance with the cited policies by accepting land that is determined to be appropriate for accomplishing the goal of providing relief from urbanization and offering opportunities for education, recreation, cultural activities and conservation of natural resources. (II.B.1.g, h, i and j.)
 - ii. The majority of property zoned for PCD's outside of sector plan areas, is RA-2. RA-2 property is concentrated in the Developing and Established Urban area. Private Commons Developments are consistent with the Developing and Established Urban Area Goal of maximum choice in housing and life styles while creating a visually pleasing built environment. Clustered housing is noted in the Plan as a technique to achieve the stated goal and policies. Whether commons areas are held in private or public ownership does not affect established goals and policies. In individual instances, public ownership and public access of such commons areas may be advantageous to the greater community. (II.B.5.d)

OFFICIAL NOTICE OF DECISION

Project #1001620, 13EPC-40088

March 14, 2013

Page 3 of 5

- iii. The zones in which PCD's are permitted are generally rural and/or agricultural in nature. As such, these are areas that have unique natural features that contribute positively to the visual quality of the City. Providing a new "tool" by which the City could acquire and manage land that is determined to be important for environmental protection and conservation furthers the Developed Landscape goal of maintaining and improving the natural and the developed landscapes quality and the policy of respecting those features as determinants in development decisions. (II.C.8.a)
9. The proposed text amendments do not conflict with any of the goals or policies and generally furthers the intent of the Major Public Open Space Facility Plan including the following:
 - i. The Volcano Cliffs sector plan area, an area affected by the proposed changes, has the potential to contribute to the City's Open Space goals for the west side. The area is adjacent to Major Public Opens Space and contains unique geologic features. Land that might be less than desirable for development due to existing geologic features, such as arroyos, can be set aside as parceled commons areas where zoning permits. Whether such open space areas belong to the private sector or the public sector doesn't change the overall development scenario. There may be instances where such City ownership of parceled commons areas would contribute to the goals of the Open Space Plan and thereby benefit the greater population as public areas. (Section Four B: Planning Policies. Policy B.1.b,c and e).
 - ii. Properties affected by the proposed amendments include properties zoned RA-1, RA-2, RO-1 and properties within the Los Duranes Sector Development Plan. These properties are near or adjacent to the Rio Grande Bosque. There may be a potential for unique public uses that are as yet not anticipated that would benefit the general public. The amendments would provide a mechanism, should such an opportunity arise, to accept land for unique educational, agricultural or open space purposes (Rio Grande Bosque Policy Five.B.1).
10. The RA1, RA-2 and RO-1 zones will be affected by the amendments. There are a very limited number of properties with RA-1 and RO-1 designations, the majority of affected property is zoned RA-2 and the largest area of RA-2 zoning is in the north valley. The North Valley Area Plan emphasizes retention of a rural atmosphere. Private Commons Developments that provide Parceled Commons Areas for a larger, consolidated open space area than would be available with larger individual lots supports the goals of the plan. Whether a PCA is held privately or publicly does not affect the goal.
11. Property zoned VCRR (Volcano Cliffs Rural Residential) within the Volcano Cliffs Sector Development Plan would be affected by the proposed amendments. This zone allows PCD development. The VCRR zone is, for the most part, undeveloped property that was platted

OFFICIAL NOTICE OF DECISION

Project #1001620, 13EPC-40088

March 14, 2013

Page 4 of 5

decades ago. The VCRR zone provides for bigger homes on larger lots consistent with current platting. Clustered housing is encouraged in the plan for this zone to conserve the area's natural terrain and beauty. The Rural Residential area is surrounded on three sides by Major Public Open Space. Without the proposed amendments to the Code, opens space that results from clustered development could only be held in private ownership. The opportunities for public ownership could encourage dedication of important areas to implement the goals and policies contained in the plan and create the possibility of a coordinated system of opens space that benefits the residents of the greater Volcano Cliffs area rather than just one development. The overall density and development pattern will be the same whether the commons areas are held in private or public ownership. The proposed amendments that address ownership of common areas in association with clustered housing development support the Environment and Open Space goals and policies of the Volcano Cliffs Sector Development Plan (Goal A: Environment and Open Space (1), (3) and Policy 1, 1.5 and 1.5.a.), and Policies 2, 3, 5 and 5.f).

12. Properties affected by the proposed amendments include properties zoned SU2-RA-1, SU2-RA-2, and SU2-LD-R-1 within the Los Duranes Sector Development Plan. The Plan reduces the minimum tract size for PUD's from 2 acres to 1 acre and refines PCD development to allow plazuela compounds which will permit compact and or clustered development and shared consolidated open space, without increasing density. The amendments are not in conflict with the SDP goals and policies, and the amendments would provide a mechanism, should an opportunity arise, for the City to accept land for unique educational, agricultural or open space purposes.
13. Advanced Planning staff of the Urban Design and Development Division have suggested that the Code be amended to lower the requisite two acre property size for a PCD. A lower threshold would offer greater opportunity for the development of PCD's in zones which permit this type of clustered housing. Overall density on a property is not affected by clustering the housing on smaller lots. A Condition of Recommendation for approval is included below to respond to the suggestion.
14. Notification of the proposed amendments was provided in the February/March Neighborhood newsletter and staff has had no communication from parties that either support or oppose this amendment.

CONDITIONS OF APPROVAL

1. Written acknowledgement to the DRB from the relevant City department desiring to accept a Public PCA shall be provided and a notation as to maintenance responsibility required on the approved plat.

OFFICIAL NOTICE OF DECISION
Project #1001620, 13EPC-40088
March 14, 2013
Page 5 of 5

2. The definition of Private Commons Development shall be amended to reduce the required acreage from a minimum of two acres to a minimum of one acre.

PROTEST: IT IS NOT POSSIBLE TO APPEAL EPC RECOMMENDATIONS TO CITY COUNCIL; A PROTEST OF THE EPC's RECOMMENDATION CAN BE FILED WITHIN THE 15 DAY PERIOD FOLLOWING THE EPC's DECISION, WHICH IS BY **MARCH 29, 2013.**

Sincerely,



for Suzanne Lubar
Acting Director, Planning Department

SL/MH/mc

cc: City of Albuquerque, City Council, PO Box 1293, Albuquerque, NM 87102