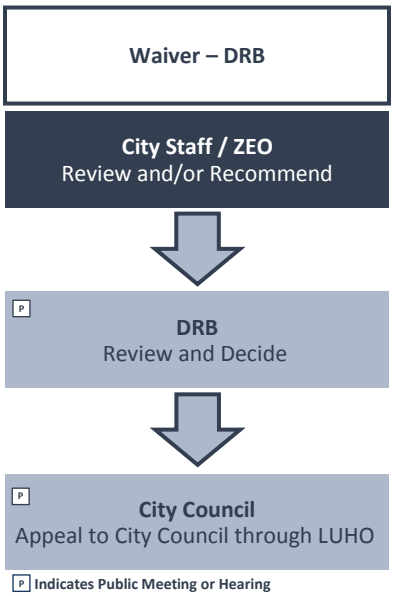
## 6-6(L) WAIVER – DRB

All applicable provisions of Section 14-16-6-4 (General Procedures) apply unless specifically modified by the provisions of this Subsection 14-16-6-6(L).




### 6-6(L)(1) Applicability

This Subsection 14-16-6-6(L) applies to application for a deviation from standards in Sections 14-16-5-3 (Access and Connectivity), 14-16-5-4 (Subdivision of Land), or 14-16-5-5 (Parking and Loading) beyond the thresholds established by Table 6-4-2 in Subsection 14-16-6-4(O), except the following:

6-6(L)(1)(a) Standards in Subsection 5-5(F)(2)(a)2, which require a Permit - Carport in Front or Side Setbacks pursuant to Subsection 6-6[new].

6-6(L)(1)(b) Standards related to front yard parking in Subsection 5-5(F)(2)(a), Subsection 5-5(F)(1)(a)6, and Table 5-5-6 , which require a Variance - ZHE pursuant to Subsection 14-16-6-6(N).

### 6-6(L)(2) Procedure

#### 6-6(L)(2)(a) General

1. The City Planning Department staff shall review the application and forward a recommendation to the DRB pursuant to all applicable provisions of Section 14-16-6-4 (General Procedures).
2. The DRB shall conduct a public meeting and make a decision on the application pursuant to all applicable provisions of Section 14-16-6-4 (General Procedures).
3. A Waiver – DRB may not be granted until after any necessary Conditional Use Approvals are obtained pursuant to Subsection 14-16-6-6(A).
4. A notice of any Variances, Waivers, or Deviations granted associated with a subdivision shall be placed on the final plat and on a separately recorded document, and any Variances, Waivers, or Deviations granted associated with a Site Plan shall be noted on the approved Site Plan.

#### 6-6(L)(2)(b) Bulk Land Subdivision

Where a Waiver is requested based on a bulk land subdivision, all of the following procedures shall be followed in addition to the procedures in Subsection (a) above:

1. The use of the land for development and/or building purposes shall require review during the Subdivision or Site Plan approval process. Approval of a Waiver for a bulk land transfer does not indicate that land within that transfer complies with applicable Subdivision or Site Plan standards.
2. The plat shall reflect the applicant's agreement that building permits shall not be issued for any area where the Waivers apply before further subdivision and that recording of a final subdivision plat for the subject area has been completed.

**6-6(L)(3) Review and Decision Criteria**

An application for a Waiver – DRB shall be approved if it complies with the following criteria:

**6-6(L)(3)(a)** Any of the following applies:

1. There are pre-existing obstructions that cannot be easily or economically relocated or should not be altered, such as grades, fills, water courses, natural topographic features, man-made obstructions, or utility lines.
2. The area or site has been recognized as having historical, archeological, and/or architectural significance by the City, state, or federal government, and a Waiver is needed and appropriate to maintain such historical, archeological, and/or architectural significance.
3. The established neighborhood character or landscaping on the site would be damaged to a degree that outweighs the public interest in the City's normal technical standards in that location.
4. Varying from the normal requirements and standards will encourage flexibility, economy, effective use of open space, or ingenuity in design of a subdivision, in accordance with accepted principles of site planning.

**6-6(L)(3)(b)** The Waiver will not be materially contrary to the public safety, health, or welfare.

**6-6(L)(3)(c)** The Waiver does not cause significant material adverse impacts on surrounding properties.

**6-6(L)(3)(d)** The Waiver will not hinder future planning, public right-of-way acquisition, or the financing or building of public infrastructure improvements.

**6-6(L)(3)(e)** The Waiver will not conflict significantly with provisions of any city, county, or AMAFCA adopted plan, this IDO, or any other City code or ordinance.

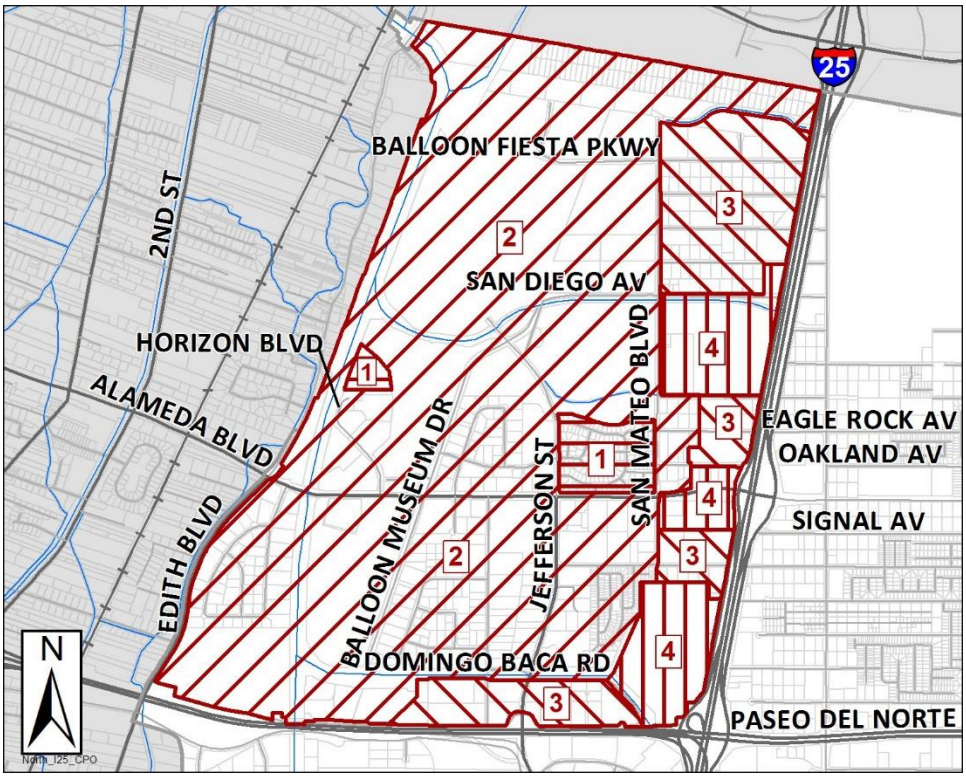
**6-6(L)(3)(f)** The Waiver will not allow, encourage, or make possible undesired development in the 100-year Floodplain.

**6-6(L)(3)(g)** The Waiver will not materially undermine the intent and purpose of this IDO or the applicable zone district.

**6-6(L)(3)(h)** The Waiver does not allow a lot or type of development that does not meet the applicable size, area, and development standards applicable in the zone district where the lot is located, unless a Deviation to such standards is within the thresholds established by Subsection 14-16-6-4(O) (Deviations) and is granted by the DRB as part of this approval.

**6-6(L)(3)(i)** The Waiver approved is the minimum necessary to provide redress without being inconsistent with the provisions of this Section.

2019 IDO ANNUAL UPDATE – Exhibit – North I-25 CPO-11 Map - 7/25/2019 Draft



## 5-5(C) OFF-STREET VEHICLE PARKING

### 5-5(C)(5) Parking Reductions

The minimum amounts of off-street automobile parking required by Table 5-5-1 and Table 5-5-2 above shall be adjusted by the factors shown in this Subsection 14-16-5-5(C)(5). These factors may be applied individually or in combination, but the cumulative reduction in off-street spaces shall not exceed 50 percent of the parking spaces required by Table 5-5-1 and Table 5-5-2 unless the applicant satisfies the requirements of Subsections 14-16-5-5(C)(6)(d) (Public Parking Reduction) or 14-16-5-5(C)(6)(e) (Parking Study Reduction).

#### 5-5(C)(5)(a) General Reductions for Urban Centers and Main Street Areas

Where Table 5-5-1 and Table 5-5-2 do not indicate a different parking requirement for UC or MS areas, a 10 percent reduction in required off-street parking requirements shall apply to properties in those Center and Corridor areas.

#### 5-5(C)(5)(b) Shared Parking Reduction

1. Two (2) or more uses listed in Table 4-2-1 may share one or more parking structures or parking lots located pursuant to Subsection 14-16-5-5(F)(1)(a)11. The sharing of any required parking shall be guaranteed by a legally binding agreement between the owner of the parking area and the owner of the building or use that is located on a different lot and served by the parking area. Such agreement shall address the issue of how parking will be shared if the parties change their operating hours and peak business periods.
2. The total off-street parking requirement for those uses may be reduced by the factors shown in Table 5-5-3. Off-street parking required shall be the sum of the 2 parking requirements for the 2 uses divided by the factors for that combination of uses. If more than 2 uses share a parking lot or structure, the required parking shall be calculated by applying Table 5-5-3 to the 2 uses with the largest parking requirements and then adding the required parking for the additional uses.

   *Example:*

   Proposed project in a Main Street area includes 40 2 bedroom residential dwelling units and 15,000 square feet of gross floor area for retail and a child care center designed for 50 children.

   **Step 1:** Identify basic parking requirements from Table 5-5-1.

   40 units times 1 space per dwelling unit = 40 spaces.

   15,000 sq. ft. times 2.5 spaces per 1,000 sq. ft. = 37.5 space; rounded to 37.

   50 child capacity times 1 space per 15 persons capacity = 3.33 spaces; rounded to 3 spaces.

**Step 2:** Add up the 2 largest parking requirements: 40+38 = 78 spaces.

**Step 3:** Divide by the factor in Table 5-5-3.

For multi-family residential and retail the factor is 1.2.

78 divided by 1.2 = 65 spaces.

**Step 4:** Add the third (smallest) parking requirement without adjustment:

65+3 = 68 spaces = final adjusted parking requirement.

**Table 5-5-3: Shared Parking Reduction Factors**

| Property Use | Multi-family Residential | Civic or Institutional | Food, Beverage, and Indoor Entertainment or Lodging | Retail | Other Non-residential |
|---|---|---|---|---|---|
| **Multi-family Residential** | 1.0 | | | | |
| **Civic or Institutional** | 1.1 | 1.0 | | | |
| **Food, Beverage, and Indoor Entertainment or Lodging** | 1.1 | 1.2 | 1.0 | | |
| **Retail** | 1.2 | 1.3 | 1.3 | 1.0 | |
| **Other Non-residential** | 1.3 | 1.5 | 1.7 | 1.2 | 1.0 |

**5-5(C)(5)(c) Reduction for Proximity to Transit**

1. The minimum number of off-street parking spaces required may be reduced by 30 percent if the proposed development is located within 1,320 feet of any transit stop or transit station with a peak service frequency of 15 minutes or better.
2. The minimum number of off-street parking spaces required may be reduced by 50 percent if the proposed development is located within a Premium Transit Area.
3. The minimum number of off-street parking spaces required for new development or redevelopment may be reduced by 5 percent for projects that include, at the applicant's expense, transit rider shelters of a type and location acceptable to the City, regardless of service frequency.
4. No development approved with any of these parking reductions shall be considered nonconforming if the transit line, station, or stop is later relocated or if peak service frequency decreases, resulting in a number of parking spaces that does not meet the minimum requirements that would apply without the Proximity to Transit reduction.

**5-5(C)(5)(d) Public Parking Reduction**

The Planning Director may approve a reduction or elimination of parking requirements if any of the following conditions applies:

1. The development is within and participates in a public parking district in which individual property owners jointly provide shared parking for an area of the city exceeding 5 acres in size.
2. The applicant can demonstrate that adequate spaces are available in a nearby public parking lot or structure, and that the reduction or elimination of parking requirements will not result in traffic congestion or on-street parking in any nearby Residential zone district. For the purposes of this provision, on-street parking spaces shall be considered nearby public parking spaces.

**5-5(C)(5)(e) Parking Study Reduction**

The Planning Director may approve a reduction of parking requirements if the applicant provides a parking needs study, prepared by a consultant with expertise in that area recognized by the City, and using parking generation assumptions acceptable to the City, demonstrates that off-street parking at a rate lower than that otherwise required by this Section 14-16-5-5, will adequately accommodate all anticipated demand for off-street parking and will not result in either traffic congestion or parking congestion in surrounding neighborhoods, and the Planning Director determines that the parking study provides a more accurate measure of parking needs for the site than application of the standards in this Section 14-16-5-5 that would otherwise apply.

## 5-5(C)(6) Parking Credits

**5-5(C)(6)(a) Electric Vehicle Charging Station Credit**

1. Each off-street electric vehicle charging station with a rating of 240 volts or higher shall count as 2 vehicle parking spaces toward satisfaction of minimum off-street parking requirements.
2. When a new parking lot containing more than 200 off-street spaces is constructed, at least 2 percent of the vehicle parking spaces shall include electric vehicle charging stations with a rating of 240 volts or higher.

**5-5(C)(6)(b) Van and Car Pool Parking Credit**

1. Each off-street parking space designated and signed for the exclusive use of a shared carpool vehicle shall count as 4 spaces toward the satisfaction of a minimum off-street parking requirements.
2. Each off-street parking space designated and signed for the exclusive use of a shared vanpool vehicle shall count as 7 spaces toward the satisfaction of a minimum off-street parking requirements.

**5-5(C)(6)(c) On-street Parking Credit**

1. Any on-street parking space abutting the subject property may be counted as 1 required off-street parking space if the street does not have residential parking permit restrictions.
2. Each on-street parking space may only be counted once toward the parking requirements of the abutting lot, regardless of the number of individual buildings or tenants on the lot.
3. No development or use approved with an on-street parking credit shall be considered nonconforming if the on-street parking is later removed by City action and the remaining off-street parking does not meet the minimum off-street parking requirements of this Section 14-16-5-5.
4. On-street parking spaces credited for a specific use shall not be reserved for the exclusive use by customers, employees, or occupants of that use, but shall be available for general public use at all times. No signage or actions limiting general public use of on-street spaces shall be allowed.

**5-5(C)(6)(d) Off-site Parking Credit**

1. The provision of required parking at an off-site parking area may be counted toward required off-street parking spaces on a 1-for-1 basis and is allowed for 100 percent of the required parking spaces, except that those required to satisfy the Americans with Disabilities Act must be provided on the site of the building or use.
2. Off-site parking must meet the location standards in Subsection 14-16-5-5(F)(1)(a)11 and shall be guaranteed by a legally binding agreement between the owner of the parking area and the owner of the building or use that is located on a different lot and served by the parking area.

## 6-5(F) LANDFILL GAS MITIGATION APPROVAL

All applicable provisions of Section 14-16-6-4 (General Procedures) apply unless specifically modified by the provisions of this Subsection 14-16-6-5(F) or the DPM. However, standards and procedures for obtaining Landfill Gas Mitigation Approval are generally governed by the City Environmental Health Department, whose applicable standards and procedures prevail over the IDO or DPM. In case of a conflict between the provisions of this Subsection 14-16-6-5(F) and the standards and procedures of the DPM, the DPM shall prevail.

### 6-5(F)(1) Applicability

This Subsection 14-16-6-5(F) shall require landfill gas mitigation approval for the following types of applications on a property within a landfill gas buffer area pursuant to Subsection 14-16-5-2(G), in addition to any other review and approval requirements specific to the following applications:

(a) Grading, Drainage, or Paving approval.
(b) Sign permit for new freestanding sign.
(c) Surface Disturbance Permit.
(d) Wall or Fence Permit.
(e) Site Plan – Administrative.
(f) Site Plan – DRB.
(g) Site Plan – EPC.
(h) Master Development Plan.
(i) Wireless Telecommunications Facility for new freestanding facility.
(j) Subdivision of Land.

The provisions of this section are not intended to affect planning or administrative processes that are not associated with physical changes to the lot other than to raise the awareness of procedures related to landfill gases that must be undertaken prior to development.

### 6-5(F)(2) Procedure

6- 5(F)(2)(a) The applicant shall provide an assessment and report performed and certified by a professional engineer with expertise in landfills and landfill gas to determine if landfill gases exist on the lot and whether there is a potential for the migration of landfill gases to impact the lot or other lots in the future.

6- 5(F)(2)(b) If the assessment determines that landfill gases exist on the lot or there is a potential for the migration of landfill gases to impact the lot or other lots in the future, the report shall identify landfill gas mitigation measures (known as a landfill gas mitigation plan) that are adequate to address any existing or future risk. See additional requirements in 6- 5(F)(2)(e) below.

6- 5(F)(2)(c) If the assessment and report indicate that there is no landfill gas at the property and there is no future risk from the migration of landfill gases, the

assessment and report shall state how such a determination was made. See additional requirements in 6- 5(F)(2)(f) below.

6- 5(F)(2)(d)The Environmental Services Division of the City Environmental Health Department or its consultant shall review the assessment and report, and landfill gas mitigation plan if applicable, and shall approve or reject them in writing within 20 business days of its submission. If the documents are not acceptable, the Environment Health Department shall advise the applicant of the changes needed and the applicant shall submit revised documents for review and approval.

6- 5(F)(2)(e) If a landfill gas mitigation plan is needed, the following requirements apply:

1. The applicant shall submit copies of the assessment and report, including the landfill gas mitigation plan, approved by the Environmental Health Department with any application(s) listed in Subsection 14-16-6-5(F))1) that relate to the property.
2. The applicant shall commit in writing to the landfill gas mitigation plan as a condition of approval on official documents filed at the Planning Department in relation to development of the property such as plats, plans, or permits. In the case of a large corporation, this letter of commitment shall be signed by a representative with the authority to commit the corporation to implementing the landfill gas mitigation plan.
3. The Environmental Health Department shall acknowledge receipt of the letter of commitment to the applicant and copy the Planning Department for filing.
4. The applicant shall include the following disclosure statement on any official documents filed at the Planning Department in relation to development of the property such as plats, plans, or permits:

   > "The subject property is located (near, on) a (closed, operating) landfill. Due to the subject property being (near, on) a (closed, operating) landfill, certain precautionary measures may need to be taken to ensure the health and safety of the public. Recommendations made by a professional engineer with expertise in landfills and landfill gas issues (as required by the most current version of the Interim Guidelines for Development within City Designated Landfill Buffer Zones of the City Environmental Health Department) shall be consulted prior to development of the site."

5. The Environmental Health Department shall refer any development that appears to require regulation under the State due to removal of landfill materials, such as for grading or required off-site infrastructure, to the New Mexico Environment Department – Solid Waste Bureau.

6-5(F)(2)(f) The Environmental Health Department's approval of an assessment and report pursuant to Subsection 6- 5(F)(2)(c) constitutes a "no risk" landfill gas mitigation approval. The applicant shall meet the following requirements:

1. Submit copies of the assessment and report approved by the Environmental Health Department with any application(s) listed in Subsection 14-16-6-5(F)(1) that relate to the property.
2. Include the disclosure statement in Subsection 6- 5(F)(2)(e)4 above on any official documents filed at the Planning Department in relation to the development such as plats, plans, or permits.

6- 5(F)(2)(g) The Planning Department shall maintain records of lots that have landfill gas mitigation approval.

6- 5(F)(3) Review and Decision Criteria

The City Environmental Health Department shall review and approve the assessment and report, including any landfill gas mitigation plan, per applicable federal, state, and local laws, regulations, and policies, including but not limited to 20.6.2.4103 A. of the NM Administration Code.

Quasi-judicial Decision for Small Area Regulations

- On page 328, create a new decision for "Amendment to IDO Text for a Small Area" in Table 6-1-1 as shown in red below.
- Create a new procedure for "Amendment to IDO Text for a Small Area" as shown below as a new Subsection 6-7(E) and renumber subsequent subsections accordingly.

**Table 6-1-1: Summary of Development Review Procedures**

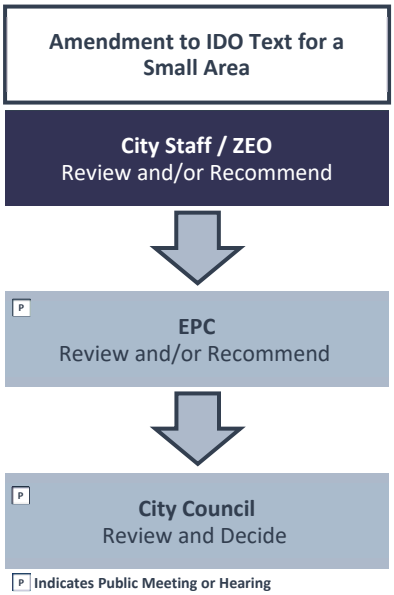
**X = Required R = Review and/or Recommend D = Review and Decide AR = Appeal Review and Recommend AD = Appeal Review and Decision [ ] = Public Meeting < > = Public Hearing**

| Section / Application Type | Public Notice 6-4(K) | | | | | Mtgs. | | Review and Decision-making Bodies 6-2 | | | | | | | Specific Procedures |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | 6-4(B) | 6-4(C) | | | | | | | | |
| | Published | Mailed | Posted Sign | Electronic Mail | Web Posting | Pre-application | Neighborhood | City Staff[1] | ZHE | DRB | LC | EPC | LUHO | City Council[2] | |
| **Policy Decisions** | | | | | | | | | | | | | | | |
| Amendment to IDO Text Citywide | X | X | | | X | X | | R | | | | <R> | | <D> | 6-7(D) |
| Amendment to IDO Text for a Small Area | X | X | | X | X | X | X | R | | | | <R> | | <D> | 6-7(E) [new] |
| Zoning Map Amendment – Council[5] | X | X | X | X | X | X | X | R | | | | <R> | | <D> | 6-7(G) |

## 6-7(E) AMENDMENT OF IDO TEXT FOR A SMALL AREA

All applicable provisions of Section 14-16-6-4 (General Procedures) apply unless specifically modified by the provisions of this Subsection 14-16-6-7(E).

### 6-7(E)(1) Applicability




This Subsection 14-16-6-7(E) applies to all applications to amend the text of this IDO to adopt or amend the boundaries of a small area and adopt or amend specific zoning regulations that will apply in that area, including APOs, CPOs, HPOs, VPOs, or small areas established in Subsection 14-16-4-3 Use-specific Standards, Subsection 14-16-5 Development Standards, or Subsection 14-16-6 Administration and Enforcement, except for the following:

6-7(E)(1)(a) Applications to adopt or amend the boundary of a Historic Protection Overlay zone, which are processed pursuant to Subsection 14-16-6-7(C).

6-7(E)(1)(b) Applications to change the zoning of properties in a small area, which are processed pursuant to Subsection 14-16-6-7(F) or 14-16-6-7(G), as relevant.

### 6-7(E)(2) Procedure

6-7(E)(2)(a) The City Planning Department staff shall review the application, including any specific regulations applicable to a proposed Overlay zone or small area, and forward a recommendation to the EPC pursuant to all applicable provisions of Section 14-16-6-4 (General Procedures).

6-7(E)(2)(b) If the proposed amendment includes any change to the IDO text of an HPO zone (as opposed to an amendment to the boundaries or standards applicable in a specific HPO zone), the LC staff planner shall review and submit staff comments to the EPC pursuant to all applicable provisions of Section 14-16-6-4 (General Procedures).

6-7(E)(2)(c) The EPC shall conduct a public hearing on the application and shall make a recommendation to the City Council pursuant to all applicable provisions of Section 14-16-6-4 (General Procedures).

6-7(E)(2)(d) The City Council shall conduct a public hearing and shall make a decision on the application pursuant to all applicable provision of Section 14-16-6-4 (General Procedures).

6-7(E)(2)(e) The Official Zoning Map shall be updated to reflect any adopted or amended boundaries of a small area.

## 6-7(E)(3) Review and Decision Criteria

An application for an Amendment of IDO Text for a Small Area shall be approved if it meets all of the following criteria:

6-7(E)(3)(a) The proposed small area amendment is consistent with the health, safety, and general welfare of the City as shown by furthering (and not being in conflict with) a preponderance of applicable Goals and Policies in the ABC Comp Plan, as amended, and other applicable plans adopted by the City.

6-7(E)(3)(b) If the proposed small area amendment is located wholly or partially in an Area of Consistency (as shown in the ABC Comp Plan, as amended), the applicant has demonstrated that the proposed amendment would clearly reinforce or strengthen the established character of the surrounding Area of Consistency and would not allow development that is significantly different from that character. The applicant must also demonstrate that the existing zoning regulations are inappropriate because they meet any of the following criteria:

1. There has been a significant change in neighborhood or community conditions affecting the small area.
2. The proposed zoning regulations are more advantageous to the community as articulated by the ABC Com Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).

6-7(E)(3)(c) If the proposed small area amendment is located wholly in an Area of Change (as shown in the ABC Comp Plan, as amended) and the applicant has demonstrated that the existing zoning regulations are inappropriate because they meet at least one of the following criteria:

1. There has been a significant change in neighborhood or community conditions affecting the small area that justifies this request.
2. The proposed zoning regulations are more advantageous to the community as articulated by the ABC Comp Plan, as amended (including implementation of patterns of land use, development density and intensity, and connectivity), and other applicable adopted City plan(s).

6-7(E)(3)(d) If the proposed amendment changes allowable uses, the proposed amendment does not allow permissive uses that would be harmful to adjacent property, the neighborhood, or the community, unless the Use-specific Standards in Section 16-16-4-3 associated with that use will adequately mitigate those harmful impacts.

6-7(E)(3)(e) The applicant's justification is not based completely or predominantly on the cost of land or economic considerations.