

"Maximum Extent Practicable" in the IDO

Page	Section	Text & Changes - Amendment A	Action	Staff Comment for EPC Consideration
79	3-4(E)(5)(a)3	Parking structures shall have ground floor uses along all street frontages to the maximum extent practicable. Parking structures shall have ground floor uses along 50% of the street facing facade of the parking structure. Where ground floor uses aren't provided, opaque walls at least 3 feet high or vegetative screens at least 3 feet high at the time of planting shall be provided. Where not practicable, opaque walls at least 3 feet high or vegetative screens at least 3 feet high at the time of planting shall be provided.	Amend the language as proposed in red text.	Revise to " <u>at least</u> " 50 percent.
122	3-6(D)(5)(c)	Projects containing several buildings shall provide variety in building size and massing. Lower, smaller buildings shall be located closer to Coors Boulevard, with larger, taller buildings located farther back on the property, to the maximum extent practicable.	Strike the phrase entirely as depicted in red text.	Staff concurs.
167	4- 3(E)(10)(a)3. c	Located on existing vertical structures, including utility poles and public utility structures to the maximum extent practicable.	Strike the phrase entirely as depicted in red text.	Staff concurs.

"Maximum Extent Practicable" in the IDO

Page	Section	Text & Changes - Amendment A	Action	Staff Comment for EPC Consideration
173	4-3(F)(4)(a)	Each stacking lane is limited to a maximum order board area of 50 square feet. The face of the order boards shall be oriented away from public streets to the maximum extent practicable . <u>If not practicable, at least 2 evergreen trees shall be planted in the the landscape buffer area required by Subsection 5-5(I)(2)(a) in locations that would best screen the order board from the public right-of-way.</u>	Keep "maximum extent practicable" language. Add additional criterion as depicted in underlined red text.	Staff concurs.

"Maximum Extent Practicable" in the IDO

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198	5-2(C)(1)	Both the subdivision and site design processes shall begin with an analysis of site constraints related to sensitive lands. <u>The site analysis shall be reviewed by relevant staff from Hydrology, Parks and Recreation, Historic Preservation, the City Forrester, the City Archaeologist depending on the type(s) of sensitive lands on the site.</u> To the maximum extent practicable, New subdivisions of land and site design shall avoid locating development, except for open spaces and areas that will not be disturbed during the development process, in the following types of sensitive lands...	Council Staff proposes to strike the phrase "to the maximum extent practicable". See proposed edit to page 397 of the IDO that will require all development applications that can't avoid Sensitive Lands to be approved by the EPC. See proposed edits to Section 7-1 for addition of definitions of Sensitive Lands.	<p>Add text in Subsection 5-2(B) as follows: "If strict compliance with these standards is not feasible, a Site Plan approved by the Environmental Planning Commission with approved deviations, as well as Variances approved by the EPC will be required before any other approvals will be granted."</p> <p>Add text in Subsections 6-6(L)(3), 6-6(M)(3) and 6-6(N)(3) as follows: "The applicant has taken all possible steps to comply with the standards or regulations and to adequately mitigate potential harmful or adverse impacts." Consider revising Subsection 5-2(C) to apply to subdivision and site design process for undeveloped land only, or to subdivision and land 5+ acres next to MPOS only.</p>

"Maximum Extent Practicable" in the IDO

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198	<u>5-2(C)(1)</u>	<p>5-2(C)(1)(b) Steep slopes- 5-2(C)(1)(c) Unstable Soils 5-2(C)(1)(j) <u>Significant</u> Archaeological Sites</p>	Amend the language as proposed in red text.	<p>CABQ Open Space Division requested that "steep slopes" be added to Subsection 5-2(C)(1)(g). If EPC agrees, add a definition for "Steep slopes" in Section 7-1 as follows (consistent with definition of Escarpment): "Land with 9 percent slope or more and considered sensitive land, where development is discouraged." This would apply to the Foothills and help protect sensitive lands there.</p>

"Maximum Extent Practicable" in the IDO

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198	5-2(C)(2)	Street crossings of irrigation ditches and drains shall be avoided minimized to the maximum extent practicable.	Change "minimized" to "avoided". Add criteria that if street crossings of irrigation ditches and drains can't be avoided, that development request must go to EPC for review. See proposed edit to page 397 of the IDO that will require all development applications that can't avoid Sensitive Lands to be approved by the EPC.	"Avoided" is not an enforceable standard. Arguably, any attempt to avoid would meet this standard, but not its intent. Change "avoided" to "are not allowed" and delete "to the maximum extent practicable." See also related item above to create a subsection about needing a Site Plan - EPC (with "maximum extent practicable" added to decision criteria) if you can't meet standards in 5-2.
198	5-2(C)(3)	Street crossings of sensitive lands shall be avoided minimized to the maximum extent practicable.	Change "minimized" to "avoided". Add criteria that if street crossings of irrigation ditches and drains can't be avoided, that development request must go to EPC for review. See proposed edit to page 397 of the IDO that will require all development applications that can't avoid Sensitive Lands to be approved by the EPC.	"Avoided" is not an enforceable standard. Arguably, any attempt to avoid would meet this standard, but not its intent. Change "avoided" to "are not allowed." See also related item above to create a subsection about needing a Site Plan - EPC (with "maximum extent practicable" added to decision criteria) if you can't meet standards in 5-2.

"Maximum Extent Practicable" in the IDO

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201	5-2(F)(5)	Street crossings of acequias shall be avoided <u>minimized to the maximum extent practicable.</u>	Change "minimized" to "avoided". Add criteria that if street crossings of irrigation ditches and drains can't be avoided, that development request must go to EPC for review. See proposed edit to page 397 of the IDO that will require all development applications that can't avoid Sensitive Lands to be approved by the EPC.	"Avoided" is not an enforceable standard. Arguably, any attempt to avoid would meet this standard, but not its intent. Change "avoided" to "are not allowed." See also related item above to create a subsection about needing a Site Plan - EPC (with "maximum extent practicable" added to decision criteria) if you can't meet standards in 5-2.
209	5-3(C)(2)(a)	To the maximum extent practicable, new streets in Areas of Change shall include right of way necessary to accommodate convenient and safe access by users of all ages and abilities, including pedestrians, bicyclists, motorists, and transit riders to allow comfortable, convenient, and universally accessible street crossings, transit stops, and pedestrian access to adjacent land uses.	Delete provision (a) entirely, as it is covered by 5-3(C)(2)(b). Renumber 5-3(C)(2)(b) as 5-3(C)(2).	Staff concurs.

"Maximum Extent Practicable" in the IDO

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209	5-3(C)(2)(b)	Complete streets shall be designed to the specifications in the DPM, which incorporates implementation of Part 6-5-6 of ROA 1994 (Complete Streets Ordinance), to the maximum extent practicable.	Strike the phrase "to the maximum extent practicable". There is a variance process for DPM requirements that would address any application that is unable to comply.	Staff concurs.
209	5-3(C)(5)(a)	New development involving more than 1 parcel or sites over 5 acres in size adjacent to existing bikeways shall provide at least 1 access point to the bikeways to allow residents and users of the development to easily and safely access those bikeways to the maximum extent practicable. Access location and design shall be coordinated with City Parks and Recreation Department.	Strike the phrase entirely as depicted	Staff concurs.

"Maximum Extent Practicable" in the IDO

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215	5-3(E)(4)	Each street designated in the Metropolitan Transportation Plan and/or the Bikeways and Trails Facility Plan as an existing or proposed route to accommodate bicycles shall be incorporated into the development to the maximum extent practicable and shall be designed to comply with the standards of the DPM. Right-of-way and pavement widths for those streets may be increased up to 12 feet on adopted bike routes and lanes by the DRB based on considerations of bicycle, pedestrian, and motor vehicle safety.	Strike the phrase entirely as depicted in red text.	Staff concurs.
218	5-4(E)(1)(c)	In Areas of Consistency, alleys shall be included in subdivision design in those areas of the city where surrounding areas are platted with alleys and shall continue the alignments of those alleys to the maximum extent practicable.	Strike the phrase entirely as depicted	Staff concurs.

"Maximum Extent Practicable" in the IDO

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219	5-4(F)(2)(b)	Residential lots shall avoid layouts where the rear lot line is adjacent to an arterial or collector street to the maximum extent practicable . Local frontage roads may be used within a subdivision to avoid locating residential rear yard walls along collector and arterial streets.	Strike the phrase entirely as depicted	Staff concurs.
219	5-4(F)(3)(c)	Through lots shall be avoided to the maximum extent practicable.	Strike the subsection entirely and renumber subsequent as necessary.	Staff concurs.
220	5-4(H)(2)	To the maximum extent practicable, the developer shall incorporate best management practices for low-impact development stormwater management to minimize stormwater runoff and increase on-site infiltration as described in the DPM.	Strike the phrase entirely as depicted	Staff concurs.

"Maximum Extent Practicable" in the IDO

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221	5-4(J)(1)(b)	New subdivisions shall blend development into the adjacent environment with a minimum of grade change. Extensive fill that raises the grade for proposed lots at the edge of a new subdivision above the grade of nearby property shall be avoided to the maximum extent practicable . Significant cuts near the edges of proposed new subdivisions to lower the grade within the development shall be avoided to the maximum extent practicable .	Strike the phrases entirely as depicted	Avoided is not an enforceable standard without the phrase "to the maximum extent practicable." Change "avoided" to "prohibited." An application that cannot meet the standard would require a Waiver - DRB per R-150. See related item to add a decision criterion to Waiver - DRB that the applicant has adequately mitigated harm. (Language taken from "maximum extent practicable" definition.)
243	5-5(F)(2)(b)3	Vehicle access to a primary non-residential use shall be located to avoid the need for traffic from a street designated as an arterial or collector in the LRTS Guide to use a local residential street for more than 150 feet to access the nonresidential property, to the maximum extent practicable .	Strike the phrases entirely as depicted	Staff concurs.
254	5-6(C)(5)(f)	Permeable weed barriers shall be used to optimize permeability and stormwater infiltration to the maximum extent practicable .	Strike the phrase entirely as depicted	Staff concurs. Note that a Tech Edit for the same section leaves the language. Staff added a note to see Amendment so that both edits are captured.

"Maximum Extent Practicable" in the IDO

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257	5-6(C)(13)(c)	Areas created to meet stormwater management requirements of the City or a governmental entity, and located in a required side or rear yard buffer or in a parking lot, shall be counted toward required landscaping and buffering in those areas, provided the area includes vegetation required by this Section 14-16-5-6 to the maximum extent practicable in light of any applicable stormwater treatment requirements.	Strike the phrase entirely as depicted	Staff concurs.
259	5-6(D)(1)(b)	Trees shall be planted to align with street frontage landscaping on abutting lots to the maximum extent practicable.	Delete this provision entirely, as it conflicts with the Street Tree Ordinance.	Staff concurs.

"Maximum Extent Practicable" in the IDO

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341	6-4(E)(1)(a)	<p>The owner of that property or an agent of the property owner with the written consent of the property owner. Where a property has more than one owner, all owners must consent in writing to the filing of the application <u>or show proof of legal authority to act on behalf of the other owners to the maximum extent practicable. In the case that not all of the property owners have consented in writing to the application, or</u> When the ownership status of some parties is unclear (as shown on a title abstract or title insurance commitment), the owner shall attest in writing that all of the property owners shown on a title abstract or title insurance commitment have been notified of the application in writing at their last known address as shown on the property tax records of Bernalillo County.</p>	Amend the language as proposed in red text.	Staff concurs.

"Maximum Extent Practicable" in the IDO

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395	6-6(F)(3)(d)	The Master Development Plan mitigates any significant adverse impacts on the surrounding area to the maximum extent practicable.	Strike the phrase entirely as depicted	Any effort toward mitigation would satisfy this provision. Change to "adequately mitigate", which is used in other decision criteria in the IDO.
396	6-6(G)(3)(c)	The Site Plan mitigates any significant adverse impacts on the surrounding area to the maximum extent practicable.	Strike the phrase entirely as depicted	Any effort toward mitigation would satisfy this provision. Change to "adequately mitigate", which is used in other decision criteria in the IDO.
397	6-6(H)(1)(b)	4. Any application for development that has not avoided Sensitive Lands per the Sensitive Lands analysis required in Subsection 5-2(C).	Add a new applicability provision as depicted in red text. Re-number subsequent provisions as necessary.	As written, would affect ALL site plan and subdivision applications. Would either result in delay for review process or people destroying sensitive lands before review/decision process. Maybe make it subdivision process + site plan - EPC next to MPOS only.
398	6-6(H)(3)(e)	The application mitigates any significant adverse impacts on the project site and the surrounding area to the maximum extent practicable.	Amend the language as proposed in red text.	Any effort toward mitigation would satisfy this provision. Change to "adequately mitigate", which is used in other decision criteria in the IDO.

"Maximum Extent Practicable" in the IDO

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447	Section 7-1	Add a new definition as follows: <u>Arroyo</u> <u>A watercourse that conducts an intermittent or ephemeral flow, providing primary drainage for an area of land or a watercourse that would be expected to flow in excess of 100 cubic feet per second as the result of a 100-year storm event, as determined by the City Hydrologist.</u>	Add the following definitions in the appropriate alphabetical order. Note that the other types of Sensitive Lands are already defined in the IDO.	Staff concurs.
469	Section 7-1	Add a new definition as follows: <u>Large Stand of Mature Trees</u> <u>Collections of five or more trees thirty years or older, or having trunk diameters at breast height averaging at least 16 inches, as determined by the City Forester.</u>		Staff concurs.
500	Section 7-1	Add a new definition as follows: <u>Wetlands</u> <u>Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as determined by the City Hydrologist. Wetlands generally include swamps, marshes, bogs and similar areas.</u>		Staff concurs.

"Maximum Extent Practicable" in the IDO

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Additional Items for Consideration				
218	5-4(E)(1)(b)	Listed as an instance of the phrase that can remain.		The phrase can be struck if the language proposed above for 6-6(L) is added. The review/decision criteria for DRB - Waiver covers the same criteria as "maximum extent practicable." The applicant would be required to note the Waiver on the subdivision, which would increase transparency.
218	5-4(E)(2)(b)	Listed as an instance of the phrase that can remain.		The phrase can be struck if the language proposed above for 6-6(L) is added. The review/decision criteria for DRB - Waiver covers the same criteria as "maximum extent practicable." The applicant would be required to note the Waiver on the subdivision, which would increase transparency.

"Maximum Extent Practicable" in the IDO

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395	6-6(F)(3)(c)	[New] The City's existing infrastructure and public improvements, including but not limited to its street, trail, drainage, and sidewalk systems, have adequate capacity to serve the proposed development, and any burdens on those systems have been <u>adequately</u> mitigated to the extent practicable.		Strike phrase as shown in red. Any effort toward mitigation would satisfy this provision. Change to "adequately mitigate", which is used in other decision criteria in the IDO.
396	6-6(G)(3)(b)	[New] The City's existing infrastructure and public improvements, including but not limited to its street, trail, drainage, and sidewalk systems, have adequate capacity to serve the proposed development, and any burdens on those systems have been <u>adequately</u> mitigated to the extent practicable.		Strike phrase as shown in red. Any effort toward mitigation would satisfy this provision. Change to "adequately mitigate", which is used in other decision criteria in the IDO.
396	6-6(G)(3)(c)	[New] The Site Plan <u>adequately</u> mitigates any significant adverse impacts on the surrounding area to the maximum extent practicable.		Strike phrase as shown in red. Any effort toward mitigation would satisfy this provision. Change to "adequately mitigate", which is used in other decision criteria in the IDO.