

From: [Jane Baechle](#)
To: [City of Albuquerque Planning Department](#)
Cc: [Renz-Whitmore, Mikaela J.](#); [Vos, Michael J.](#); china.osborn@cabq.gov
Subject: Comments for EPC Meeting of 1/11/2024
Date: Monday, January 8, 2024 2:13:06 PM
Attachments: [EPC 48 hr 1112024.pdf](#)

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Good afternoon,

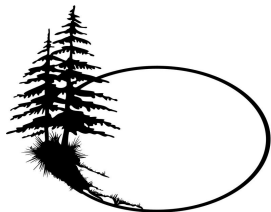
I am attaching written comments for both Citywide amendments and the proposed amendment to the VHUC. They are included in the same document. Please forward them to the Commissioners on both matters.

I am also including two photos of "corner lots >5,000 sf" within two lots of my home. Both of these would be eligible to become a commercial space under the Dwelling, Live/Work amendment. I hope these provide a visual example of how potentially harmful such a use would be in SFV.

Please share them also with the Commissioners.

Thank you,

Jane Baechle SFVNA



Santa Fe Village Neighborhood Association

5601 Bogart St. NW Albuquerque, NM 87120
SFVNA2014@gmail.com

Date: January 8, 2024

To: David Shaffer
Chair, EPC

From: Jane Baechle
Representative, SFVNA

Re: Comments for 1/11/2024

We appreciate the work of the Commissioners and the ABQ Planning Department staff in reviewing the proposed citywide amendments and the small area amendment to the Volcano Heights Urban Center and crafting the proposals to be heard on 1/11/2024. After review of the staff reports for the meeting of 1/11/2024, I am submitting the following comments on behalf of the Santa Fe Village Neighborhood Association Board. They are consistent with our prior positions. I will note where I comment as an individual on the “New” amendments.

- **Small Area Amendment, IDO 14-16-4-3(F)(5)(f)10, Volcano Heights Urban Center**-We are grateful for the Planning Department recommendation of *DENIAL* of this amendment. The SFVNA has submitted multiple written comments outlining our opposition to removing the prohibition on drive throughs in the VHUC. We have cited, as did Planning Department staff, the conflict that drive throughs represent in a “walkable” area and their conflict with the ABC Comp Plan. To quote Policy 11.3.6, sub policy d, “Protect the area’s natural and archaeological resources, including the Monument and significant rock outcroppings, while encouraging urban development in the Volcano Heights Urban Center to create a vibrant, *walkable district with an identity, character, and sense of place inextricably linked to the volcanic landscape.*” (Emphasis mine.) This proposal represents an effort to rewrite the Comp Plan with IDO changes rather than respecting the purpose of the IDO to “Implement the adopted Albuquerque/Bernalillo County Comprehensive Plan (ABC Comp Plan), as amended.” Please accept the Planning Department recommendation and DENY this proposed amendment.
- **Item 12, IDO Section 4, Dwelling Live-Work**-We appreciate the removal of restaurants as an accepted use in this proposal. Likewise, making this a conditional use acknowledges the

potential harms to a neighborhood and provides a public hearing on those as well as requirements for mitigation. Nonetheless, these do *not* address our concerns regarding the public health and safety impacts of any commercial use which involves the delivery, serving or sale of food and handling and removal of waste. We have outlined these in previous and extensive written comments. We respectfully request the commissioners *DELETE* this amendment.

- **Item 29, 6-4(B), Pre-submittal Neigh Meeting, Item 32, 6-4(K) Public Notice to Neighborhood Associations, Item 36, 6-4(L)(3)(a), Post-submittal Facilitated Meeting and Item 37, 6-4(V)(2)(a), Appeals - Standing Based on Proximity for Neighborhood Associations**-We appreciate the inclusion of multiple maps. They do not cover every area of the City where substituting a measure of distance for the standard of “adjacency” would potentially remove a neighborhood association or property owner from receiving notice. It is not acceptable to change the requirements regarding notice if they include “almost everyone.” We recognize that Condition 18, B, Option 2 for Item 37 reflects the significant impact of reducing neighborhood association standing and the hugely impactful applications that would be included in the original amendment. This would be immensely more consequential on the westside, particularly on the NW mesa. We still believe that there should be *no* change to the distances for individual or neighborhood association notice and standing unless they include *everyone* currently included. As such, we request that the Commissioners *DELETE* Items 29, 32, 33, 34, 36 and 37.
- **Item 58, Tribal Engagement**-We strongly support this proposed amendment and will speak in support of including the area of the NW Mesa Escarpment VPO-2 at the meeting of 1/18/2024. Every effort should be made to ensure that Tribal nations have a seat at the table on development matters, particularly those in proximity to sacred cultural and natural landscapes. They should also be afforded ample time, not only to comment, but to take action to protect significant sites. As such, we support the requirement of a pre-submittal meeting as outlined in Condition 2 and prompt action to broaden the scope of Tribal entities receiving notice. Please *APPROVE*.

The following list includes a summary of our positions on multiple amendments. We remain opposed to each of these and request the EPC *DELETE* them from the Citywide amendments.

- **Item 9, Overnight Shelter**
- **Item 10, Dwelling Two Family Detached (Duplex)**
- **Item 11, Conditional Uses for City Facilities**
- **Item 13, Two-Family Detached (Duplex) Dwelling**
- **Item 23, Walls and Fences-Front Yard Wall**

We continue to support the following Citywide amendments and urge their adoption (*ADOPT*).

- **Item 40, Variance-ZHE**
- **Item 53, Sensitive Lands Rock Outcropping.**

Although I am commenting here as an individual, I anticipate the positions I outline would receive the endorsement of the SFVNA Board as well. I will comment on two of the “New” amendments.

I strongly OPPOSE the revised definition of “adjacent” which specifically excludes property located diagonally across an intersection. As an attendee in the LUHO hearings of an appeal of a proposed development approved by both the DRB and the DHO, I am well aware that the argument of the applicant was that the MPOS diagonally across from the subject property did not merit the protections outlined in the IDO because it was not adjacent. The first decision of the LUHO was subsequently appealed to District Court. In the second appeal, the LUHO ruled in favor of the appellants. This proposed amendment is, at best, a thinly disguised effort to create a barrier against requirements to consider the impact of development and the application of IDO provisions intended to protect MPOS. It is ludicrous on its face to argue that a property that is mere feet from a proposed development simply because it is diagonally across a street, particularly a residential street, has no interest in what is being proposed and no standing. Please DELETE this change.

Finally, I strongly SUPPORT the new amendment which would move the IDO review process to a Bi-annual cycle. More than five years after Council passed the IDO, it should not be necessary to make sweeping, significant and consequential changes to zoning law every year. The IDO review process has become a back door strategy to rewrite the Comprehensive Plan and in the service of development interests rather than a reflection of community engagement and vision as outlined in the Community Planning Assessment process. The time and resources of City staff, neighborhood associations and ABQ residents should be spent on the CPA process rather than making multiple changes to the IDO. Please ADOPT this proposal.

Thank you for your time and thoughtful attention.

Sincerely,

Jane Baechle
IDO Representative, SFVNA



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Adventurer

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From: [Barbara Blumenfeld](#)
To: [City of Albuquerque Planning Department](#)
Subject: Comments for Jan. 11 meeting on Proposed Amendments to IDO
Date: Monday, January 8, 2024 2:38:30 PM

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Dear Chairman Shaffer and Commissioners,

The following are comments addressed to the proposed IDO amendments dealing with the construction of duplexes and retail establishments in R-1 Districts. I previously sent an email for the Dec. 14 meeting regarding these issues. This email addresses the revised proposal for your Jan. 11 meeting.

Allowance of groceries and bakeries on corner lots in R-1 districts (Item 14)

While I personally would be completely against this, I understand that in some areas, especially those referred to as “food deserts”, such establishments may be a necessity. But I would argue that their construction should be conditional, thus allowing the residents of that particular area to express their opinions before construction permits are granted. Therefore I would ask that you vote for Option 2 - conditional use - on this amendment.

Duplexes in R-1 districts (Items 10 and 13)

I strongly believe that any duplex construction in R-1 areas should be conditional along with whatever other restrictions are placed on the construction. Duplexes can fundamentally change the character of an R-1 neighborhood as well as affecting such things as increased need for city services and infrastructure, increased traffic and street parking, increased noise, etc.

As I stated to you previously, duplexes imply rentals. Renters are generally not long-term residents of a neighborhood and as such are not as invested in its quality or as concerned with nearby homeowners as are long-term residents of the neighborhood.

With a duplex, there conceivably will be two renting families on one piece of property. Many properties that might once have been sold to a homeowner family will now and over the upcoming years likely be purchased by property developers or other individuals who have no intention of living on the property themselves and instead will develop duplex dwellings and rent them out. This will have a negative impact on the neighborhood of a once R-1 area; it will affect the community’s culture and its permanence.

As to **Item 10**, simply restricting duplexes to corner lots of a certain size does not change the above considerations. Making such use permissive is a slap in the face to the single-family homeowners who have together created the neighborhood as their R-1 community. Unless this usage is made conditional I ask that you reject this Item by voting for Option 2 to delete it.

Item 13 should be rejected in both its forms. While allowing conditional use on new construction may seem to be a significant concession, we have to realize that most duplex construction will be to existing family homes. The neighbors of those homes must be given the opportunity to comment, to perhaps negotiate about size or placement, to speak to their neighbors rather than simply being told they must accept a permissive structure which they do not see as appropriate for the neighborhood community that they have developed and are a part of.

As I have previously submitted, there is no good reason to justify these amendments, especially when their disruption to, if not destruction of, unique neighborhood communities is potentially so great. Duplexes are not likely to address our current housing crisis; building a duplex is a money-making venture; duplex rentals will usually rent for more than comparable square footage in a multi-resident apartment complex. And as more and more homes are bought as investments with the

purpose of renting to two families, prices will rise even higher. This is of no use to those low-income individuals who constitute the majority of the housing crisis in this city.

Albuquerque has many family neighborhoods and unique communities of which their residents are a proud part. Any way you look at the idea of permissively allowing duplex development, the bottom line is that it will cause significant change to those communities. People move to R-1 districts for a reason and the least that the city can do is give those residents the respect they deserve by allowing them to have a voice in any such changes by making those proposed use changes conditional.

I therefore ask that you vote against Items 10 and 13 as written by voting for Option 2 – rejection and deletion of both 10 and 13.

Respectfully submitted,
Barbara Blumenfeld
5912 Carruthers St. NE
Albuquerque 87111
Albuquerque resident for over 30 years.

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"Too often we... enjoy the comfort of opinion without the discomfort of thought." -John F. Kennedy

From: [Barbara Blumenfeld](#)
To: [City of Albuquerque Planning Department](#)
Subject: Comments for Dec. 14 meeting on Proposed Amendments to IDO
Date: Monday, January 8, 2024 2:48:31 PM

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

The following is a corrected copy of the email I just sent - I had mislabeled one of the item numbers. Please use this email which is otherwise identical. Thank you

Dear Chairman Shaffer and Commissioners,

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Allowance of groceries and bakeries on corner lots in R-1 districts (Item 12)

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With a duplex, there conceivably will be two renting families on one piece of property. Many properties that might once have been sold to a homeowner family will now and over the upcoming years likely be purchased by property developers or other individuals who have no intention of living on the property themselves and instead will develop duplex dwellings and rent them out. This will have a negative impact on the neighborhood of a once R-1 area; it will affect the community’s culture and its permanence.

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I therefore ask that you vote against Items 10 and 13 as written by voting for Option 2 – rejection and deletion of both 10 and 13.

Respectfully submitted,
Barbara Blumenfeld
5912 Carruthers St. NE
Albuquerque 87111
Albuquerque resident for over 30 years.

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"Too often we... enjoy the comfort of opinion without the discomfort of thought." -John F. Kennedy

From: [Michael Bowen](#)
To: [City of Albuquerque Planning Department](#)
Cc: [Kristi L. Bowen](#)
Subject: IDO Annual Update 2023 - EPC Review and Recommendation, EPC Chair Shaffer.
Date: Monday, January 8, 2024 5:19:19 PM
Attachments: [image002.png](#)

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EPC Chair Shaffer,

The area under consideration. I can see no value to have nicotine and liquor sales available on that corner or additionally, anywhere in the area. There is a high homeless population in this area. The crime statistics for the retail locations just north of the property are higher than normal. This proposal would only add to the complications and the traffic that currently flows through 12th street intersections, in all directions. I strongly contest the request that has been brought before the EPC. Please deny this request immediately and consider reevaluating the property for its highest and best use. Looking forward to your comments regarding this matter.

A concerned resident,

Michael Bowen



Michael Bowen

Sr. Loan officer, Branch Manager

NMLS #214602

6733 Academy Rd NE

Albuquerque NM 87109

Mobile: [505-259-8326](tel:505-259-8326)

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Roseanne Starkey

**Loan Originator –
Loan Partner to Michael Bowen**

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From: [Jessica Cassyle Carr](#)
To: [City of Albuquerque Planning Department](#)
Cc: [Morris, Petra](#); [Vos, Michael J.](#); abqdna@abqdna.com
Subject: Re: IDO update recommendations - distance requirements and permitting for outdoor music venues
Date: Tuesday, January 9, 2024 8:02:22 AM
Attachments: [Policy Brief.AlbuquerqueShouldCreateGoodNeighborPolicy.20231025.pdf](#)

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Good morning,

The following comments pertain to items 2, 7, and 50 in “IDO Annual Update 2023 - Proposed Citywide Text Amendments - EPC Submittal IDO” (see table below).*

Firstly, I appreciate the incorporation of language addressing outdoor amplified sound. Because I may be missing something within the text amendment document, I would prefer to wait and listen to Thursday morning's IDO meeting before commenting, but—seeing that this morning is the deadline for comments—I will share now.

- I agree with other commenters that adding language that underlines the existing noise ordinance does not address the issue, which is non-residential entities projecting outdoor amplified sound in close proximity to residential uses. This includes outdoor amplified sound between the normative waking hours of 7am and 10pm—not just late at night and early in the morning.
- I do not agree with adding outdoor amplified sound as an accessory use without conditions. As they are written now, the amendments clarify that entities within the districts specified in Item #2 are free to project outdoor amplified sound under their own terms—as long as it happens between 7am and 10pm.
- Businesses located within districts specified in Item #2 that *do not border on residential uses* could potentially be harmed by a 10pm outdoor amplified sound curfew. Examples: 1) Fusion, Marble Brewery and other operations along First and Second Streets, 2) Revel (near Montano and 1-25).
- In the policy brief I shared on 10/26/23 (attached), I recommended the IDO incorporate evidence-based practices from other cities—namely Austin and Denver. I encouraged a 100 to 200 foot distance buffer zone between outdoor amplified sound and residences (note that I do not think this should apply to the MX-FB- designations in the Downtown core). That would mean that outdoor amplified sound would not be permitted as a primary, accessory, or conditional use within 100 feet (or we could say .025 miles or 132 feet) of a residence. According to the proposed IDO updates, non-

residential entities located within the districts specified in Item #2 are allowed to project (act as source premises of) outdoor amplified sound without restriction. So, in theory, if a business wants to occupy a residential block's outdoor soundscape with heavy metal from 7am to 10pm, there is no recourse for the people who live next door (receptor premises) except to file a noise complaint.

In short, I believe it is counterproductive to enact a blanket curfew and add outdoor amplified sound as an accessory use in the districts specified in Item #2. More nuance is necessary. As I outlined in the 10/26/23 policy brief, I encourage two things: 1) a 100 to 200 foot distance requirement or buffer zone between residences and non-residential entities that project outdoor amplified sound, and 2) a permitting process that includes community input for any non-residential entity that projects outdoor amplified sound within 600 feet of a residence.

Thank you for your time,

Jessica

* Items in "IDO Annual Update 2023 - Proposed Citywide Text Amendments - EPC Submittal IDO" pertaining to outdoor amplified sound

Item #	Change / Discussion	Explanation
2	Outdoor amplified sound: Create a new accessory use with use-specific standard and add an A in the following zone districts: MX-M, MX-L, MX-M, MX-H, NR-C, NR-BP, NR-LM, NR-GM. Add a CA in MX-T.	Adds outdoor amplified sound as an accessory use to enable a curfew between 10 p.m. and 7 a.m. See related amendment for 14-16-4-3(F)(14) and 14-16-7-1.
7	Outdoor amplified sound: If this use is within 330 feet of a Residential zone district or lot containing a residential use in a Mixed-use zone district, any amplified sound from speakers outside of a fully enclosed building shall be turned off between 10:00 p.m. and 7:00 a.m."	Prohibits amplified sound after 10 p.m. near residential uses. Similar to prohibition of self-storage access.
50	Outdoor amplified sound: Amplified sound from	Defines outdoor amplified sound to enable a curfew

	speakers outside of a fully enclosed building either permanently mounted or used more than 1 time per week. This use does not include amplified sound associated with a special event permit or a temporary use, which are regulated separately."	between 10 p.m. and 7 a.m. when used as an accessory use.
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On Thu, Oct 26, 2023 at 11:58 AM Jessica Cassyle Carr <cassyle@gmail.com> wrote:

Hello: Please see attached and below.

Albuquerque Should Create Policies For Outdoor Music Venues to Prevent Conflict and Promote Cultural Vitality

October 2023

Summary

Outdoor music venues can play an important role in promoting community and cultural vitality. However, they can also be a social nuisance and source of avoidable problems, especially if located too close to residential and other sensitive areas. The following brief discusses outdoor music venues—defined as *a commercial property where sound equipment is used to amplify sound that is not fully enclosed by permanent, solid walls and a roof*—and policies that promote their harmonious coexistence with surrounding communities. It outlines practice-based evidence supporting a distance requirement of at least 100 feet between outdoor music venues and residences, and a permitting protocol that requires business owners to engage with neighbors within 600 feet—policies that should be adopted in Albuquerque.

Scope of the Problem

Albuquerque’s sunny, mostly-temperate climate is highly conducive to outdoor special event activities, including those with amplified sound. Presently, the city lacks clearly-defined guidelines, or a permitting protocol, specifically for businesses that wish to operate outdoor music venues, regardless of primary or conditional use. Zoning for outdoor music venues in other U.S. cities frequently requires a combination of distance requirements or buffer zones—these are typically between 100 feet (e.g. Austin, Texas) and 200 feet (e.g. Denver, Colorado) and permitting processes, in addition to directions to follow municipal noise ordinances (City of Austin, n.d.; City of Denver, 2021). However, cities with significant experience mitigating unintended conflict that outdoor music venues can cause take it a step further—they create policies that define the good business practices required to obtain outdoor music venue permits. These policies are designed to promote positive relationships between outdoor music venues (source premises) and their surrounding communities (receptor premises).

Policy Overview

Albuquerque’s Integrated Development Ordinance (IDO) does not include language that specifically addresses “outdoor music” or “live music.” See the Appendix section below for instances where music is mentioned in relation to amplified sound (City of Albuquerque, 2023). As a result, regulations relevant to outdoor music venues are open to interpretation, and, by default, amplified sound at outdoor music venues is regulated by Albuquerque’s often difficult-to-enforce noise ordinance. These circumstances can damage community relationships, but conflicts are preventable via policy intervention.

Compared to indoor music venues, there are more variables that impact distribution of sound outdoors, including meteorological conditions, therefore sound is harder to control and often louder (WHO, 2020). Distance requirements that specify the minimum buffer zone between outdoor music venues and residential areas help to ensure businesses do not have a negative impact on the quality of life of their neighbors. This, along with community engagement programs that are tied to permitting, can help to reduce unwanted sound and improve the relationship between outdoor music venues and residential communities. Actively addressing music through planning serves both venues and residents (Ro, 2019).

For example, Austin, Texas is legendary for its music scene, and, like Albuquerque, has a mostly-temperate climate conducive to outdoor entertainment. The two places are also similar in their dense downtown entertainment districts, and their early twentieth century mixed-use and residential areas that sprawl from the city center. In Austin, all outdoor music venues must apply to receive a permit. The zoning code deems that “permits may not be issued for using sound equipment within 100 feet of the property zoned and used as

residential.” If not within 100 feet of a residential property, when an permit application is filed, or before one is renewed, a public official is required to mail a notice of the outdoor music venue permit application to: (a) the applicant; (b) notice owner of a single-family use located within 600 feet of the site or property included in the application; (c) owner of a multi-family use located adjacent to the site or property included in the application; and (d) the registered neighborhood organizations whose declared boundaries are within 600 feet of the site or property included in the application. (City of Austin, n.d.-a; n.d.-b)

Conclusion

Albuquerque should adopt zoning policies that require: 1) a 100 to 200 foot distance requirement or buffer zone between outdoor music venues and residences, 2) a permitting process that includes community input for any outdoor music venue within 600 feet of a residence. Ultimately, these policy recommendations are pro-music, pro-business and pro-peace. Creating guidelines that prevent conflict sets businesses up for success, and excellent performances. Clearly, Austin differs from Albuquerque in significant ways, including 400,000 more residents and a music tourism economy that brings \$1.8 billion dollars annually. However, that city’s experience with practice-based policy interventions can provide guidance for how zoning code can help promote a thriving music scene in Albuquerque. A more in-depth policy scan that includes evidence from more cities would offer further insight into promising practices concerning amplified sound. As Albuquerque grows, clear guidance as to how to best create and operate outdoor music venues will be beneficial to all involved in the city’s urban life.

Sources

City of Albuquerque. (2023, July 17). Integrated Development Ordinance. City of Albuquerque Code of Ordinances Chapter 14 – Zoning, Planning, and Building Article 16. Retrieved on October 17, 2023 from: https://documents.cabq.gov/planning/IDO/2022_IDO_AnnualUpdate/IDO-2022AnnualUpdate-EFFECTIVE-2023-07-27.pdf

City of Austin. (n.d.-a). Outdoor Amplified Sound. Austin Center for Events. [austintexas.gov](https://www.austintexas.gov). Retrieved on October 25, 2023 from: <https://www.austintexas.gov/ace-event-planning-guide/outdoor-amplified-sound>

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Ro, Christine. (2019). Planning for Music Can Help Transform American Cities. American Planning Association. Retrieved on October 25, 2023 from:

<https://www.planning.org/planning/2019/feb/planningformusic/>

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https://cdn.who.int/media/docs/default-source/documents/health-topics/deafness-and-hearing-loss/monograph-on-sound-distribution-for-safe-listening-in-music-venues.pdf?sfvrsn=c16f7a38_5

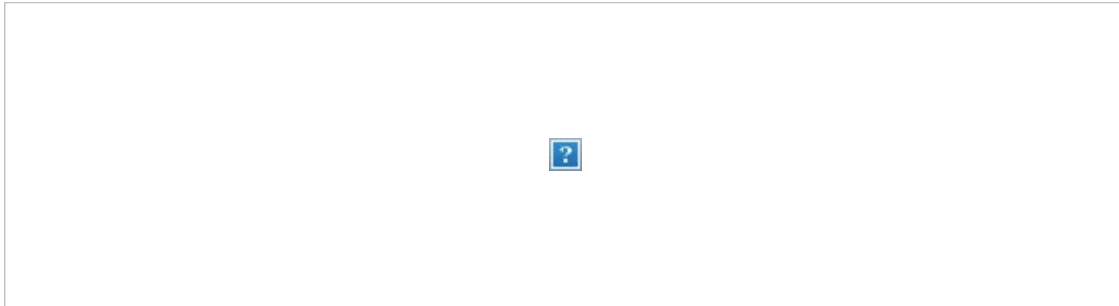
Appendix

Albuquerque's Integrated Development Ordinance (IDO) does not include language that specifically addresses "outdoor music" or "live music." Below are the instances where music is mentioned in relation to amplified sound:

- **Amphitheater** A covered or uncovered open-air area or structure suitable for musical or theatrical performances, performing arts, or sporting events with tiers of seats, benches, or berms with seating capacity for less than 1,000 people.
- **Auditorium** A hall or seating area, generally enclosed, where an audience views a musical or theatrical performance, concert, sporting, or other entertainment event, including but not limited to a conference center.
- **Fair, Festival, or Theatrical Performance** An organized event or set of events, including but not limited to musical performances and plays, usually happening in one place for a designated period of time with its own social activities, food, or ceremonies and accessory sales of retail goods.
- **Nightclub** An establishment dispensing liquor in which music, dancing, or entertainment is provided, but not including any adult entertainment use.

- **Theater** A facility with fixed seats for the viewing of movies or live presentations of musicians or other performing artists.

While the table below—**Outdoor Recreation and Entertainment**—mentions amphitheatres, drive-in theaters, it does not mention restaurants or nightclubs that act as Outdoor Music Venues.



The category “Other Outdoor Entertainment” does not address music either:

- **Other Outdoor Entertainment** An outdoor facility whose main purpose is to provide entertainment or recreation, with or without charge, but not including auto or horse race tracks, drive-in theaters, or any similar outdoor use not listed separately in Table 4-2-1. Examples include, but are not limited to, amusement parks, batting cages, go-cart tracks, golf courses and driving ranges, miniature golf, skateboard parks, skating rinks, sports courts, swimming pools, target sport ranges, and water parks.

Similarly, regulations related to “Other Outdoor Entertainment” primarily address projectiles and balls:

4-3(D)(32) Other Outdoor Entertainment 4-3(D)(32)(a) This use shall include fencing or other measures meeting the standards in Section 14-16-5-6 (Landscaping, Buffering, and Screening) and designed to prevent balls or other objects from the activity from passing beyond the property line and onto any surrounding properties not owned by the owner or operator of the use. 4-3(D)(32) (b) Rifle range (public or private) and flying of kites are prohibited in the Air Space and Runway Protection Sub-areas pursuant to Subsection 14-16-3-3(C) (Airport Protection Overlay Zone Use Regulations).

Albuquerque Should Create Policies For Outdoor Music Venues to Prevent Conflict and Promote Cultural Vitality

October 2023

Summary

Outdoor music venues can play an important role in promoting community and cultural vitality. However, they can also be a social nuisance and source of avoidable problems, especially if located too close to residential and other sensitive areas. The following brief discusses outdoor music venues—defined as *a commercial property where sound equipment is used to amplify sound that is not fully enclosed by permanent, solid walls and a roof*—and policies that promote their harmonious coexistence with surrounding communities. It outlines practice-based evidence supporting a distance requirement of at least 100 feet between outdoor music venues and residences, and a permitting protocol that requires business owners to engage with neighbors within 600 feet—policies that should be adopted in Albuquerque.

Scope of the Problem

Albuquerque's sunny, mostly-temperate climate is highly conducive to outdoor special event activities, including those with amplified sound. Presently, the city lacks clearly-defined guidelines, or a permitting protocol, specifically for businesses that wish to operate outdoor music venues, regardless of primary or conditional use. Zoning for outdoor music venues in other U.S. cities frequently requires a combination of distance requirements or buffer zones—these are typically between 100 feet (e.g. Austin, Texas) and 200 feet (e.g. Denver, Colorado) and permitting processes, in addition to directions to follow municipal noise ordinances (City of Austin, n.d.; City of Denver, 2021). However, cities with significant experience mitigating unintended conflict that outdoor music venues can cause take it a step further—they create policies that define the good business practices required to obtain outdoor music venue permits. These policies are designed to promote positive relationships between outdoor music venues (source premises) and their surrounding communities (receptor premises).

Policy Overview

Albuquerque's Integrated Development Ordinance (IDO) does not include language that specifically addresses "outdoor music" or "live music." See the Appendix section below for instances where music is mentioned in relation to amplified sound (City of Albuquerque, 2023). As a result, regulations relevant to outdoor music venues are open to interpretation, and, by default, amplified sound at outdoor music venues is regulated by Albuquerque's often difficult-to-enforce noise ordinance. These circumstances can damage community relationships, but conflicts are preventable via policy intervention.

Compared to indoor music venues, there are more variables that impact distribution of sound outdoors, including meteorological conditions, therefore sound is harder to control and often louder (WHO, 2020). Distance requirements that specify the minimum buffer zone between outdoor music venues and residential areas help to ensure businesses do not have a negative impact on the quality of life of their neighbors. This, along with community engagement programs that are tied to permitting, can help to reduce unwanted sound and improve the relationship between outdoor music venues and residential communities. Actively addressing music through planning serves both venues and residents (Ro, 2019).

For example, Austin, Texas is legendary for its music scene, and, like Albuquerque, has a mostly-temperate climate conducive to outdoor entertainment. The two places are also similar in their dense downtown entertainment districts, and their early twentieth century mixed-use and residential areas that sprawl from the city center. In Austin, all outdoor music venues must apply to receive a permit. The zoning code deems that "permits may not be issued for using sound equipment within 100 feet of the property zoned and used as residential." If not within 100 feet of a residential property, when a permit application is filed, or before one is renewed, a public official is required to mail a notice of the outdoor music venue permit application to: (a) the applicant; (b) owner of a single-family use located within 600 feet of the site or property included in the application; (c) owner of a multi-family use located adjacent to the site or property included in the application; and (d) the registered neighborhood organizations whose declared boundaries are within 600 feet of the site or property included in the application. (City of Austin, n.d.-a; n.d.-b)

Conclusion

Albuquerque should adopt zoning policies that require: 1) a 100 to 200 foot distance requirement or buffer zone between outdoor music venues and residences, 2) a permitting process that includes community input for any outdoor music venue within 600 feet of a residence. Ultimately, these policy recommendations are pro-music, pro-business and pro-peace. Creating guidelines that prevent conflict sets businesses up for success, and excellent performances. Clearly, Austin differs from Albuquerque in significant ways, including 400,000 more residents and a music tourism economy that brings \$1.8 billion dollars annually.

However, that city's experience with practice-based policy interventions can provide guidance for how zoning code can help promote a thriving music scene in Albuquerque. A more in-depth policy scan that includes evidence from more cities would offer further insight into promising practices concerning amplified sound. As Albuquerque grows, clear guidance as to how to best create and operate outdoor music venues will be beneficial to all involved in the city's urban life.

Sources

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Appendix

Albuquerque’s Integrated Development Ordinance (IDO) does not include language that specifically addresses “outdoor music” or “live music.” Below are the instances where music is mentioned in relation to amplified sound:

- **Amphitheater** A covered or uncovered open-air area or structure suitable for musical or theatrical performances, performing arts, or sporting events with tiers of seats, benches, or berms with seating capacity for less than 1,000 people.
- **Auditorium** A hall or seating area, generally enclosed, where an audience views a musical or theatrical performance, concert, sporting, or other entertainment event, including but not limited to a conference center.
- **Fair, Festival, or Theatrical Performance** An organized event or set of events, including but not limited to musical performances and plays, usually happening in one place for a designated period of time with its own social activities, food, or ceremonies and accessory sales of retail goods.
- **Nightclub** An establishment dispensing liquor in which music, dancing, or entertainment is provided, but not including any adult entertainment use.
- **Theater** A facility with fixed seats for the viewing of movies or live presentations of musicians or other performing artists.

While the table below—**Outdoor Recreation and Entertainment**—mentions amphitheaters, drive-in theaters, it does not mention restaurants or nightclubs that act as Outdoor Music Venues.

Outdoor Recreation and Entertainment																						
Amphitheater												C	C	C	C	C	A	P	A	C		
Balloon Fiesta Park events and activities																		P				4-3(D)(30)
Drive-in theater												C	C	C	C	C						4-3(D)(31)
Fairgrounds																		P				
Residential community amenity, outdoor	P	P	P	P	P	P	P	P	P	P												A
Stadium or racetrack																		P	P			
Other outdoor entertainment	CA	CA	CA	CA	CA	CA	A	A	A	A	P	P	P	A			P			P	4-3(D)(32)	

The category “Other Outdoor Entertainment” does not address music either:

- **Other Outdoor Entertainment** An outdoor facility whose main purpose is to provide entertainment or recreation, with or without charge, but not including auto or horse race tracks, drive-in theaters, or any similar outdoor use not listed separately in Table 4-2-1. Examples include, but are not limited to, amusement parks, batting cages, go-cart tracks, golf courses and driving ranges, miniature golf, skateboard parks, skating rinks, sports courts, swimming pools, target sport ranges, and water parks.

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From: [JULIE DREIKE](#)
To: [City of Albuquerque Planning Department](#)
Subject: 48 hour comments
Date: Saturday, January 6, 2024 5:40:34 PM
Attachments: [48 hour comments to EPC regarding IDO annual updates.docx](#)

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Chair Shaffer

Attached please find comments submitted under the 48 hour rule.

Thank you for your consideration and for your service.

Respectfully,

Julie Dreike

Embudo Canyon NA

District 9 East Gateway Coalition

ICC IDO working group

48 hour comments to EPC regarding IDO annual updates
1/6/2024

I am the President of Embudo Canyon NA and the designated representative on the IDO for ECNA, the Secretary of District 9 East Gateway Coalition and a member of the ICC IDO working group. These comments are the result of past and current work on the IDO with Neighborhood Association representatives from throughout the City. I have previously pinned comments on several of the amendments and appreciate the opportunity to submit comments to the EPC.

Thank you for your consideration of the comments and for your work on the IDO.

Walls and Fences – 14-16-4-3(D)(18); 14-16-4-3(D)(37); 14-16-5-7(D)(3)(a); Table 5-7-2 [Items #4, #5, #23 and #24]

Support the removal of these amendments for the reasons identified in the staff report. (page 7)

Cannabis Retail – Table 4-2-1; 14-16-4-3(D)(35) [Item #8]

Support the amendment. Of particular importance is not to overburden parts of the community.

Overnight Shelters – Table 4-2-1; Subsection 14-16-4-3(C)(6) [Item #9]

Oppose making this use permissive where they are currently conditional. Taking away the opportunity for citizens to provide input contrary to public engagement. Support the removal of this amendment.

Duplex – 14-16-4-3(B)(5); 14-16-4-3(F)(6) [Items #10, #13]

Similar amendments were voted down in last years IDO amendments. As identified in the staff report, the public continues to object to this change in zoning.

City Facilities – 14-16-2-5(E)(2); 14-16-4-1(A)(4) [Item #11, #54]

Amendment #11—the idea of removing the opportunity for public input into City facilities poor public policy. Agree with the staff report to remove this amendment.

Dwelling, Live-Work – Table 4-2-1; 14-16-4-3(B)(7); 14-16-6-6(A) [Item #12]

Oppose this amendment in its current form. This amendment has not been well thought out regarding the impacts on neighborhoods and the actual, not wishful thinking, of potential positive impacts.

Impacts on parking. All we have to do is recall the parking near Open Space during the pandemic to understand the impact parking has on home owners. Impacts on deliveries and waste storage and removal. A corner lot does not make these challenges go away. This issue is discussed as if this will solve the food desert issues in neighborhoods. All one has to do is look to the closure of

the largest retailer in the US and multiple closures of convenience stores to see that this amendment is not a magic fix. This amendment requires further thought and development to solve the problems identified. Consideration is needed to start small in areas that have been identified as food deserts. Consideration to space between such establishments so that a neighborhood is not overly impacted. Consideration to owner occupied. Making this permissive eliminates the opportunity for input, contrary to good public policy.

Recreational Vehicle, Boat, and Trailer Parking; Front Yard Parking – 14-16-5-5(B)(4); 14-16-5- 5(F)(2); 14-16-6-8(G) [Items #17 and #42]

Support the idea of reducing front yard parking of RV, Boats and Trailers. Please give consideration to how this amendment can be improved. Additionally, parking of vehicles in front yards is a major problem in many neighborhoods as a result of poor enforcement by the City.

Notice and Referrals – 14-16-6-4(B) & (K); Table 6-1-1 (Items #29, #32, #33, #34, #36)

Oppose removal of “adjacent” with a distance is contrary to the meaning and spirit of good community planning and communication. This would only serve to make it “easier” for the applicant and the Planning Department. Notices are critical to good information and good decision making. NARO call for engagement, and this amendment could and would damage engagement.

Respectfully submitted

Julie Dreike

From: [Elizabeth Haley](#)
To: [City of Albuquerque Planning Department](#); [Salas, Alfredo E.](#); [Jones, Megan D.](#)
Subject: 48 Hour Rule Comments from WSCONA
Date: Tuesday, January 9, 2024 8:15:23 AM
Attachments: [image.png](#)
[Notice of Decision LUHO.pdf](#)
[WSCONA IDO Amendments for the January 11 EPC Hearing.pdf](#)

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.



January 9, 2024 Via email:

Re:

abcto@cabq.gov

EPC Chair Shaffer

PR-2018-001843 / RZ-2023-00044– Small Area VHUC PR-2018-001843 / RZ-2023-00043–
Small Area Rail Trail PR-2018-001843 / RZ-2023-00040– Citywide

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The West Side Coalition of Neighborhood Associations (WSCONA) represented 28 neighborhood and homeowners' associations in the northwest quadrant of Bernalillo County located west of the Rio Grande River and a few miles south of I-40 to the Sandoval County Line. WSCONA has existed as a formal organization with bylaws since 1996 and is currently recognized by the City of Albuquerque and Bernalillo County. The Coalition aims to provide a venue for neighborhood and homeowners associations within its boundaries to achieve and maintain communications on civic and neighborhood matters. It endeavors to provide a means to preserve, protect, and enhance the residents' quality of life within its boundaries and to provide a unified voice on important issues. (WSCONA website: <https://www.wsconanm.org/>)

The West Side Coalition of Neighborhood Associations, WSCONA respectfully submits the following comments regarding the above-mentioned cases to be heard by the Environmental Planning Commission on January 11, 2024. WSCONA supports the comments of the ICC Working Group and the separate comments submitted by our Land Committee Members.

Regarding Finding 32. New Amendment: Revise the definition in section 7-1 for “Adjacent”. We are not in favor of any reduction of notification.

The legal concepts of notification and adjacency are defined by the New Mexico State Zoning Statutes and legal precedent, the Comprehensive Plan and the IDO. These erroneous misapplications of common planning terms is an attempt to codify after the fact and to facilitate individual zoning applications

WSCONA requested an administrative review from the City of Albuquerque Land Hearing Officer and during that sworn testimony new facts were discovered concerning actual CABQ land review practices. In light of this information we feel that the following amendments are particularly problematic:

- RZ-2023-00044 – Text Amendments to IDO – Small Area VHUC^[SEP]

We wholeheartedly agree with the recommendation of DENIAL for this amendment and applaud staff for recognizing the need to follow the Comprehensive Plan, noting this excerpt from Staff Report on Page 11:

“The IDO is an instrument to help promote and maintain an aesthetic and humane urban environment for Albuquerque’s citizens, and thereby promote improved quality of life. The proposed Small Area text amendment to the IDO would not ensure that land is developed and used properly. The VHUC was established in the Comprehensive Plan to guide the most urban, walkable, mixed- use development to this area and suburban, auto-oriented development to areas outside of Urban Centers; therefore, Commissions, Boards, and Committees would not be able to facilitate effective administration of City policy in this area with the approval of this amendment.”

As noted in the Small Area VHUC report, the Comprehensive Plan is the overriding guide. Changes to the IDO should not be project driven. We believe risk may still exist regarding the notification process in this matter. It is unclear how or if individual property owners were advised, to the extent that they fully comprehend (as per the definition of notification in our NM State Statutes), these proposed changes. The need to defer the Small Area VHUC from last month because of irregularities in the notification process is an example of the importance of proper notification.

- Items #59 and #60, Clerical and Editorial Changes: although these have been included in every past Annual Update, we do not support the continued inclusion of these amendments as they have no oversight and allow potential risk and mismanagement at the planning department level. .

CONDITION 16; Items #29, #32, and #36 – Neighborhood Association notification distances:

Please select Option 2: Delete the proposed amendment.

CONDITION 18; Item #37 – Appeals – Standing for Neighborhood Associations: **Please select Option 2: Delete the proposed amendment.**

WSCONA members representing our interest during EPC community comment testimony need your support. These proposed amendments matter and make a dramatic difference in outcomes as found during the **AC-23-14 Appeal by WSCONA and others and the subsequent LUHO Proposed decision**. Our recent Testimony was disputed by Mr. Voss of the Planning Department. Still, some practices are detrimental to future fair land review processes and procedures.

The LUHO conducted an extended quasi-judicial administrative appeal hearing on October 4, 2023. During the LUHO Administrative Hearing concerning the Quasi- judicial changes to the View overlay, it became clear that the City of Albuquerque Planning staff, under new abbreviated land review processes (DRB and DH0), changed IDO definitions and regulations

from the present IDO without public comment or legislative process. These unique interpretations violate New Mexico State Statute Zoning Ordinances and current legal precedents. The City of Albuquerque's Land Hearing Officer wrote in his opinion:

"The Appellee-Applicants, Jubilee Development, LLC and Group II U26 VC, LLC. The Applicants) sought and were granted final plat approval of an 18.23-acre development in a recent hearing before the Development Hearing Officer (DHO). It is undisputed that the Applicants never obtained EPC approval for a Site Plan-EPC for the development. In this appeal, Appellants primarily allege that without a Site Plan-EPC, the final plat approval is invalid. The Appellants also raise numerous other issues of alleged error in this appeal. After reviewing the record, listening to arguments of the parties, witness testimony, and cross-examination in an extended three-hour quasi-judicial appeal hearing, and after considering the applicable IDO provisions, I [the Land hearing Officer] respectfully conclude that city planning staff's "strict" interpretation and application of the term "adjacent" in the IDO is erroneous. The Appellants' appeal on this issue should be sustained. Until the Applicants obtain EPC approval of a Site Plan- EPC, the platting application and approval are premature and should be denied. Specifically, as detailed below, I find that the city staff's and the Applicants' narrow interpretation is inconsistent with the definition of "adjacent" and with its legislative purpose in the IDO, and it is inconsistent with the legislative intent of the City Council to protect major public open space."

In another section of the LUHO Decision, he states:

"The application included inaccurate area maps from the Albuquerque Geographic Information System (AGIS), a network of advanced mapping layers of land uses, including existing zoning statuses of the lands within the city's municipal boundary. The AGIS maps did not show the newly zoned MPOS lands at the caddy-corner intersection of Kimmick Drive and Rosa Parks Road. "

However, testimony in the appeal hearing (AC-23-14) indicates that the DRB knew of the MPOS rezoning. On October 26, 2022, the DRB held its first hearing on the application. After deferring a decision, the DRB approved the application request. An EPC condition of the rezoning approval was that the Applicants' plat results in lot lines that coincide with the internal rezoning boundaries as required by IDO, 6-7(G)(2)."

The Decision also states

"The evidence indicates that Consensus Planning was the agent for the city applicant in the rezoning that created the MPOS. Consensus Planning is also the agent for the Applicants in the preliminary plat, amended site plan, and final plat applications in this matter. Although new MPOS lands were created at the south side of 100 Kimmick Dr. and Rosa Parks Rd. NW intersection of the application site, the DRB had already concluded informally, outside of the public hearings, that the MPOS was not sufficiently adjacent to the application's site. In addition, the DRB and the Applicants did not address, acknowledge, or otherwise publicly discuss the inaccuracies in the AGIS zone maps submitted with the application."

The LUHO Decision points to planning staff developing unique findings rather than conforming to the Comprehensive Plan or IDO specified process. The changes proposed in these amendments would mean staff could interpret planning terms and zoning maps to match the needs of individual owners rather than the Ordinance and change the Ordinance after the fact. In this case, the advantage to the applicant was skipping the EPC review of the site plan.

"The Applicants and the City Planning Department staff, on the other hand, contend that a Site

Plan-EPC was unnecessary. They argue that because the space separating the application site and the MPOS is a street intersection, the MPOS is insufficiently adjacent to satisfy the definition of adjacent under the IDO. The Applicants and city staff further argue that under their "strict" interpretation of the term "adjacent," a Site Plan-EPC is only required if the application site and the MPOS were separated by only "one" street rather than an intersection which is composed of two streets."

On November 28, 2022, these Appellants and others filed a timely administrative appeal of the DRB's November 9, 2022, Decision. The LUHO conducted an administrative Land Use appeal hearing in a scheduled public hearing on March 6, 2023. The City Council accepted the proposed findings, denying the appeal. The Appellants appealed the City Council's Decision to the Bernalillo County District Court on April 3, 2023 (*Westside Coalition of Neighborhood Associations and Michael Vorhees v. City of Albuquerque*, et al., No. D-202-CV-2023-02637.) On June 22, 2023, the Applicants filed an application to the Development Hearing Officer (DHO) for Major- Final Plat approval.

"Then, on July 12, 2023, the DHO held a public hearing on the application and subsequently approved and essentially replaced the design regulations that were adopted into the site plan from the Volcano Cliffs Sector Development Plan.

The entire LUHO report is attached and follows. Please read it. The IDO has yet to help the City of Albuquerque economically. Still, the proposed IDO Amendments listed in these comments would exclude many Administrative Appeals due to lack of standing, inadequate notification and timely access to appeals. The quasi-judicial process disclosed the errors found by the LUHO. Once revealed in the hearing, those errors and omissions made the LUHO reverse his earlier opinion. The District Court has yet to issue a final opinion (as reported by Mr. Voss in the last hearing.) A decision is only final once the court decides on our current motion for rehearing (based on the LUHO's Final Decision and reversal of the prior LUHO approval) and the appeal period is over. Neither event has happened as of January 8, 2024.

Our thanks to the Planning Staff and the EPC for their work.

Sincerely,
Elizabeth Kay Haley, M Arch, WSCONA President

WSCONA

West Side Coalition of Neighborhood Associations

January 9, 2024 Via email:

Re:

abcto@cabq.gov

EPC Chair Shaffer

PR-2018-001843 / RZ-2023-00044– Small Area VHUC PR-2018-001843 /
RZ-2023-00043– Small Area Rail Trail PR-2018-001843 / RZ-2023-00040– Citywide

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As noted in the Small Area VHUC report, the Comprehensive Plan is the overriding guide. Changes to the IDO should not be project driven—we have seen how various Administrations’ pet projects have had unintended consequences. We believe risk may still exist regarding the notification process in this matter. It is unclear how or if individual property owners were advised, to the extent that they fully comprehend (as per the definition of notification in our NM State Statutes), these proposed changes. The need to defer the Small Area VHUC from last month because of irregularities in the notification process is an example of the importance of proper notification.

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The Decision also states

"The evidence indicates that Consensus Planning was the agent for the city applicant in the rezoning that created the MPOS. Consensus Planning is also the agent for the Applicants in the preliminary plat, amended site plan, and final plat applications in this

matter. Although new MPOS lands were created at the south side of 100 Kimmick Dr. and Rosa Parks Rd. NW intersection of the application site, the DRB had already concluded informally, outside of the public hearings, that the MPOS was not sufficiently adjacent to the application's site. In addition, the DRB and the Applicants did not address, acknowledge, or otherwise publicly discuss the inaccuracies in the AGIS zone maps submitted with the application."

The LUHO Decision points to planning staff developing unique findings rather than conforming to the Comprehensive Plan or IDO specified process. The changes proposed in these amendments would mean staff could interpret planning terms and zoning maps to match the needs of individual owners rather than the Ordinance and change the Ordinance after the fact. In this case, the advantage to the applicant was skipping the EPC review of the site plan.

"The Applicants and the City Planning Department staff, on the other hand, contend that a Site Plan-EPC was unnecessary. They argue that because the space separating the application site and the MPOS is a street intersection, the MPOS is insufficiently adjacent to satisfy the definition of adjacent under the IDO. The Applicants and city staff further argue that under their "strict" interpretation of the term "adjacent," a Site Plan-EPC is only required if the application site and the MPOS were separated by only "one" street rather than an intersection which is comprised of two streets."

On November 28, 2022, these Appellants and others filed a timely administrative appeal of the DRB's November 9, 2022, Decision. The LUHO conducted an administrative Land Use appeal hearing in a scheduled public hearing on March 6, 2023. The City Council accepted the proposed findings, denying the appeal. The Appellants appealed the City Council's Decision to the Bernalillo County District Court on April 3, 2023 (*Westside Coalition of Neighborhood Associations and Michael Vorhees v. City of Albuquerque, et al.*, No. D-202-CV-2023-02637.) On June 22, 2023, the Applicants filed an application to the Development Hearing Officer (DHO) for Major-Final Plat approval.

"Then, on July 12, 2023, the DHO held a public hearing on the application and subsequently approved and essentially replaced the design regulations that were adopted into the site plan from the Volcano Cliffs Sector Development Plan.

The entire LUHO report is attached and follows. Please read it. The IDO has yet to help the City of Albuquerque economically. Still, the proposed IDO Amendments listed in these comments would exclude many Administrative Appeals due to lack of standing, inadequate notification and timely access to appeals. The quasi-judicial process disclosed the errors found by the LUHO. Once revealed in the hearing, those errors and omissions made the LUHO reverse his earlier opinion. The District Court has yet to issue a final opinion (as reported by Mr. Voss in the last hearing.) A decision is only final once the court decides on our current motion for rehearing (based on the LUHO's Final Decision and reversal of the approval) and the appeal period is over. Neither event has happened as of January 8, 2024.

Our thanks to Planning Staff and the EPC for their work.

Sincerely,

Elizabeth Kay Haley, M Arch, WSCONA President

**Notice of Decision
City Council
City of Albuquerque
November 13, 2023**

AC-23-14 (VA-2023-00196) PR-2022-007712, SI-2023-00127 The Westside Coalition of Neighborhood Associations and Michael Voorhees appeal the Development Hearing Officer decision to approve a final plat, for all or a portion of Lot 5, Block 6 Volcano Cliffs Unit 26 & Lot 1, Block 2, Volcano Cliffs Unit 26 zoned MX-L & MX-M, located on Rosa Parks Rd. between Paseo Del Norte and Rosa Parks Rd. containing approximately 18.23 acre(s). (C-11)

Decision

On November 8, 2023, by a vote of **8 FOR 0 AGAINST** the City Council voted to accept the withdrawal by the Applicant.

Excused: Benton

IT IS THEREFORE ORDERED THAT THIS MATTER IS WITHDRAWN.

Attachments

1. Land Use Hearing Officer's Findings and Recommendation
2. Action Summary from the November 8, 2023 City Council Meeting

A person aggrieved by this decision may appeal the decision to the Second Judicial District Court by filing in the Court a notice of appeal within thirty (30) days from the date this decision is filed with the City Clerk.



Pat Davis, President
City Council

Date: 11/13/2023

Received by: Gabryella Williams
City Clerk's Office

Date: 11/13/2023

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CITY OF ALBUQUERQUE
LAND USE APPEAL UNDER THE IDO
BEFORE AN INDEPENDENT
LAND USE HEARING OFFICER

APPEAL NO. AC-23-14

VA-2023-00196; PR 2022-007712 and SD-2023-00127

Michael Voorhees, and
The Westside Coalition of Neighborhood Associations,

Appellants,

and,

Jubilee Development, LLC and Group II U26 VC, LLC,

Appellees-Applicants.

PROPOSED DECISION

INTRODUCTION
RELEVANT BACKGROUND
ISSUES PRESENTED
STANDARD OF REVIEW
DISCUSSION
PROPOSED FINDINGS

I. INTRODUCTION

Under sections 5-4(C)(6) and 5-2(J)(2) of the IDO, “prior to any platting action,” any development on lots 5-acres or larger that is “*adjacent*” to Major Public Open Space (MPOS) requires a Site Plan-EPC. The crux of this appeal turns on whether the Appellee-Applicants’ proposed development is “adjacent” to the La Cuentista MPOS.

The Appellee-Applicants, Jubilee Development, LLC and Group II U26 VC, LLC (the

39 Applicants) sought and were granted final plat approval of an 18.23-acre development in a
40 recent hearing before the Development Hearing Officer (DHO). It is undisputed that the
41 Applicants did not ever obtain EPC approval of a Site Plan-EPC for the development. In this
42 appeal, Appellants primarily allege that without a Site Plan-EPC, the final plat approval is
43 invalid. The Appellants also raise numerous other issues of alleged error in this appeal, all of
44 which are discussed below.

45 The Applicants and the city Planning Department staff, on the other hand, contend that
46 a Site Plan-EPC was unnecessary. They argue that because the space separating the application
47 site and the MPOS is a street intersection, the MPOS is insufficiently adjacent to satisfy the
48 definition of adjacent under the IDO. The Applicants and city staff further argue that under
49 their “strict” interpretation of the term “adjacent,” a Site Plan-EPC is only required if the
50 application site and the MPOS were separated by only “one” street rather than an intersection
51 which is comprised of two streets.

52 After reviewing the record, listening to arguments of the parties, witness testimony, and
53 cross-examination in an extended three-hour quasi-judicial appeal hearing, and after
54 considering the applicable IDO provisions, I respectfully conclude that city planning staff’s
55 “strict” interpretation and application of the term “adjacent” in the IDO is erroneous and the
56 Appellants’ appeal on this issue should be sustained. Until the Applicants obtain EPC approval
57 of a Site Plan-EPC, the platting application and approval are premature and should be denied.

58 Specifically, as detailed below, I find that city staffs’ and the Applicants’ narrow
59 interpretation is inconsistent with the definition of “adjacent” and with its legislative purpose
60 in the IDO, and it is inconsistent with the legislative intent of the City Council to protect major

61 public open space. On all other issues presented by Appellants in this appeal, I respectfully
62 find that those issues are either not ripe, are mooted by the proposed findings below, or that
63 they should be denied on their merits.

64

65 II. RELEVANT BACKGROUND

66 The relevant procedural background associated with the application site is multifaceted
67 and entangled with various layers of approvals over the course of several years. In this appeal,
68 the Appellants and the Applicants stipulated that the record should be supplemented to include
69 records of those approvals. The parties also supplemented the record with written arguments
70 and additional exhibits which by stipulation are also included in the record. Because of the
71 numerous additions to the record, I have re-Bates stamped the record.¹

72 In September 2017, the Development Review Board (DRB) approved the Applicants’
73 application for a site plan, encompassing the then entire 18.79-acre site which is the subject of
74 this appeal. [R. 313]. That site plan apparently encompassed three lots between Paseo Del
75 Norte N.W. and Rosa Parks Road, along Kimmick Drive [R. 313]. At the time, the original
76 site plan for the site was subject to the design regulations in the Volcano Cliffs Sector Plan
77 which was subsequently repealed and replaced by the IDO [R. 639].

78 The Applicants then sought a rezoning for 8.7 acres of the site from MX-L to MX-M
79 which at the time encompassed the lot 1 (Tract 1-A in the 2022 amended site plan described
80 below) [R. 004]. On October 10, 2019, the Environmental Planning Commission (EPC)

1. Throughout this recommendation, for clarity, when I reference the record, I will be referencing the re-Bates stamped record only.

81 approved the Applicants' rezoning application. [R. 223].²

82 Significant to this appeal, on June 16, 2022, the EPC had approved a rezoning of 35-
83 acres of land from R-1D to NR-PO-B which is considered under the IDO as MPOS land [R.
84 011, 104]. Under IDO, § 6-7(G)(1), the EPC is the final decision-maker in approving NR-PO-
85 B zone map amendments and the rezoning that created the MPOS was effective on June 16,
86 2022, when the EPC approved the application. The rezoning resulted in newly created MPOS
87 land directly caddy-corner to the application site at the south side of the intersection of
88 Kimmick Drive, and Rosa Parks Road N.W. [R. 011, 104].³

89 Then, on August 4, 2022, the Applicants applied to the DRB to amend the September
90 2017 site plan, submitted a proposed amended site plan, and also requested approval of a
91 preliminary plat for the site [R. 497]. The application included inaccurate area maps from the
92 Albuquerque Geographic Information System (AGIS), a network of advanced mapping layers
93 of land uses, including existing zoning statuses of the lands within the city's municipal
94 boundary. The AGIS maps did not show the newly zoned MPOS lands at the caddy-corner
95 intersection of Kimmick Drive and Rosa Parks Road [R. 032, 496, 500, 509]. However,
96 testimony in the appeal hearing (AC-23-14) shows that the DRB knew of the MPOS rezoning
97 [R. 927-928]. On October 26, 2022, the DRB held its first hearing on the application [R. 602-
98 625]. After deferring a decision, the DRB approved the application requests at its November

2. An EPC condition of the rezoning approval was that the Applicants' plat results in lot lines that coincide with the internal rezoning boundaries as required by IDO, 6-7(G)(2).

3. The evidence indicates that Consensus Planning was the agent for the city applicant in the rezoning that created the MPOS. Consensus Planning is also the agent for the Applicants, in the preliminary plat, amended site plan, and final plat applications in this matter.

99 9, 2022, hearing [R. 628-672].⁴ Although new MPOS lands were created at the south side of
100 Kimmick Dr. and Rosa Parks Rd. NW intersection of the application site, the DRB had already
101 concluded informally, outside of the public hearings, that the MPOS was not sufficiently
102 adjacent to the application site [R. 926-927]. In addition, the DRB and the Applicants did not
103 address, acknowledge, or otherwise publicly discuss the inaccuracies in the AGIS zone maps
104 submitted with the application. [R. 628-672].

105 On November 28, 2022, these Appellants and others filed a timely administrative
106 appeal of the DRB's November 9, 2022, decision. An administrative Land Use appeal hearing
107 was subsequently held and in a scheduled public hearing on March 6, 2023, the City Council
108 accepted the proposed findings, denying the appeal.⁵ The Appellants appealed the City
109 Council's decision to the Bernalillo County District Court on April 3, 2023.⁶ the District Court
110 appeal to this day remains undecided.

111 Next, the record shows that on June 22, 2023, the Applicants filed an application to the
112 Development Hearing Officer (DHO) for Major-Final Plat approval [R. 029]. Then, on July
113 12, 2023, the DHO held a public hearing on the application and subsequently approved the

4. The amendments also essentially replaced the design regulations that were adopted into the site plan from the Volcano Cliffs Sector Development Plan. In addition, because lands were also dedicated for additional right-of-way for Paseo Del Norte, the application site was reduced to 18.23 acres from 18.7 acres.

5. The city administrative appeal (AC-23-1) was about the amended site plan, not the preliminary plat. And issues about whether the La Cuentista MPOS was adjacent to the application site was not presented in that appeal.

6. *Westside Coalition of Neighborhood Associations and Michael Vorhees v. City of Albuquerque*, et al., No. D-202-CV-2023-02637.

114 final plat application in a written decision [R. 068-092 and 026-027 respectively]. This
115 administrative appeal under the IDO was subsequently timely filed [R. 017-025]. An extended
116 quasi-judicial administrative appeal hearing was held on October 4, 2023 [R. 808].

117

118 III. APPEAL ISSUES

119 In this appeal, Appellants presented nine (9) issues of error in the reviews and approvals
120 of the amended site plan, the preliminary plat, and the final plat.⁷ Appellants first contend that
121 when the DRB reviewed and then finally approved the amended site plan and the preliminary
122 plat, it lacked authority to conduct a quasi-judicial hearing and therefore the subsequent
123 approval by the DHO is also invalid [R. 022]. As detailed below, I find that the DRB review
124 process was flawed for other reasons. Appellants also contend that the final plat does not
125 conform to the original 2017 site plan and therefore, the plats are both invalid [R. 023].
126 Notably, the 2017 site plan was amended on November 9, 2022, with the DRB’s decision. The
127 final plat must conform to the amended site plan, not the 2017 site plan. Appellants next
128 contend that the Applicants presented “incorrect and misleading” evidence to the DRB
129 regarding the zoning of the MPOS land [R. 023]. The evidence in the record supports this
130 claim.

131 Regarding the DHO hearing, Appellants argue that the DHO erred because Appellants

7. Under the July 15, 2022, IDO in effect at the time, Appellants were unable to administratively appeal the preliminary plat. Although this appeal is from a decision of the DHO, because the IDO prevented Appellants from appealing the preliminary plat decision of the DRB, and because the preliminary plat and the final plat are substantially connected procedurally and factually (discussed below), the Appellants are raising the flaws in the preliminary plat approval now.

132 raised the above issues regarding the MPOS at the hearing and the DHO failed to address any
133 of them in the written decision [R. 023]. Appellants also claim that the DHO should have
134 recused himself from hearing the applicant’s final plat application because he allegedly has a
135 bias against Appellant Michael Voorhees and/or a conflict of interest [R. 023]. Appellants
136 further argue that the DHO decision is invalid because even though Mr. Voorhees requested a
137 copy of the DHO’s final decision, it was apparently not sent to him. [R. 024]. Next, Appellants
138 suggest that because the preliminary plat approvals were appealed to the District Court, the
139 final plat review and decision should have been stayed (deferred) by the DHO until the District
140 Court appeal is resolved [R. 023].

141 The last set of issues presented concern the MPOS land which is situated caddy-corner
142 from the application site at the southeast side of the intersection of Rosa Parks Road and
143 Kimmick Drive, NW. Appellants claim that the MPOS is “adjacent” to the application site and
144 therefore a Site Plan-EPC must first be submitted and approved by the EPC before the
145 preliminary and final plats could have been approved. Appellant also argue the DHO erred
146 when he did not make any official findings on whether the MPOS is adjacent to the final plat
147 application site. Finally, Appellants claim that city planning staff violated the IDO when they
148 informally made a “declaratory like” decision behind closed doors to decide that the MPOS is
149 not adjacent to the application site. They suggest that issue of adjacency and the decision-
150 making to conclude that the MPOS was not adjacent to the application site should have been
151 carried out in a public quasi-judicial setting or in the public hearings on the preliminary and
152 final plats [R. 022].

153 The Applicant-Appellees (Applicants) deny the Appellants’ claims of error, but they

154 also take the position that based on IDO, § 6-4(V)(2), Appellant Michael Voorhees does not
155 have standing to appeal the DHO’s decision. The Applicants stipulate that the Westside
156 Coalition of Neighborhood Associations (WSCNA) have standing to appeal, but they
157 challenge whether the WSCNA leadership have approved the appeal.

158

159 **IV. STANDARD OF REVIEW**

160 A review of an administrative appeal under the IDO is a whole record review to
161 determine whether the decision-maker’s decision was fraudulent, arbitrary, or capricious under
162 the IDO; or whether the decision is not supported by substantial evidence; or if in approving
163 the application, the decision-maker erred in the facts, or in applying any applicable IDO
164 provisions, policy, or regulation. IDO, § 6-4(V)(4). At the time the final plat application was
165 submitted and reviewed, the July 2022 IDO was in effect; therefore, it is appropriate that the
166 same IDO version also be applicable to adjudicate this administrative appeal.

167

168 **V. DISCUSSION**

169 The core issue in this appeal turns on the meaning of “adjacent” in the IDO and relates
170 to whether the DRB and the DHO could lawfully approve the plats under the IDO without the
171 Applicants first having obtained approval of a Site Plan-EPC. If the definition of “adjacent”
172 under the IDO brings into its fold the subject MPOS lands, then the platting approvals by the
173 DRB and the DHO are premature without a Site-Plan EPC. It is undisputed that the Applicants

174 have not applied for a Site Plan-EPC.⁸ After the threshold issue of standing is addressed, the
175 bigger issue regarding the adjacency question will be discussed in detail as it may be
176 dispositive of the appeal. However, discussions of the other issues will follow.

177 **A. Appellant Michael Voorhees has standing to appeal the DHO decision.**

178 In response to this appeal, the Applicants through counsel argue that Mr. Voorhees
179 lacks standing to appeal the DHO’s decision because he does not reside or own property within
180 330-feet of the application site [R. 208]. See IDO, § 6-4(V)(2)(a)5 and the associated Table
181 6-4-2 for standing, which essentially requires an appellant to have a property interest within
182 330-feet of an application site. Mr. Voorhees did not dispute that he resides over 2,000 feet
183 from the application site. It is clear that Mr. Voorhees lacks standing based on his proximity
184 to the application site.

185 The Applicants also contend that Mr. Voorhees lacks standing arising from a “legal
186 right” that is “specially and adversely affected by the decision” in this matter. IDO, § 6-
187 4(V)(2)(a)4. I respectfully disagree. Mr. Voorhees’ sworn testimony at the administrative
188 appeal hearing demonstrates that as a resident of the Petroglyphs Estates he personally utilizes
189 the nearby La Cuentista MPOS lands for recreation [R. 825-826]. Although, the enjoyment of
190 someone else’s private property is normally not a legal right Mr. Voorhees can claim for
191 standing, in this case the decision implicates public open space. The La Quentista MPOS is
192 “City-owned or managed property” and it is set aside “primarily for facilitating recreation” by
193 the public. See IDO, § 7-1, Definitions, MPOS and Extraordinary Facility.

8. Note that the EPC did approve a site plan for the site in 2017; however, that site plan was replaced with an amended site plan when the DRB approved the Applicants’ amended site plan and preliminary plat in November 2022.

194 Entwined in the objective of and purpose for creating major public open space is an
195 implied interest or right for Albuquerque residents to lawfully use it. Certainly, under the
196 United States Constitution, Mr. Voorhees has a constitutional First Amendment right to
197 *lawfully* exercise free speech on public open space land. Similarly, at least for purposes of
198 standing to have an interest in a decision that arguably impacts the La Cuentista MPOS, Mr.
199 Voorhees, as a member of the public, has a somewhat analogous legal right to recreate on
200 public lands that are specifically dedicated for that purpose. As § 6-4(V)(2)(a)4 demands, Mr.
201 Voorhees’ legal right to utilize the open space is arguably “specially and adversely affected”
202 by the platting decisions in this matter. That is, because of the close proximity of the
203 application site to the MPOS, it is conceivable and rational that the platting decisions do in
204 fact impact the Mr. Voorhees’ interest in that MPOS land—an interest to assure that the IDO
205 regulations pertaining to MPOS are met. In addition, under the related earlier appeal (AC-23-
206 1) which is now pending in the District Court, the Applicants and their same legal counsel
207 stipulated that Mr. Voorhees’ had standing in that matter which concerned the same application
208 site **[R. 231]**.

209 Accordingly, because the application site and the decision appealed has an obvious and
210 sufficient connection to the MPOS, I find that Mr. Voorhees’ legal right to make use of the
211 MPOS, is “*specially affected by the decision.*” Thus, Mr. Voorhees has standing under § 6-
212 4(V)(2)(a)4.

213 There is no dispute that the WSCNA appellants have standing. The testimony of
214 WSCNA President, Elizabeth K. Haley during the appeal hearing confirms that the WSCNA
215 Executive Board approved the filing of the administrative appeal.

216 **B. The DRB’s review of the preliminary plat was flawed.**

217 The record of the DRB’s review of the amended site plan and the preliminary plat
218 shows that the DRB and the Applicants did not *publicly* disclose or otherwise overtly
219 acknowledge in as late as November 9, 2022, that Consensus Planning submitted with their
220 application inaccurate zone maps of the area. The area zone maps that the Applicants did
221 submit with their application did not show the rezoned 35-acres of new NR-PO-B (MPOS)
222 zoned lands. Consensus Planning was the city’s agent for the MPOS rezoning and is the agent
223 in the platting and site plan application in this matter. Despite this fact, Consensus Planning
224 Principal, Jackie Fishman testified that until the DRB brought it up at the hearing on the
225 Applicants’ application, she was unaware of the June 2022 rezoning that created 35-acres of
226 new MPOS land near the application site [R. 885-887]. Ms. Fishman explained that she was
227 unaware because the rezoning was not personally handled by her but by another employee of
228 her firm, Consensus Planning [R. 884-885].

229 Associate Planning Director Jolene Wolfley testified in the administrative appeal
230 hearing that she knew there was a newly created MPOS caddy-corner to the application site
231 [R. 927-928].⁹ Since it was determined informally (prior to the hearings) that the MPOS was
232 not pertinent to the issue of whether it was adjacent to the application site, the matter was not
233 substantively discussed at the preliminary plat hearings [R. 929].

234 The Appellants take the position that Ms. Fishman should have known or did know of
235 the June 2022 rezoning and that the inaccurate submission is more than a mistake. Specifically,

9. Ms. Wolfley was the Chairperson of the DRB when the DRB was tasked with reviewing the amended site plan and preliminary plat application.

236 Appellants argue that Ms. Fishman had to have known that the area zoning maps she submitted
237 with the amended site plan and preliminary plat application were inaccurate since her firm
238 represented the city in the MPOS rezoning. Appellants further contend that the inaccurate
239 maps submitted with the application required the DRB to conclude that the application was
240 either “incomplete” or that the submission of inaccurate maps was cause for the DRB to deny
241 the application.

242 Irrespective of who knew what, it is a fact that the Applicants did submit inaccurate
243 area zoning maps to the DRB with its application [R. 032, 496, 500, 509]. The maps submitted
244 by the Applicants showed that the 35-acres of MPOS land was R-1D zoned land not NR-PO-
245 B (MPOS). In addition, the record supports that, as a result of discretionary decision-making
246 that occurred outside of a public hearing, the DRB considered that the inaccuracies in the
247 application were unimportant to their decision-making under the IDO.

248 These multiple flaws were not harmless error. Although the inaccurate maps came
249 from the AGIS network which apparently was not updated to reflect the June 2022 rezoning,
250 because city DRB staff knew of the rezoning, it must have also known that the maps submitted
251 with the application were inaccurate. The DRB had a duty under the IDO, § 1-7(C) to ensure
252 that “*based on conditions that exist...when the application was accepted*” the application was
253 in fact “*complete.*” Inaccuracies in an application are tantamount to an incomplete application.
254 Similarly, and perhaps more importantly, the DRB had a duty to the public to disclose the
255 inaccuracy in its public hearing.

256 I find that the Applicants, through their agent, Consensus Planning, with minimal due
257 diligence, should have known that their preliminary plat application maps were inaccurate. As

258 the agent for the MPOS rezoning, they were mailed notice of the rezoning decision a few
259 months before the DRB application was submitted [R. 807]. I also find that the DRB had a
260 duty to the public and to the Applicants to disclose in a public meeting what they knew about
261 the inaccuracy.¹⁰ Remaining silent about the whole matter is inconsistent with the fundamental
262 principles of justice and the procedural due process due to the public and necessary in
263 administrative hearings. See generally *State Ex Rel. Battershell v. City of Albuquerque*, 1989-
264 NMCA-045. Thus, the DRB erred. However, as I describe below, I also find that the
265 preliminary and final plats, were not properly before the DRB or the DHO in the first place.

266 **C. The Applicants’ and city planning staffs’ interpretation of the definition of**
267 **“adjacent” in the IDO is unreasoned, inconsistent, and erroneous.**

268
269 Turning now to the crux of this appeal, the determination that a parcel of land is
270 adjacent to MPOS under the IDO is consequential. If a site encompassing 5-acres or more is
271 adjacent to MPOS, a Site Plan-EPC is required “*prior* to any platting action.” Subsection 5-
272 4(C) is headed “Compliance with Zoning Requirements” and its subsection 5-4(C)(6) states in
273 full:

274 In the PD and NR-SU zone districts, and **for development in any zone**
275 **district on a site 5 acres or greater adjacent to Major Public Open**
276 **Space, an approved Site Plan – EPC is required prior to any platting**
277 **action.** In the PC zone district, an approved Framework Plan is required
278 prior to any platting action. Subsequent platting must conform to the
279 approved plans. (Emphasis added).
280

10. In the past, Planning Staff with the city have officially notified applicants of deficiencies in applications by sending an applicant a “deficiency Notice.” Deficiency notices are a formal request that the applicants correct deficiencies found in applications. These deficiency notices are included in the records of applications. At the very least, this normally routine process should have occurred in this matter to advise the Applicants that the area zone maps they submitted are inaccurate and to resubmit accurate information.

281 Thus, if this provision is applicable to the application site, the preliminary and final plats
282 should not have been approved without the Applicants first obtaining the EPC’s approval of a
283 Site Plan-EPC. There is no dispute that the application site is greater than 5 acres in size and
284 that it comprises of the subdividing of lots. Setting aside the adjacency issue for a moment,
285 the Applicants contend that the preliminary and final platting of the site is not “development”
286 for purposes of IDO, § 5-4(C)(6) above. The Applicants are clearly wrong.

287 IDO, § 5-4 contains the general provisions for “promoting the public health, safety, and
288 general welfare” through the regulation of subdivisions of land in the city. The definition of
289 “development” in the IDO expressly includes “*any activity that alters...lot lines on a*
290 *property.*” IDO, Definition of Development, §7-1. It cannot be disputed that the Applicants’
291 applications were in part to obtain approval to “alter lot lines” within the application site. Thus,
292 the Applicants’ platting applications meet the definition of both subdivision and development
293 under the IDO. And although arguably the altering of lot lines was partly to fulfill an October
294 9, 2019, EPC condition for the rezoning at the application site, it was the Applicants who
295 sought the rezoning amendment to rezone 8.7 acres of the site from MX-L to MX-M [R. 004].
296 Just because the submission of the preliminary plat was partly to satisfy an EPC condition, the
297 EPC condition cannot be seized as a basis to argue that the platting was compulsory and is
298 somehow not development under IDO, § 5-4(C)(6) as suggested in this appeal.

299 Moving now to whether the MPOS is adjacent to the application site, the definition of
300 the term “adjacent” in the IDO states in full:

301 **Adjacent**

302 Those properties that are abutting or separated only by a street, alley, trail,
303 or utility easement, whether public or private. See also Alley, Multi-use
304 Trail, Private Way, Right-of-way, and Street.

305 IDO, § 7-1, p. 541.

306 Under New Mexico law, if an ordinance makes sense as it is written, language which
307 is not there should not be read into it. *High Ridge Hinkle Joint Venture v. City of Albuquerque*,
308 1998-NMSC-050, ¶ 5. In interpreting language of an ordinance, another rule of construction
309 is that the entire ordinance is to be read as a whole and each part is to be construed in
310 connection with every other part so as to produce a harmonious whole. *Burroughs v. Board of*
311 *County Comm'rs*, 1975-NMSC-05, ¶ 14. Consequently, the “plain language” of the definition
312 of adjacent is the “primary indicator of legislative intent.” *High Ridge Hinkle Joint Venture v.*
313 *City of Albuquerque*, 1998-NMSC-050, ¶ 5. Applying these rules of statutory interpretation to
314 this matter, it is clear that the interpretation that the city staff relied upon to determine that the
315 application site is not adjacent to the MPOS is unreasonable.

316 Associate Planning Director Wolfley testified in the administrative appeal hearing that
317 city staff believe that the IDO should be interpreted “strictly” with regard to the definition of
318 “adjacent” [R. 924]. Meanwhile, in Planning Staff’s strict interpretation, lands caddy-corner,
319 separated only by an intersection of *two* streets is not considered adjacent to one another. City
320 staff and the Applicants essentially take the position that the phrase “*separated only by a*
321 *street*” in the definition of adjacent means that that MPOS and another parcel must be
322 separated only by “*one*” street to be considered adjacent to one another.

323 Associate Planning Director Wolfley further testified that parcels of land caddy-corner
324 to one another that are separated by only an intersection of two streets have only “one point in
325 space” of “tangency” in which they are geometrically adjacent to one another [R. 924].
326 Evidently, in city staff’s assessment, the physical space of adjacency in the street intersection

327 of Kimmick Dr. and Rosa Parks Rd. is insufficient or too small to meet the definition of
328 adjacent in the IDO. Implicit in this complicated interpretation is (1) a concession that, even if
329 it is a small amount of physical space, there is adjacency between the MPOS and the
330 application site, and (2) staff are reading into the IDO’s definition that a certain unidentified
331 measure of physical adjacency is necessary to satisfy the IDO’s definition of the term
332 “adjacent.”

333 Notwithstanding that the strict interpretation is unreasoned, I find that even under the
334 strict interpretation proffered by city staff and the Applicants in this appeal, the MPOS is
335 adjacent to the application site. On this basis alone, it should have been determined by the
336 DRB that the preliminary plat application was submitted prematurely because a Site Plan-EPC
337 had not been applied for, much less approved.

338 Associate Planning Director Wolfley also testified that a strict interpretation is
339 necessary because *“there’s quite a bit of implication for a property owner if they are*
340 *determined to be adjacent”* [R. 924]. I find this rationale irrelevant to interpreting IDO
341 definitions. Potential impact on property rights is not a basis for city planning staff to decide
342 whether provisions of the IDO should be ignored or not enforced. These are considerations
343 normally associated with the enactment of ordinances, not their enforcement. However, I do
344 find that protecting MPOS is a significant legislative intent and purpose for § 5-2(J)(2) and §
345 5-4(C)(6) of the IDO.

346 Furthermore, I find that not only is staffs’ “strict” interpretation erroneous with the
347 plain meaning of the IDO’s definition of adjacent, but I also find that city staff abused their
348 authority under the IDO when they determined under this strict interpretation that the measure

349 or quantum of physical adjacency required is too small to meet the IDO’s definition. Briefly
350 stated, it is obvious that the definition of adjacent in the IDO does not contemplate that there
351 be a certain measure of physical adjacent space for properties to be considered adjacent to each
352 other. It is an arbitrary and capricious interpretation because the definition of “adjacent” in
353 the IDO does not have or contemplate any minimal measurement thresholds. Staff’s
354 interpretation violates basic rules of statutory construction. See *Burroughs v. Board of County*
355 *Comm’rs*, 1975-NMSC-05, ¶ 14, and *High Ridge Hinkle Joint Venture v. City of Albuquerque*,
356 1998-NMSC-050, ¶ 5.

357 In addition, staff’s strict interpretation is problematic because it discounts or disregards
358 other terms in the definition which must be harmonized with any interpretation. For example,
359 in the definition, properties that are separated only by “utility easement” are also considered
360 to be adjacent. However, under the city staffs’ strict interpretation, if there is more than “one”
361 utility easement that separates the properties at issue, or if the properties are separated only by
362 two intersecting utility easements (both examples can be a regular occurrence), then the
363 properties cannot be considered to be adjacent. As shown in the next subsection, the meaning
364 of adjacent can easily be defined without resorting to adding words or reading subjective
365 measurement proportions into the definition.

366 **D. Under a plain reading of the IDO’s definition of the term “adjacent,” the**
367 **application site is adjacent to the La Cuentista MPOS.**
368

369 In the IDO’s definition of adjacent, the word “a” in the phrase “*separated only by a*
370 *street, alley, trail, or utility easement*” is grammatically used as an indefinite article. As an
371 indefinite article, it operates to signal that the labels “*a street, alley, trail, or utility easement*”
372 are descriptions of general groups of the nouns (street, alley, trail, and utility easement). The

373 labels are not referents of these nouns in the singular but *any* version of these nouns. In other
374 words, grammatically, the phrase “separated only by *a* street, alley, trail, or utility easement”
375 does not mean “separated by only one street, one alley, one trail, or one utility easement.”

376 Furthermore, how “a street, alley, trail, or utility easement” are classified in the IDO
377 cannot be lost in their meaning as they apply to the definition of adjacent in the IDO. These
378 labels are nomenclature that are all classified in the IDO as public or private “right-of-way” of
379 which is explicitly also unambiguously and distinctly referenced in the second sentence in the
380 definitional language of the term “adjacent.” This is integral to any interpretation of the term
381 adjacent and cannot be ignored. Of particular importance is the second sentence of the
382 definition of Adjacent. It states: “*See also Alley, Multi-use Trail, Private Way, Right-of-way,*
383 *and Street.*” Because these terms are expressly referenced in the definition, they are part of the
384 definition, and these terms must be reconciled with any interpretation of the term “adjacent”
385 in the IDO. The binding connection between the terms “Alley, Multi-use Trail, Private Way,
386 Right-of-way, and Street” is that they are all considered public or private rights-of-way under
387 IDO, § 7-1.

388 In the IDO, the definitions of “right-of-way” and “street” includes “public right-of-
389 way.” Public right-of-way is defined as:

390 “Land deeded, reserved or dedicated by plat, or otherwise acquired by any
391 unit of government for the purposes of movement of vehicles, bicycles,
392 pedestrian traffic, and/or for conveyance of public utility services and
393 drainage.”
394

395 How the term “street” is defined in the IDO is also crucial. Under the IDO, “street” means:

396 The portion of a public right-of-way or private way, from curb to curb (or
397 from edge of paving to edge of paving if there is no curb, or from edge of

398 visible travel way to edge of visible travel way, if there is no paving), that is
399 *primarily devoted to vehicular use.* (Emphasis added).

400
401 IDO, § 7-1, p. 600.

402 Turning back now to the definition of adjacent, the phrase “separated only by a street” in the
403 definition is consistent with the grammatical use of the term as an indefinite article and it is
404 consistent with the definition of “right-of-way.” Put another way, “street” is a general
405 description of public right-of-way “primarily devoted for vehicular use.” In simple terms, land
406 dedicated for vehicular use is considered street and vice versa. It is incontrovertible that street
407 intersections are “primarily devoted to vehicular use” and are public right-of-way.

408 Only from giving meaning to all terms in the definitional language of “adjacent” can
409 the correct meaning be properly interpreted, and the legislative intent identified. Thus,
410 properties separated only by the referenced types of private or public right-of-way (“street,
411 alley, trail, or utility easement”) are considered adjacent to one another and specifically, the
412 phrase “separated only by a street” refers to all parts of public right-of way; street encompasses
413 the land primarily devoted to vehicular use which inevitably includes street intersections unless
414 otherwise noted in the IDO.

415 Under this interpretation, words and unidentified measurement expanses of physical
416 space are not read into the definition. Moreover, this interpretation, as it relates to MPOS, is
417 consistent with the legislative intent in the IDO to protect MPOS. Simply stated, development
418 separated “only by” the public right-of-way encompassing “street, alley, trail, or utility
419 easement” must meet the additional IDO provisions (§ 5-2(J)(2)) designed to protect MPOS.

420 In applying the proper interpretation to the facts of this case, it is clear that what
421 separates the MPOS land and the application site on the south-east side of the site is only public

422 right-of-way—the intersection of Kimmick Dr. and Rosa Parks Rd. The MPOS and the
423 application site are in fact adjacent to one another and because of this simple fact, the
424 Applicants should not have and cannot obtain platting approval without first obtaining
425 approval of a Site Plan-EPC as required by IDO, § 5-4(C)(6).

426 **E. Prior to all platting of the application site, the Applicants must first apply for**
427 **a Site Plan-EPC.**

428
429 To expeditiously resolve this appeal, the amended site plan, and the preliminary plat
430 approval should be revoked and the final plat denied. After the June 2022 EPC rezoning,
431 MPOS land became adjacent to the Applicants’ site requiring a Site Plan-EPC under IDO, §
432 5-4(C)(6). The DRB and the subsequent DHO approvals were not only premature, but they
433 violated IDO procedure and are invalid without a Site Plan-EPC.

434 Associate Planning Director Wolfley testified in the appeal hearing that if city staff had
435 concluded that IDO, § 5-4(C)(6) was applicable, only a small “buffer in an arc” on the
436 application site near the street intersection would be required to protect the MPOS [R. 941].
437 Respectfully, whatever is required cannot be a justification for circumventing IDO processes.
438 Notwithstanding though, it is evident that the IDO requires more when development under §
439 5-4(C)(6) is adjacent to MPOS land. First, it is the EPC that will evaluate the site plan in a
440 quasi-judicial hearing open to the public. Second, under § 5-2(J)(2)(b), the Applicants must
441 design access, circulation, parking, and aesthetics, to minimize any impacts on the MPOS.
442 With the clear understanding that the application site is adjacent to MPOS, design protections
443 must be reviewed by the staff of the Open Space Division of the City Parks and Recreation
444 Department as well as city Planning staff. Protection of the MPOS will be publicly discussed
445 in terms of it being formally determined that it is adjacent to the application site. Moreover,

446 the EPC has authority under the IDO to set any other reasonable conditions necessary to
447 accomplish the intent of protecting MPOS.

448 Next, the Appellants are correct that the Applicants do not have a vested right to the
449 approved preliminary plat especially since it was based on inaccurate evidence and was
450 approved in violation of IDO procedure. And whether the Applicants relied on the AGIS or
451 not in their submission of the inaccurate maps, the Applicants' agents, with due diligence,
452 should have known of the MPOS since they were also the agents for the city in creating the
453 MPOS and were sent mailed notice of the EPC's approval [R. 807].

454 **F. Unless the District Court orders a stay on the administrative processes, the**
455 **administrative applications, their review, and administrative adjudication**
456 **under the IDO should continue.**

457
458 Appellants take the position in this appeal that the City should defer all decisions on
459 the application site until the District Court finally resolves the issues in the District Court
460 appeal. The Appellants concede that a City Council stay on the matter would be discretionary
461 and is not required [R. 122]. Unless the District Court issues an Order compelling the City to
462 stay the application process, there is no compelling reason to defer a decision on this matter or
463 to prevent the Applicants from following the correct application process.

464 **G. The record of the DHO hearing.**

465
466 Appellant Michael Voorhees believes that the DHO holds a grudge against him or has
467 "personal animus" for him [R. 124]. He also contends that the DHO has an actual conflict of
468 interest or that there is an appearance of a conflict of interest. I respectfully disagree that there
469 is any evidence of animosity, a conflict, or an appearance of a conflict of interest.

470 Specifically, Appellant contends as the basis for the conflict that “several years ago”
471 when the DHO (David Campbell) was the Planning Director for the City, Mr. Voorhees filed
472 an appeal and, in that appeal, he made “numerous allegations of misconduct” (presumably
473 against Mr. Campbell) [R. 068-071]. Appellant Voorhees also claims that he “met in person
474 on two previous occasions and had extensive conversations” again presumably with Mr.
475 Campbell [R. 071-072].

476 In the DHO hearing, Mr. David Campbell responded, advising Mr. Voorhees that he
477 could not recall either meeting with him and he could not recall the allegations Mr. Voorhees
478 made against him several years ago [R. 070-071]. The DHO then responded to Mr. Voorhees’
479 request that he recuse himself from hearing the application [R. 072]. The DHO said:

480 Okay. Thank you. Duly noted. I have -- I have no recollection of any of this
481 that you're talking about and don't have a -- I think what you're saying is
482 that this -- it doesn't relate to the case at issue here; is that correct?

483 ...

484 All right. Thank you for raising that. And you say you have one other -- the
485 DHO does not have a conflict on this, and there is no personal animus.

486 ...

487 And I want – again, there are no personal grudge or animus against you for
488 something that I have no recollection of.

489 [R. 070-071].
490

491 Establishing a conflict of interest or an appearance of a conflict of interest requires
492 more than what is in this record. Other than the allegation from Appellant, there is no evidence
493 whatsoever that the DHO holds any animosity for Mr. Voorhees, nor is there objective
494 evidence of a conflict. Furthermore, there is no evidence that the DHO prejudged the facts of
495 the Applicants’ application. For a detailed discussion on what evidence is necessary to
496 disqualify a tribunal See *Las Cruces Prof'l Fire Fighters v. City of Las Cruces*, 1997-NMCA-

497 031. The fact that Mr. Voorhees perceives that the allegations he made in a previous case
498 “years ago” create an appearance of a conflict, does not in and of itself make it so. The
499 allegations in that previous case have nothing to do with the facts in this matter. In fact, Mr.
500 Campbell was not even a hearing officer when Mr. Voorhees complained of Mr. Campbell. In
501 addition, there is no evidence of the truth of the allegations when Mr. Campbell was the
502 Planning Director, and if there were, that would likely be insufficient to disqualify him from
503 sitting in judgment on this matter. As stated above the evidentiary requirements under law are
504 more nuanced to disqualify the DHO.

505 Appellants next contend that the DHO staff failed to send Appellant Voorhees a copy
506 of the DHO’s final written decision and therefore the decision should be reversed as a
507 consequence. Appellants cite to the most recent iteration of the IDO effective July 27, 2023,
508 § 6-4(M)(6) which essentially requires decision making bodies to, among other things, send
509 “*each party to the matter and to any other person who has entered an appearance and*
510 *requested a copy of the decision.*” Notably, this language is not in the July 15, 2022, version
511 of the IDO, which is applicable in this appeal. Although, anyone requesting a copy of a
512 decision should be sent the decision, the error in this matter is harmless because Appellants,
513 including Mr. Voorhees, filed a timely appeal of the DHO’s decision.

514

515 VI. PROPOSED FINDINGS

516 Pursuant to IDO, § 6-4(V)(3)(d)5, I respectfully find that the below findings are warranted,
517 supported by substantial evidence, and I recommend that they be adopted.

518 1. This is an appeal of a July 12, 2023, decision approving a final plat based on a

519 preliminary plat and amended site plan by the DHO.

520 2. Appellant WSCNA has standing to pursue this appeal under § 6-4(V)(2)(a)5.

521 3. Appellant Michael Voorhees has standing to pursue this appeal under § 6-
522 4(V)(2)(a)4.

523 4. The DRB's November 9, 2022, decision approving the preliminary plat was not
524 appealable under § 6-4(U)(1) of IDO update, effective July 15, 2022.

525 5. The DHO's July 12, 2023, decision approving the final plat is appealable under the
526 July 15, 2022 IDO which was in effect when the final decision was made.

527 6. Pursuant to IDO, § 6-6(L)(3)(c), the final plat must conform to the preliminary plat.

528 7. Pursuant to IDO, § 6-6(L)(2)(g) the final plat and the preliminary plat are required
529 to meet all applicable regulations and conditions of approvals, including previous approvals.

530 8. Pursuant to IDO, § 5-2(J)(2) and § 5-4(C)(6), prior to all platting of any development
531 greater than 5-acres in size, a Site Plan-EPC is required when the proposed plat site is adjacent
532 to any MPOS.

533 9. It is undisputed that the Applicants did not apply for or ever obtain Site-Plan EPC
534 approval for development at the 18.23-acre application site.

535 10. On June 16, 2022, the EPC approved an application by the City to rezone 35 acres
536 of land to NR-PO-B (MPOS). This MPOS is known as the La Quentista MPOS, and it is
537 located between Kimmick Dr. NW and Ridgeway Dr. NW and on the south side of Rosa Parks
538 Rd. NW.

539 11. The agent for the City in the rezoning application was Consensus Planning who is
540 also the agent for the Applicants of the amended site plan, preliminary, and final plat

541 applications.

542 12. The La Quentista MPOS is situated caddy-corner to the Applicants' application site
543 at the southwest intersection of Kimmick Dr. NW and Rosa Parks Rd. NW.

544 13. The La Quentista MPOS is adjacent to the Applicants' application site because it is
545 separated from the Applicants' application site by only street public right-of-way.

546 14. The DRB erred in approving the amended site plan and preliminary plat in
547 November 2022.

548 15. In its approval of the amended site plan and the preliminary plat, the DRB failed to
549 acknowledge at its public hearing that the Applicants' application site is situated adjacent to
550 the La Quentista MPOS as that term is defined in the IDO.

551 16. In addition, at some point in time prior to the two hearings on the amended site plan
552 and preliminary plat (October 26, and November 9, 2022, hearings), the DRB unofficially
553 concluded (not in the DRB public hearings) that the La Quentista MPOS was not adjacent to
554 the application site and in doing so, they misinterpreted and misapplied the IDO.

555 17. The amended site plan and the preliminary plat do not account for the adjacent
556 MPOS, and the amended site plan and preliminary plat do not in any manner demonstrate that
557 the applicable IDO provisions of § 5-2(J)(2), are satisfied.

558 18. With the amended site plan and preliminary plat application, the Applicants
559 submitted to the DRB inaccurate zone maps of the area which did not show the rezoned 35-
560 acres as NR-PO-B zoned lands.

561 19. Because the DRB was aware of the EPC's previous rezoning, the DRB knew or
562 should have known that the Applicants' area zone-map submission was inaccurate.

563 20. The DRB disregarded or otherwise did not make any public disclosure in its public
564 hearings of the Applicants' inaccurate area zone map.

565 21. Without an approved Site Plan-EPC, as required by IDO, § 5-2(J)(2) and § 5-4(C)(6),
566 the DRB did not have authority to approve the Applicants' preliminary plat.

567 22. Because the DRB did not have authority to approve the preliminary plat, the
568 appropriate remedy is to revoke the preliminary plat.

569 23. Because there is no evidence in the amended site plan that the regulations for
570 protecting MPOS have been satisfied under IDO, § 5-2(J)(2) and § 5-4(C)(6), the amended site
571 plan should also be revoked.

572 24. Because the preliminary plat is factually and legally entwined with the final plat
573 under the IDO, the decision approving the final plat should be reversed.

574 25. Contrary to Appellant Voorhees' claim in this appeal, the record of the DHO hearing
575 on the final plat demonstrates that the DHO held no animosity for Mr. Voorhees.

576 26. Contrary to Appellants' claims, the DHO does not have a conflict of interest and
577 there is not sufficient evidence of an appearance of one in this matter.

578 27. Unless the District Court orders a stay on all administrative proceedings related to
579 the application site, which at this time there is no evidence of, this matter may run its course.

580 28. The amended site plan and the preliminary plat shall be revoked and the decision
581 approving the final plat shall be reversed.

582 Respectfully Submitted:

583

584  Steven M. Chavez, Esq.

585 Land Use Hearing Officer

586 October 18, 2023

587

588 Copies to:

589 City Council

590 Appellants

591 Appellees/ Party Opponents

592 Planning Staff

593

594 Notice to the Parties regarding City Council rules.

595

596 When the Council receives the Hearing Officer’s proposed disposition of an appeal, the
597 Council shall place the decision on the agenda of the next regular full Council meeting
598 provided that there is a period of at least 10 days between the receipt of the decision and the
599 Council meeting. The parties may submit comments to the Council through the Clerk of the
600 Council regarding the Hearing Officer’s decision and findings provided such comments are in
601 writing and received by the Clerk of the Council and the other parties of record four (4)
602 consecutive days prior to the Council “accept or reject” hearing. Parties submitting comments
603 in this manner must include a signed, written attestation that the comments being submitted
604 were delivered to all parties of record within this time frame, which attestation shall list the
605 individual(s) to whom delivery was made. Comments received by the Clerk of the Council that
606 are not in conformance with the requirements of this Section will not be distributed to
607 Councilors.



City of Albuquerque

City of Albuquerque
Government Center
One Civic Plaza
Albuquerque, NM 87102

Action Summary

City Council

Council President, Pat Davis, District 6
Council Vice-President, Renée Grout, District 9

Louie Sanchez, District 1; Isaac Benton, District 2
Klarissa J. Peña, District 3; Brook Bassan, District 4
Dan Lewis, District 5; Tammy Fiebelkorn, District 7
Trudy E. Jones, District 8

Wednesday, November 8, 2023

5:00 PM

Vincent E. Griego Chambers
One Civic Plaza NW
City of Albuquerque Government Center

TWENTY-FIFTH COUNCIL - FORTIETH MEETING

1. ROLL CALL

Present 9 - Brook Bassan, Isaac Benton, Pat Davis, Tammy Fiebelkorn, Renee Grout, Trudy Jones, Dan Lewis, Klarissa Peña, and Louie Sanchez

2. MOMENT OF SILENCE

Councilor Peña led the Pledge of Allegiance in English.
Councilor Bassan led the Pledge of Allegiance in Spanish.

3. PROCLAMATIONS & PRESENTATIONS

4. ADMINISTRATION QUESTION & ANSWER PERIOD

5. APPROVAL OF JOURNAL

October 16, 2023

6. COMMUNICATIONS AND INTRODUCTIONS

7. REPORTS OF COMMITTEES

Finance and Government Operations Committee - October 23, 2023

8. CONSENT AGENDA: {Items may be removed at the request of any Councilor}

- a. [EC-23-376](#) City of Albuquerque Vision Zero Year-in-Review/Action Plan Update

A motion was made by Vice-President Grout that this matter be Receipt Be Noted. The motion carried by the following vote:

For: 8 - Bassan, Davis, Fiebelkorn, Grout, Jones, Lewis, Peña, and Sanchez

Excused: 1 - Benton

- b. [EC-23-378](#) Approval of Outside Counsel for Workers Compensation Legal Services Agreement with YLAW, P.C.

A motion was made by Vice-President Grout that this matter be Approved. The motion carried by the following vote:

For: 8 - Bassan, Davis, Fiebelkorn, Grout, Jones, Lewis, Peña, and Sanchez

Excused: 1 - Benton

- c. [EC-23-379](#) Approval of the Farolito Senior Community Development Agreement with Greater Albuquerque Housing Partnership to Utilize HUD HOME Funds Towards the New Construction of a Senior Rental Housing Project

A motion was made by Vice-President Grout that this matter be Approved. The motion carried by the following vote:

For: 8 - Bassan, Davis, Fiebelkorn, Grout, Jones, Lewis, Peña, and Sanchez

Excused: 1 - Benton

- d. [EC-23-380](#) Authorization of Social Service Agreement with Youth Development Inc. to Provide Violence Intervention & Prevention Services to youth/young adults who are high risk of engaging in gun violence or violent crimes

A motion was made by Vice-President Grout that this matter be Approved. The motion carried by the following vote:

For: 8 - Bassan, Davis, Fiebelkorn, Grout, Jones, Lewis, Peña, and Sanchez

Excused: 1 - Benton

- e. [AC-23-14](#) (VA-2023-00196) PR-2022-007712, SI-2023-00127 The Westside Coalition of Neighborhood Associations and Michael Voorhees appeal the Development Hearing Officer decision to approve a final plat, for all or a portion of Lot 5, Block 6 Volcano Cliffs Unit 26 & Lot 1, Block 2, Volcano Cliffs Unit 26 zoned MX-L & MX-M, located on Rosa Parks Rd. between Paseo Del Norte and Rosa Parks Rd. containing approximately 18.23 acre(s). (C-11)

A motion was made by Vice-President Grout that this matter be Withdrawn by Applicant. The motion carried by the following vote:

For: 8 - Bassan, Davis, Fiebelkorn, Grout, Jones, Lewis, Peña, and Sanchez

Excused: 1 - Benton

9. ANNOUNCEMENTS

10. FINANCIAL INSTRUMENTS**11. GENERAL PUBLIC COMMENTS****12. APPEALS****13. APPROVALS: {Contracts, Agreements, and Appointments}**

- a. [EC-23-377](#) Mayor's Recommendation of Award to Fresquez Concessions Inc. for "Food and Beverage Concessions Program at the Albuquerque International Sunport"

A motion was made by President Davis that this matter be Approved. The motion carried by the following vote:

For: 7 - Bassan, Fiebelkorn, Grout, Jones, Lewis, Peña, and Sanchez

Against: 1 - Davis

Excused: 1 - Benton

14. FINAL ACTIONS

- f. [O-23-88](#) Repealing Chapter 9, Article 5, Part 1 ROA 1994, The Joint Air Quality Control Board Ordinance; Abolishing The Current Albuquerque-Bernalillo County Air Quality Control Board; Adopting Chapter 9, Article 5, Part 1 ROA 1994, The Joint Air Quality Control Ordinance; Creating The Albuquerque-Bernalillo County Air Quality Control Board (Lewis)

A motion was made by President Davis that this matter be Tabled. The motion carried by the following vote:

For: 9 - Bassan, Benton, Davis, Fiebelkorn, Grout, Jones, Lewis, Peña, and Sanchez

15. OTHER BUSINESS: {Reports, Presentations, and Other Items}

- a. **Executive Session relating to the matter of LaDella Williams, et al. v City of Albuquerque, which is subject to attorney-client privilege pertaining to threatened or pending litigation as permitted by Section 10-15-1.H(7), NMSA 1978**

A motion was made by President Davis that they move into Executive Session. The motion carried by the following vote:

For: 9 - Bassan, Benton, Davis, Fiebelkorn, Grout, Jones, Lewis, Peña, and Sanchez

President Davis affirmed that matters discussed in executive session were limited to those specified in the motion for closure.

14. FINAL ACTIONS

- f. [O-23-88](#) Repealing Chapter 9, Article 5, Part 1 ROA 1994, The Joint Air Quality Control Board Ordinance; Abolishing The Current Albuquerque-Bernalillo County Air Quality Control Board; Adopting Chapter 9, Article 5, Part 1 ROA 1994, The Joint Air Quality Control Ordinance; Creating The Albuquerque-Bernalillo County Air Quality Control Board (Lewis)

A motion was made by President Davis that O-23-88 be removed from the table. The motion carried by the following vote:

For: 9 - Bassan, Benton, Davis, Fiebelkorn, Grout, Jones, Lewis, Peña, and Sanchez

A motion was made by President Davis that this matter be Amended. President Davis moved Amendment No. 1. President Davis withdrew Amendment No. 1.

A motion was made by Councilor Bassan that the rules be suspended for the purpose of extending the meeting to 12:00 a.m. The motion carried by the following vote:

For: 9 - Bassan, Benton, Davis, Fiebelkorn, Grout, Jones, Lewis, Peña, and Sanchez

- f. [O-23-88](#) Repealing Chapter 9, Article 5, Part 1 ROA 1994, The Joint Air Quality Control Board Ordinance; Abolishing The Current Albuquerque-Bernalillo County Air Quality Control Board; Adopting Chapter 9, Article 5, Part 1 ROA 1994, The Joint Air Quality Control Ordinance; Creating The Albuquerque-Bernalillo County Air Quality Control Board (Lewis)

A motion was made by Councilor Peña that this matter be Amended. Councilor Peña moved Amendment No. 2. The motion failed by the following vote:

For: 3 - Benton, Davis, and Peña

Against: 6 - Bassan, Fiebelkorn, Grout, Jones, Lewis, and Sanchez

A motion was made by Councilor Peña that this matter be Amended. Councilor Peña moved Amendment No. 3. The motion carried by the following vote:

For: 6 - Bassan, Davis, Grout, Lewis, Peña, and Sanchez

Against: 3 - Benton, Fiebelkorn, and Jones

A motion was made by Councilor Peña that this matter be Amended. Councilor Peña moved Amendment No. 4. The motion failed by the following vote:

For: 3 - Grout, Peña, and Sanchez

Against: 6 - Bassan, Benton, Davis, Fiebelkorn, Jones, and Lewis

A motion was made by Councilor Peña that this matter be Amended. Councilor Peña moved Amendment No. 5. The motion carried by the following vote:

For: 8 - Bassan, Benton, Davis, Fiebelkorn, Grout, Jones, Peña, and Sanchez

Against: 1 - Lewis

A motion was made by Councilor Lewis that this matter be Passed as Amended. The motion carried by the following vote:

For: 5 - Bassan, Grout, Jones, Lewis, and Sanchez

Against: 4 - Benton, Davis, Fiebelkorn, and Peña

g. [R-23-176](#)

Establishing A Moratorium For The Albuquerque-Bernalillo County Air Quality Control Board To Act Under Chapter 9, Article 5, Part 1 ROA 1994, The Joint Air Quality Control Board Ordinance Until February 1, 2024 (Lewis)

A motion was made by Councilor Peña that this matter be Amended. Councilor Peña moved Amendment No. 1. The motion carried by the following vote:

For: 9 - Bassan, Benton, Davis, Fiebelkorn, Grout, Jones, Lewis, Peña, and Sanchez

A motion was made by Councilor Lewis that this matter be Passed as Amended. The motion carried by the following vote:

For: 5 - Bassan, Grout, Jones, Lewis, and Sanchez

Against: 4 - Benton, Davis, Fiebelkorn, and Peña

a. [O-23-87](#)

Directing The Tax Revenue Generated By Legal Recreational Marijuana Sales To A Permanent Marijuana Equity And Community Reinvestment Fund For The Benefit, Health, Safety, Welfare, And Quality Of Life For Those Who Have Been Negatively Impacted By The Criminalization Of Marijuana (Peña)

A motion was made by Councilor Peña that this matter be Amended. Councilor Peña moved Amendment No. 1. The motion carried by the following vote:

For: 9 - Bassan, Benton, Davis, Fiebelkorn, Grout, Jones, Lewis, Peña, and Sanchez

A motion was made by Councilor Peña that this matter be Amended. Councilor Peña moved Amendment No. 2. The motion carried by the following vote:

For: 9 - Bassan, Benton, Davis, Fiebelkorn, Grout, Jones, Lewis, Peña, and Sanchez

A motion was made by Councilor Peña that this matter be Passed as Amended. The motion carried by the following vote:

For: 8 - Bassan, Benton, Davis, Fiebelkorn, Grout, Lewis, Peña, and Sanchez

Against: 1 - Jones

A motion was made by Councilor Lewis that the rules be suspended for the purpose of extending the meeting to 1:00 a.m. The motion carried by the following vote:

For: 8 - Bassan, Benton, Davis, Fiebelkorn, Grout, Lewis, Peña, and Sanchez

Against: 1 - Jones

b. [O-23-89](#)

Amending Sections §7-2-1-1 Through §7-2-1-3 Of The Transit System Ordinance, Creating A Zero-Fare Structure (Fiebelkorn, Davis, Peña)

A motion was made by Councilor Fiebelkorn that this matter be Passed. The motion carried by the following vote:

For: 6 - Bassan, Benton, Davis, Fiebelkorn, Jones, and Peña

Against: 3 - Grout, Lewis, and Sanchez

d. [R-23-178](#)

Suspending Administrative Appeals To Safe Outdoor Space Applications In Response To Court Injunction Restricting Removing Encampments From Public Land (Fiebelkorn)

A motion was made by Councilor Fiebelkorn that this matter be Amended. Councilor Fiebelkorn moved Amendment No. 1. The motion failed by the following vote:

For: 4 - Benton, Davis, Fiebelkorn, and Jones

Against: 5 - Bassan, Grout, Lewis, Peña, and Sanchez

A motion was made by Councilor Fiebelkorn that this matter be Passed. The motion failed by the following vote:

For: 4 - Benton, Davis, Fiebelkorn, and Jones

Against: 5 - Bassan, Grout, Lewis, Peña, and Sanchez

e. [RA-23-3](#)

Amending Article I, Sections 8(C) And 8(H); And Article III, Sections 4(A), 4(B), 24(12), And 24(13) Of The City Council Rules Of Procedure Relating To The Order Of Business And Public Comment On Quasi-Judicial Matters (Davis)

A motion was made by President Davis that this matter be Passed. The motion carried by the following vote:

For: 9 - Bassan, Benton, Davis, Fiebelkorn, Grout, Jones, Lewis, Peña, and Sanchez

c. [R-23-177](#)

Designating Fund '305 Misc.' As The 'Housing Forward Fund' And Requiring The Administration To Provide An Annual Report (Benton)

A motion was made by Councilor Benton that this matter be Amended. Councilor Benton moved Amendment No. 1. The motion carried by the

following vote:

For: 9 - Bassan, Benton, Davis, Fiebelkorn, Grout, Jones, Lewis, Peña, and Sanchez

A motion was made by Councilor Benton that this matter be Passed as Amended. The motion carried by the following vote:

For: 9 - Bassan, Benton, Davis, Fiebelkorn, Grout, Jones, Lewis, Peña, and Sanchez

*h. [R-23-180](#)

Approving And Authorizing The Acceptance Of Grant Awards From The Federal Emergency Management Agency (FEMA) And Providing For An Appropriation To The Department Of Finance And Administration For Fiscal Years 2024, 2025 And 2026 (Fiebelkorn, by request)

A motion was made by Councilor Fiebelkorn that this matter be Passed. The motion carried by the following vote:

For: 8 - Bassan, Benton, Davis, Fiebelkorn, Grout, Lewis, Peña, and Sanchez

Excused: 1 - Jones

*i. [R-23-181](#)

Directing The City Of Albuquerque Transit Department And Rio Metro Regional Transit District To Conduct A Study For Considering Consolidation; Appropriating Funding For The Study (Benton)

A motion was made by Councilor Benton that this matter be Passed. The motion carried by the following vote:

For: 5 - Benton, Davis, Fiebelkorn, Grout, and Lewis

Against: 3 - Bassan, Peña, and Sanchez

Excused: 1 - Jones

*j. [R-23-182](#)

Establishing Legislative And Budget Priorities For The City Of Albuquerque For The Second Session Of The 56th New Mexico State Legislature (Fiebelkorn, Peña, Bassan)

A motion was made by Councilor Fiebelkorn that this matter be Passed. The motion carried by the following vote:

For: 8 - Bassan, Benton, Davis, Fiebelkorn, Grout, Lewis, Peña, and Sanchez

Excused: 1 - Jones

From: [Joe Hardesty](#)
To: [City of Albuquerque Planning Department](#)
Subject: IDO - Hearing #2 - Environmental Planning Commission
Date: Monday, January 8, 2024 8:23:03 PM

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Dear EPC Chair Shaffer,

Regarding the ABQ City IDO Annual Update 2023 - Proposed Citywide Text Amendments, specifically regarding:

- > Item #23; IDO Page 320; IDO Section 5-7(D)(3)(a)
- and -
- > Item #24; IDO Page 321; IDO Section Table 5-7-2

I can't believe that we have to keep addressing this absurd proposal.

Here is a real-life ABQ example of why allowing taller front yard walls should not be approved. I knew an elderly couple in the Altura Park/Sandia Ridge neighborhood who had their house broken into and vandalized along with many expensive family items stolen or broken that could never be replaced, as well as substantial damage to their home.

Thankfully they were not home and did not have to encounter violence to themselves. Their neighbors felt awful and told them that if they had not had the 5' hedge of pyracantha in their front yard, that they would have seen the criminals and called the police. The next day, they asked me to remove their tall hedge. Maintaining front walls at a height at/below 3' to enable street visibility and surveillance increases security that does make a real difference.

As a Nob Hill homeowner and an architect, I am opposed to this proposal to increase front yard wall heights in the strongest possible terms! I am perplexed as to why we need to repeatedly defend ourselves against this proposal over numerous years - particularly in light of taller walls typically making neighborhoods LESS safe. Please, please stop harassing us with this unsafe proposal! As John Pate notes (thank you, John) "We do not want to live on impersonal, rarely walked-on urban canyons like you see elsewhere in the southwest. We have a very pedestrian, walkable neighborhood where we actually interact with our neighbors and their pets. We can see the street activities and they can see us and that is how we want to keep it."

I see at least a dozen people who walk by our house daily. Having a streetscape that is pleasant and inviting to pedestrians improves surveillance and connections across communities. That I can see the street in front of my house, see my neighbor's front yard and front door, see and say hello to my neighbors as they walk by, and know that they can see what is going on at my house is why I choose to live in this neighborhood and remain in Albuquerque. Is allowing us to have our safe and connected neighborhood too much to ask for in Albuquerque?

Please include my comment for the EPC Hearing, and the dozens of others who have also done so in opposition to this proposal.

Respectfully,
Jasper (Joe) Hardesty
650.302.3248 (cell phone)
joharde@gmail.com

In what is now New Mexico, I live and work on the unceded and traditional lands of the Tiwa, Tewa, Diné, and N'de peoples, currently represented by the nineteen New Mexico Pueblos and Diné (Navajo) peoples.

January 8, 2024

Re: IDO Citywide and Small area Amendment VHUC.

Dear Mr. Shaffer and fellow EPC members,

A lot of good points were raised by the Community and EPC during the Dec. 14, 2023 hearing, in written and oral testimony. We support the ICC Inter-Coalition letter, that is responding to community input. I would also like to emphasize attention to several amendments.

At the December 14th EPC hearing the Neighborhoods have expressed that there are too many amendments to review at once. In addition the IDO Annual Update should not take place during the holidays. At the December 14th EPC hearing the EPC members and the public spent 10 hours reviewing 60 IDO amendments, plus a small area amendment. For the January 11th Hearing written comments were due January 2nd, the day after New Year's Day, in order to be included in the staff report. Comments were due on January 9th to meet the 48 hour rule. Again, this is a difficult time to get comments in, especially for 60 plus amendments, right after the holidays. As mentioned before, the process needs to be scheduled to avoid the holidays.

After reading the staff report for the January 11th meeting, it looks like staff has added changes to the amendments. This required substantially more review. Will the community be allowed to comment on these new changes at the January 11th EPC hearing?

The public is very interested in maintaining the unique character of Albuquerque along with its unique natural, cultural and historic resources which is why we spend so much time reviewing the zoning amendments. We are proud of Albuquerque and don't want to undermine all the past work to preserve these resources.

Comments for Small Area Amendment VHUC Volcano Heights Urban Center:

The Westside Land Use Committee supports the Staff's recommendation to maintain the prohibition on drive-throughs in the Volcano Heights Urban Center in the mixed use zones. The goal is to make the urban center walkable. This would be similar to the Uptown Urban Center, next to Coronado Mall, which is a walkable design. This area is very sensitive due to its adjacency to the Monument. We want to maintain good design features and walkability for this area. Therefore we support the staff's recommendation to deny this request.

Comments for Citywide Amendments: (Our Comments are italicized below)

Amendment #2. Public: Outdoor Amplified Sound: Adds Outdoor Sound as an Accessory Use to enable a curfew between 10pm to 7 am. This amendment would allow Outdoor Amplified Sound as a "permissive" Accessory Use to the following zone districts: (MXL, MXM, MXH, NRC, NR-BP, NR-LM, NR-GM). It would be conditional in MXT zones. Relates to IDO amendments: #2, 7, & 50: *There is*

already an ordinance that has a 10pm to 7am curfew. It does not address daytime amplified sound which has caused unresolved conflicts. Shouldn't Amplified sound be reserved for indoor use not outdoors. Until we know how this would make things better, we support EPC's Dec. 14th decision to vote NO, in making outdoor amplified sound a permissive Accessory Use.

Walls and Fences:

Amendment #4. & #5. Administration: General Retail and Light Vehicle Refueling Stations

Walls and Fences: 4-3(D)(37)(a), pg. 186: Require a perimeter wall for general retail & refueling stations to control pedestrian access to deter crime. We support deleting this amendment and let the businesses decide if they want a wall or fence to deter crime.

#24. & #25.: Front yard walls and fences: To increase the Front yard wall height for a Taller

Front or Side yard Wall: The Community does not support changing the front yard wall design which will negatively change the character of neighborhoods. We support the December 14th EPC's decision to vote NO.

Utilities and Waste management:

#6: Battery storage landscape: EPC is waiting for staff to talk with PNM. (Introducing BESS as a new use)

55: Battery storage: one hour of generator sound, no more than 60 DBA with distance 330 ft. of residential. Agree with staff that there needs to be a distance separation between homes and the battery storage, due to noise and potential dangers associated with the battery storage.

#15: Exempt 30 yr. site from land fill gas mitigation: We agree with EPC to vote NO.

#8: Councilor Grout's amendment to maintain a distance separation between Cannabis 660 ft.

Retail stores, with no exceptions. We support a distance requirement of 660ft. between stores. This will help to slow down over-saturation of the cannabis businesses. We also recommend a distance requirement between residents and cannabis retail/consumption. This is starting to become an issue, especially with concerns regarding odor control. A distance separation between cannabis retails and residential is something we should consider as well.

#9: Overnight Shelter: change from conditional to permissive. (Note: Overnight shelters are currently conditional in MXM, MXH, NRC, NR-BP, NR-LM, NR-GM): Agree with the EPC and staff to maintain overnight shelters as a conditional use, not permissive.

S

10 Allow Duplex's on corner lots/ 5000 sf: A small corner lot is not big enough for a duplex. Support the ICC letter that both amendments should be deleted.

#13: Allow duplex in all R-1 zones not just R-1A: Agree with EPC comments that changing R-1 to allow duplexes permissively, changes the R-1 status. This is why the community does not support it. Agree with EPC to not Support! Note: home additions are allowed with kitchens, therefore there is no need for duplexes.

#12) Live work/corner lot/5000 sf.: Most R-1 lot sizes are too small for live work. Agree with EPC members that parking space would be lacking. While Live work is a good concept, it is permissive in R-ML and all Mixed use zones where it is appropriate. Agree with ICC letter to maintain existing zoning.

#11: Exempt city facilities from conditional use process: Agree with EPC to maintain the conditional use process for city facilities. Don't support!

#17: RV/ Boat/ Trailer Front yard Parking: Agree that front yard parking needs to be addressed. Agree with the ICC letter that Option one is the better Option. Utility vehicles need to set back further from the street, 11 ft. or more.

#18: Parking maximums 330 ft. of transit: Agree with the EPC and ICC letter to delete this amendment. Parking spaces are critical. The West side does not have the transit service to replace vehicle parking requirements. 4 Bus lines have been suspended on the west side. We also need extra parking space at shopping centers to park and catch the bus, Don't support!

#20: Landscape & parking reduction by 20 %: Don't support parking reduction!

We also opposed the six amendments which would reduce neighborhood notification of development applications - (see below): This is very important!! Currently, the distance is 660 ft. for neighborhood associations for notification and appeal standing. Staff wants to reduce it to 330 ft. distance for notification. This will not work for many neighborhoods. The lack of notification is becoming a problem for us and many other Neighborhood Associations. We need to maintain adjacency & the distance requirement. Do not support changing any of the notification requirements below:

29: pre-submittal notification: replaces adjacency to 330 ft: *Pre-submittal notification are very important in order to participate in the facilitated meetings. 330 ft. does not cover freeways. Also Neighborhoods should not be used to notify everyone as they do not have everyone's email.*

32: Public notice: Affects adjacency: *Maintain adjacency requirement.*

#33: Mailed notice: Adjacency: *Agree with EPC members to maintain existing notification requirements. Do not eliminate adjacency. It is important to maintain.*

34: Notice for Small area amendment: Removes adjacency: Don't support!

36: Facilitated meetings: contact NA within 330 ft.: *replaces adjacency. Facilitated meetings are important. 330 ft. is not enough. Maintain the 660 ft. and the adjacency requirement.*

37: Appeal Standing: Replaces adjacency & 660 ft. to 330ft. *This is a taking. We have lots of development on the west side, and lots of Major Public Open space that are Albuquerque's unique natural and cultural landscape features that we are trying to protect through sensitive design. Neighborhoods work hard to try to get sensitive development to support protective*

regulations to protect these areas. This is to the benefit of everyone! We recommend increasing the distance requirement to 1000 ft. otherwise it should not be changed or reduced.

58: Tribal engagement: *We support tribal engagement. Have not had time to review all the options listed. But it is important to have their input for areas they have historically been a part of.*

59 & 60) Clerical & Editorial changes: *The community has noticed over the years, that changes made to the IDO regulations, were incorrect, such as the solar access chart. This is why the community has concerns about substantive changes being made without more careful review.*

These comments reflect the comments we sent in for the December 14th hearing, for the 48 hour rule. We hope the comments we sent in for the December 14th hearing (to meet the 48 hour rule) are also included in the record for this IDO update. We have not had time to include all those comments in this letter. But we continue to support those views.

As mentioned before, good planning, zoning, and design is important to preserve Albuquerque's unique character.

Thank you, for taking our comments under consideration. We appreciate it!

Rene' Horvath
Land Use Director for WSCONA

From: [Kathryn McSorley](#)
To: [City of Albuquerque Planning Department](#)
Subject: To: David Shaffer, EPC chair of Planning Dept.
Date: Friday, January 5, 2024 6:04:54 PM

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Greetings,

This email is in regards to my support of City-wide changes in allowing tribal nations to comment on any proposed developments or changes near or abutting Petroglyph National Monument. It is about time that they can freely make comments/decisions about the land that was once theirs.

Also, I am vehemently against a drive-thru coffee shop in the Santa Fe Village that abuts Petroglyph National Monument. What are you thinking? Increasing gas fumes in a neighborhood right next to a National Monument where people go to breathe fresh air while they're hiking? That's downright wrong.

Thank you for considering my comments. I wish you a fair meeting on January 11.

Sincerely,

Kathryn McSorley

From: [Peggy Neff](#)
To: [City of Albuquerque Planning Department](#)
Cc: [Patricia Willson](#); [Mandy Warr](#); [Michael Brasher](#); [Don Hancock](#); [Rene" Horvath](#); [Joe Brooks](#); [Elizabeth Haley](#); [pdinelli aol](#); [Jane Baechle](#); [Janice Arnold-Jones](#); [Summit Park](#)
Subject: Independent Review of 2023 IDO Annual Amendments
Date: Monday, January 8, 2024 12:32:47 PM
Attachments: [Independent Review of CABO IDO 2023 Amendments as Proposed to the EPC 1-8-2023.docx](#)

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

To Whom It May Concern,

Please can you ensure that these comments are well recived and affirm for me that they have been added to record regarding the City Wide IDO Amendments for 2023.

Thanks,

Peggy Neff

Peggy Neff Other Path LLC 505-977-8903

Independent Review of CABQ IDO 2023 Amendments as Proposed to the EPC

Submitted by Peggy Neff, University Heights NA Current Board Member, Summit Park NA Member, Dist. 7 Coalition Member and Inner Coalition Council Regular Participant at IDO Review Committee

1/8/2024

To: CABQ Planning Department

Attention: EPC Chair David Shaffer and EPC Commissioners

Dear Sirs and Madam,

These notes are again submitted without approval of any board or community group noted above and in no way am I attempting to represent any of the above-mentioned groups. No one has any time to review these matters.

But, with sincere hope, I present these notes so that they can somehow influence you to affect positive changes to the current broken IDO Amendment Processes and/or to any of the given amendments in front of you.

First, I'd like to reiterate my concerns, concerns that have been echoed over the past several years by NA's, community groups and council members, about the 'broken' IDO Annual Amendment process:

A. EXCLUSIONARY AND DISCRIMANATORY

The IDO Annual Amendment Process is both exclusionary and discriminatory. See my previous notes for a fuller explanation. While it is still legal to marginalize whole communities of people it is not best practice.

B. CONFLICTING GOALS WITH COMMUNITY ASSESSMENT AREA PLANNING

Annual IDO Amendment Process, without prioritizing Community Assessment Area Planning processes and recommendations creates the argument that fraudulent processes may be at work within the Planning Department. See my previous notes for a fuller explanation and current examples.

C. BROKEN PROCESS OF INCLUDING SUBSTANTIVE ZONING CHANGES IN A PROCESS THAT WAS DESIGNED FOR TEXT AND TECHNICAL UPDATES

Where are the data points for substantive amendments? Continuing to deny the public's many requests (requests formally made to the EPC and to Council annually since 2019) that substantive amendments include statements of beneficiaries, impacts, examples, unintended consequences (RISK) and summaries of public comments, will only continue to result in amplified losses as court cases against these arbitrary and capricious amendments and decisions continue to be documented. See my previous notes for a fuller explanation.

While the new amendment that came forward from the Dec. 14th EPC meeting in regard to supporting a suggestion from the public that this Annual Process go to a Bi-Annual schedule is

very much appreciated and supported, WE STILL NEED METRICS THAT ESTABLISH A PROCESS FOR SUBSTANTIVE AMENDMENTS.

Without these metrics there is considerable risk associated with the entire process of amending our zone codes in Albuquerque.

D. UNINTENDED CONSEQUENCES (RISK) and SOURCE STATEMENTS

Without asking the Planning Department to formally address potential and known unintended consequences, for substantive amendments, the EPC cannot approach a comprehensive decision.

The intention the public expressed two years ago when requesting that the source of the amendment be made public was not to see council separated from public, but to be able to gauge the true intent of the amendment in regard to personal gains. Without insisting that full understanding of the source of the amendment be provided to the EPC, it appears that you all are engaged in keeping this information from the public. I trust this not true, but in fact, there are many amendments here that only seem to profit a few and not to be a benefit to the entire community.

There are several amendments now going in front of Council were both unintended known and unknown consequences have not been thoroughly considered or documented. I provide a list here so to encourage further discussions. See my previous notes for additional substantial points.

1. HPO Zones – giving the Landmarks Commission discretion to approve zoning variances.
2. & 7. Outdoor Amplified Sound – setting up parallel, enforceable, ordinances
3. Cottage Development – not incorporating and basically ignoring CPA recommendations
- 4., 5., 10., 13., 23., 24. General Retail Walls and Fences, Refueling Stations and Duplexes – findings did not go far enough to stop the process of allowing the Planning Department to bring forward recommended amendments when the City Council has recently heard and reviewed and voted against such amendments. See previous notes for further discussions.
6. Electric Utility: Battery Storage – I'm not convinced a full review was applied to these amendments.
8. Cannabis Retail – There was no discussion regarding this issue being moved to a City Licensing effort. I believe the City is at RISK to be found crafting inequitable zoning laws.
11. Removing the Conditional Use Permitting for City Facilities – fully support deleting this amendment as I fully believe in community participation and visioning as a primary residential right.
12. Dwelling Unit/Live Work – support conditional use permitting processes. See early notes for further references.
14. and 16. Irrigation (Acequia) Standards and Mitigating Construction Impacts – Prior to opening up what may be a terrible decision for our wildlife and animal habitats, insist that we

map riparian corridors to ensure that Cluster Development and Construction activities fully address Open Space and the term 'useable'.

Misc. issues that need serious attention as they are substantive in nature and we all agree that this annual process does not fully attend to substantive changes in our zone code

Notifications – further reductions of notifications will result in more law suits

Tribal Engagement – Imperative to get this right

Clerical and Editorial Changes = RISK Please see additional reference in ICC 48 hour notes.

I very much appreciate the amendment to make this a Bi-Annual process and applaud all the recommendations for removing amendments.

Again, substantive issues need more data in order to for changes to be considered appropriate. The continued denial of information will result in RISK. In order to mitigate this we need to supplement our process by asking that the Planning Department do their due diligence and

1. Require data on beneficiaries
2. Provide impact statements
3. Supply examples, mapping and/or data to respond to questions from the public
4. Require a summary of RISK and/or known unintended consequences for all amendments.

Again, these are my personal notes and I do not represent opinions of any group or agency that is noted here in. Thank you again for the good work this year by the EPC. I very much appreciate the change in direction you all are taking in listening and responding to public comments.

Sincerely,

Peggy Neff

1/8/24

From: [paxtonm](#)
To: [City of Albuquerque Planning Department](#)
Subject: 48-hour material, attention EPC Chairman David Shaffer
Date: Monday, January 8, 2024 11:04:11 PM
Attachments: [2023 XII 28 cover letter.pdf](#)
[2023 Dec 27 Medical Urgency of Cooling Cities.pdf](#)
[2023 Dec 27 Cool Cities Network.pdf](#)
[2023 Dec 27 Deadly Heat Is Baking Cities.pdf](#)

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.
Dear Chairman Shaffer,

These attachments pertaining to the city-wide 2023 update of the IDO have been previously submitted to the planning department. I would request that they also be included in the 48-hour material for the January 11 continuation of the December 14 hearing. Although I am a member of the Spruce Park Neighborhood Association board of directors, the statements are my personal views.

Thank you for this consideration.
Merideth Paxton, PhD

Dear Michael Vos and Mikaela Renz-Whitmore:
(cc: David Shaffer, Chairman, and members of the EPC)

The following comments regarding the developing Albuquerque Urban Heat Island supplement my statements during the December 14 EPC hearing. I noted then that we had fifteen days of triple digit temperatures last summer instead of the usual three days and that our night low temperatures were not as cooling. This is because heat is retained by heat-absorbing constructions, not reflected.

The need to address this Albuquerque issue before it becomes yet more challenging is urgent because UHIs are known to increase death rates among residents (please see attached *The Lancet* article summary). The beginning of our local effort to find solutions does not have to be dauntingly complicated, as many cities in the US are already collaborating and testing ideas. We can learn from developments made by Austin, Boston, Los Angeles, Miami, New York, Philadelphia, Phoenix, and Washington, DC through their partnership in the Cool Cities Network (see attached overview). I would suggest that Albuquerque consider joining the network. In Phoenix, for example, reflective paving surfaces have decreased heat retention. Nevertheless, urban forests and green landscaping are the best solution (attached: “Deadly Heat is Baking Cities, Here’s How to Cool Them Down”).

The latter article associates hotter areas within cities with economic inequality, and I would urge that IDO revisions not be used to create such sacrifice sectors in places where disproportionately high demand concentrates heat absorption. Specifically, I would ask that Spruce Park and other neighborhoods surrounding UNM be recognized as important contributors to mitigation of the Albuquerque UHI through our extension of the urban forest that exists on the main campus and our cultivation of other plants. We have additional beneficial qualities as well. These neighborhoods should never be destroyed by those who would drive us from our homes because they see only the opportunity to profit from short-term rental units for students. Surely, removing our trees and landscape to make space for more heat-absorbing apartments would worsen the Albuquerque UHI and is indefensible on environmental grounds.

I thank the EPC for noting the detrimental impacts on neighborhoods that Items 10 and 13 would create; these would be especially harmful near the campus. I would ask that your December 14 opinions be used to create a recommendation that would forestall future threats brought by the return of similar IDO revision proposals.

I am also grateful for the time and expertise that you give toward shaping our city to benefit future generations.

Sincerely,

Merideth Paxton, PhD

[Cooling cities through urban green infrastructure: a health impact assessment of European cities - The Lancet](#)

(Accessed December 27, 2023)

The Lancet is a widely respected medical journal (please see statement at end of account).

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Cooling cities through urban green infrastructure: a health impact assessment of European cities

Tamara Lungman, MPH • Marta Cirach, MSc • Federica Marando, PhD • Evelise Pereira Barboza, MPH • Sasha Khomenko, MSc • Pierre Masselot, PhD • et al. [Show all authors](#)

Published: January 31, 2023 • DOI: [https://doi.org/10.1016/S0140-6736\(22\)02585-5](https://doi.org/10.1016/S0140-6736(22)02585-5) [Check for updates](#) PlumX Metrics

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Summary

Background

High ambient temperatures are associated with many health effects, including premature mortality. The combination of global warming due to climate change and the expansion of the global built environment mean that the intensification of urban heat islands (UHIs) is expected, accompanied by adverse effects on population health. Urban green infrastructure can reduce local temperatures. We aimed to estimate the mortality burden that could be attributed to UHIs and the mortality burden that would be prevented by increasing urban tree coverage in 93 European cities.

Methods

We did a quantitative health impact assessment for summer (June 1–Aug 31), 2015, of the effect of UHIs on all-cause mortality for adults aged 20 years or older in 93 European cities. We also estimated the temperature reductions that would result from increasing tree coverage to 30% for each city and estimated the number of deaths that could be potentially prevented as a result. We did all analyses at a high-resolution grid-cell level (250×250 m). We propagated uncertainties in input analyses by using Monte Carlo simulations to obtain point estimates and 95% CIs. We also did sensitivity analyses to test the robustness of our estimates.

Findings

The population-weighted mean city temperature increase due to UHI effects was 1.5°C (SD 0.5; range 0.5–3.0). Overall, 6700 (95% CI 5254–8162) premature deaths could be attributable to the effects of UHIs (corresponding to around 4.33% [95% CI 3.37–5.28] of all summer deaths). We estimated that increasing tree coverage to 30% would cool cities by a mean of 0.4°C (SD 0.2; range 0.0–1.3). We also estimated that 2644 (95% CI 2444–2824) premature deaths could be prevented by increasing city tree coverage to 30%, corresponding to 1.84% (1.69–1.97) of all summer deaths.

Interpretation

Our results showed the deleterious effects of UHIs on mortality and highlighted the health benefits of increasing tree coverage to cool urban environments, which would also result in more sustainable and climate-resilient cities.

Funding

GoGreenRoutes, Spanish Ministry of Science and Innovation, Institute for Global Health, UK Medical Research Council, European Union's Horizon 2020 Project Exhaustion.

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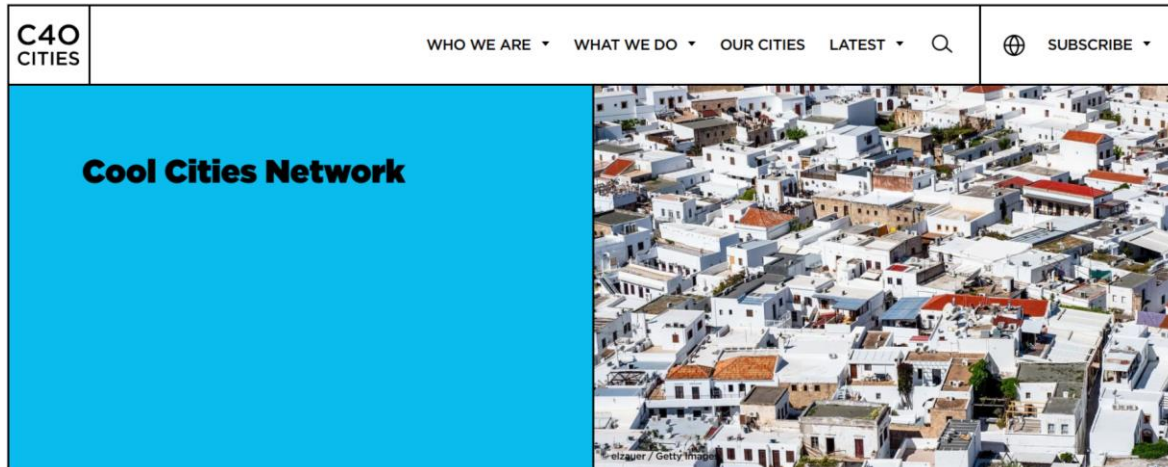
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[Cool Cities Network - C40 Cities](#)

(Accessed December 27, 2023)

This organization is global. Participating cities in the US are Austin, Boston, Los Angeles, Miami, New York, Philadelphia, Phoenix, and Washington, DC.



Tackling urban heat by building greener cities

The number of cities exposed to extreme temperatures will nearly triple over the next decades. By 2050, more than 970 cities will experience average summertime temperature highs of 35°C (95°F). Cities are specifically vulnerable to rising temperatures due to the Urban Heat Island (UHI) effect, which shows that urban areas are 3 to 8 degrees Celsius warmer than rural areas. Urban surfaces absorb more sunlight and heat than natural landscapes, and urban areas lack vegetation to cool through evaporation. Extreme temperatures compounded by the UHI effect trigger an increase in building energy use due to increased cooling needs, which in turn increases air pollution causing significant health impacts for urban residents, and reduces quality of life. Cities can reduce urban temperatures by using cooling surfaces, alternative materials and design, and green infrastructure.

Many cities are taking several measures to address the urban heat island effect in their local jurisdictions. These early successes represent a significant opportunity for knowledge sharing and collaboration among C40 cities. Cities participating in the Cool Cities Network, led by the City of Athens, have prioritised focus areas around which they are actively sharing policies and strategies with one another.

Focus areas:

- **Heat & vulnerability mapping**
Measuring urban heat & assessing vulnerabilities to target future action
- **Heat wave emergency management**
Developing heat wave emergency response systems (*cooling centres, heatwave public communication*)
- **Integrating heat into long-term planning**
Developing urban heat strategies and integrating heat action into long-term planning (*setting heat reduction targets & measuring progress*)
- **Making the case for heat action**
Highlighting co-benefits of heat action to gain political support
- **Heat mitigation solutions**
Evaluating green and cool solutions and methods for implementation, such as cool roofs & pavements, green building envelopes, street trees, urban forests and alternative cooling techniques

Partners: Global Cool Cities Alliance

Cities participating in the network: Accra, Athens, Austin, Barcelona, Berlin, Boston, Buenos Aires, Cape Town, Dar es Salaam, Durban, Freetown, Guadalajara, Lisbon, London, Los Angeles, Madrid, Medellin, Melbourne, Mexico City, Miami, Milan, Montréal, New York, Paris, Philadelphia, Phoenix, Quito, Rio de Janeiro, Rome, Rotterdam, Salvador, Sao Paulo, Sydney, Tel Aviv - Yafo, Tokyo, Toronto, Tshwane, and Washington DC.

Private Building Decarbonisation Network



Making our buildings more energy efficient

Energy consumed in buildings accounts for almost half of C40 cities' carbon emissions on average, and around two-thirds of this comes from private buildings. Buildings can last over 100 years, which means that increasing a building's energy efficiency is critical to meeting global climate goals. Improving building energy efficiency can bring many other additional benefits such as reduced energy bills, healthier workplaces, new jobs and greater energy security.

Cities participating in the network have prioritised four focus areas around which they are actively sharing policies, strategies, ideas and challenges with one another.

Focus areas:

- **Data for policy-making**
Collecting and using building energy data to drive ambitious policy development.
Understanding how to use data for detailed modelling to plan ambitious policies.
Encouraging stakeholders to collect and disclose data.
- **Residential buildings**
Encouraging multi-family and single-family home retrofits by exploring financing schemes for action and raising awareness.
Designing engaging campaigns to encourage resident action.
- **Deep retrofit**
Understanding the policies and programmes needed for achieving zero carbon building retrofits.
- **Commercial buildings**
Encouraging commercial building owners, tenants and landlords to take action to develop building tune-up programs.
Fostering retro-commissioning in commercial buildings.

The network is complemented by two technical assistance programmes:

- **Private building retrofit and data policy programme** - helping cities to collect, analyse and report building energy data to accelerate the retrofit of private buildings.
- **Residential retrofit programme** - working with cities on programmes to retrofit residential building fabric, heating and lighting systems and engage building occupants.

This work is part of the C40 Buildings & Energy 2020 Programme, generously supported by the [Children's Investment Fund Foundation \(CIFF\)](#) and [ClimateWorks Foundation](#).

In China, building heat is being developed as a source of low-carbon energy.

C40 Cities China Buildings Programme

This programme helps cities pilot and develop low carbon building codes, energy benchmarking and quota systems, municipal and residential building retrofits, and transformative actions on clean and renewable energy.



Helping cities to develop and implement transformative actions on clean and renewable energy

The China Buildings Programme, launched in 2018 in Beijing, is working with **Beijing, Fuzhou, Qingdao, and Shanghai (Changning District)** to develop a range of innovative reach ultra-low energy consumption levels, and promote the use of buildings as a source of low carbon energy. The programme supports the four Chinese cities to deliver ambitious climate action and share knowledge with cities across China and internationally.

The Center of Science and Technology of Industrialization Development (CSTID), a research institution under the Ministry of Housing and Urban-Rural Development (MoHURD), manages the delivery of technical assistance support to Beijing, Fuzhou, and Qingdao, as well as most central communication and outreach functions. The China Association of Building Energy Efficiency (CABEE), a non-profit association composed of building energy efficiency products and service enterprises, manages the delivery of technical assistance support to the Changning District, Shanghai, as well as capacity building functions for the China Better Buildings Challenge.

The C40 China Buildings Programme is one of two country level initiatives within C40's global **Building Energy 2020 Programme (BE2020)**, the other being in South Africa. Funded by the Children's Investment Fund Foundation (CIFF), BE2020 is supporting more than 50 cities to take action and develop policies that curb emissions from existing buildings, avoid carbon lock-in from low performing buildings, and help cities utilise buildings as sources of low carbon energy.

Cities, which account for over 85% of China's overall CO2 emissions, are at the frontline of efforts to deliver on the Chinese government's commitment to peak CO2 emissions by 2030.

Accessed December 27, 2023

MATT SIMON SCIENCE OCT 11, 2021 7:00 AM

Deadly Heat Is Baking Cities. Here's How to Cool Them Down

Urban areas can be 20 degrees hotter than the surrounding country. But green spaces and reflective pavement can make city life more bearable.



IF YOU'VE EVER driven from the country into the city and marveled at how the temperature dramatically spiked, you've felt the urban heat island effect. The streets and buildings of a metropolis absorb the sun's energy during the day and gradually release it at night. The built environment essentially bakes itself, and temperatures can soar as much as 20 degrees Fahrenheit higher than the surrounding country, which benefits from swaths of trees that "sweat," releasing water vapor and cooling the air.

As global temperatures rapidly climb, scientists, governments, and activists are scrambling for ways to counter the heat island effect. According to the World Health Organization, the number of people exposed to heat waves jumped by 125 million between 2000 and 2016. Extreme heat kills more Americans than any other natural disaster, and is especially dangerous for folks with preexisting conditions like asthma.

By 2050, seven in 10 people will live in cities, says the World Bank. That will be a whole lot of sweltering humans. "I really see cities as kind of a canary in the coal mine type of situation, where you have a little bit of a harbinger of what the rest of the planet could be experiencing," says Portland State University climate adaptation scientist Vivek Shandas, who has studied the heat island effect in over 50 US cities.

Shandas' research has shown that even within cities, one neighborhood might be 15 degrees hotter than another, and that disparity maps to income inequalities. A major predictor of a neighborhood's heat is how much green space it has. Richer parts of a city tend to have more greenery, and poorer parts have more concrete: they're heavily developed, and filled with big box stores, freeways, and industrial facilities that soak up the sun's radiation. A concrete landscape is so good at holding onto heat, in fact, that it'll stay warm through the night. When the sun comes up, a poor neighborhood is already hotter than a rich neighborhood.

Scientists are just beginning to study whether they can bring down the temperature of city structures by deploying "cool" roofs, walls, and pavements—ones that are light colored and bounce the sunlight away. Lighter surfaces reflect more of the sun's radiation than dark surfaces. (Think about how you feel while wearing black instead of white on a sunny day. This albedo effect is also part of the reason why the Arctic is warming so fast.) But while the thermodynamics are

straightforward, the deployment of cool surfaces turns out to be weirdly complicated.

Take the problem of cooling roofs, says environmental engineer George Ban-Weiss, who studies cool infrastructure at the University of Southern California. In theory, it's simple to paint the large, flat tops of commercial buildings white or light gray. Residential homeowners could opt for lighter tiles—regular old clay, in fact, reflects sunlight quite well. These modifications would cool down the air coming off a roof, as well as the structure itself, meaning occupants wouldn't need to run air conditioning as often. If a building can support the extra weight, the owners could even create a rooftop garden packed with plants, which would cool the entire area by releasing water vapor.

But while these changes would make life more bearable for the people inside each modified building, if enough owners followed suit, in some areas it could have an unintended regional side effect. In a coastal metropolis like Los Angeles, the urban warmth usually contrasts with the coldness of the ocean, a differential that drives a reliable sea breeze. As land and sea temperatures get closer to each other, there may be less of that wind. "So that means less clean air coming into the city, which would tend to make pollutant concentrations higher," says Ban-Weiss, plus the loss of the breeze that itself keeps people cool.

A cool wall follows the same principle, just with a vertical surface. But this, too, can have an unintended consequence: Sunlight reflecting off a wall can shine on passing pedestrians, heating them instead of the building. And engineers like Ban-Weiss are hitting the same snag in their experiments with cool pavements, which are slathered with a reflective coating. This does indeed reduce a road's surface temperature—but it bounces some of that energy back at pedestrians.



The WIRED Guide to Climate Change

The world is getting warmer, the weather is getting worse. Here's everything you need to know about what humans can do to stop wrecking the planet.

BY KATIE H. PALMER AND MATT SIMON

"It's kind of a tug of war," says Ban-Weiss. "You've got a reduction in air temperature that would tend to make people more comfortable. But then you've got an increase in this absorbed solar radiation from the pedestrian that would make them less comfortable. And so the question is: Which one of those wins? Is the person less comfortable or more comfortable from a cool pavement? And the answer is not super clear yet." At least during the day—at night, reflectance isn't an issue.

Early projects are starting to provide some data. In September, officials in Phoenix announced the results from the first year of the city's Cool Pavement Pilot Program, in which stretches of roads were treated with a reflective coating. Researchers from Arizona State

University took temperature readings four times a day and compared the treated roads to non-treated ones. They found that the treated pavement was on average 10.5 to 12 degrees Fahrenheit cooler in the afternoon. Surface temperatures at sunrise were 2.4 degrees cooler, suggesting that the coating attenuated some of the carryover heat from day to day.

But reflectiveness—or the amount of light that could ricochet back at pedestrians—also increased, which the scientists measured with a light-detecting instrument called a spectroradiometer. "This may be a necessary trade-off, because if we want to reduce surface temperatures using a reflective surface, that's going to happen no matter what," says Arizona State University climate and health scientist Jennifer Vanos, who conducted the study. "However, do people walk in the middle of the road? Hopefully not."



Treating pavement in Phoenix. COURTESY OF THE CITY OF PHOENIX

There's another seemingly simple solution that cities could deploy about anywhere that's not in the path of a car: Plant more living things. Done right, a green space creates a slew of benefits: It cools a neighborhood and beautifies it, while also acting as a sponge to absorb floodwaters. It provides shade for people to shelter in during a heat wave, plus it's good for mental health. Building the space [creates jobs](#), as does maintaining it. And lower temperatures reduce the demand for air conditioning, which is a major source of emissions, as well as of heat, because of all the hot air the machines expel as they work. Elizabeth Sawin, codirector of Climate Interactive, a nonprofit that focuses on the intersection of climate change and inequity, calls this "multisolving."

But planting greenery, too, can have an unintended consequence—it's known as [green gentrification](#). Urban investment attracts the attention of speculators, who start buying up housing in low-income neighborhoods, driving up rents. "Then the people in the very neighborhood the investment was meant to help get displaced off into places that are heat islands or other kinds of climate risk zones," says Sawin.

Sawin says that plans to increase green spaces should involve local residents at the very earliest stages. "It can't be a siloed approach. It has to combine pre-thinking about affordable housing or community-owned land trusts. And that needs to happen well in advance of the first shovels of the project," she says.

Shandas points out that thinking about heat reduction is still very novel in urban planning, even as temperatures soar. "There's not a single municipality in the country that I know of that is requiring consideration of rising temperatures in their design guidelines or regulations," says Shandas. "Right now developers are building lot-edge-to-lot-edge in cities across the country, and they are not leaving any space on the lot itself for a small garden box, let alone any mature large trees."

And since the science of urban heat is still young, it's not always clear which strategy is best to follow. For instance: Which trees work best in which climates?

Has the heat island effect already gotten so bad in some places that they can't support certain species? And how much cooling can trees really produce? "We don't have a really good way of empirically understanding the relationship between how well a specific type of heat-ameliorating design works in the context of the levels of temperatures that we've experienced," says Shandas, "for example, [this summer in the Northwest](#)."

The city of the future may be both more reflective *and* greener, with both strategies being used in concert to mitigate the heat island effect. But in terms of cooling effects, says Ban-Weiss, it's hard to beat vegetation when it comes to the many simultaneous benefits they provide. "If you're going to pick one technology, I would always go with green space," he says. "It solves so many different problems."

From: [paxtonm](#)
To: [City of Albuquerque Planning Department](#)
Subject: 48 hour material, Attn. EPC Chairman David Shaffer, a further thought
Date: Tuesday, January 9, 2024 8:36:29 AM
Attachments: [2024 Jan 4 ICC Item 12 opposition.pdf](#)

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.
Dear Chairman Shaffer:

Although the following statement of opposition to Item 12 was written before the deletion of restaurants, the same objections apply to other uses. Please consider these factors.

Thank YOU,
Merideth Paxton, PhD

Item 12 of the proposed 2023 revisions of the Albuquerque Integrated Development Ordinance would “*Allow live/work for very small retail and restaurants to open business opportunities for homeowners who otherwise could not purchase/maintain/rent two properties, one for business and one for living. Returns the pattern of corner stores in the neighborhoods for services within walking distance of more residences. Prohibits cannabis retail and nicotine retail in all zone districts.*” The discussion during the December 14, 2023 EPC hearing noted that small grocery stores could be helpful to neighborhoods in food deserts. The IDO Working Group of the Inter-Coalition Council opposes Item 12 because such commercialization of neighborhoods has not previously been allowed, evidently due to the numerous problems this change is likely to bring to residents.

According to Table 4-2 of the current IDO, restaurants are not allowed in any residential zone. Farmers’ markets are not allowed in R-1, and are permitted only as a temporary use in R-A, R-MC, R-T, R-ML, and R-MH. General retail, small is not now allowed in R-A, R-1, R-T, R-ML (it is a permissive accessory use in R-MC and R-MH). The formal text of Item 12 would allow general retail (small retail is a category, but very small retail does not appear to exist) and restaurants in the R-1 zone “*only on corner lots that are a minimum of 5,000 square feet.*” Many neighborhoods would potentially be impacted because 5,000 square-foot lots are common. Even in the older areas with lots that are small by modern standards, the typical dimension is 50 feet by 142 feet (7,100 square feet). General retail and restaurants would bring delivery vehicles, which would generally increase traffic and create risks for young children riding bicycles and crossing streets. Accumulations of trash would not fit in residential collection bins, and commercial dumpsters would pose another risk for children. Where would the dumpsters be placed? Perhaps along the streets, in the public right of way? Restaurant dumpsters are likely to attract rodents and other pests. Could liquor be served with food? These proposed commercial uses would surely increase parking needs beyond the spaces along both sides of the corner. Additionally, the premise that the change would “*Allow live/work for very small retail and restaurants to open business opportunities for homeowners who otherwise could not purchase/maintain/rent two properties, one for business and one for living.*” is flawed because there is no way to enforce a requirement that the owner of the property must live there.

Item 12 highlights a general problem with application of all of the IDO provisions over the entire city. Not all neighborhoods need general retail and/or places to buy food. In areas where these businesses already exist, additional competition could drive both established and new enterprises out of existence. Further, since not all neighborhoods would initially attract commercial investment, the detriments of new restaurants and retail would only affect some residential areas. Replacing sector plans with the IDO is fundamentally unfair.

From: [Dan Regan](#)
To: [City of Albuquerque Planning Department](#)
Cc: ["P. Davis Willson"](#); reynolds@unm.edu; anvanews@aol.com; lbaca@gmail.com; ["Mildred Griffie"](#); dwilllems2007@gmail.com; [Marlene Willems](#); dreganabq@gmail.com
Subject: FW: EPC IDO Hearing #2; 48 hour comments
Date: Monday, January 8, 2024 4:51:39 PM
Attachments: [Untitled attachment 00198.htm](#)
[LTR 48hrPDW Jan8 2024.pdf](#)
Importance: High

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Attn: EPC Chair David Shaffer,

I write to strongly support the attached letter from Patricia Willson. Especially significant is the manner in which CABQ is not following state law when it comes to the notification of property owners when changes to their zoning is being considered and not even doing individual notification as that Zoning has changed.

The figures that Ms. Willson provides almost make the notification process as used by CABQ a sad joke and a major insult to all property owners who provide a major portion of all taxes paid in the CABQ's & the county's revenues!

For the City Council and the Planning Dept. to claim for 5+ years that they just can't make the software for an Opt-In application (same one used by APD and multiple other city departments).....that's an absolute insult to every property owner in the city! I support this being FIXED at the earliest possible time!

Thanks for your attention to all of the above and the attached.

Dan Regan
Active Member of KHNA and D4C since 2017

From: icc-working-group@googlegroups.com [mailto:icc-working-group@googlegroups.com] **On**
Behalf Of P. Davis Willson
Sent: Monday, January 8, 2024 4:22 PM
To: City of Albuquerque Planning Department <abcto@cabq.gov>
Subject: EPC IDO Hearing #2; 48 hour comments

Attn: EPC Chair Shaffer

Please accept the following letter for the IDO Hearing #2 on Thursday, January 11, 2024.

Thank you,

Patricia D. Willson, AIA

Willson + Willson Architects
505 Dartmouth Drive SE

Albuquerque, NM 87106
V: (505) 266-8944
F: (505) 266-2746
[email: info@willsonstudio.com](mailto:info@willsonstudio.com)
<http://www.willsonstudio.com>

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For more options, visit <https://groups.google.com/d/optout>.

January 8, 2024

Via email: abcto@cabq.gov
EPC Chair Shaffer

Re: PR-2018-001843 / RZ-2023-00044– Small Area VHUC
PR-2018-001843 / RZ-2023-00043– Small Area Rail Trail
PR-2018-001843 / RZ-2023-00040– Citywide

Chairman Shaffer,

Regarding the three cases above that you will hear Thursday, January 11, 2024, please accept this 48-hour material for your review. I have spent enough time—drafting the Inter-Coalition Council letter—commenting on specific items, findings, and conditions; these are some general comments.

ALBUQUERQUE IS NOT MAYBERRY...

The concept of allowing corner R-1 lots to permissively become duplexes or 'bodegas' flies in the face of the Comprehensive Plan. The fact that Staff has recommended DENIAL of the VHUC Small Area Amendment gives me hope that the Planning Department is recognizing the hierarchy of the CompPlan, the Community Planning Assessments, and the IDO. Maybe now someone could also review the use of terms like casita, bodega and 'Burque...

TRANSIT IS THE FIRST WORD IN **TOD** (Transit Oriented Development)...

Moving people out of Single Occupancy Vehicles and into Mass Transit is necessary. Reducing parking works when people don't need to drive their cars—which only works when there is mass transit with appropriate routes and headways. The West Side has had four bus routes cut. You can't get there from here...

EIGHT TEN THOUSANDTHS (.0008)...

I'm pretty math-challenged, but I think this is the percentage of the number of Points of Contact (POCs) to the adult population of Albuquerque (≈352 to ≈443,196). Both the Annual Update Process and the notification system are broken. I'm not necessarily suggesting that more people need to be notified, just have a system where people can find information. (Want to know if your street is going to get dug up? Just look here: <https://www.cabq.gov/gis/map-views/municipal-development-projects>) Why can't development applications be similarly pinned?

Chairman Shaffer and Commissioners, thank you for serving—this is more work than anyone should be tasked with. I am thrilled that the amendment to lessen the update frequency has gotten traction; next we should work on quantity. I have yet to find another jurisdiction that comes anywhere close to matching Albuquerque's number of zoning code amendments.

Though I serve as my neighborhood association president, a District 6 Coalition officer and an Inter-Coalition Council (ICC) representative, these are my personal comments.

Respectfully,



P. Davis Willson
architect, activist, interloper

From: [Dan Regan](#)
To: [City of Albuquerque Planning Department](#)
Cc: "[P. Davis Willson](#)"; reynolds@unm.edu; anvanews@aol.com; lxbaka@gmail.com; "[Mildred Griffiee](#)"; dwilllems2007@gmail.com; [Marlene Willems](#); dlreganabq@gmail.com
Subject: FW: EPC IDO Hearing #2; 48 hour comments
Date: Monday, January 8, 2024 4:38:48 PM
Attachments: [ICC LTR to EPC 1 8 24Final.pdf](#)
[Untitled attachment 00193.htm](#)

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Attn: EPC Chair David Shaffer,

I write in strong support of the attached Inter-Coalition Council letter to your recommending EPC. I have been following the development of the contents of the attached letter over the past 4+ months of ICC meetings.

I have been involved with the IDO processes since the night it was passed in Nov. 2017. I am an active member of the Knapp Heights Neighborhood Association and the District 4 Coalition of NAs.

To all EPC members: Please read carefully and give consideration to the all of the recommendations of the attached letter.....they were painfully (as in with a great deal of effort and focus.....cuz none of this fits into the category of FUN) developed by many voices from throughout our fair city.

Thanks

Dan Regan, member of KHNA and D4C

From: icc-working-group@googlegroups.com [mailto:icc-working-group@googlegroups.com] **On**
Behalf Of P. Davis Willson
Sent: Monday, January 8, 2024 4:22 PM
To: City of Albuquerque Planning Department <abcto@cabq.gov>
Cc: Michael Brasher <eastgatewaycoalition@gmail.com>
Subject: EPC IDO Hearing #2; 48 hour comments

Attn: EPC Chair Shaffer

Please accept the following letter from the Inter-Coalition Council (ICC) IDO Working Group for the IDO Hearing #2 on Thursday, January 11, 2024. I have Cc'd the ICC President Michael Brasher.

Thank you,

Patricia Willson

Victory Hills NA: President
District 6 Coalition: Treasurer

Inter-Coalition Council Representative

--

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For more options, visit <https://groups.google.com/d/optout>.

ICC Inter-Coalition Council

The ICC is a Council of Coalitions of Albuquerque and Bernalillo County Neighborhood Associations that has been meeting since May 2014 to reach consensus on broad, common concerns. Its purpose is to promote stronger, better neighborhoods and communities through group action and interfacing with the governmental, social, environmental, cultural and historic needs and interests of all residents.

January 8, 2024

Via email: abctoz@cabq.gov
EPC Chair Shaffer

Re: PR-2018-001843 / RZ-2023-00044– Small Area VHUC
PR-2018-001843 / RZ-2023-00043– Small Area Rail Trail
PR-2018-001843 / RZ-2023-00040– Citywide

Chairman Shaffer,

The Inter-Coalition Council (ICC) respectfully submits the following comments regarding the above-mentioned cases to be heard by the Environmental Planning Commission on January 11, 2024. Kudos to Staff for their excellent Supplemental Staff Reports on all three of the Agenda items.

- RZ-2023-00044 – Text Amendments to IDO – Small Area VHUC

We wholeheartedly agree with the recommendation of DENIAL for this amendment and applaud staff for recognizing the need to follow the Comprehensive Plan, noting this excerpt from Staff Report on Page 11:

“The IDO is an instrument to help promote and maintain an aesthetic and humane urban environment for Albuquerque’s citizens, and thereby promote improved quality of life. The proposed Small Area text amendment to the IDO would not ensure that land is developed and used properly. The VHUC was established in the Comprehensive Plan to guide the most urban, walkable, mixed-use development to this area and suburban, auto-oriented development to areas outside of Urban Centers; therefore, Commissions, Boards, and Committees would not be able to facilitate effective administration of City policy in this area with the approval of this amendment.”

- RZ-2023-00043 – Text Amendments to IDO – Small Area Rail Trail

While the Metropolitan Redevelopment Agency (MRA) section of the City’s website says “The design and vision of the Rail Trail is rooted in substantial community involvement” (<https://www.cabq.gov/mra/rail-trail-1/community-engagement-equitable-development>), we have concerns about the decision to categorize the development regulations along the Rail Trail as a Small Area in IDO Part 5 Development Standards rather than as an Overlay Zone. However, it is still a quasi-judicial matter, so we have additional concerns about notification.

As noted in the Small Area VHUC report, the Comprehensive Plan is the overriding guide. Changes to the IDO should not be project driven—we have seen how various Administrations’ pet projects have had unintended consequences. We believe risk may still exist regarding the notification process in this matter. It is unclear how or if individual property owners were advised, to the extent that they fully comprehend (as per the definition of notification in our NM State Statutes), these proposed changes. The need to defer the Small Area VHUC from last month because of irregularities in the notification process is an example of the importance of proper notification.

Staff’s Recommended Conditions for Approval appear to support the interests of the development community while attempting to maintain the protections of the 6 Character Protection Overlay (CPO) zones the Trail intersects. The ICC neither supports nor opposes this Text Amendment.

- RZ-2023-00040 – Text Amendments to IDO – Citywide

While we question the need for approximately 60 proposed amendments—there have been over 500 “text amendments” to the IDO in the last five years—we applaud staff for their work in this process. We are appreciative of the example diagrams included to clarify distances in Notices and Referrals, and are relieved by the last Finding on Page 33:

“Regarding Item #23 Front Yard Walls: EPC advises decision-makers not to pursue taller front yard walls in future IDO updates, as the amendments, in all their variations, have been overwhelmingly opposed by the public.”

In general, we agree with the recommendation of APPROVAL and agree with most of the CONDITIONS presented. However, we have some concerns about the following specific items:

- Item #1 Contextual Standards for HPO Zones, we have concern that there is no process for appeal to the Landmarks Commission, as there is for ZHE.
- Item #3 Cottage Development: while we’re not sure if the increase to 5 acres is to provide more buffering or additional units, the Council Memo by former Clr. Benton and Clr. Feibelkorn appears to be another attempt to introduce duplexes permissively in R-1.
- Items #59 and #60, Clerical and Editorial Changes: although these have been included in every past Annual Update, we do not support the continued inclusion of these amendments as they have no oversight and present potential risk and mismanagement at the planning department level.

For CONDITIONS that have Options, we support the following Options:

CONDITION 2; Items #2, #7, and #50 – Outdoor Amplified Sound: **Option 4: Delete all proposed amendments in their entirety.**

CONDITION 6; Item #10 – Duplex – IDO Subsection 14-16-4-3(B)(5)(b): **Please select Option 2: Delete the proposed amendment...**

CONDITION 6 (7?); Item #13 – Duplex – IDO Subsection 14-16-4-3(B)(5) and 14-16-4-3(F)(6): **Please select Option 2: Delete the proposed amendment...**

CONDITION 9; Item #12 – Dwelling, Live-Work **Please select Option 3. Delete the proposed amendments, thus continuing to regulate live-work as it is currently allowed and regulated.**

CONDITION 11; Item #17 – RV, Boat, and Trailer Parking: **Please select Option 1: Revise the proposed language...**

CONDITION 12; Item #18 – Parking Maximums: **Please select Option 2: Delete the proposed amendment entirely.**

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We wholeheartedly agree with **Finding 34. New Amendment: Change the update cycle** for the IDO from an annual process to a bi-annual process.

Our thanks to Planning Staff and the EPC for their work on this always-Herculean effort

Sincerely,

Michael Brasher

Michael Brasher
Inter-Coalition Council President

and members of the ICC IDO working group including:

Patricia Willson; Victory Hills NA

Jane Baechle; Santa Fe Village NA

Rene’ Horvath; Taylor Ranch NA

Julie Dreike; Embudo Canyon NA

Merideth Paxton; Spruce Park NA

Evelyn Rivera; Taylor Ranch NA

Peggy Neff; University Heights and Summit Park NAs

EPC Chair Shaffer and EPC Commissioners,

I am an officer in the Vista Grande Neighborhood Association (VGNA), which is located south of St. Pius High School.

This comment focuses on the need for an effective and comprehensive “development notification process” for neighborhood associations, neighborhood coalitions and individuals that might be affected by proposed development projects, site plan changes and variance requests.

Currently, Pre-Submittal Neighborhood Meetings are required by the IDO according to Section 6-4(B)(2):

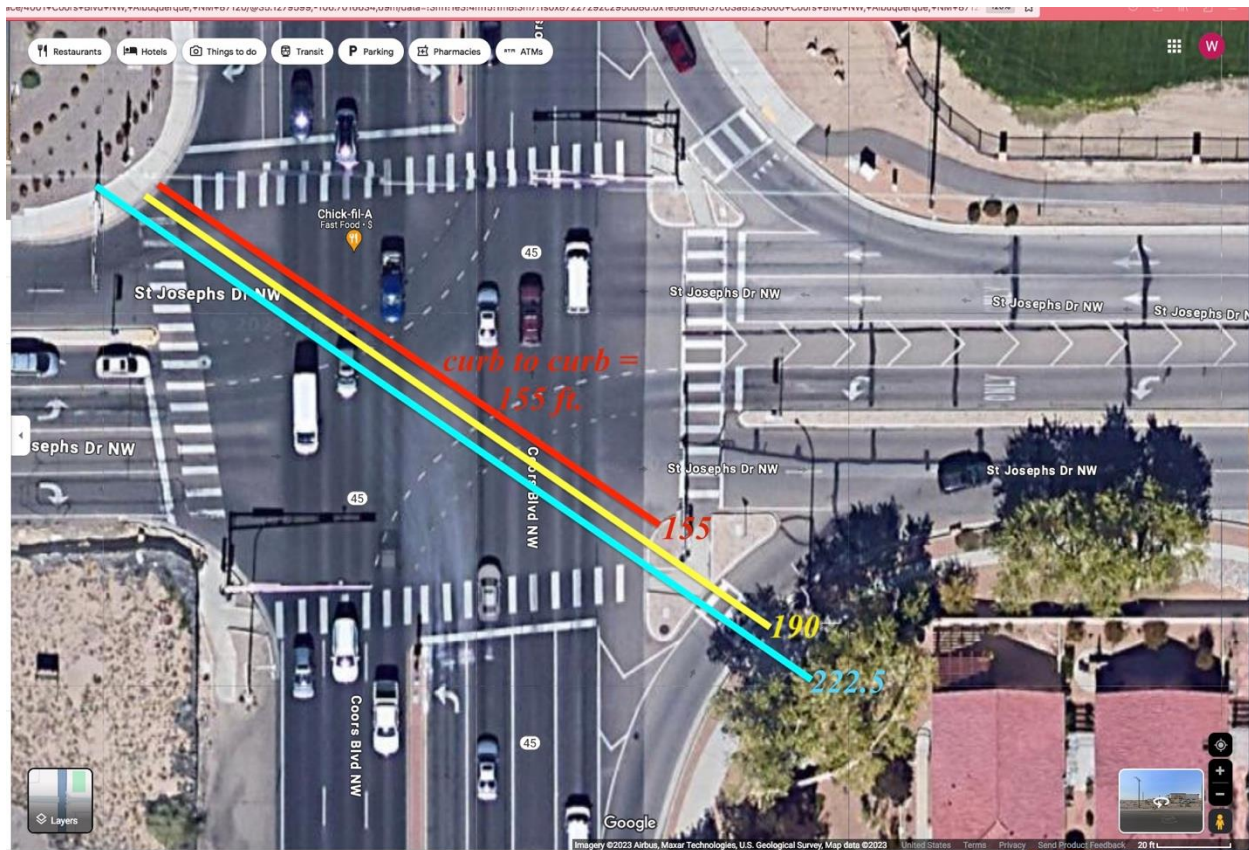
6-4(B)(2) If the project is not located within or adjacent to the boundaries of any Neighborhood Association, the applicant shall offer at least 1 meeting to all Neighborhood Associations whose boundaries include land within 1,320 feet (¼ mile) of the subject property. If no Neighborhood Association has land within that distance of the subject property, no pre-submittal neighborhood meeting shall be required. (Current IDO, P. 403)

This quarter-mile notification standard is a reasonable. If, for technical reasons, the Planning Department staff is requesting changes to the quarter-mile standard, those changes should be made as near as possible to the 1,320 ft. current standard as is technically possible. However, at the last EPC hearing, a number of the proposed IDO amendments (Amendments 29, 31, 32, 33, 34, 36 and 37) sought to reduce the notification distances, often by cutting distances in half.

What is the rationale for this? That the City’s notification process is overly robust? I can assure you as a neighborhood representative, that is not the case. We have trouble getting notifications of project and site plan changes that are occurring within or quite near the Vista Grande Neighborhood Association boundaries, without adding another layer of more restrictive and complex distance and boundary interpretations to be made by Planning Department staff and developers.

Once you start to half (660 ft.), and half again (330 ft.), and then half again (175 ft.) the quarter-mile standard, then it becomes confusing and quite highly interpretive—as well as opaque—whether or not almost any project that is across the street from a neighborhood association should be notified.

For example, last May, our neighborhood association was not notified of a proposed site plan change to put a Target Superstore across Coors Blvd. from our neighborhood association boundary (Coors Blvd. and St. Josephs Dr. NW). The map below shows how the measurement of distances from our neighborhood boundary to the development site apparently confused planning and neighborhood coordination staff, so we were not notified. According to how the “neighborhood” and the “site” of the “subject property” were interpreted, the distance could have been 135 ft. (red line), 190 ft. (yellow line) or 232.5 ft. (blue line) across that intersection, depending on interpretations of “adjacency,” “boundaries” and “subject property.” That kind of hair-splitting measurement is only going to cause problems.



At an EPC meeting last December, a staff member of the Planning Department characterized Amendments 29, 31, 32, 33, 34, 36 and 37 as a “give and take” in terms of notification distances on the current standards, or perhaps a simplification of the potentially confusing existing IDO standards. In all but a few very extreme cases, the proposals called for reducing or halving the existing notification distances. For that reason, what was said at the last EPC meeting was not a good faith characterization of those proposed amendments. Planning staff that make

such characterizations should be sworn in and pressed on their reasons for proposing the amendments and characterizing them as simplifications, neutral in terms of changing distances, or necessary for technical reasons.

In contrast, the city would be well served by decreasing the complexity and standardizing the notification distances at more reasonable distances that would not cause staff to split hairs over distances, especially since notification can now be done with minimal expense via email. Therefore, Amendments 29, 31, 32, 33, 34, 36 and 37 should be rejected, and a more reasonable and simpler standard should be considered in the future.

It would be wonderful if there an “opt-in” list for interested parties within a quarter-mile, half-mile or mile of major development, site plan and variance applications. And why not include Albuquerque’s six or seven “coalitions of neighborhood associations” in the notification process. In short, distance notifications should be robust and err on the side of notification, so that hair-splitting of distances and “adjacency” would not favor exclusion from notification processes. That would make for a more open process, which at one time was a goal of Albuquerque planners.

Richard Schaefer, Vista Grande Neighborhood Secretary/Treasurer
Phone: 505-917-9909
schaefer@unm.edu

From: [Jim Strozier](#)
To: [City of Albuquerque Planning Department](#)
Cc: [Vos, Michael J.](#); [Renz-Whitmore, Mikaela J.](#); [Chris Knopp](#); [Rachel Walker](#); jjacobi@rodey.com
Subject: BESS EPC Comments
Date: Tuesday, January 9, 2024 9:23:34 AM
Attachments: [ABQ BESS IDO Amendments 2024 01 08 Oso Negro.pdf](#)

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

See attached letter.

I thought I sent this last night, but was having trouble connecting at the City Council.

Let us know if you have any questions.

Jim Strozier, FAICP

Consensus Planning, Inc.

302 8th Street NW

(505) 764-9801



January 8, 2024

Environmental Planning Commission
City of Albuquerque
c/o CABQ Planning Department
PO Box 1293
Albuquerque, NM 87103

Subject: 2023 Integrated Development Ordinance Update (IDO), Second Plus Power Comment Letter

Dear Chairman Shaffer and Members of the Environmental Planning Commission,

Oso Negro Energy Storage, LLC, a wholly owned subsidiary of Plus Power, LLC, is writing to thank the City of Albuquerque Environmental Planning Commission (EPC) for reviewing our initial comments dated November 27, 2023 related to proposed battery energy storage system (BESS) regulations in the 2023 IDO Annual Update.

The staff report was published January 4, 2024 following the December 14 EPC public hearing. We agree with the staff recommendation regarding Battery Energy Storage Systems per the following "... Staff recommends a condition of approval to remove this amendment from consideration with a finding that staff continues to explore appropriate regulations for Battery Energy Storage Systems as the annual update proceeds to City Council." We would also request that changes to Electric Utility [Item #6] regarding walls and other minor clarifications also be removed from this amendment to allow for continued exploration of appropriate regulations for Battery Energy Storage Systems.

Oso Negro Energy Storage, LLC submits additional comments and suggested amendments regarding the proposed IDO amendments for BESS.

Since national fire safety requirements prohibit vegetation within 10 feet of BESS facilities, we propose language that eliminates such hazards. BESS facilities do not have as much tall infrastructure as substations, therefore, we propose a reduction to the minimum height for perimeter walls consistent with other jurisdictions' requirements.

Suggested amendments are noted below in **black bold text and** ~~strikeout text~~. We base our proposed amendments on PNM's proposed (new) amendments for Energy Storage Systems (ESS) ~~red text~~.

4-3(E)(#) Energy Storage System (ESS) [New]

~~4-3(E)(8)(a) Substation walls shall be set back a minimum of 10 feet from all property lines to allow for~~

perimeter ~~landscape~~ buffer, except where the property is abutting property zoned NR-C, NR-BP, NR-LM, NR-GM and unclassified Utility Properties.

4-3(E)(8)(b) Substation facilities shall be surrounded by a minimum 10-foot ~~landscaped~~ buffer area ~~consisting of shrubs and other vegetation~~ that complies with the safety and maintenance requirements for substations, **except where the property is abutting property zoned NR-C, NR-BP, NR-LM, NR-GM and unclassified Utility Properties.**

4-3(E)(#)(c) ESS facility perimeter walls shall be a **minimum 8-foot**-high wall that is a combination of split face and smooth face blocks, cast-in-place walls with a discernable pattern, and/or shall provide pilasters along the wall every 20 feet.

4-3(E)(#)(d) The ~~landscape~~ buffer, **where required**, shall ~~minimize~~ **not include** combustible materials including mulch, living groundcover, shrubs, and trees, but where landscape is appropriately located it shall provide visual buffering of the perimeter wall from public rights-of-way and residential uses to the maximum extent practicable.

Thank you for your consideration of our concerns.

Oso Negro Energy Storage, LLC

A handwritten signature in black ink, appearing to read "Christy H. King". The signature is fluid and cursive, with a long horizontal stroke at the end.

From: [P. Davis Willson](#)
To: [City of Albuquerque Planning Department](#)
Subject: Re: EPC IDO Hearing #2; 48 hour comments
Date: Monday, January 8, 2024 9:20:26 PM
Attachments: [ICC LTR to EPC 1 8 24.pdf](#)

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Dear Ms. Bloom,

Thanks so much for the confirmation. Additional ICC IDO Working Group committee members have asked to have their signatures added. If it's not too much trouble; please substitute this revision in place of the one sent earlier (and I promise I won't send any more tomorrow!)

Sincerely,

Patricia Willson

Victory Hills NA: President
District 6 Coalition: Treasurer
Inter-Coalition Council Representative

On Jan 8, 2024, at 7:18 PM, City of Albuquerque Planning Department <abctoz@cabq.gov> wrote:

January 8, 2024

Dear Ms. Wilson:

Good evening. Thank you for submitting your comments as they were received and will be attached to the staff report in accordance with the 48 hour rule.

Thank you and have a wonderful evening.

Respectfully submitted,

<image001.png>

MISA K. BLOOM

(she / hers)

associate planner

urban design & development

o 505.924.3662

e mbloom@cabq.gov

cabq.gov/planning

From: P. Davis Willson <info@willsonstudio.com>
Sent: Monday, January 8, 2024 4:22 PM
To: City of Albuquerque Planning Department <abctoz@cabq.gov>
Cc: Michael Brasher <eastgatewaycoalition@gmail.com>
Subject: EPC IDO Hearing #2; 48 hour comments

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Attn: EPC Chair Shaffer

Please accept the following letter from the Inter-Coalition Council (ICC) IDO Working Group for the IDO Hearing #2 on Thursday, January 11, 2024. I have Cc'd the ICC President Michael Brasher.

Thank you,

Patricia Willson

Victory Hills NA: President
District 6 Coalition: Treasurer
Inter-Coalition Council Representative

ICC Inter-Coalition Council

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January 8, 2024

Via email: abctoz@cabq.gov
EPC Chair Shaffer

Re: PR-2018-001843 / RZ-2023-00044– Small Area VHUC
PR-2018-001843 / RZ-2023-00043– Small Area Rail Trail
PR-2018-001843 / RZ-2023-00040– Citywide

Chairman Shaffer,

The Inter-Coalition Council (ICC) respectfully submits the following comments regarding the above-mentioned cases to be heard by the Environmental Planning Commission on January 11, 2024. Kudos to Staff for their excellent Supplemental Staff Reports on all three of the Agenda items.

- RZ-2023-00044 – Text Amendments to IDO – Small Area VHUC

We wholeheartedly agree with the recommendation of DENIAL for this amendment and applaud staff for recognizing the need to follow the Comprehensive Plan, noting this excerpt from Staff Report on Page 11:

“The IDO is an instrument to help promote and maintain an aesthetic and humane urban environment for Albuquerque’s citizens, and thereby promote improved quality of life. The proposed Small Area text amendment to the IDO would not ensure that land is developed and used properly. The VHUC was established in the Comprehensive Plan to guide the most urban, walkable, mixed-use development to this area and suburban, auto-oriented development to areas outside of Urban Centers; therefore, Commissions, Boards, and Committees would not be able to facilitate effective administration of City policy in this area with the approval of this amendment.”

- RZ-2023-00043 – Text Amendments to IDO – Small Area Rail Trail

While the Metropolitan Redevelopment Agency (MRA) section of the City’s website says “The design and vision of the Rail Trail is rooted in substantial community involvement” (<https://www.cabq.gov/mra/rail-trail-1/community-engagement-equitable-development>), we have concerns about the decision to categorize the development regulations along the Rail Trail as a Small Area in IDO Part 5 Development Standards rather than as an Overlay Zone. However, it is still a quasi-judicial matter, so we have additional concerns about notification.

As noted in the Small Area VHUC report, the Comprehensive Plan is the overriding guide. Changes to the IDO should not be project driven—we have seen how various Administrations’ pet projects have had unintended consequences. We believe risk may still exist regarding the notification process in this matter. It is unclear how or if individual property owners were advised, to the extent that they fully comprehend (as per the definition of notification in our NM State Statutes), these proposed changes. The need to defer the Small Area VHUC from last month because of irregularities in the notification process is an example of the importance of proper notification.

Staff’s Recommended Conditions for Approval appear to support the interests of the development community while attempting to maintain the protections of the 6 Character Protection Overlay (CPO) zones the Trail intersects. The ICC neither supports nor opposes this Text Amendment.

- RZ-2023-00040 – Text Amendments to IDO – Citywide

While we question the need for approximately 60 proposed amendments—there have been over 500 “text amendments” to the IDO in the last five years—we applaud staff for their work in this process. We are appreciative of the example diagrams included to clarify distances in Notices and Referrals, and are relieved by the last Finding on Page 33:

“Regarding Item #23 Front Yard Walls: EPC advises decision-makers not to pursue taller front yard walls in future IDO updates, as the amendments, in all their variations, have been overwhelmingly opposed by the public.”

In general, we agree with the recommendation of APPROVAL and agree with most of the CONDITIONS presented. However, we have some concerns about the following specific items:

- Item #1 Contextual Standards for HPO Zones, we have concern that there is no process for appeal to the Landmarks Commission, as there is for ZHE.
- Item #3 Cottage Development: while we’re not sure if the increase to 5 acres is to provide more buffering or additional units, the Council Memo by former Clr. Benton and Clr. Feibelkorn appears to be another attempt to introduce duplexes permissively in R-1.
- Items #59 and #60, Clerical and Editorial Changes: although these have been included in every past Annual Update, we do not support the continued inclusion of these amendments as they have no oversight and present potential risk and mismanagement at the planning department level.

For CONDITIONS that have Options, we support the following Options:

CONDITION 2; Items #2, #7, and #50 – Outdoor Amplified Sound: **Option 4: Delete all proposed amendments in their entirety.**

CONDITION 6; Item #10 – Duplex – IDO Subsection 14-16-4-3(B)(5)(b): **Please select Option 2: Delete the proposed amendment...**

CONDITION 6 (7?); Item #13 – Duplex – IDO Subsection 14-16-4-3(B)(5) and 14-16-4-3(F)(6): **Please select Option 2: Delete the proposed amendment...**

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and members of the ICC IDO working group including:

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Peggy Neff; University Heights and Summit Park NAs
Mark Reynolds, Highlands North NA
Dan Regan, Knapp Heights NA
D. H. Couchman, Academy Hills Park NA

From: [P. Davis Willson](#)
To: [City of Albuquerque Planning Department](#)
Cc: [Michael Brasher](#)
Subject: EPC IDO Hearing #2; 48 hour comments
Date: Monday, January 8, 2024 4:24:14 PM
Attachments: [ICC LTR to EPC 1 8 24Final.pdf](#)

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Attn: EPC Chair Shaffer

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January 8, 2024

Via email: abctoz@cabq.gov
EPC Chair Shaffer

Re: PR-2018-001843 / RZ-2023-00044– Small Area VHUC
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Evelyn Rivera; Taylor Ranch NA

Peggy Neff; University Heights and Summit Park NAs

From: [P. Davis Willson](#)
To: [City of Albuquerque Planning Department](#)
Subject: IDO Annual Update 2023 - EPC Review and Recommendation
Date: Tuesday, January 9, 2024 7:46:32 AM
Attachments: [LTR 48hrPDW Jan8 2024.pdf](#)

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Attn: EPC Chair Shaffer,

I sent this letter yesterday but am not sure it was attached properly. So, sorry if this is a duplicate—but better twice than not at all.

And thank you for extending your term on the EPC to provide continuity through this process.

Respectfully,

Patricia Willson

Victory Hills NA: President
District 6 Coalition: Treasurer
Inter-Coalition Council Representative

January 8, 2024

Via email: abcto@cabq.gov
Attn: EPC Chair Shaffer

Re: PR-2018-001843 / RZ-2023-00044– Small Area VHUC
PR-2018-001843 / RZ-2023-00043– Small Area Rail Trail
PR-2018-001843 / RZ-2023-00040– Citywide

Chairman Shaffer,

Regarding the three cases above that you will hear Thursday, January 11, 2024, please accept this 48-hour material for your review. I have spent enough time—drafting the Inter-Coalition Council letter—commenting on specific items, findings, and conditions; these are some general comments.

ALBUQUERQUE IS NOT MAYBERRY...

The concept of allowing corner R-1 lots to permissively become duplexes or 'bodegas' flies in the face of the Comprehensive Plan. The fact that Staff has recommended DENIAL of the VHUC Small Area Amendment gives me hope that the Planning Department is recognizing the hierarchy of the CompPlan, the Community Planning Assessments, and the IDO. Maybe now someone could also review the use of terms like casita, bodega and 'Burque...

TRANSIT IS THE FIRST WORD IN **TOD** (Transit Oriented Development)...

Moving people out of Single Occupancy Vehicles and into Mass Transit is necessary. Reducing parking only works when people don't need to drive their cars—which only works when there is mass transit with appropriate routes and headways. The West Side has had four bus routes cut. You can't get there from here...

EIGHT TEN THOUSANDTHS (.0008)...

I'm pretty math-challenged, but I think this is the percentage of the number of Points of Contact (POCs) to the adult population of Albuquerque (≈352 to ≈443,196). Both the Annual Update Process and the notification system are broken. I'm not necessarily suggesting that more people need to be notified, just have a system where people can find information. (Want to know if your street is going to get dug up? Just look here: <https://www.cabq.gov/gis/map-views/municipal-development-projects>) Why can't development applications be similarly pinned?

Chairman Shaffer and Commissioners, thank you for serving—this is more work than anyone should be tasked with. I am thrilled that the amendment to lessen the update frequency has gotten traction; next we should work on quantity. I have yet to find another jurisdiction that comes anywhere close to matching Albuquerque's number of zoning code amendments.

Though I serve as my neighborhood association president, a District 6 Coalition officer and an Inter-Coalition Council (ICC) representative, these are my personal comments.

Respectfully,



P. Davis Willson
architect, activist, interloper