

List of amendments considered by the Land Use, Planning and
Zoning Committee on May 12th, 2021

Amendment	Topic	Action taken at May 12 LUPZ Committee Meeting
A1	Arroyo Definition	Pass
A2	Campgrounds and RV Parks*	Pass
A3	Cannabis Cultivation and Manufacturing	Not moved
A4	Cannabis Distances	Not moved
A5	Daytime Gathering	Pass
A6	Geographic Responsiveness	Not moved
A7	Light Vehicle Sales	Pass
A8	Liquor and Nicotine Retail	Pass
A9	MPOS Zoning Thresholds	Pass
A10	MX-L Drive Through	Pass
A11	Non Commercial Antenna	Pass
A12	Overnight Shelter	Not moved
A13	PNM	Pass
A14	Post Application Facilitated Meetings	Pass
A15	Technical Edits*	Pass
A16	Walls and Fences	Pass
A17	Mixed Use Form Based Infill Residential	Pass
A18	NWME VPO	Pass
A19	Cannabis Additional Restrictions**	Not moved

Pass = LUPZ Committee voted to approve the amendment

Fail = LUPZ Committee voted to not approve the amendment

Not moved = Amendment was not voted on

* This amendment was revised after the May 5th LUPZ, see the individual amendment for the revision.

** This amendment was new at the May 12th LUPZ

A1 – Arroyo Definition

LAND USE, PLANNING AND ZONING COMMITTEE of the CITY COUNCIL

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Borrego

1. On page 577, section 7-1 amend the definition for Common Open Space under the subsection for Open Space Definitions as follows:

Common Open Space The area of undeveloped land and/or existing site features within a cluster development that is set aside for the preservation, use, and enjoyment by the owners and occupants of the dwellings in the development and includes historic buildings or structures, sensitive lands, agriculture, landscaping, or outdoor recreation uses. The common open space is a separate lot or easement on the subdivision plat of the cluster development. For the purposes of the common open space calculation in cluster development, parks [and concreted or reinforced arroyos] do not count as common open space. See also Dwelling definitions for Dwelling, Cluster Development.

Explanation: The purpose of this proposed change to the definition is to specify that certain arroyos may not count towards the calculation for Common Open Space for the purposes of the calculation required for Cluster Development. Concreted or reinforced arroyos are not arroyos that have been left in a natural setting and have been artificially reinforced through man-made measures such as concrete. An arroyo of this type doesn't meet the intention of Common Open Space and this change to the definition will clarify that. Natural arroyos, and acequias/ ditches, that are primarily comprised of dirt or other natural materials will still be able to count towards the calculation for Common Open Space.

A2 – Campground and RV Park

LAND USE, PLANNING AND ZONING SUBCOMMITTEE of the CITY COUNCIL

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Gibson

1. Page 55, remove references to Campground and RV Parks Use from Section 2-5(E)(2).
2. Page 150, Table 4-2-1, amend the Use Table line for Campgrounds and RV Parks to make the use conditional in the MX-M zone, and permissive in the NR-C and NR-BP zones. Remove the “P” for this use from the NR-SU zone category.
3. Page 169, add the following text to Section 4-3(D)(14): [A nonconforming campground and RV park use constructed prior to the effective date of this IDO is are allowed as a permissive primary use.]
4. Page 439, add the following new Section 6-4(Z)(1)(b)2.d: [d. Any change affecting a nonconforming an-existing campground/RV use.]

Explanation: The purpose of this amendment is to allow the Campground and RV Park use to be conditional in the MX-M zone, and permissive in the NR-C and NR-BP zones, rather than require a Non Residential Sensitive Use (NR-SU) zone district designation. In response to the COVID-19 public health emergency there has been an increase in RV camping as people seek a safe way to vacation outside of their home. Albuquerque and New Mexico’s mild climate have long made the area a popular destination for RV “snowbirds”. Allowing this use in more zones will allow the City to adapt to that increased need. The use-specific standards already have buffering and screening requirements along the edge of the property in addition to extra screening (a six-foot wall) if the development is proposed adjacent to a residential zone district. Sections 3 and 4 of this amendment grandfather in existing NR-SU Campground and RV Parks and their associated site plans.

The NR-SU zone district is intended to “accommodate highly specialized public, civic, institutional, or natural resource-related uses that require additional review of location, site design, and impact mitigation to protect the safety and character of surrounding properties”. The list of NR-SU uses are the following:

- Airport
- Campground or recreational vehicle park
- Cemetery

A2 – Campground and RV Park

- Correctional facility
- Crematorium
- Fairgrounds
- Fire or police station
- Natural resource extraction
- Solid waste convenience center
- Stadium or racetrack
- Waste and/or recycling transfer station

Of the listed NR-SU uses Campgrounds and RV Parks are dissimilar from the other uses as they are not culturally sensitive and do not have the potential to generate much traffic, pollution, or impact any surrounding properties.

During the EPC process, Planning staff recommended that the proposed zones be revised from MX-L and MX-M to NR-C and NR-BP, due to the potential proximity to residential development with the MX-L and MX-M zone districts. The EPC heard public comment in support of the revisions to the amendment and in support of the change from the NR-SU zone district to other zone districts. However despite the public support for the change and the EPC staff recommendation, the EPC did not support this amendment. This amendment has been revised since it was initially submitted to the EPC, to be conditional in MX-M and permissive in NR-C and NR-BP zone districts, to provide more nuance and to be closer to the EPC staff recommendation.

NOTE: May 6: the text in Green denotes revisions post the May 5th LUPZ. These revisions are intended clarify how to address existing campgrounds and RV parks.

A3 – Cannabis Cultivation & Manufacturing

NOT MOVED AT MAY 12 LUPZ

LAND USE, PLANNING AND ZONING SUBCOMMITTEE of the CITY COUNCIL

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Davis

1. Page 190, revise Section 4-3(E)(2) as follows:

4-3(E)(2) Cannabis Cultivation

4-3(E)(2)(a) Cannabis cultivation is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities.

4-3(E)(2)(b) ~~[This use is prohibited w]~~ [W]ithin 330 feet of any Residential zone district, school, or child day care facility [, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A)].

4-3(E)(2)(c) Except as specified in Subsection (d) below, all activities in this use must be conducted within the fully enclosed portions of a building unless a Conditional Use Approval is obtained pursuant to Subsection 14-16-6-6(A) to conduct specific activities outside of the fully enclosed portions of a building.

4-3(E)(2)(d) An incidental storage area is allowed outside of the fully enclosed portions of a building, but must be screened from view from each property line as described in Subsection 14-16-5-6(G) (Screening of Mechanical Equipment and Support Areas).

4-3(E)(2)(e) An air filtration plan approved by the City's Environmental Health Department is required.

2. Page 191, revise Section 4-3(E)(3) as follows:

4-3(E)(3) Cannabis-derived Products Manufacturing

4-3(E)(3)(a) Cannabis-derived products manufacturing is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities.

A3 – Cannabis Cultivation & Manufacturing

NOT MOVED AT MAY 12 LUPZ

4-3(E)(3)(b) ~~[This use is prohibited w]~~ [W]ithin 330 feet of any Residential zone district, school, or child day care facility [, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6(A)].

4-3(E)(3)(c) Except as specified in Subsection (d) below, all activities in this use shall be conducted within the fully enclosed portions of a building unless a Conditional Use Approval is obtained pursuant to Subsection 14- 16-6-6(A) to conduct specific activities outside of the fully enclosed portions of a building.

4-3(E)(3)(d) An incidental storage area is allowed outside of the fully enclosed portions of a building but shall be screened from view from each property line as described in Subsection 14-16-5-6(G) (Screening of Mechanical Equipment and Support Areas).

4-3(E)(3)(e) An air filtration plan approved by the City Environmental Health Department is required.

3. If Amendment A4 regarding distance measurements passes, the 330 feet in Sections 4-3(E)(2)(b) and 4-3(E)(3)(b) shall be revised to 300 feet for consistency with Amendment A4.

Explanation: These changes to the use-specific standards for Cannabis Cultivation and Cannabis-derived Products Manufacturing would take both uses from prohibited within 330 feet of a residential zone, school, or child day care facility to a Conditional Use within 330 feet of a residential zone, school, or child day care facility. These two uses are permissive in only the NR-C, NR-BP, NR-LM, and NR-GM zone districts. They are prohibited in all other zone districts. The current prohibition within 330 feet of a residential zone, school, or child day care facility does not allow for consideration of operational scale, lot size, and other matters that may make this use have little to no impact on the adjacent uses. By changing the prohibition to a Conditional Use, the public and the City are able to consider the impact of a particular request in relation to a specific site. A Conditional Use requires a public hearing before the Zoning Hearing Examiner and is a decision that is appealable to the City Council. A Conditional Use must meet all of the following criteria:

6-6(A)(3)(a) It is consistent with the adopted ABC Comp Plan, as amended.

6-6(A)(3)(b) It complies with all applicable provisions of this IDO, including but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in a prior permit or approval affecting the property, or there is a condition of approval that any Variances or Waivers needed to comply with any of these provisions must be approved or the Conditional Use Approval will be invalidated pursuant to Subsection (2)(c)2 above.

6-6(A)(3)(c) It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community.

6-6(A)(3)(d) It will not create material adverse impacts on other land in the surrounding area through increases in traffic congestion, parking congestion,

A3 – Cannabis Cultivation & Manufacturing

NOT MOVED AT MAY 12 LUPZ

noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts.

6-6(A)(3)(e) On a project site with existing uses, it will not increase nonresidential activity within 300 feet in any direction of a lot in any Residential zone district between the hours of 10:00 P.M. and 6:00 A.M.

6-6(A)(3)(f) It will not negatively impact pedestrian or transit connectivity without appropriate mitigation.

Note: for item 3, there is a corresponding amendment, Amendment A4 to address an inconsistency between the IDO (330 feet) and the recently passed HB0002, which limits separation distances to the 300 feet.

A4 – Cannabis Distances

NOT MOVED AT MAY 12 LUPZ

LAND USE, PLANNING AND ZONING SUBCOMMITTEE of the CITY COUNCIL

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Davis

1. Page 181, revise Section 4-3(D)(35) Cannabis Retail as follows:

4-3(D)(35)(a) Cannabis retail is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities. [For the purposes of the IDO, all measurements for Cannabis Retail shall be from the licensed premises as defined by the New Mexico Cannabis Regulation Act.]

4-3(D)(35)(b) This use shall not include a storage or display area outside of fully enclosed portions of a building.

4-3(D)(35)(c) [This use] [A licensed premises, as defined by the New Mexico Cannabis Regulation Act,] is prohibited within [330] [300] feet of any school or child day care facility.

4-3(D)(35)(d) This use is conditional if cannabis will be consumed on-site. If cannabis is consumed on-site, an air filtration plan approved by the City's Environmental Health Department is required.

2. Page 190, revise Sections 4-3(E)(2)(a) and (b) Cannabis Cultivation as follows:

4-3(E)(2)(a) Cannabis cultivation is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities. [For the purposes of the IDO, all measurements for Cannabis Cultivation shall be from the licensed premises as defined by the New Mexico Cannabis Regulation Act.]

A4 – Cannabis Distances

NOT MOVED AT MAY 12 LUPZ

4-3(E)(2)(b) ~~[This use]~~ [A licensed premises, as defined by the New Mexico Cannabis Regulation Act,] is prohibited within ~~[330]~~ [300] feet of any ~~[Residential zone district,]~~ school~~[,]~~ or child day care facility.

3. Page 191, revise Section 4-3(E)(3) (a) and (b) Cannabis-derived Products Manufacturing as follows:

4-3(E)(2)(a) Cannabis-derived products manufacturing is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities. [For the purposes of the IDO, all measurements for Cannabis-derived Products Manufacturing shall be from the licensed premises as defined by the New Mexico Cannabis Regulation Act.]

4-3(E)(3)(b) ~~[This use]~~ [A licensed premises, as defined by the New Mexico Cannabis Regulation Act,] is prohibited within ~~[330]~~ [300] feet of any ~~[Residential zone district,]~~ school~~[,]~~ or child day care facility.

Explanation: This amendment is intended to bring the IDO regulations into conformity with the recently adopted New Mexico Cannabis Regulation Act. This amendment revises the separation distance from schools and daycares for all three cannabis uses in the IDO from 330 feet to 300 feet, in order to come into compliance with state law. 330 feet is a standard measurement used in the IDO, and was therefore the measurement used during the 2019 IDO annual update when the Cannabis Retail, Cannabis Cultivation, and Cannabis-derived Products Manufacturing uses were introduced to the IDO. However, the recently adopted New Mexico Cannabis Regulation Act prohibits the City from imposing a distance separation from schools and daycares in excess of 300 feet. The term “school” is not defined by the Act, but under the IDO it refers to public and private schools through high school. Accordingly, the distance separation would not apply to post-secondary schools like UNM/CNM. Additionally, this amendment removes distance separation requirements between Cannabis Cultivation and Cannabis-derived Products Manufacturing and residential land uses, and makes reference to New Mexico Cannabis Regulation Act for the logistics of how to measure.

A5 – Daytime Gathering Facility

LAND USE, PLANNING AND ZONING SUBCOMMITTEE of the CITY COUNCIL

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Gibson

1. Throughout the IDO strike all references to Daytime Gathering Facility.

Explanation: This amendment proposes to remove Daytime Gathering Facility as a use. It would remove the daytime gathering facility as a use from Table 4-2-1, delete the associated use-specific standard and definition, and delete any other use of the term where it appears in the IDO.

The IDO defines a Daytime Gathering Facility as:

A premises used to provide social services to those in need for a period of less than 24 hours, for no fee or compensation, or at a fee recognized as being significantly less than charged by for-profit organizations. Services may include, but are not limited to, information and referral services; ambulatory medical services; counseling; skill development; aid through the provision of food or clothing; life skill and personal development programs; alcohol, drug, or substance abuse counseling; and drop-in or activity space. Any such facility open to clients between 7:00 A.M. and 10:00 P.M. is considered a daytime gathering facility, while a facility providing similar services but open to clients between 10:00 P.M. and 7:00 A.M. is considered an overnight shelter. A facility open to the public during both time periods is considered to have both uses on the property. See also *Community Residential Facility, Group Home, and Overnight Shelter*.

This use was first introduced with the adoption of the IDO. However, the existing definition overlaps with many other uses regulated in the IDO. The definition of Daytime Gathering Facility in the IDO is likely too broad to be effectively enforced. Scores of facilities provide free or reduced price social services, including many City facilities. As written, daytime gathering facilities can be read to include, medical clinics, hospitals, senior centers, community centers, schools, churches, AA meeting halls and more. The challenge then becomes, how to effectively enforce the separation requirements without the City being accused of selective enforcement. As written, the IDO does not target any particular class of individuals. However, many of the service providers that could fall into the category of Daytime Gathering Facilities, do provide services for protected classes, such as the elderly and the disabled, including those who suffer from drug and alcohol addiction. The risk from only enforcing the separation requirements of a certain subset of such facilities,

A5 – Daytime Gathering Facility

even if the enforcement was based on public complaints, is that the City may advertently enforce only against certain protected classes. This could give rise to complex and widespread litigation. It is recommended that the provision be removed. It currently targets too large a swath of facilities to be effectively enforced. Moreover, many of the applicable facilities are run by the City to benefit the community.

A6 – Geographic Responsiveness

NOT MOVED AT MAY 12 LUPZ

LAND USE, PLANNING AND ZONING SUBCOMMITTEE of the CITY COUNCIL

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Benton

1. Page 236, revise Section 5-2(D) as follows:

5-2(D) SITE DESIGN TO RESPOND TO CLIMATE ~~[AND GEOGRAPHIC FEATURES]~~

All multi-family residential development containing more than 25 dwelling units and all nonresidential development, except industrial development, shall comply with all of the standards in this Subsection 14-16-5-2(D).

5-2(D)(1) Climatic Responsiveness

The site design process shall include a sun and shade analysis of daily and seasonal position of the sun to improve the energy performance of buildings. The sun and shade analysis shall be included with applications for Site Plan.

5-2(D)(1)(a) Building layout and window placement shall be evaluated to reduce summer heat and glare and to capture winter sun.

5-2(D)(1)(b) Living landscape elements shall be evaluated for placement in the most beneficial microclimates and/or to provide the best cooling conditions to mitigate heat gain.

~~[5-2(D)(2) Geographic Responsiveness~~

~~5-2(D)(2)(a) The site design process shall include an analysis of the ability to capture views of prominent geographic features to make visual connections to those features. The site analysis shall be noted on building layouts included with applications for Site Plan.~~

~~5-2(D)(2)(b) The placement and orientation of buildings, windows, balconies, and patios shall be evaluated to capture available views of prominent geographical features, such as the Sandia mountains, the Bosque/Rio Grande, and the Volcanoes/Northwest Mesa Escarpment.]~~

2. Strike all references to Section 5-2(D)(2) Geographic Responsiveness throughout the IDO.

A6 – Geographic Responsiveness

NOT MOVED AT MAY 12 LUPZ

Explanation: This amendment proposes to strike the proposed section 5-2(D)(2) in the Red Line of the IDO. The proposed section on Geographic Responsiveness has an admirable intent, however, it would require an applicant to design and orient their site towards views that are not guaranteed to exist from that view point in perpetuity. The proposed requirement would create a potential conflict between properties as they develop. For example, a site may develop with a patio with views towards the Sandia mountains, that a later development could obscure. The IDO does contemplate preservation of views in two distinct ways in the IDO:

- Views from the PROW in the Coors Corridor CPO and VPO
- Views to the escarpment and volcanoes from elsewhere in the city in the NWME VPO

The IDO does not regulate views from a private property. It would not be appropriate for the City to require an applicant to develop their site plans around something that the city does not guarantee will remain.

A7 – Light Vehicle Sales

LAND USE, PLANNING AND ZONING SUBCOMMITTEE of the CITY COUNCIL

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Jones

1. Page 174, revise Section 4-3(D)(20) as follows:

4-3(D)(20)(b)

In the MX-H zone district in UC-MS-PT ~~UC-AC-MS-PT-MT~~ areas, outdoor display or storage of vehicles is prohibited. Any outdoor display or storage of vehicles is prohibited within 25 feet of any Residential zone district or lot containing a residential use in any Mixed-use zone district.

Explanation: This change to the use-specific standard for light vehicle sales and rental will allow for outdoor display in more areas that have MX-H zoning. If a property is zoned MX-H in a UC-MS-PT designated area, the prohibition of outdoor display will still exist. This will ensure that the urban centers and corridors continue to not have outdoor display or storage of vehicles. During the EPC process, the EPC recommended that prohibition on outdoor display be extended beyond UC-MS-PT areas to include AC (Activity Center) and MT (Major Transit) areas, however while these areas are intended to have more of an urban form than other areas of the city, they are not intended to be as urban as UC-MS-PT areas.

A8 – Liquor and Nicotine Retail

LAND USE, PLANNING AND ZONING SUBCOMMITTEE of the CITY COUNCIL

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Jones

1. On page 152, Table 4-2-1 revise as follows: Replace the P for Liquor retail in the MX-H, and NR-C zones with C.
2. On page 152, Table 4-2-1 revise as follows: Replace the P for Nicotine retail in the MX-M, MX-H, and NR-C zones with C.
3. On page 186, Subsection 4-3(D)(39)(f), revise as follows:
In the MX-M, MX-H, and NRC zone districts, this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) unless accessory to a grocery store, except in the following small areas, where it is prohibited unless accessory to a grocery store as noted.
4. On page 188, add a new Subsection 4-3(D)(40)(b) and renumber accordingly, to read:
[In the MX-M, MX-H, and NR-C zone districts, this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) unless accessory to general retail or a grocery store, in which case it is permissive accessory.]

Explanation: In this amendment liquor retail would change from being a Permissive Primary use in the MX-H (Mixed-use – High Intensity) and NR-C (Non-residential – Commercial) zones. Liquor retail would be required to obtain a conditional use approval if it is the primary use and would be allowed permissively if accessory to a grocery store. This tracks with the 2019 IDO annual update amendment for the MX-M zone. Nicotine retail would change from being a Permissive Primary use in the MX-M (Mixed-use – Medium Intensity), MX-H (Mixed-use – High Intensity) and NR-C (Non-residential – Commercial) zones. Nicotine retail would be required to obtain a conditional use approval if it is the primary use and would be allowed permissively if accessory to a grocery store. This tracks with the proposed 2020 IDO annual update amendment for liquor retail.

During EPC this amendment did not receive a recommendation of approval from the EPC. The EPC received comment both in support and in opposition to this amendment.

This proposed amendment is drafted at the request of the Mayor and Administration.

A9 – Major Public Open Space Zoning

LAND USE, PLANNING AND ZONING COMMITTEE of the CITY COUNCIL

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Benton

1. On page 478, section 6-7(G)(1)(a), amend the text as follows:

6-7(G)(1)(a) This Subsection 14-16-6-7(G) applies to any application [that would]:

[1. Would amend the Official Zoning Map to change any parcel or parcels to the NR-PO-B zone district, regardless of the number of gross acres or designation of Area of Change or Area of Consistency.]

[4] [2] ~~[That-w]~~ [W]ould amend the Official Zoning Map to change less than 10 gross acres of land located partially or completely in an Area of Consistency (as shown in the ABC Comp Plan, as amended) or less than 20 gross acres of land ~~[in any zone district]~~ located entirely in an Area of Change (as shown in the ABC Comp Plan, as amended) [in any zone district] to a ~~[different]~~ zone district [other than NR-PO-B].

[2-] [3.] ~~[That does]~~ not create or amend any text or map of any Overlay zone.

Explanation: This amendment proposes to add a provision to the “Applicability” section of the procedures for a Zone Map Amendment – EPC to allow all zone change requests where the requested new zone is NR-PO-B, regardless of size or area designation, to receive final review and decision by the Environmental Planning Commission. The NR-PO-B zone is the Major Public Open Space zone. Today, the IDO divides the final decision-making authority for zone map amendment requests between the EPC and the full City Council as follows:

EPC makes a final determination	EPC is recommending body to City Council; City Council makes a final determination
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A9 – Major Public Open Space Zoning

Request is for less than 10 gross acres in an Area of Consistency	Request is for more than 10 gross acres in an Area of Consistency
Request is for less than 20 gross acres in an Area of Change	Request is for more than 20 gross acres in an Area of Change
	Request creates or amends any text or map of an Overlay zone

The purpose of this amendment is to streamline the process in which a property would receive NR-PO-B zoning. Once the City has acquired a parcel or set of parcels to the city's Open Space inventory, those parcels will require a zone change to the NR-PO-B zone. Council is required to review and approve the Open Space Priority Acquisition list, which outlines properties for the City to acquire for their Open Space inventory. Council also reviews the budget, which can include line items for acquisition of specific Open Space properties. Because Council has a role during the acquisition of the property, it is appropriate for Council to defer their zone amendment authority to the EPC for changes to the NR-PO-B zone district. It's within the City's interest, for the sake of ensuring Major Public Open Space protections are in place as soon as possible, to ensure an efficient process to establish the NR-PO-B zoning. If the newly-acquired Open Space was above the thresholds for EPC review and decision as outlined in the table above, that request would have to go to the City Council for final review and decision. This would likely add on months to the review and decision process, which may leave Open Space parcels vulnerable to the impacts of nearby development who will not be restricted by the IDOs protections for Major Public Open Space until the NR-PO-B zone has been established.

A10 – MX-L Drive Through

LAND USE, PLANNING AND ZONING SUBCOMMITTEE of the CITY COUNCIL

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Jones

1. Page 153, revise Table 4-2-1 to make the use “Drive-through or drive-up facility” an accessory use in the MX-L zone

Explanation: This amendment will make drive-throughs and drive-ups in the MX-L zone an accessory use. Currently the use is “CA” – conditional accessory – which requires a conditional use approval through the Zoning Hearing Examiner. During the COVID-19 pandemic the use of drive-throughs and drive-ups have been essential to certain businesses. Extending this accessory use to the MX-L zone without the need of a conditional use approval will make drive-throughs and drive-ups more accessible to property owners. Areas zoned MX-L were previously zoned C-1. In the C-1 zone of the old zone code a drive-through service window was either permissive (banks, loaning money, or pawn shops) or conditional (retail and restaurants) based on what use the drive-through was associated with.

During the EPC process this amendment received comment both in support and in opposition. The EPC did not recommend support for this amendment. This amendment has not substantially changed since EPC.

A11 – Non-Commercial Broadcasting Antenna

LAND USE, PLANNING AND ZONING COMMITTEE of the CITY COUNCIL

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Jones

1. In Table 4-2-1, in the “Telecommunications, Towers, and Utilities” subsection of the “Industrial Uses” section, add a new use called “Non-commercial or Broadcasting Antenna” as a new use. Add an “A” to all zone districts except the NR-PO-B and NR-PO-C zone districts.

Explanation: This amendment will bring clarity to the IDO in defining where a Non-Commercial or Broadcasting Antenna is an allowable use. Today, the IDO contemplates this use in two places (dimensional standards and a definition), however doesn’t specify where they can occur in the Use Table. It’s inconsistent for the IDO to regulate the height and formally define a land use but then not identify which zones that use can occur. This change will add transparency to the document in making it explicitly clear where these types of antenna are allowed. This amendment proposes to make it an “accessory use” in all zones except NR-PO-B (Major Public Open Space zone) and NR-PO-C (Non-city owned Parks and Open Space zone), meaning it may not be the primary use on a property but is allowed to be subordinate to any other use in these zone districts. This tracks with Wireless Telecommunications Facilities (WTF) that are architecturally integrated and collocations.

During the drafting process of the IDO (2017), early drafts of the IDO considered these types of antennas as a type of WTF. After further discussion with the consultant on the project, it was determined that it was not appropriate to lump this type of antenna in as a WTF. It was then given its own definition and its own height requirement, but was not placed back into the use table to indicate where it was allowed. The City should not regulate where these types of antenna may or may not go per federal laws¹ that preempt local governments from over-regulation. The City

¹ PRB -1 (1985) distributed by the FCC outlining federal preemption of state and local regulations pertaining to amateur radio facilities can be found here: <https://www.fcc.gov/wireless/bureau-divisions/mobility-division/amateur-radio-service/prb-1-1985>

A11 – Non-Commercial Broadcasting Antenna

can provide use standards (such as height), but this type of antenna is required to be allowed in the same zones as certain types of WTFs.

There is a definition in Section 7-1 for this use that reads:

Non-commercial or Broadcasting Antenna *An antenna that transmits and/or receives signals or waves radiated or captured for non-commercial or broadcasting purposes, including amateur radio station operation/receive-only antenna if owned and operated by a federally licensed amateur radio station operator or used exclusively for a receive-only antenna, WTFs used exclusively for emergency services, any antenna used for AM, FM, or TV broadcasting, or any other facility exempted from local regulation under the federal Telecommunications Act of 1996, as amended and interpreted by the courts and related regulations of the Federal Communications Commission. See also Wireless Telecommunications Facility Definitions for Wireless Telecommunications Facility.*

It's important to note that this definition makes a distinction between this type of antenna and a Wireless Telecommunications Facility (WTF), which are highly regulated by the federal government and are legally bound to be considered differently under local regulations.

The IDO also regulates the height of these types of antennas in Section 5-1 (Dimensional Standards). The IDO allows them to be 65 feet in height.

A12 – Overnight Shelter

NOT MOVED AT MAY 12 LUPZ

LAND USE, PLANNING AND ZONING SUBCOMMITTEE of the CITY COUNCIL

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-69

AMENDMENT SPONSORED BY COUNCILOR Davis

1. Page 162, revise Section 4-3(C)(7) as follows:

4-3(C)(7) Overnight Shelter

4-3(C)(7)(a) This use is prohibited within 1,500 feet in any direction of any other overnight shelter.

4-3(C)(7)(b) If this use is located on the same premises as a daytime gathering facility, the premises must meet any Use-specific Standard in this Subsection 14-16-4-3(C)(7) and in Subsection 14-16-4-3(C)(2) (Daytime Gathering Facility).

4-3(C)(7)(c) In Residential zone districts this use is limited to no more than 10 overnight beds, regardless of whether the overnight shelter is a primary or incidental use.

4-3(C)(7)(d) In Mixed Use zone districts and the NR-C zone district this use is limited to no more than 30 overnight beds, regardless of whether the overnight shelter is a primary or incidental use.

4-3(C)(7)(e) In the NR-BP, NR-LM, and NR-GM zone districts this use is limited to no more than 100 overnight beds, regardless of whether the overnight shelter is a primary or incidental use.]

Explanation: This change to the use-specific standard for Overnight Shelter would establish a capacity for overnight beds, based on the underlying zoning. The number of beds is proposed to be phased in intensity, based on the underlying zoning. The NR-C zone district is included with the Mixed Use zone districts due to their general proximity to residential development. There is a 100 bed limitation for the NR-BP, NR-LM, or NR-GM zone districts as these zone districts allow for more intense uses and generally located away from residential areas. Overnight Shelter is a Conditional Use in the MX-H, NR-C, NR-BP, NR-LM, and NR-GM zone districts, and is prohibited in all other zone districts. However, an Overnight Shelter is an Incidental Use for a Religious Institution

A12 – Overnight Shelter

NOT MOVED AT MAY 12 LUPZ

and Religious Institutions are allowed in most zone districts (R-A, R-1, R-T, R-ML, R-MH, MX-T, MX-L, MX-M, MX-H, NR-C, NR-BP, NR-LM, NR-GM). The IDO defines an Overnight Shelter as:

A facility that provides sleeping accommodations for 6 or more persons for a period of less than 24 hours with no charge or a charge substantially less than market value; it may provide meals and social services. Any such facility open to clients between 10:00 P.M. and 7:00 A.M. is considered an overnight shelter, while a facility providing similar services but open to clients between 7:00 A.M. and 10:00 P.M. is considered a daytime gathering facility. A facility open to the public during both time periods is considered to have both uses on the property. See also Community Residential Facility, Daytime Gathering Facility, and Group Home.

NOT MOVED AT MAY 12 LUPZ

**LAND USE, PLANNING AND ZONING SUBCOMMITTEE
of the
CITY COUNCIL**

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Jones

1. On page 193, revise Section 4-3(E)(8)(a) as follows:

4-3(E)(8)(a) [~~Substation walls shall meet the setback requirements required for primary buildings.~~] [Substation walls shall be setback a minimum of 10 feet from all property lines to allow for perimeter landscape.]

2. In Table 5-1-1 footnote #9, Table 5-1-2 footnote #5, and Table 5-1-3 footnote #2, revise the footnotes to read:

~~[On lot lines that abut, are adjacent to, or contained within any property that has overhead PNM electric wires or PNM easements, greater setbacks or different heights may be required for compliance with the National Electrical Safety Code (NESC). Refer to the Public Service Company of New Mexico (PNM) Electric Service Guide for all structure clearance requirements.]~~ [Greater setbacks and/or reduced heights may be required for compliance with the National Electrical Safety Code (NESC) along lot lines that abut, are adjacent to, or within properties that contain overhead power lines and/or electric utility easements. Electric service provision from the Public Service Company of New Mexico (PNM) will also depend on adequate structure clearance requirements as outlined in the PNM Electric Service Guide.]

3. On page 260, Section 5-4(I)(4), revise as follows:

5-4(I)(4) Safety Clearances from Buildings and Other Structures
Safety clearances are required by the National Electric Safety Code (NESC) to ensure utility worker and public safety. ~~[Refer to the Public Service Company of New Mexico (PNM) Electric Service Guide for all structure clearance requirements.]~~ [Greater setbacks and/or reduced heights may be required for compliance with the National Electrical Safety Code (NESC) along lot lines that abut, are adjacent to, or within properties that contain overhead power lines and/or electric utility easements. Electric service provision from the Public Service Company of New Mexico (PNM) will also depend on adequate structure clearance requirements as outlined in the PNM Electric Service Guide.]

A13 – PNM

4. Revise page 438, Table 6-4-4, Allowable Minor Amendments, per the attached Exhibit A.
5. Revise page 454, Section 6-5(G)(1)(e)2., per the attached Exhibit B.
6. Revise page 477, Section 6-6(I)(1), per the attached Exhibit C.

Explanation: During the 2020 IDO Annual Update, Planning staff heard from PNM on the need to update language in the IDO to bring the IDO and Electric Facility Plan into conformance with each other. Population growth, economic development, and technological changes result in an ever-increasing electric load demand that PNM and other electric utilities are required to meet. It is important for the everyday needs of the public, as well as the needs of our growing economy for the electric grid to be safe and dependable. The EPC recommended conditions addressed most of the issues, however, this amendment addresses the remaining sections where the IDO language needed some clarification. Council staff worked closely with PNM and the Planning Department to ensure that the language proposed addressed all of the technical needs and concerns of PNM.

Note: PNM updates the Electric Facility Plan every ten years. They are currently beginning the process of the latest update. It is anticipated that PNM will have additional amendments in 2021, as a result of the work they will be doing to update the Electric Facility Plan.

Table 6-4-4: Allowable Minor Amendments

Standard	Maximum Threshold (Cumulative of Earlier Approved Deviations and/or Amendments)	
	General	Lot ≤10,000 sq. ft. in any Mixed-use or Non-residential zone district in an Area of Change
Building gross floor area	10%	
Front setback, minimum	15%	
Side setback, minimum	15%	50%
Rear setback, minimum	10%	50%
Building height, maximum	Increase: 10% Decrease: any amount	
Wall and fence height	6 in.	
Any other numerical standard	10%	
Any other addition or revision that would otherwise be decided as a Permit – Sign, Permit – Wall or Fence – Minor, or Site Plan – Administrative	Any amount that meets requirements specified in the approved Permit or Site Plan or, if the Permit or Site Plan is silent, the IDO	
<u>All rooftop installations and ground-mounted installations of solar or wind energy generation on premises less than 5 acres</u>	<u>Any amount to accommodate the installation that does not affect the ability to meet requirements specified in the approved Site Plan or, if the Site Plan is silent, the IDO</u>	
<u>All additions or modifications of battery storage on premises less than 5 acres</u>	<u>Any amount to accommodate the addition that does not affect the ability to meet requirements specified in the approved Site Plan or, if the Site Plan is silent, the IDO</u>	
<u>Changing the site layout of an electric facility other than an electric generation facility</u>	<u>Any amount to accommodate the change that does not affect the ability to meet requirements specified in the approved Site Plan or, if the Site Plan is silent, the IDO</u>	
Any standard cited in an application for “reasonable accommodation” or “reasonable modification” under the federal Fair Housing Act Amendments of 1998 (or as amended)	The minimum deviation necessary to comply with the federal Fair Housing Act Amendments	

6-4(Y)(3) Major Amendments²⁰⁷

All amendments to permits or approvals that do not qualify as minor amendments under Subsection (2) above may only be approved by the decision-making body that issued the permit or approval being amended, following the same procedure (including the payment of a new application fee, new process of staff referral, and any required public notice or public meeting or hearing) used to issue the original permit or approval. Repeals are processed as major amendments for the purpose of this IDO.

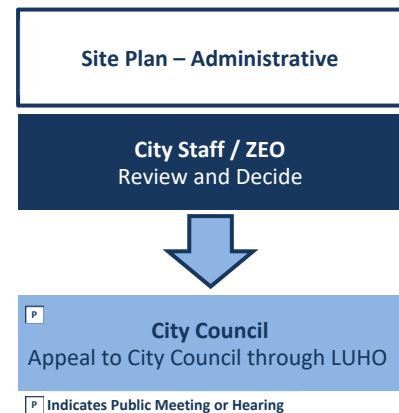
²⁰⁷ 2020 IDO Annual Update - Citywide Text Amendments – EPC REVIEW. EPC Recommended Condition #1. Added editorially based on language added in Subsection 14-16-6-4(X).

6-5(G) SITE PLAN – ADMINISTRATIVE

All applicable provisions of Section 14-16-6-4 (General Procedures) apply unless specifically modified by the provisions of this Subsection 14-16-6-5(G).

6-5(G)(1) Applicability

- 6-5(G)(1)(a) A Site Plan – Administrative may only be approved for development on legally platted or nonconforming lots and may not be approved for unsubdivided property.
- 6-5(G)(1)(b) A Site Plan – Administrative may only be approved for development that does not require major public infrastructure or an Infrastructure Improvements Agreement (IIA) to comply with IDO or DPM standards, which require a Site Plan – DRB pursuant to Subsection 14-16-6-6(I).
- 6-5(G)(1)(c) A Site Plan – Administrative may only be approved for development that avoids sensitive lands identified in a sensitive lands analysis as required pursuant to Subsection 14-16-5-2(C).
- 6-5(G)(1)(d) In the Railroad and Spur **Small** Area, a Site Plan – Administrative may only be approved for development that does not require a cumulative impact analysis pursuant to Subsections 14-16-5-2(F) and 14-16-6-4(H), which requires a Site Plan – EPC pursuant to Subsection 14-16-6-6(J).²⁰⁸
- 6-5(G)(1)(e) This Subsection 14-16-6-5(F) applies to any development that meets any of the thresholds in Subsections 1 or 2 below:
1. A single lot less than 5 acres or multiple contiguous lots that total less than 5 acres for any of the following types of development:
 - a. All new low-density residential development.
 - b. All new multi-family residential development containing no more than 50 dwelling units.
 - c. All conversions of existing non-residential development to a residential use containing no more than 100 dwelling units.
 - d. All new non-residential development with no more than 50,000 square feet of gross floor area, with the exception of development that includes a grocery store, which may be approved administratively with no more than a total of 70,000 square feet of gross floor area.



²⁰⁸ 2020 IDO Annual Update - Citywide Text Amendments – EPC REVIEW. EPC Recommended Condition #1. Editorial edit to use defined term “small area” for consistency.

- e. All new mixed-use development that contains no more than 75 dwelling units and no more than 50,000 square feet of non-residential gross floor area.
 - f. All expansions that increase the number of dwelling units by no more than 25 percent of the total originally approved number of units or that expand non-residential gross floor area by no more than 25 percent of the originally approved gross floor area.
2. Any of the following:²⁰⁹
- a. All development in the MX-FB zone district that is already mapped.
 - b. More than 5 mobile food trucks on 1 lot, pursuant to Subsection 14-16-4-3(F)(11)(d) (Mobile Food Truck).
 - c. A Permit – Temporary Use when a Site Plan is required pursuant to a Use-specific Standard in Section 14-16-4-3.
 - d. All electric utilities except Electric Generation Facilities, as defined by the Facility Plan for Electric System Transmission and Generation, as amended, which require a Site Plan – DRB pursuant to Subsection 14-16-6-6(l) with administrative approval, according to the approved Facility Plan.
 - e. All other major utility facilities with administrative approval according to an approved Facility Plan. Any application for an electric utility that has gone through a public involvement process and approved by the DRB and/or EPC if required by any applicable site plan and/or condition of approval; changing the timing and/or preliminary location of any proposed project described in Section V of the Facility Plan for Electric System Transmission and Generation, as amended; or development to add battery storage on sites less than 5 acres.
 - f. All solar energy generation rooftop installations and ground-mounted installations on sites less than 5 acres.
 - g. All wind energy generation rooftop installations and ground-mounted installations on sites less than 2 acres.
 - h. All new, redeveloped, or renovated City-owned or managed parks less than 10 acres, regardless of the zone district they are in, where the all of the following apply:
 - i. Only allowable uses as specified in Table 4-2-1, except for any collocated City facility, are proposed.

²⁰⁹ 2020 IDO Annual Update - Citywide Text Amendments – EPC REVIEW. EPC Recommended Condition #2.E.ii.a. Revised editorially to remove language about battery storage as a primary use for consistency with the IDO, since battery storage is not a separate use regulated by this IDO and therefore cannot be a primary use. See related proposed change to definition of Electric Utility in Section 14-16-7-1 to add battery storage as incidental to the use. Revised to replace “under” with “less than” for consistency with the IDO.

- ii. The project does not include lighting over 45 feet, illuminated signs, amplified outdoor sound, or over 150 parking spaces.
 - i. Any City-owned or managed Major Public Open Space facility that is not designated as an Extraordinary Facility per the Major Public Open Space Facility Plan or that is a renovation of a facility previously approved as an Extraordinary Facility.
 - j. Any property in the NR-PO-C zone district of any size that is not part of a proposed development that would meet the applicability standards to be processed as a Site Plan – DRB or as a Site Plan – EPC.
 - k. All City BioPark facilities, which are regulated by the BioPark Master Plan and managed by City Cultural Services.
- 6-5(G)(1)(f) Development on a lot in an NR-SU or PD zone district requires a Site Plan – EPC pursuant to Subsection 14-16-6-6(J).
- 6-5(G)(1)(g) Development on a project site over 5 acres and adjacent to Major Public Open Space requires a Site Plan – EPC pursuant to Subsection 14-16-6-6(J).

6-5(G)(2) Procedure

- 6-5(G)(2)(a) An application for a Site Plan – Administrative is typically submitted with an application for a building permit. The ZEO shall review the application and make a decision on the Site Plan – Administrative as part of the zone check during building permit review. An initial review with comments shall be completed within 10 business days of the receipt of a complete application.
- 6-5(G)(2)(b) Site Plans shall be reviewed administratively for compliance with conditions of approval and zoning standards prior to the issuance of a building permit.
- 6-5(G)(2)(c) The ZEO may grant deviations to IDO standards as part of this approval within the thresholds established in Section 14-16-6-4(P) (Deviations). Beyond these thresholds, a Variance to IDO standards (other than to standards in Sections 14-16-5-3, 14-16-5-4, or 14-16-5-5) requires review and approval by the ZHE per Subsection 14-16-6-6(O) (Variance – ZHE).
- 6-5(G)(2)(d) Any request for a Waiver to IDO standards in Sections 14-16-5-3 (Access and Connectivity), 14-16-5-4 (Subdivision of Land), or 14-16-5-5 (Parking and Loading) requires review and approval by the DRB pursuant to Subsection 14-16-6-6(P) (Waiver – DRB).
- 6-5(G)(2)(e) A Site Plan – Administrative may not be approved until after any necessary Conditional Use Approvals are obtained pursuant to Subsection 14-16-6-6(A).

6-5(G)(2)(f) For properties in the NR-PO zone district, the ZEO shall coordinate the review with Parks and Recreation and/or Cultural Services staff, as applicable.

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

An application for Site Plan – Administrative shall be approved if it complies with all applicable standards in this IDO, the DPM, other adopted City regulations, and any conditions specifically applied to development of the property in a prior permit or approval affecting the property.

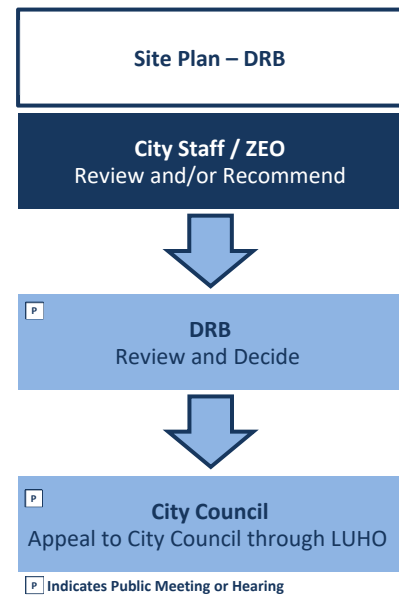
6-6(I) SITE PLAN – DRB

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

6-6(I)(1) Applicability²¹²

A Site Plan – DRB may only be approved for legally platted or nonconforming lots, and may not be approved for unsubdivided property. This Subsection 14-16-6-6(I) applies to:

- 6-6(I)(1)(a) Any application that does not qualify for consideration as a Site Plan – Administrative under Subsection 14-16-6-5(G), including any application that requires major public infrastructure or an Infrastructure Improvements Agreement (IIA) in order to comply with standards in this IDO or the DPM, with the following exceptions:
1. If the project is located in the NR-SU or PD zone districts, a Site Plan – EPC pursuant to Subsection 14-16-6-6(J) is required.
 2. Any application for a site 5 acres or greater that is adjacent to Major Public Open Space requires a Site Plan – EPC pursuant to Subsection 14-16-6-6(J).
 3. Any application for a project in the Railroad and Spur **Small** Area that requires a cumulative impact analysis pursuant to Subsections 14-16-5-2(F) and 14-16-6-4(H) requires a Site Plan – EPC pursuant to Subsection 14-16-6-6(J).²¹³
 4. Any application that does not avoid sensitive lands identified in a sensitive lands analysis as required pursuant to Subsection 14-16-5-2(C) requires a Site Plan – EPC pursuant to Subsection 14-16-6-6(J).
- 6-6(I)(1)(b) Any application for a cluster development for which the applicant requests DRB review, provided that the Planning Director concurs with that request.
- 6-6(I)(1)(c) Any application for an electric utility for which the applicant requests DRB review, provided that the Planning Director concurs with that request.
- 6-6(I)(1)(d) ~~Any application for an electric utility within any zone district where approval by the DRB is required by the Facility Plan for~~



²¹² 2020 IDO Annual Update - Citywide Text Amendments – EPC REVIEW. See EPC Recommended Condition #2.E.ii.b. Revised editorially to avoid conflict with 6-6(I)(A)(1)(a)

²¹³ 2020 IDO Annual Update - Citywide Text Amendments – EPC REVIEW. EPC Recommended Condition #1. Editorial edit to use defined term “small area” for consistency.

~~Electric Transmission. In addition to any application for an electric utility that does not qualify for consideration as a Site Plan – Administrative under Subsection 14-16-6-5(G), any Any application for a new an electric facility that involves expansion of an existing substation; electric generation facility facilities, as identified in defined by the Facility Plan for Electric System Transmission and Generation; and adoption or amendment of the Project List described in Section V of the Facility Plan for Electric System Transmission and Generation, as amended.~~

~~6-6(I)(1)(e) All solar energy generation ground-mounted installations on sites over 5 acres.~~

~~6-6(I)(1)(f) All wind energy generation rooftop installations and ground-mounted installations on sites over 2 acres.~~

6-6(I)(1)(g) Any application for any other a major utility within any zone district where approval by the DRB is required by an adopted Facility Plan.

6-6(I)(2) Procedure

6-6(I)(2)(a) The City Planning Department staff shall review the application and forward a recommendation to the DRB.

6-6(I)(2)(b) The DRB shall conduct a public meeting on the application and shall make a decision on the application.

6-6(I)(2)(c) A Site Plan – DRB may not be approved until after any necessary Conditional Use Approvals are obtained pursuant to Subsection 14-16-6-6(A).

6-6(I)(2)(d) The DRB may grant deviations to IDO standards as part of this approval within the thresholds established in Subsection 14-16-6-4(P) (Deviations).

6-6(I)(2)(e) The DRB may grant a Waiver to standards in Sections 14-16- 5-3 (Access and Connectivity), 14-16-5-4 (Subdivision of Land), or 14-16-5-5 (Parking and Loading) as part of this approval pursuant to Subsection 14-16-6-6(P) (Waiver – DRB).

6-6(I)(2)(f) The DRB may delegate authority to relevant City staff to determine technical review of compliance with conditions of approval, zoning standards, and technical standards.²¹⁴

6-6(I)(2)(g) Site Plans shall be reviewed administratively for compliance with conditions of approval and zoning standards prior to the issuance of a building permit.

6-6(I)(3) Review and Decision Criteria²¹⁵

An application for a Site Plan – DRB shall be approved if it meets all of the following criteria:

²¹⁴ 2020 IDO Annual Update - Citywide Text Amendments – EPC REVIEW. EPC Recommended Condition #1.

²¹⁵ 2020 IDO Annual Update - Citywide Text Amendments – EPC REVIEW. See Council Services Memo proposing an additional discretionary criterion. EPC Recommended Condition #1.L removed the proposed amendment.

- 6-6(l)(3)(a) The Site Plan complies with all applicable provisions of this IDO, the DPM, other adopted City regulations, and any conditions specifically applied to development of the property in a prior permit or approval affecting the property.
- 6-6(l)(3)(b) The City's existing infrastructure and public improvements, including but not limited to its street, trail, drainage, and sidewalk systems, have adequate capacity to serve the proposed development, and any burdens on those systems have been mitigated to the maximum extent practicable.
- 6-6(l)(3)(c) If the subject property is within an approved Master Development Plan, the Site Plan shall meet any relevant standards in the Master Development Plan in addition to any standards applicable in the zone district the subject property is in.

A14 – Post Submittal Facilitated Meeting

LAND USE, PLANNING AND ZONING COMMITTEE of the CITY COUNCIL

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Bassan

1. On page 409, Section 6-4(L)(1), amend the text as follows:

6-4(L)(1)(a) Once an application for a ~~any~~ decision listed in Table 6-1-1 is accepted as complete by the City Planning Department, property owners within 330 feet and Neighborhood Associations within 660 feet in any direction of the subject property may request a post-submittal facilitated meeting [, with the exception of Site Plan – Administrative application types for new low-density residential development as identified by Subsection 14-16-6-5(G)(1)(e)(1)(a), which are not subject to this requirement.]

2. On page 410, Section 6-4(L)(2), amend the text as follows:

6-4(L)(2)(a)(2) A facilitated meeting shall be requested no more than ~~15~~ 10 days after any public notice has been provided as required pursuant to Table 6-1-1.

Explanation: This amendment refines the process for requesting and holding a post-application facilitated meeting for certain Administrative Decisions. As of March 2021, there have been no requests for post-application facilitated meetings for any Site Plan – Administrative decisions.

Part 1 of the amendment proposes to exempt new low-density residential development that qualifies for a Site Plan – Administrative decision from the post-application facilitated meeting process. Specifically, it would exempt: all new low-density residential development that is on a single lot less than 5 acres or multiple contiguous lots that total less than 5 acres. The IDO defines low-density residential development as the following uses, which would be exempted from the post-application facilitation process, if this amendment is approved.:

- Dwelling, single-family detached
- Dwelling, mobile home
- Dwelling, cluster development

A14 – Post Submittal Facilitated Meeting

- Dwelling, cottage development
- Dwelling, two-family detached (duplex)
- Dwelling, townhouse
- Dwelling, live-work

The purpose of exempting these specific uses from the post-application facilitated meeting process is that these application types are usually part of a larger application that has gone through the DRB or EPC. Most single-family low-density development is a part of a residential subdivision and construction of individual single-family development on single infill lots are the least impactful on the surrounding community.

Part two of this amendment proposes to reduce the time in which someone may request a post-application facilitated meeting for certain Site Plan – Administrative decisions from 15 days to 10 days. This clock begins the day the Planning Department receives a complete application. For Site Plan – Administrative type decisions, the Planning Department is able to provide a final decision in a relatively short period of time. During the window in which a post-application facilitated meeting occurs, no final decision may be issued. Reducing that window only for Site Plan – Administrative decisions will allow the Planning Department to continue to respond to development applications in a timely manner while still allowing an opportunity for the post-application facilitated meeting to be requested. For post-application facilitated meetings associated with other application types, such as DRB or EPC site plans, the 15-day requirement will remain the same.

A15 – Technical Edits

LAND USE, PLANNING AND ZONING SUBCOMMITTEE of the CITY COUNCIL

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Jones

1. Revise Exhibit 1 t to incorporate all revisions in the attached spreadsheet of technical edits.

Explanation: This amendment contains edits and clarifications that are the ripples from recommendations made at the EPC level. These edits are intended to ensure that the 2020 revisions to the IDO, as recommended by the EPC, are clear, consistent, and enforceable.

NOTE: May 6th, since the May 5th LUPZ, Exhibit 1 has been revised to clarify the corrections proposed. Changes are shown in RED.

IDO Annual Update 2020
Proposed Text Amendments to Redline Draft

Page	Section	Change / Discussion	Explanation	Amendment Type
85 R	3- 4(E)(5)(b) 4	East Downtown CPO-4 Delete this provision as unnecessary.	This provision uses a term that is not defined in the IDO: "storefront." In addition, there is no requirement in the IDO or in this CPO that facades have to be flat. In this CPO, the minimum setback = 0, and the maximum setback = 2 feet, so this provision is not necessary, since the storefront can be anywhere within those 2 feet.	Small Area
100 R	3- 4(I)(5)(b)(4)	Nob Hill CPO-8 Consolidate Subsections c and d as follows: "Contain a minimum of 60 percent of its surfaces in transparent windows and/or doors, as measured to include the first 12 feet of building height above the sidewalk, with the lower edge of window sills no higher than 30 inches above the finished floor."	Combines Subsections c and d because they both prescribe the amount of windows required on the ground floor. If the required amount of windows is changed for residential dwellings, these two provisions would conflict. The language proposed at EPC for a new Subsection d was anticipating that the percentage for residential dwellings might be adjusted down after discussion during the Near Heights CPA assessment process. The assessment has not yet reached that level of detail to be able to propose a new percentage, so the text is proposed to be revised for now to be clear and enforceable. Revised language with a lower percentage for residential dwellings on the ground floor can be re-submitted in a subsequent IDO update.	Small Area
109 R	3- 4(M)(2)(a) 1.b	Sawmill/Wells Park CPO-12 Revise as follows: "Townhouse dwellings, minimum: 2,400 square feet per dwelling <u>unit</u> ."	Carries forward the intent of the Sawmill/Wells Park SDP to regulate minimum lot size per dwelling unit, not per dwelling (i.e. building, which includes at least 3 dwelling units per the townhouse definition).	Small Area

IDO Annual Update 2020
Proposed Text Amendments to Redline Draft

Page	Section	Change / Discussion	Explanation	Amendment Type
109 R	3- 4(M)(2)(a) 2.b	Sawmill/Wells Park CPO-12 Revise as follows: "Townhouse dwellings, minimum: 2,400 square feet per dwelling <u>unit</u> ."	Carries forward the intent of the Sawmill/Wells Park SDP to regulate minimum lot size per dwelling unit, not per dwelling (i.e. building, which includes at least 3 dwelling units per the townhouse definition).	Small Area
172 R	4- 3(D)(18)(l)	Light Vehicle Fueling Station Replace "may satisfy" with "satisfies."	Clarifies that a fueling station canopy attached to the building is used to determine maximum setbacks.	Citywide
188 R	4- 3(D)(40)(b))	Nicotine Retail Revise to read as follows: "If this use is <u>allowed as a primary use, it is considered a primary use for the purposes of this IDO, regardless of the use, area, or purpose of any other primary uses on the same premises and shall meet the following requirements...</u> "	Specifies that this use is always to be considered a primary use in any zone where it is allowed as a permissive primary use. This closes a loophole in the IDO that allows this use to be accessory to general retail, for example, and therefore not subject to the distance-separation requirements that only apply to nicotine retail as a primary use. This treatment is consistent with the way adult retail is handled in the IDO. In addition, this change avoids the requirement to calculate the percent of the store used for nicotine retail vs. other uses, which is challenging to determine and enforce, and which could change over time. See also proposed changes in Section 7-1 to the definition of this use.	Citywide
235 R	Table 5-1- 4	Porch Add the following sentence: " <u>Any portion that is over a driveway must meet regulations applicable to carports as specified in Subsection 14-16-5-5(F)(2)(a)3 (Carports).</u> "	Clarifies that any structure that can be used as a parking space must meet the required setbacks for carports. Closes a loophole that a property owner could claim that a carport is a porch and therefore allowed to be as close to the lot line as is allowed for porches, as opposed to carports.	Citywide

IDO Annual Update 2020
Proposed Text Amendments to Redline Draft

Page	Section	Change / Discussion	Explanation	Amendment Type
298 R	5-6(C)(4)(d)	Replace all instances of "warm season" with "cool season."	Fixes an error in the Redline language. The intent is to minimize the amount of water-intensive turf in a development, which is now defined as "cool season" species, as in species that grow better in cool weather and need supplemental water, particularly in warmer weather. Turf grasses keep growing in 'cool' temperatures when drought tolerant grasses only grow when it is 'warm'.	Citywide - Added for 5/12/2021
344 R	5-11(D)(2)(a)	Revise as follows: "Windows on the upper floors shall be recessed or projected not less than 2 inches and/or shall be surrounded by a window casing or frame not less than 2 inches wide, except for portions of the façade that are storefront <u>window</u> systems or curtain walls or for workforce housing developments. <u>Workforce housing is exempt from this requirement.</u> "	Revised to remove "storefront systems," as this provision applies to upper stories, where storefronts are unlikely. "Storefront" is not a term defined in the IDO. Revised to make the exemption for workforce housing apply to the whole development, not the portion of the facade, which would be difficult to enforce.	Citywide - Revised for 5/12/2021
344 R	5-11(D)(2)(b)1	Revise as follows: "The façade shall have at least one recessed or projecting element <u>that is recessed or projected from the façade by at least 6 inches and that is of 2 feet in dimension width</u> for every 30 feet of façade length."	Specifies a minimum of how much an element must be recessed or projected consistent with a similar provision for mixed-use development in Subsection 5-11(E)(2)(a)3.c.	Citywide

IDO Annual Update 2020
Proposed Text Amendments to Redline Draft

Page	Section	Change / Discussion	Explanation	Amendment Type
345 R	5-11(D)(4)	<p>Move the content of this Subsection to Subsection 5-5(G)(3), revise as follows, and renumber subsequent subsections accordingly:</p> <p>Redline Subsection 5-11(D)(4)(a): "Where garages, carports, or parking structures for multi-family residential development are located between any street facing façade of any primary multi-family dwelling and an abutting street about a street, the building wall or garage door facing the street street-facing wall shall contain at least one window per garage, or one window opening of at least 5 feet in length per for every 10 parking spaces on the ground floor of a parking structure."</p> <p>Redline Subsection 5-11(D)(4)(b): "For parking structures where the street-facing façade of a building consists of Where at least 75 percent or more of the length of a street-facing facade of a building consists of a parking structure parking spaces, any vehicular ingress/egress locations shall include a planter."</p>	<p>Revised for consistency with a change to "garage" as a term only used for low-density residential. Revised to remove "carport" since the provision isn't applicable to carports, which are proposed to be re-defined as a structure with 2 open sides, one of which will face the street. Proposed to move to the section on building design standards for parking structures for consistency and enforceability.</p>	Citywide
453 R	6-5(G)(2)(b)	<p>Revise to read as follows: "More than 5 mobile food trucks on 1 lot, pursuant to Subsection 14-16-4-3(F)(11)(d) (Mobile Food Truck), <u>where mobile food trucks are accessory to a primary use, and any number of mobile food trucks on a premises with no other primary use, pursuant to Subsection 14-16-4-3(10) (Mobile Food Truck Court).</u>"</p>	<p>Clarifies that food trucks can be an accessory use on a property, but that any number of food trucks on a property without any other use is considered to be a food truck court.</p>	Citywide
540 R	7-1	<p>Adult Entertainment</p> <p>Revise the last sentence to read as follows: <u>"For the purposes of this IDO, adult entertainment is considered a primary use, regardless of the use, area, or purpose of any other primary uses on the same premises."</u></p>	<p>Revised for consistency with language proposed for Nicotine Retail if accessory to retail. Intended to make clear that adult entertainment cannot be considered accessory to another use and therefore not subject to use-specific standards for adult entertainment.</p>	Citywide

IDO Annual Update 2020
Proposed Text Amendments to Redline Draft

Page	Section	Change / Discussion	Explanation	Amendment Type
540 R	7-1	<p>Adult Retail</p> <p>Revise the last sentence to read as follows:</p> <p>"Any establishment where 25 percent or more of the gross floor area is used to sell or rent adult material, including but not limited to books, magazines, newspapers, films (video tapes and/or DVDs), slides, photographic or written material, and other items or devices that are distinguished or characterized by an emphasis on the depiction, description, exposure, or representation of specified anatomical areas or the conduct or simulation of specified sexual activities. Adult retail is a primary use and may not be accessory to any other use. <u>For the purposes of this IDO, an adult retail establishment that meets the definition above is considered a primary use, regardless of the use, area, or purpose of any other primary uses on the same premises.</u>"</p>	<p>Revised for consistency with language proposed for Nicotine Retail if accessory to retail. Intended to make clear that adult retail cannot be considered accessory to another use and therefore not subject to use-specific standards for adult retail.</p>	Citywide
552 R	7-1	<p>Development Definitions</p> <p>Infill Development</p> <p>Revise to read as follows:</p> <p>"An area of platted or unplatted land that includes no more than 20 acres of land, <u>that has a public water main and a public sewer main fronting the property within the City right-of-way, and where at least 75 percent of the adjacent lots are developed and contain existing primary buildings.</u>"</p>	<p>Clarifies the infrastructure needed for a property to be considered infill development. Removes greenfield areas without water/sewer service. Infill development is used in the MX-FB-ID subzone and the purpose statement of the MX-H zone district.</p>	Citywide
574 R	7-1	<p>Mobile Food Truck</p> <p>Revise the definition to add a new last sentence as follows:</p> <p><u>"For the purposes of this IDO, mobile food trucks are regulated as a mobile food truck use where accessory on a premises with any other primary use, regardless of the use, area, or purpose of that other primary use, but as a mobile food truck court where mobile food trucks are the only primary use on a premises."</u></p>	<p>Clarifies that food trucks can be an accessory use on a property, but that any number of food trucks on a property without any other use is considered to be a food truck court.</p>	Citywide

IDO Annual Update 2020
Proposed Text Amendments to Redline Draft

Page	Section	Change / Discussion	Explanation	Amendment Type
574 R	7-1 [new]	Mobile Food Truck Court Add a new definition as follows: "Any number of mobile food trucks as the only primary use on a premises."	Clarifies that any number of food trucks can be an accessory use on a property, but that any number of food trucks on a property without any other use is considered to be a food truck court.	Citywide
576 R	7-1	Nicotine Retail Revise definition to read as follows: "Any establishment licensed to sell any tobacco product or electronic nicotine delivery system, as defined in NM 2020 Senate Bill 131 (Tobacco Products Act), or <u>nicotine paraphernalia, including but not limited to, cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, electronic cigarette cartridges, electronic cigarette liquids, and any other items designed for the preparation, storing, consumption, or use of tobacco products or electronic smoking devices.</u> This use does not include the sale of cannabis."	Clarifies that nicotine retail includes sale of any product or device used to consume nicotine.	Citywide
580 R	7-1	Parking Definitions Carport Revise to read as follows: "A roofed structure that is not enclosed on at least 2 sides, <u>that is used for parking vehicles, and that is located over a parking area and/or driveway....</u> "	Clarifies for consistency using the same language as proposed for distinguishing between porches and carports.	Citywide
580 R	7-1	Parking Definitions Garage Delete this sentence as unnecessary: "Garages are typically associated with residential development."	Revised for consistency with the first sentence, which states that a garage is associated with low-density residential development, eliminating the need for this sentence.	Citywide

IDO Annual Update 2020
Proposed Text Amendments to Redline Draft

Page	Section	Change / Discussion	Explanation	Amendment Type
583 R	7-1	<p>Porch</p> <p>Add a new sentence as follows:</p> <p>"A roofed structure that projects from the exterior wall of a building, that is not enclosed on at least 2 sides, and that is used as an outdoor living area. To be considered a porch, and not just part of the building, the porch façade facing the street must not be more than 50 percent enclosed (except for removable screens, screen doors, storm sashes, wrought iron security fencing, or awnings). <u>For the purposes of this IDO, any portion of a roofed structure that is not enclosed on at least 2 sides that is over a parking area or driveway is considered a carport.</u>"</p>	Added for consistency with language proposed to distinguish between porches and carports. Closes a loophole, since porches are allowed to be closer to the front lot line than carports. See associated changes proposed for Table 5-1-4 Allowed Exceptions and Encroachments.	Citywide
589 R	7-1 [new]	<p>Side Façade</p> <p>Add a new definition to read as follows:</p> <p><u>"Any façade that faces and is within 30 feet of a side lot line that abuts another lot. (A façade that faces a side lot line that abuts a street is considered a street-facing façade for the purposes of this IDO.) A building may have more than one side facade. See also <i>Front Facade</i> , <i>Street-facing Facade</i> , and <i>Lot Definitions for Side Lot Line</i> ."</u></p>	Defines a term used in 2 other definitions and in regulations for building façades facing a side lot line.	Citywide

A16 – Walls and Fences

LAND USE, PLANNING AND ZONING SUBCOMMITTEE of the CITY COUNCIL

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Benton

1. Page 321, revise Section 5-7(D)(3)(f) as follows:

Except where a Permit – Wall or Fence – Major is required pursuant to Subsection (g) below or where prohibited pursuant to Subsection (h) below, the Zoning Enforcement Officer (ZEO) may make an exception to the height standards in Table 5-7-1 for critical infrastructure facilities for security reasons due to specific site conditions or the nature of the land use or related materials and facilities on the site, pursuant to Subsection 14-16-6-5(F) (Permit – Wall or Fence – Minor).

2. Page 321, revise Section 5-7(D)(3)(g) as follows:

For low-density residential development in or abutting a Residential zone district where wall height in any front or street side yard is restricted to 3 feet by Table 5-7-1, a request for a taller wall that meets the height and location standards in Table 5-7-2 shall require Permit – Wall or Fence – Major pursuant to Subsection 14-16-6-6(H), except where a taller wall is prohibited pursuant to Subsection (h) below.

Explanation: This amendment makes revisions to two sections of the IDO related to Walls and Fences:

- 5-7(D)(3)(f) - general exemption to height based on security.
 - This section is problematic because there is really no practical, substantive standard in the IDO for judging the legitimacy of “security concerns,” or related standards to temper the use of this section. In researching this section, this was added during the IDO adoption in 2017 in response to a request from PNM. The Zone Code had no such exemption. The IDO initially proposed a wall height security exemption for the NR-LM and NR-GM zones. At the EPC, PNM requested this be added for their properties, and this ended up being translated by Planning to language that applied to all zones and users. The proposed revisions

A16 – Walls and Fences

bring the text back to the initial intent of the EPC condition during the IDO adoption.

- 5-7(D)(3)(g) - guidelines on taller walls for low density residential development
 - This section is problematic because it is missing the word “residential” in the phrase “low density development”. In researching this section, during the 2019 IDO Annual Update, when this section was revised for clarity, the word “residential” was inadvertently left out of the phrase “low density residential development”. All sections of the IDO that cross reference with this section use the full phrase, “low density residential development”.

The IDO defines Critical Infrastructure as: The physical or cyber assets that are so vital to the City that their incapacity or destruction would have a debilitating impact on physical or economic security or public health or safety. For the purposes of this IDO, critical infrastructure includes electric, water, and gas services.

A17 – Form Based and Residential Infill

LAND USE, PLANNING AND ZONING COMMITTEE of the CITY COUNCIL

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Benton

1. Three revisions to Section 7-1 Definitions Section, page 544 and 545:
 - A. Revise the definition title as follows:

Building Frontage Types

[The following definitions are specific to the Mixed Use Form Based Zones].

- B. Revise the definition as follows:

Urban Residential

[Building frontage where] [Residential frontage where windows that front a street are at least twice as tall as they are wide. R] [r]esidential units [may be] [are] accessed from street-fronting doors to a lobby[, walled court,] or to individual units. May be used in combination with other frontage types.

- C. Revise the definition as follows:

Walled Court

[Elevated] [Building frontage that comprises enclosed] gardens or terraces [that are] [at] [set back from] the frontage line [- This type can effectively] [that] buffer residential [quarters] [dwellings, restaurants, or other uses] from the sidewalk, while removing the private yard from public encroachment. [The court is also suitable for restaurants and cafes as the eye of the sitter is level with that of the standing passerby].

2. Section 2-4(E)(3)(d), Dimensional Standards in the MX-FB Sub-Zones, Table 2-4-11, Page 38, revise the Ground Floor Height, Minimum row to read:

[8 ft urban residential frontage,] 10 ft. [all other building frontage types.]

3. Section 2-4(E)(3)(f)3. Façade Design, Windows and Doors, Page 40-41, revise Subsections 3 as follows:

3. Windows and Doors

A17 – Form Based and Residential Infill

a. Ground Floor

i. For storefront building frontage types, any street facing façade shall contain a minimum of 60 percent of its surfaces in transparent windows and/or doors with the lower edge of window sills no higher than 30 inches above the finished floor.

ii. For porch, stoop, [and] urban residential~~[, and warehouse]~~ frontage types, any street-facing façade shall contain a minimum of ~~[40]~~ [25] percent of its surfaces in transparent windows and/or doors ~~[with the lower edge of window sills no higher than 30 inches above the finished floor.]~~

[iii. For warehouse frontage types, any street-facing façade shall contain a minimum of 40 percent of its surfaces in transparent windows and/ or doors with the lower edge of window sills no higher than 30 inches above the finished floor.]

~~[iii.]~~ [iv.] All buildings shall have at least 1 pedestrian entrance from a street-facing façade. This may be access to a lobby [or walled court] shared by individual tenants.

~~[iv.]~~ [v.] Building entrances shall be recessed or extend a minimum of 1 foot from the front façade [, except where a walled court frontage type is used].

~~[v.]~~ [vi.] For buildings in which over 50 percent of the gross floor area of the ground floor is vacant, a Permit –Temporary Window Wrap may be granted pursuant to Subsection 14-16-6-5(E) for window wraps that meet the requirements of Subsection 14-16-5-11(E)(2)(b)2.c to temporarily obscure transparent windows and/or doors with opaque window wrap.

b. Upper Floors

Each second floor and higher façade facing a public street or alley shall contain a minimum of ~~[30]~~ [20] percent of its surface in transparent windows and/or doors.

Explanation: The proposed list of changes to the Form Based zone sections of the IDO are intended to address the following aspects of the Urban Residential Form: building entrances, ground floor clear height, window percentages at the ground and upper floor levels, sill height, and window shape. The changes to the regulations in these associated sections make development of small scale, infill residential

A17 – Form Based and Residential Infill

development more feasible, particularly on small lots. While the Form Based zone districts are based on physical form and not on use of a structure, the regulations for Urban Residential create a built form that doesn't align well with a residential built form, particularly in relation to windows. Residents need and desire some privacy as well as wall space to locate furniture, etc. The changes do not conflict with or remove language that came from come from previous plans or codes (the Downtown 2025 SDP or the Form Based Code section within the Zone Code).

A18 – Northwest Mesa VPO

LAND USE, PLANNING AND ZONING COMMITTEE of the CITY COUNCIL

May 12th, 2021

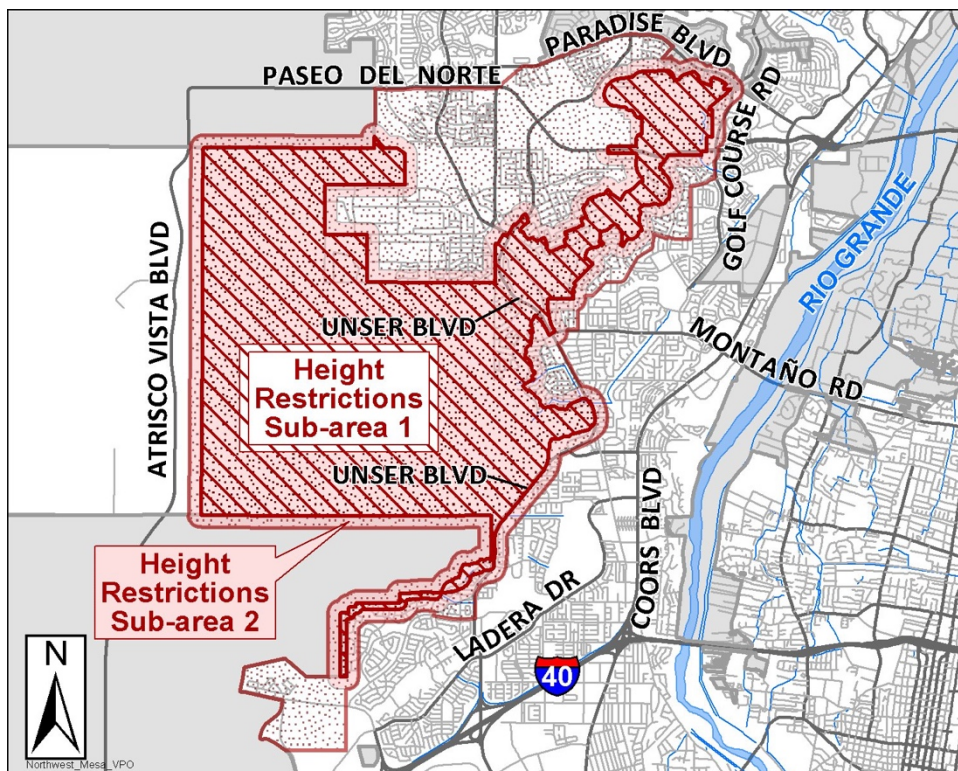
COMMITTEE AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Borrego

Northwest Mesa Escarpment – View Protection Overlay (VPO-2)

Actions:

1. Create a new Height Sub-area 2 within VPO-2 that is within 660 feet of the existing Height Sub-area. This area shall not include the Volcano Heights Urban Center. The existing VPO-2 Height Sub-area shall be referenced as VPO-2 Height Restrictions Sub-area 1.



2. Revise the VPO-2 boundary to include any areas where the proposed VPO-2 Height Restrictions Sub-area 2 is outside of the existing VPO-2 boundaries.
3. Revise Subsection 3-4(N)(4) Volcano Mesa – CPO-13 to read as follows:
“Standards in this Subsection 14-16-3-4(N)(4) apply only outside of the sub-

A18 – Northwest Mesa VPO

areas indicated in Subsection 14-16-3-6(E)(2) as the Northwest Mesa VPO-2 Height Restrictions Sub-area 1 and Sub-area 2.

4. Move existing content in 3-6(E)(3) to a new subsection (a) with heading VPO-2 Subarea 1 and create a new subsection (b) VPO-2 Subarea 2 as follows:

[Structure height shall not exceed 30 feet, as measured from natural grade, or the maximum height of the underlying zone district, whichever is lower.]

5. Create a new subsection 3-6(E)(7) as follows and renumber subsequent subsections accordingly:

[3-6(E)(7) Landscaping

Within VPO-2 Subarea 1 and 2, a minimum of 25 percent of the net lot area of each multi-family, mixed-use, or non-residential development shall contain landscaping.]

6. Add the VPO-2 Height Restriction Sub-areas 1 and 2 to the MPOS Use Specific Standards:

- **Car Wash**

4-3(D)(16)(c) Within 330 feet in any direction of Major Public Open Space [or within VPO-2 Height Restrictions Subareas 1 or 2], this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).

4-3(D)(16)(d) Notwithstanding Subsection (a) above, this use is prohibited adjacent to Major Public Open Space.

- **Heavy Vehicle Sales, Rental, Fueling, and Repair**

4-3(D)(17)(h) This use is prohibited within 330 feet in any direction of Major Public Open Space [or within VPO-2 Height Restrictions Sub-areas 1 or 2].

- **Light Vehicle Fueling Station**

4-3(D)(18)(k) This use is prohibited within 330 feet in any direction of Major Public Open Space [or within VPO-2 Height Restrictions Sub-areas 1 or 2].

- **Light Vehicle Repair**

4-3(D)(19)(f) This use is prohibited within 330 feet in any direction of Major Public Open Space [or within VPO-2 Height Restrictions Sub-areas 1 or 2].

- **Light Manufacturing**

4-3(E)(4)(f) Within 330 feet of Major Public Open Space, [or within VPO-2 Height Restrictions Sub-areas 1 or 2], this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).

- **Heavy Manufacturing**

4-3(E)(5)(e) This use is prohibited in the following locations:

1. Within 330 feet of Major Public Open Space [or within VPO-2 Height Restrictions Sub-areas 1 or 2].
2. Within 660 feet of a lot containing a religious institution or elementary, middle, or high school.
3. Within 1,000 feet of a lot containing a residential use other than an accessory dwelling unit used as a caretakers dwelling for a non-residential property.

- **Natural Resource Extraction**

4-3(E)(6)(d) This use is prohibited in the following locations:

1. Within 330 feet of Major Public Open Space [or within VPO-2 Height Restrictions Sub-areas 1 or 2].

A18 – Northwest Mesa VPO

2. Within 1,000 feet of a lot containing a religious institution; elementary, middle, or high school; or residential use other than an accessory dwelling unit used as a caretakers dwelling for a non-residential property.

- **Recycling Drop-Off Bin Facility**

4-3(E)(13)(a) This use is prohibited within 330 feet of Major Public Open Space, for within VPO-2 Height Restrictions Sub-areas 1 and 2.

- **Solid Waste Convenience Center**

4-3(E)(14)(a) This use is prohibited within 330 feet of Major Public Open Space for within VPO-2 Height Restrictions Sub-areas 1 and 2.

- **Waste Transfer Center**

4-3(E)(16)(a) This use is prohibited within 330 feet of Major Public Open Space for within VPO-2 Height Restrictions Sub-areas 1 or 2.

- **Warehousing**

4-3(E)(18)(a) Within 330 feet of Major Public Open Space for within VPO-2 Height Restrictions Sub-areas 1 or 2, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).

- **Wholesaling and Distribution Center**

4-3(E)(19)(b) Within 330 feet of Major Public Open Space for within VPO-2 Height Restrictions Sub-areas 1 or 2, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).

- **Drive-through or drive-up Facility**

4-3(F)(4)(c) Within 330 feet of Major Public Open Space for within VPO-2 Height Restrictions Sub-areas 1 or 2, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).

4-3(F)(4)(d) Notwithstanding Subsection (c) above, this use is prohibited adjacent to Major Public Open Space.

Explanation: The proposed revisions to the NWME VPO-2 add a second Height Restrictions subarea and expands the Use Specific Standards in proximity to MPOS to both the existing and proposed Height Restriction subareas in VPO-2. This is intended to add an additional area of transition and to decrease the intensity of development in proximity to the Escarpment and the surrounding Petroglyph National Monument. The revised area does not include the Volcano Heights Urban Center, which the Comprehensive Plan has designated as being an area where more intense development is appropriate. Within the proposed new Height Restrictions subarea heights would be limited to 30 feet, or the maximum of the underlying zone, whichever is lower, and requires an increased level of landscaping. In general, when a property is developed the land is used for one of three things: parking, buildings/ structures, and landscaping. By increasing the landscaping area requirement from 15% to 25% of the net lot area, the scale and intensity of a multifamily, mixed use, or nonresidential development is reduced. In addition, this reduces the amount of the property that can be developed with an impermeable surface and reduces the run off volumes from each site. The Petroglyph National

A18 – Northwest Mesa VPO

Monument has expressed concerns over the years about the impact of adjacent development, and run off is a component of that concern. These design regulations are intended to limit the intensity of development within the area. In addition, the MPOS Use Specific standards are extended to encompass both of the Height Restriction Subareas.

This proposal received public comment in support, as well as in opposition at the Environmental Planning Commission. The EPC did not recommend support for the amendment. This amendment has not substantially changed since it was proposed at EPC.

A19 – Cannabis Additional Restrictions

NOT MOVED AT MAY 12 LUPZ

LAND USE, PLANNING AND ZONING SUBCOMMITTEE of the CITY COUNCIL

May 12th, 2021

COMMITTEE AMENDMENT NO. _____ TO O-21-60 and EXHIBIT 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Jones

1. Amend O-21-60, to add a new Section 2 and renumber accordingly:
[SECTION 2. On-site cannabis consumption is prohibited in all zones until regulations promulgated by the State become effective, in which case all other City provisions regarding on-site consumption not prohibited by state regulation will become effective.]

2. In Exhibit 1, Page 181, revise Section 4-3(D)(35)(c), Cannabis Retail as follows:

This use is prohibited [in MS areas or within 660 feet of MS areas, or] within [330] [300] feet of any school or child day care facility[, Residential zone district, or lot containing a residential use in any Mixed-use zone district, group home, or religious institution].

3. In Exhibit 1, Page 181, revise Section 4-3(D)(35)(d), Cannabis Retail as follows:

4-3(D)(35)(d) This use is conditional if cannabis will be consumed on-site. If cannabis is consumed on-site, an air filtration plan approved by the City's Environmental Health Department is required. [On-site cannabis consumption is prohibited in the following areas:

1. In MS areas or within 660 feet of MS areas.]

4. In Exhibit 1, Page 181, Section 4-3(D)(35) Cannabis Retail add the following subsections:

[4-3(D)(35)(e) This use shall not be located within 1,000 feet of a licensed premises containing another Cannabis Retail, Adult Entertainment, or Adult Retail Uses.]

A19 – Cannabis Additional Restrictions

NOT MOVED AT MAY 12 LUPZ

4-3(D)(35)(f) Customer visits and deliveries are prohibited between 10:00 P.M. and 7:00 A.M.

4-3(D)(35)(g) Signage:

- i. Off Premise signs for cannabis retail establishments are prohibited
- ii. On Premise signs:
 - a. For cannabis retail establishments are limited to wall signs, which may only include the business or tradename, the business location, the days and hours of operation the establishment and the identifying nature of the business.
 - b. Signs must contain text stating that cannabis products may be purchased or possessed only by persons 21 years of age or older.
 - c. Signs cannot contain depictions or plants or products (e.g. marijuana leaf=plant, joint=product).
 - d. Signs may not use movie or cartoon characters, or mimic any other product brand.
 - e. Signs may not be targeted at minors.

4-3(D)(35)(h) On-site consumption areas are limited to no more than 500 sqft]

5. In Exhibit 1, Page 190, Section 4-3(E)(2) Cannabis Cultivation add the following subsections:

[4-3(E)(2)(f) Customer visits and deliveries are prohibited between 10:00 P.M. and 7:00 A.M.

4-3(E)(2)(g) Signage:

- i. Off Premise signs for cannabis cultivation establishments are prohibited
- ii. On Premise signs:
 - a. For cannabis cultivation establishments are limited to wall signs, which may only include the business or tradename, the business location, the days and hours of operation the establishment and the identifying nature of the business.
 - b. Signs must contain text stating that cannabis products may be purchased or possessed only by persons 21 years of age or older.
 - c. Signs cannot contain depictions or plants or products (e.g. marijuana leaf=plant, joint=product).

A19 – Cannabis Additional Restrictions

NOT MOVED AT MAY 12 LUPZ

- d. Signs may not use movie or cartoon characters, or mimic any other product brand.
- e. Signs may not be targeted at minors.]

6. In Exhibit 1, Page 191, revise Section 4-3(E)(3) (Cannabis-derived Products Manufacturing add the following subsections:

[4-3(E)(3)(f) Customer visits and deliveries are prohibited between 10:00 P.M. and 7:00 A.M.]

4-3(E)(3)(g) Signage:

- i. Off Premise signs for cannabis-derived product manufacturing establishments are prohibited
- ii. On Premise signs:
 - a. For cannabis cannabis-derived product manufacturing establishments are limited to wall signs, which may only include the business or tradename, the business location, the days and hours of operation the establishment and the identifying nature of the business.
 - b. Signs must contain text stating that cannabis products may be purchased or possessed only by persons 21 years of age or older.
 - c. Signs cannot contain depictions or plants or products (e.g. marijuana leaf=plant, joint=product).
 - d. Signs may not use movie or cartoon characters, or mimic any other product brand.
 - e. Signs may not be targeted at minors.]

7. In Exhibit 1, Page 546, Section 7-1 Definitions, add the following to the Cannabis Definitions:

[On-site Consumption On-site consumption of cannabis includes the smoking, vaporizing, and ingesting of cannabis or cannabis products on a licensed premise. On-site consumption is considered part of Cannabis Retail.]

Explanation: This amendment adds additional restrictions to the three cannabis uses in the IDO. During the 2019 IDO Annual Update, the IDO created 3 cannabis related uses in anticipation of the legalization of recreational cannabis. Those three uses are, plus definitions:

- Cannabis Retail: A retail sales establishment licensed by the State to sell cannabis for recreational consumption. Retail establishments selling cannabis solely for consumption by users with a medical card issued by the State are considered general retail and are not regulated by this

A19 – Cannabis Additional Restrictions

NOT MOVED AT MAY 12 LUPZ

definition. See also *General Retail*.

- Cannabis Cultivation: A facility in which cannabis is grown, harvested, dried, cured, or trimmed.
- Cannabis-derived Product Manufacturing: The processing, including but not limited to extraction, refinement, isolation, or packaging of a product other than cannabis itself, which contains or is derived from cannabis, including but not limited to concentrates, cannabis infusions, edible products, ointments, and tinctures, but excluding hemp. See also *Hemp*.

The IDO anticipates that a business may have one or more of these uses on the same site. For example a site may include both cultivation and manufacturing. Or manufacturing and retail. The IDO limits these three uses to the following zone districts:

- Cannabis Retail:
 - Permissive: MX-L, MX-M, MX-H, NR-C, NR-BP
 - Accessory: NR-LM, and NR-GM
- Cannabis Cultivation
 - Permissive: NR-C, NR-BP, NR-LM, and NR-GM
- Cannabis-derived Product Manufacturing
 - Permissive: NR-C, NR-BP, NR-LM, and NR-GM

This amendment adds additional restrictions in terms of requiring distances between cannabis retail businesses, prohibits on-site consumption in certain areas of the city, limits hours of on-site activity, and limits signage for cannabis establishments.

This amendment was drafted and sponsored at the request of the Mayor and the Administration.