



**Environmental  
Planning  
Commission**

**Agenda Number: 5  
Project Number: 1001620  
Case #: 13EPC 40120  
July 11, 2013**

**Staff Report**

<b>Agent</b>	COA Planning Department
<b>Applicant</b>	City of Albuquerque
<b>Request</b>	<b>Text Amendment to the Zoning Code, §14-16-4-2 (C) (2)</b>
<b>Current Zoning</b>	Various
<b>Proposed Zoning</b>	Same

**Staff Recommendation**

**That a recommendation of APPROVAL of 13EPC 40120 be forwarded to the City Council, based on the Findings on page 10.**

**Staff Planner**

**Christopher Hyer, Senior Planner**

**Summary of Analysis**

The purpose of this request is to amend the Variance Criteria presented in §14-16-4-2(C)(2) of the Zoning Code to be more consistent with the State's Statute, NMSA 3-21-8. The most notable change is that physical exceptionality will not be the primary test for approval of a variance. The State Statute allows consideration of other "special conditions" to be considered as well. In addition, an applicant will be required to demonstrate that the variance request is not contrary to applicable goals and policies of the Comprehensive Plan and other ranked City plans and that the request meets the intent of the Zoning Code.

The proposed amendments are consistent with the intent of the City Charter and the Zoning Code and further applicable goals and policies of the Comprehensive Plan. Staff is recommending that a recommendation of approval be forwarded to the City Council.

**CITY-WIDE**

## **I. INTRODUCTION**

### ***Request***

This is a request for a text amendment to the Zoning Code to change the requirements for evaluating and approving a dimensional variance to any regulation of the Zoning Code. Currently, an applicant must prove that the property exhibits physical exceptionality “by reason of the physical characteristics of the land” (§14-16-4-2 (C) (2) (a)). If this test is not met, the request is denied. This legislation would rescind the current criteria and replace it with language that is more consistent with State Statute, *NMSA 3-21-8*.

### ***Purpose/Intent***

This amendment is a Planning Department led initiative that included staff from City Council, City Planning, City Legal, and the Zoning Enforcement Manager, the Zoning Hearing Examiner and the Land Use Hearing Officer. The need to update this criteria stemmed from recognition that this criteria needs to be more consistent with State Law as well as recognition that 80-90% of variance requests are denied due to the property not being physically exceptional, even though a variance is necessary for making possible the reasonable use of the land or building.

The State Statute allows consideration of other circumstances/criteria in granting a variance such as implementation of applicable goals and policies of the Comprehensive Plan and unnecessary hardship. These criteria have been added to the current proposal and have gone a step further by requiring consistency with other applicable ranked plans. In addition, applicants will have to demonstrate consistency with the “intent” of the Zoning Code as expressed in §14-16-1-3 of the Zoning Code, rather than the “spirit” of the Zoning Code as currently required.

### ***History***

In February, 2007, the City Council initiated a change to this section of the Zoning Code, a completely revised Variance Criteria (O-07-70), with an intent to “allow exceptionality with respect to the building or structure, in limited situations, to be the basis for a variance” and to “permit variances, assuming other criteria are met, in situations where a building was long ago built too close to a lot line or where staff has inadvertently approved construction of a building that has minor inconsistencies with the Zoning Code.” The EPC heard this request (07EPC-00170) and recommended denial to the City Council in June, 2007.

The EPC’s recommendation was forwarded to the City Council and was heard by the LUPZ committee August 15, 2007. The LUPZ committee presented a committee substitute (C/S O-07-70) that incorporated many of the comments made by various parties to the EPC and left the variance criteria in §14-16-4-2 (C) (2) unchanged. Instead, the change was to §14-16-4-2 (A) (1), creating a fourth type of special exception – the existence of a building non-compliant as to setback or height. The City Council referred this new language back to the EPC for review.

The EPC reviewed the committee substitute and recommended that it be denied on March 13, 2008 based on: 1) there being no clear definition of the term “non-compliant”; 2) there was a lack of remedies to the owners of non-compliant buildings; and 3) the EPC thought the proposed amendment would substantially diminish the “fair and equitable administration of the City Zoning Regulations”.

The Bill was transmitted back to City Council May 6, 2008 and was given a new Council Bill number, O-08-12 (07EPC 00170, Project #1001620). The proposed legislation was allowed to die due to no action and determined dead April, 2009.

There have been no other proposed changes to the Variance Criteria.

### ***EPC Role***

The proposed amendment is a legislative matter and will apply to all properties City-wide.

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

### ***Text Amendment***

The proposal will rescind the current text of §14-16-4-2 (C) (2) in its entirety and will replace it with the following language (new text is underlined):

#### **§14-16-4-2 Special Exceptions**

##### ***(C) Criteria for Decision***

~~[(2) Variance. A variance shall be approved if and only if the following tests are met:~~

~~(a) The property is exceptional:~~

- ~~1. The parcel is exceptional as compared with other land in the vicinity subject to the same regulations by reason of the physical characteristics of the land, which physical characteristics existed at the time of the adoption of the regulation or were created by natural forces or by governmental action for which no compensation was paid.~~
- ~~2. The parcel is exceptional as compared with other land in the vicinity subject to the same regulations by reason of the conditions or use of the parcel or other land in the vicinity which condition or use existed at the time of adoption of the regulations; or~~
- ~~3. The parcel is irregular, unusually narrow or shallow in shape, and the conditions existed at the time of the adoption of the regulation or were created by natural forces or governmental action for which no compensation was paid; and~~

~~(b) As a result of the exceptional aspect of the property, the regulations produce unnecessary hardship; an unnecessary hardship is one that either:~~

- ~~1. Creates an exceptional, substantial, and unjustified limitation of the property owner's reasonable use of his property; or~~
- ~~2. Deprives the owner of a reasonable return on the property under any use permitted by its existing zone.~~

~~(c) A particular variance is appropriate to prevent the unnecessary hardship. The decision on whether to grant a particular variance depends upon a comparison of the special circumstances shown by the applicant (i.e., as per divisions (a) and (b) above) and the~~

~~public interest. To be justified, a variance must permit only development which meets the following criteria:~~

- ~~1. It differs from development which would be permitted under existing regular zoning regulations no more than is necessary to overcome the unnecessary hardship;~~
- ~~2. The variance will not significantly interfere with the enjoyment of other land in the vicinity; and~~
- ~~3. It is consistent with the spirit of this Zoning Code, substantial justice, and the general public interest.~~

~~(d) Financial gain or loss shall not be the sole determining factor in deciding a variance.-]~~

[+(2) Variance. A variance will not permit a use not permitted in the zoning district applied to the Applicant's property, or any use expressly prohibited by the terms of this Zoning Code. A variance application shall be approved by the Zoning Hearing Examiner, if and only if, the following four tests are met by the applicant:

(a) The application is not contrary to the public interest or injurious to the community;

(b) Where, as a result of special conditions, a literal enforcement of the zoning code will result in unnecessary hardship to the Applicant:

1. Special Conditions. A special condition is a circumstance (physical or otherwise) which exists upon or directly affects the Applicant's property which is unique as compared to other property in the surrounding area and was not self-imposed or self-created by the Applicant; and

2. Unnecessary Hardship. An unnecessary hardship is one that either:

a. Creates an exceptional, substantial, and unjustified limitation of the applicant's reasonable use of his property; or

b. Deprives the Applicant of a reasonable return on the property (provided this is not the sole reason for the application).

(c) The application furthers the Intent of the Zoning Code (§14-16-1-3) and substantial justice is done; and

(d) The application is not contrary to applicable Goals and Policies of the Comprehensive Plan and other ranked City plans with jurisdiction over the Applicant's property.+]

Recognition of a review of the criteria started with the issue that most of the variance requests going to the ZHE were being denied due to the fact that the applicant could not or did not prove physical exceptionality of the property. As mentioned above, physical exceptionality is the primary test in the current criteria; that is, an applicant must demonstrate that the subject site is exceptional "by reason of physical characteristics of the land" (§14-16-4-2 (C) (2) (a) (1)). If this test is not met, the request is denied without going further into the request.

As development around the City progresses, fewer and fewer properties that are easily developed remain. Properties may be challenged from development from other factors than just physical aspects as well. For example, a roadway has been expanded and elevated, causing the existing properties that once lined the roadway at grade to be disadvantaged by being much lower than the new driving surface and the signs identifying their location can no longer be seen. The properties

are not physically exceptional, but new circumstances now require a variance in order to correct for the change.

Another example was a similar situation in which the property owner could no longer access his property from the alley due to the City grading and paving the alley – it created an 18 inch grade change. He was requesting a front yard car port that would require variances to the side and front yard setback as well as to the separation requirements between an Accessory Building and a dwelling, but his property was not physically exceptional. He was denied the variance because he could not meet the primary test of physical exceptionality.

### ***Recent City Council Action***

Recent action by the City Council added another reason for consideration of a variance - what happens when the City makes a mistake. In a recent appeal of the Board of Appeals (BOA)'s decision (12ZHE-80357/80355, 12BOA-20016/2017, AC-13-3 & AC-13-4, Project #1009491 – June 3, 2013), the Land Use Hearing Officer introduced a different sort of exceptionality regarding a property that was ultimately granted two variances. Following is a brief description of the circumstances of the case:

1. A single family home owner submitted a request to convert an alley accessed garage to an art studio in 1999. The existing building was to be expanded in height and size. The City approved the building permit to convert the garage to an accessory building. It was noted that the Accessory Building was taller than the main home.
2. A 2010 building permit was approved for interior modifications to create a living quarters, but required a Conditional Use Permit for a second kitchen, which was denied.
3. In 2012, the City issued a Notice of Violation to the property owner that the Accessory Building violated several regulations of the Zoning Code. In response, the property owner sought four variances from the ZHE. Two were granted (height of the Accessory Structure and distance separation to the main dwelling unit) with Conditions and two were denied (encroachment into the side and rear yard setbacks) – this forced the property owner to remove the portion of the violating structure in order to come into compliance.
4. Neighbors to this property appealed the ZHE Approval of the two variances to the BOA. The BOA overturned the ZHE Approval citing that the property is not physically exceptional.
5. The property owner appealed this decision to the City Council, which was referred to the Land Use Hearing Officer (LUHO).
6. The LUHO recommended to the City Council that a reversal of the BOA decision was necessary allowing the variances to stand because the Accessory Building was constructed in reliance on a City issued (1999) building permit. The LUHO reasoned that this fact makes the property exceptional and that not allowing the present building configuration to remain would create an unnecessary hardship; the hardship would be created from the appellant having to remove portions of the Accessory Building that created the violation. The LUHO generally reasoned that this outcome is premised on considerations of basic fairness.

7. The City Council accepted this recommendation. This acceptance affirms a new way exceptionalism can be defined; there is more than just physical exceptionalism that warrants a variance on a property.

### ***State Statute***

The State Statute allows consideration of other circumstances/criteria in granting a variance such as implementation of applicable Goals and Policies of the Comprehensive Plan and unnecessary hardship. The State Statute also has language regarding the requirement “that the “spirit” of the Zoning Code is observed and substantial justice is done”. The City Charter allows adoption of the State Statute directly or to make the City of Albuquerque’s criteria more restrictive. Rather than arguing whether or not the “spirit” of the Zoning Code is met, the proposed language will require an applicant to demonstrate that the “Intent” of the Zoning Code is met – this is described in §14-16-1-3 of the Zoning Code.

Further, the proposed language goes beyond demonstration of compliance with just the Comprehensive Plan, but an applicant must show that their request meets the intent, policies and regulations of all applicable ranked City plans. The proposed text amendment listing the criteria for granting a variance have been amended to be consistent with the criteria presented in the State Statute, NMSA 3-21-8, which states:

*“the zoning authority by a majority vote of all its members may:*

- (1) authorize, in appropriate cases and subject to appropriate conditions and safeguards, variances or special exceptions from the terms of the zoning ordinance or resolution:
  - (a) that are not contrary to the public interest;*
  - (b) where, owing to special conditions, a literal enforcement of the zoning ordinance will result in unnecessary hardship;*
  - (c) so that the spirit of the zoning ordinance is observed and substantial justice done; and*
  - (d) so that the goals and policies of the comprehensive plan are implemented”**

## **II. ANALYSIS OF APPLICABLE ORDINANCES, PLANS AND POLICIES**

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

### **A. Charter of the City of Albuquerque**

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

#### **ARTICLE IX, ENVIRONMENTAL PROTECTION**

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

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*Amending the variance criteria to be consistent with State Statute, NMSA 3-21-8 will ensure the proper use and development of land by requiring consistency with applicable goals and policies of the Comprehensive Plan and other ranked City plans. In addition, a variance request will have to meet the intent of the Zoning Code to protect and preserve environmental features such as water, air and other natural endowments.*

## **B. Albuquerque Comprehensive Zoning Code**

In enacting the Zoning Code, the City intended “to follow the provisions of existing state law on the same subject so far as possible for the convenience of the public and for the better administration of the law” (§14-16-1-2). *The proposed amendments will accomplish this intent by being consistent with State Statute, NMSA 3-21-8.*

In addition, the proposed amendments will further the Intent of the Zoning Code, §14-16-1-3, “to create orderly, harmonious and economically sound development in order to promote the health, safety, convenience and general welfare of the citizens of the city”. *The amended variance criteria will require an applicant to demonstrate consistency with applicable goals and policies of adopted ranked plans and with the intent of the Zoning Code.*

## **C. Albuquerque/Bernalillo County Comprehensive Plan**

The Comprehensive Plan, the Rank I planning document for the City, contains goals and policies that provide a framework for development and service provision. The Plan’s goals and policies serve as a means to evaluate development proposals and requests for text amendments such as this. Applicable Comprehensive Plan Goals and Policies include:

### **DEVELOPING AND ESTABLISHED URBAN AREAS**

Goal: To create a quality urban environment, which perpetuates the tradition of identifiable, individual but integrated communities within the metropolitan area and which offers variety and maximum choice in housing, transportation, work areas, and life styles, while creating a visually pleasing built environment?

*The variance criteria provides a list of tests to be met by the applicant that ensures a quality and visually pleasing urban environment is maintained.*

Policy II.B.5.d: The location, intensity, and design of new development shall respect existing neighborhood values, natural environmental conditions and carrying capacities, scenic resources, and resources of other social, cultural, recreational concern.

*The request will require an applicant to demonstrate that a variance is not contrary to the public interest, not injurious to the community, furthers the intent of the Zoning Code and is not contrary to the Goals and Policies of the Comprehensive Plan or other ranked City plans that govern the site. This new set of criteria ensures that location, intensity, and design of new development will respect existing neighborhood values, the natural environmental conditions and carrying capacities, scenic resources, and resources of other social, cultural, recreational concern.*

Policy II.B.5.l: Quality and innovation in design shall be encouraged in all new development; design shall be encouraged which is appropriate to the Plan area.

*The request will allow innovation in design that cannot meet the strict requirements of the Zoning Code.*

Policy II.B.5.o: Redevelopment and rehabilitation of older neighborhoods in the Established Urban Area shall be continued and strengthened.

*There are many older properties in the City that would benefit in being able to use the proposed variance criteria to preserve part of the site's development that may be out of compliance with the new regulations, while rehabilitating other parts of the site even though the site does not exhibit any physical exceptionality.*

Policy II.B.5.p: Cost-effective redevelopment techniques shall be developed and utilized.

*The new variance criteria may encourage redevelopment by allowing the applicant to use a custom dimension for a specific regulation that is unique to the site which would help in realizing a reasonable return from their property.*

#### C. ENVIRONMENTAL PROTECTION AND HERITAGE CONSERVATION

##### 8. Developed Landscape

The Goal is to maintain and improve the natural and the developed landscapes' quality.

*The proposed variance criteria will allow consideration of special circumstances that may help developments to improve the natural and developed landscapes' quality.*

Policy II.C.8.e: In highly scenic areas, development design and materials shall be in harmony with the landscape. Building siting shall minimize alteration of existing vegetation and topography and minimize visibility of structures in scenic vista areas.

*The proposed variance criteria will allow a mechanism for innovation in development design and materials to be considered, to be in harmony with the landscape. This variation to the regulations may include placement of the building and alteration of existing vegetation and topography in order to minimize the visibility of structures in scenic view areas.*

#### D. COMMUNITY RESOURCE MANAGEMENT

##### 6. Economic Development

The Goal is to achieve steady and diversified economic development balanced with other important social, cultural, and environmental goals.

*The proposed variance criteria allow a relief mechanism to be utilized when development cannot meet the strict regulations of a particular zoning district. Approval of a variance under the new criteria may help to achieve a steady and diversified economic development that is balanced with other important social, cultural, and environmental goals. This relief mechanism takes into account that the development must meet the intent of the Zoning Code and is not contrary to applicable Goals and Policies of the Comprehensive Plan and/or any other City ranked plan that governs the site.*

*In conclusion, staff finds that the text amendment for the variance criteria furthers applicable Goals and Policies of the Comprehensive Plan.*



### **III. CONCERNS OF REVIEWING AGENCIES / PRE-HEARING DISCUSSION**

There are no significant agency comments for this request.

### **IV. NEIGHBORHOOD/PUBLIC CONCERNS**

Neighborhood Associations City-Wide were notified via an article in the June 2013 *Neighborhood News Newsletter* distributed to all neighborhood representatives –June 19, 2013. Notification was also posted on ONC’s homepage for the newsletter.

Staff has received communications from one interested party; their question was how this changed criteria would affect older neighborhoods. Staff’s response was:

*“The amendment brings the variance criteria to be consistent with State Statute, NMSA 3-21-8, requiring the applicant to justify their request with goals and policies from the Comprehensive Plan. The City's language actually makes applicants use all applicable goals and policies from other governing plans as well. Further, the City requires the applicant to justify their variance request relative to the intent of the Zoning Code, rather than just the "spirit" - the intent is actually described in Section 14-16-1-3 of the Zoning Code. The current criteria does not require these more rigorous justifications and really only requires that the lot be physically irregular. I believe all properties, including older neighborhoods, will benefit from applicant's for variances having to demonstrate how the variance furthers the City's goals and policies and the intent of the Zoning Code.”*

Staff has not received any letters in support or opposition of this request.

### **V. CONCLUSION**

This is a request for text amendments to the variance criteria in the Zoning Code, §14-16-4-2-(C)(2). This request proposes to change the requirements for evaluating and approving a Variance to any dimensional regulation of the Zoning Code. Currently, an applicant must prove that the property exhibits physical exceptionality “by reason of the physical characteristics of the land” (14-16-4-2 (C)(2)(a)). If this test is not met, the request is currently denied. This legislation would rescind the current criteria and replace it with language that is consistent with State Statute; *NMSA 3-21-8*, yet is more restrictive.

The State Statute allows consideration of other circumstances/criteria in granting a variance such as implementation of applicable Goals and Policies of the Comprehensive Plan and unnecessary hardship. This proposed criterion for the City makes the applicant show that the variance will not be contrary to the Goals and Policies of the Comprehensive Plan and/or other ranked City plans. The State Statute also requires the applicant for a variance to meet the spirit of the Zoning Code. The proposed variance criteria for the City is for the applicant to demonstrate how the requested variance will further the intent of the Zoning Code as described in §14-16-1-3.

The amendment is consistent with the intent of the City Charter and the Zoning Code and furthers applicable goals and policies in the Comprehensive Plan.

Notification was presented in the June 2013 *Neighborhood News Newsletter* on June 19, 2013 and has also been posted on ONC's homepage for the newsletter as well. Staff has received one inquiry from a citizen who asked about the impact this criteria would have on older neighborhoods. Staff's response (presented above) was that there would be an additional burden on the applicant to demonstrate how the variance furthers the City's goals and policies of the Comprehensive Plan and other governing City ranked plans as well as the intent of the Zoning Code.

Staff has not received any other communication from parties that either support or oppose this amendment.

Staff recommends that the EPC forward a recommendation of approval of the attached text amendment ordinance to the City Council based on the following findings and subject to conditions of approval.

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***FINDINGS – 13EPC 40120 (July 11, 2013) – Text Amendment to the Zoning Code***

1. This is a request, initiated by the City of Albuquerque Planning Department, to change the requirements for evaluating and approving a variance to any dimensional regulation of the Zoning Code. The existing language presented in §14-16-4-2(C)(2) will be replaced by this amendment.
2. The intent of this text amendment is for the City’s variance criteria to be consistent with State Statute; *NSMA 3-21-8*. The proposed criteria for the City follows the State’s criteria, but is more restrictive in the following two areas: 1) an applicant’s requested variance cannot be contrary to Goals and Policies of the Comprehensive Plan and any other ranked City plan governing the site; 2) the applicant must demonstrate that the requested variance furthers the Intent of the Zoning Code as described in §14-16-1-3.
3. The amended variance criteria has been developed and reviewed by staff from the City Council, City Planning, City Legal, and the Zoning Enforcement Manager, the Zoning Hearing Examiner and the Land Use Hearing Officer.
4. The Charter of the City of Albuquerque, the Albuquerque Comprehensive Plan and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.
5. The proposed text amendment is a legislative matter and will apply to all properties city-wide. The EPC is charged with evaluating the request and forwarding a recommendation to the City Council.
6. The request meets the intent of the City Charter: Amending the variance criteria to be consistent with State Statute, *NMSA 3-21-8* will ensure the proper use and development of land by requiring consistency with applicable goals and policies of the Comprehensive Plan and other ranked City plans. In addition, a variance request will have to meet the intent of the Zoning Code to protect and preserve environmental features such as water, air and other natural endowments.
7. The amended variance criteria furthers the City’s intent when enacting the Zoning Code to “follow the provisions of existing state law on the same subject so far as possible for the convenience of the public and for the better administration of the law” (§14-16-1-2)
8. The amended variance criteria generally furthers the intent of the Zoning Code in creating orderly, harmonious and economically sound development in order to promote the health, safety, convenience and general welfare of the citizens of the City. As the zoning authority for the City of Albuquerque, the City Council will make the final determination.

9. The request is not in significant conflict with adopted elements of the Comprehensive Plan or other city master plans including the following:

ESTABLISHED URBAN AREA POLICIES

Goal & Policy II.B.5.d: The amended variance criteria provides a list of tests to be met by the applicant that ensures a quality and visually pleasing urban environment is maintained. An applicant will be required to demonstrate that the variance is not contrary to the public interest, not injurious to the community, furthers the intent of the Zoning Code and is not contrary to the goals and policies of the Comprehensive Plan or other ranked City plans that govern the site. This new set of criteria ensures that location, intensity, and design of new development will respect existing neighborhood values, the natural environmental conditions and carrying capacities, scenic resources, and resources of other social, cultural, recreational concern.

Policies II.B.5.1, o and p: Applicants for a proposed variance will allow innovation in design when a strict regulation of the Zoning Code cannot be met. The revised criteria may allow other circumstances to be considered in granting a variance.

C. Environmental Protection and Heritage Conservation

8. Developed Landscape: The amended variance criteria may allow consideration of special circumstances that would help developments to improve the natural and developed landscapes' quality. This criterion allows for a relief mechanism for such incidental structures to be designed for minimal visual intrusion including alternative placement of the building and alteration of existing vegetation and topography in order to minimize the visibility of structures in scenic view sheds.

D. COMMUNITY RESOURCE MANAGEMENT

6. Economic Development: The new criteria allows a relief mechanism to be utilized when the development will achieve a steady and diversified economic development that is balanced with other important social, cultural, and environmental goals. This relief mechanism takes into account that the development must meet the intent of the Zoning Code and is not contrary to applicable Goals and Policies of the Comprehensive Plan and/or any other ranked City plan that governs the site.

10. Notification was presented in the June 2013 *Neighborhood News Newsletter* on June 19, 2013 and notification has also been posted on ONC's homepage for the newsletter as well.
11. Staff received one inquiry from the public regarding the effect of the amended criteria on older neighborhoods. No other communication from parties that either support or oppose this amendment was received.

***RECOMMENDATION - 13EPC-40120 - Text Amendment to the Zoning Code***

***That a Recommendation of APPROVAL of 13EPC-40120, a Text Amendment to the Zoning Code §14-16-4-2 (C)(2), be forwarded to the City Council, based on the preceding Findings.***

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***Christopher Hyer  
Senior Planner***

**Notice of Decision cc list:**

This is a City-Wide amendment and therefore, the Notice of Decision will be presented in the Neighborhood News Newsletter.

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## ***CITY OF ALBUQUERQUE AGENCY COMMENTS***

### ***PLANNING DEPARTMENT***

#### ***Zoning Enforcement***

Reviewed - No comments

#### ***Office of Neighborhood Coordination***

City-wide

6/3/13 – Article for “Neighborhood News” NL – siw

5/31/13 – Chris Hyer submitted article for NL – siw

#### ***Long Range Planning***

No comments received.

#### ***Metropolitan Redevelopment Section***

No comments received.

### ***CITY ENGINEER***

#### **Transportation Development (City Engineer/Planning Department):**

- Reviewed, no comment.

#### **Hydrology Development (City Engineer/Planning Department):**

- Reviewed, no objection.

#### **Transportation Planning (Department of Municipal Development):**

- Reviewed, and no comments regarding on-street bikeways or roadway system facilities. The overhang and sign heights comply with the bicycle operating height (100 in.).

#### **Traffic Engineering Operations (Department of Municipal Development):**

- No comments received.

#### **Street Maintenance (Department of Municipal Development):**

- No comments received.

#### **New Mexico Department of Transportation (NMDOT):**

- No comments received.

#### **RECOMMENDED CONDITIONS FROM CITY ENGINEER, MUNICIPAL DEVELOPMENT and NMDOT:**

None.

***WATER UTILITY AUTHORITY***

***Utility Services***

No comments received.

***ENVIRONMENTAL HEALTH DEPARTMENT***

***Air Quality Division***

No comments received.

***Environmental Services Division***

No comments received.

***PARKS AND RECREATION***

***Planning and Design***

No comments received.

***Open Space Division***

No comments received.

***City Forester***

No comments received.

***POLICE DEPARTMENT/PLANNING***

This is a city-wide project

No Crime Prevention or CPTED comments concerning the proposed Amendment to Zoning Code request at this time.

***SOLID WASTE MANAGEMENT DEPARTMENT***

***Refuse Division***

No comments received.

***FIRE DEPARTMENT/PLANNING***

No comments received.

**TRANSIT DEPARTMENT**

Adjacent and nearby routes	None.
Adjacent bus stops	None
Site plan requirements	None.
Large site TDM suggestions	None.
Other information	None

**COMMENTS FROM OTHER AGENCIES**

**BERNALILLO COUNTY**

No comments received.

**ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY**

Reviewed, no comment.

**ALBUQUERQUE PUBLIC SCHOOLS**

The City of Albuquerque proposes a **City-Wide** amendment to change the criteria for granting a variance to be consistent with the criteria presented in State Statute *NMSA 3-21-8*. This proposal will have no adverse impacts to the APS district.

**MID-REGION COUNCIL OF GOVERNMENTS**

No comments received.

**MIDDLE RIO GRANDE CONSERVANCY DISTRICT**

No comments received.

**PUBLIC SERVICE COMPANY OF NEW MEXICO**

No comments received.