



**Environmental  
Planning  
Commission**

**Agenda Number: 5  
Project Number: 1009415  
Case #: 13EPC 40116  
June, 13 2013**

**Staff Report**

<b>Agent</b>	City of Albuquerque, Planning Department
<b>Applicant</b>	City of Albuquerque
<b>Request</b>	<b>Text Amendments to the East Gateway Sector Development Plan</b>
<b>Legal Desc.</b>	As identified in the plan
<b>Current Zoning</b>	As identified in the plan
<b>Proposed Zoning</b>	Same with addition of sales of Beer and Wine for restaurant use in the EG-C2 zone

**Staff Recommendation**

*That a recommendation of APPROVAL of 13EPC 40076 be forwarded to the City Council, based on the Findings on page 21 and the condition on page 23.*

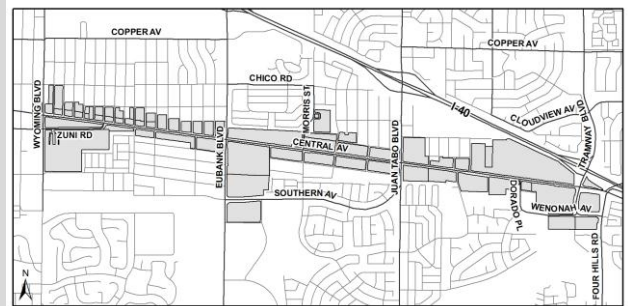
**Staff Planner**  
Maggie Gould, Planner

**Summary of Analysis**

This request is for amendments to the SU-2 zones of the East Gateway Sector Development Plan (EGSDP). The amendments consist of the following:

- 1) Defining the process for approving minor changes or deviations from the Building Types and Standards.
- 2) Defining the process for approving major changes or deviation from the Building Types and Standards.
- 3) Providing a process for additions to existing buildings that cannot meet the standards of the plan.
- 4) Removing the 9 inch maximum letter height for signage.
- 5) Amending the EG-C zone to allow sales of beer or wine as part of a restaurant use and still prohibit the sale of alcohol for off-premise consumption.
- 6) Removing the minimum height requirement for the Apartment House, Courtyard Apartment Building and Apartment Building, Live/Work Building and Mixed Use Buildings
- 7) Clarifying that the 26 foot maximum building height is only within 85 feet of single family residential uses.

There is no known opposition to this request.



City Departments and other interested agencies reviewed this application from 4/29/2013 to 5/10/2012. Agency comments used in the preparation of this report begin on Page 24 .

## ***I. INTRODUCTION***

### ***Request***

This request is for amendments to SU-2 zones of the East Gateway Sector Development Plan (EGSDP). The amendments consist of the following:

1. Defining the process for approving minor changes or deviations from the Building Types and Standards.
2. Defining the process for approving major changes or deviation from the Building Types and Standards.
3. Providing a process for additions to existing buildings when such additions cannot meet the standards of the plan.
4. Removing the 9 inch maximum letter height for signage.
5. Amending the EG-C zone to allow sales of beer or wine as part of a restaurant use and still prohibit the sale of alcohol for off-premise consumption.
6. Removing the minimum height requirement for the Apartment House, Courtyard Apartment Building and Apartment Building , Live/Work Building and Mixed Use Buildings
7. Clarifying that the 26 foot maximum building height is only within 85 feet of single family residential uses.

The proposed amendments impact the:

SU-2/EG-CAC (COMMUNITY ACTIVITY CENTER ZONE)  
SU-2/EG-NAC (NEIGHBORHOOD ACTIVITY CENTER ZONE)  
SU-2/EG-C (CORRIDOR ZONE)  
SU-2/EG-C-2 (COMMUNITY COMMERCIAL ZONE)

### ***History***

The East Gateway Sector Development was adopted in 2010 by the City Council (R-10-73).

The plan has been amended once, in 2013 to provide for view shed protection for the area near Central and Tramway.

### ***Zoning and the Plan's Format***

The EGSDP established four mixed-use zones for the Plan area: SU-2/EG-C, SU-2EG-C-2, SU-2EG-NAC and SU-2 CAC. The zones contain permitted and prohibited uses and permitted building types. The building types list the required setbacks, height and building placement.

Section 5.3 of the plan contains the development approval process. Section 5.3.2, the development approval matrix, sets up the approval process for various types of development.

This process provides for minor deviations, up to 10%, to be approved administratively and deviations of 10%-20% to be approved by the EPC. The plan does not allow deviations of more than 20% to the standards of the plan.

### ***Public Process***

Staff notified the Coronado Terrace HOA, Executive Hills HOA, Four Hills Village HOA, and the Four Hills Village, Juan Tabo Hills, La Mesa Community Improvement, Mirabella-Miravista, Sandia Vista, Singing Arrow, South Los Altos, Terracita, Trumbull Village, Willow Wood, Winterwood Park

neighborhood associations and the East Gateway Coalition. Staff also meet with an advisory group of design and development professionals and planning staff to discuss the proposed changes. Property owners in the affected zones were notified.

### *Environmental Planning Commission (EPC) Role*

The EPC is a recommending body with review authority. The EPC's task is to make a recommendation to the City Council regarding the proposed text amendments. The City Council is the City's Zoning Authority and will make the final decision. The addition of beer and wine sales where none was previously allowed is considered a quasi-judicial matter. As such, justification per R-270-1980 is required and provided.

## **II. PROPOSED TEXT AMENDMENTS**

Note: New language is [+underlined and bracketed+]. Deleted language is [~~bracketed and struck through~~]. Planning Staff's explanation is in ***Bolded Italics***. Changes from the original application submittal are noted in gray highlight.

### **Page 5-7, Section 5.3.1**

#### **5.3.1 Development Compliance Triggers**

A. The following development requests within East Gateway SU-2 Zones shall comply with pertinent East Gateway Sector Development Plan regulations in Sections 5.5 and 5.6 of this chapter:

1. New development, [+including new buildings and structures+]

[+D. For additions of 15% or more to existing building square footage that cannot comply with the standards of the plan due to placement of the existing building; the planning director or director's designee may approve an alternate site configuration per the process for minor deviations.+]

*The language and development approval matrix in the EGSDP do not provide a process for additions to existing buildings that cannot meet the standards of the plan. This language allows existing business in the area to expand and remain in place even if they cannot meet the standards of the plan. It is a benefit to the community to have stable, local business.*

Page 5-8, Section 5.3.2

Development Approval Process

Approval Body	Type of Action Requested	Notification
<i>Building Permit Staff</i>	<p><b>SITE PLAN APPROVAL</b>                      All three of the following conditions are necessary:</p> <ul style="list-style-type: none"> <li>• Site less than 5 acres [<u>+and is not zoned SU-1+</u>]</li> <li>• Proposed Use is a Permissive Use</li> <li>• Development complies with the Building and Lot Standards in Section 5.5 of this chapter and the General Design Regulations in Section 5.6 of this chapter</li> </ul>	No Public Notification is required
<p><i>Administrative Review and Approval by Planning Director or Designee, preceded by a Pre-Application Meeting with the Pre-Application Review Team (PRT) [<u>+or Design Review Team+</u>]</i></p>	<p>Sites five acres or greater except for a Large Retail Facility as defined in the City Zoning Code.  <u>[+Amendment of approved site development plan (AA):Proposed amendment must be considered “minor” pursuant to Code §14-16-2-22 (6)+]</u>  <u>of the Zoning Code. +]</u></p> <p><u>[+MINOR DEVIATIONS:</u>  <u>Deviations of 25% or less from any dimensional standard</u></p>	<p><u>[+Public Notification, as determined by the Planning Director and as related to</u>  <u>[-§14-16-2-22(6) of the Zoning Code</u>  <u>[+E-mail notification of neighborhood representatives for deviations from 10-25%+]</u></p>
<i>ZHE</i>	<p>Conditional Use  <u>[+(Variances to the regulations in Section 5.5 and 5.6 of this chapter may not be approved by the ZHE)+]</u></p>	Public Notification is required
<i>EPC</i>	<ul style="list-style-type: none"> <li>• <del>Development that deviates 10% or more from dimensional Building and Lot Standards in Section 5.5 of this chapter</del></li> <li>• [<u>+Deviations of more than 25% from any dimensional Standard+</u>]</li> <li>• [<u>+Zone Map Amendment+</u>]</li> </ul> <p><b><u>SITE DEVELOPMENT PLAN APPROVAL</u></b></p> <ul style="list-style-type: none"> <li>• SU-1 zoned sites that meet the thresholds for EPC review in §14-16-2-22 of the City Zoning Code</li> <li>• A Large Retail Facility as defined in the City Zoning Code</li> <li>•</li> </ul>	Public Notification is required

Site less than 5 acres [+and is not zoned SU-1+]

*This language clarifies that sites with SU-1 zoning will not be reviewed by building permit staff, even if the site is less than 5 acres. This is consistent with The City's current development process per the SU-1 zone regulations, 14-16-2-22.*

ADMINISTRATIVE APPROVAL

[+Amendment of approved site development plan (AA):+]

*Amendments to approved site plans are allowed, this language is not included in the plan and this addition clarifies that this administrative review is allowed.*

Proposed amendment must be considered "minor" pursuant to §14-16-3-22(6) (a) and (b) of the Zoning Code. +]

*This language provides the process for administrative amendments of approved Site Development plans. This process was not previously outlined in the plan. The addition of this citation clarifies the administration of this plan.*

ZHE Approval  
Conditional Use

[+(Variances to the regulations in Section 5.5 and 5.6 of this chapter may not be approved by the ZHE)+]

*The ZHE process primarily addresses site exceptionality as the criteria for variances. The deviation process proposed here would have more flexibility and more categories for deviations. It is appropriate for the Planning Department to administer these deviations as the Planning Department has more experience with the intent and administration of Sector Development Plans. There are SU-2 zones and "straight" zones within the plan boundary. The specific zone to which this process applies has been added at the request of Code Enforcement. This makes it clear that the ZHE should still hear variance requests in straight zones.*

ADMINISTRATIVE APPROVAL

[+E-mail notification of neighborhood representatives for variances 10 %-25%+]

*Neighborhood association representatives from the Four Hills NA and Four Hills HOA expressed concern that they would not be notified regarding deviations over 10%, but less than 25%. The plan does not require notification for deviations of 10% or less. This language provides a notification process for minor amendment that is less cumbersome for both the Planning Department and the Neighborhood.*

### Page 5-9 Section 5.3.3

**Requests to Deviate from Sector Development Plan Building and Lot Standards in Section 5.5 of this Chapter and General Design Regulations in Section 5.6 of this Chapter.**

The building and lot standards in Section 5.5 of this chapter and General Design Regulation in Section 5.6 of this chapter are specific and prescriptive to provide certainty for applicants, neighborhoods, and City development reviewers.

It is not the intent of these regulations to limit design creativity or ignore unusual site conditions. As such, the following two levels of modifications to the zoning regulations are allowed:

**A. Minor:** The Planning Director or his/her designee may approve, or choose to refer to the EPC, deviations from non-dimensional standards or of [25% or ]less ~~[-than 10%-~~ from any dimensional standard.

**B. Major:** ~~[- Major: Any deviation of 10% -20% from any dimensional standard shall be reviewed by the EPC via the site development plan approval process; deviations of 20% or more are not allowed. In order for the EPC to grant the deviation(s) and approve the site development plan, the applicant must demonstrate that 1) the original standard(s) cannot be reasonably met without substantial hardship, due to the uniqueness of the site, and 2) applicable goals, policies and intents of the East Gateway Sector Development Plan are still met, even with the proposed deviation(s).-]~~

[+Any deviation over 25 % from any dimensional standard and deviations to non-dimensional standards deemed to require review shall be reviewed by the EPC via the site development plan approval process.

In order for the Planning Director or the EPC to grant a Deviation, the applicant must demonstrate that the applicable intent, goals and policies of the East Gateway Sector Development Plan are still met and that the project is of a comparable quality and design, as otherwise required by the EGDP, and will enhance the area. In addition, the applicant must also demonstrate at least one of the following:

- a. The site is unique in terms of physical characteristics and requires the deviation in order to be developed. This may include, but is not limited to slope, drainage, safety issues or site constraints.
- b. The site/project will serve as a catalyst to redevelopment or further development in the EGDP area.
- c. The site/project provides a needed service for the community, as identified in the EGSDP, CIP proposals, community survey or other similar source.
- d. The project will preserve an historic building or structure or an archeological site.+]

[+ 1. Applicants must provide written statement detailing how the deviations meet the intent of the plan. Applicant s may refer to sections 2.1 and 2.3 of the Plan.+]

[+ 2.All applicants seeking deviations shall attend a Pre-Application Meeting with the Pre- Application Review Team (PRT) or) or Design Review Team (DRT) before submitting the request for deviation.+]

## DEVIATION PROCESS AND DEVELOPMENT PROCESS MATRIX

*The EGSDDP provides Zoning and Design Regulations to assure quality development along the Central Avenue Corridor. The EGSDP requires almost full compliance with the regulations and does not provide for any kind of relief for deviations over 20 percent from these standards. It does*

*not take into account unique site, neighborhood conditions, existing buildings or innovative design. The proposed amendments will allow approval of deviations up to 25% by the Planning Director or approval of deviations greater than 25% by the EPC. An applicant must justify the request for a deviation pursuant to the criteria listed, which will provide guidance to the decision makers while upholding the intent of the EGSDP. This is consistent with recently adopted Sector Development Plans. The amendments will still provide certainty for applicants and neighborhoods but will allow flexibility within the framework of the regulations.*

*The Design Review Team(DRT) began on May15th, 2013. This is similar to the Pre-Application Review Team process, where representatives from several departments are available to answer an applicant's questions. The DRT is focused on the design regulations required for a project. The EGSDP has a variety of design regulations and the DRT process may be the appropriate venue for some projects.*

## Page 5-10

### **5.4.1 SU-2 East Gateway Community Activity Center Zone (SU-2/EG-CAC)**

#### PERMISSIVE USES

1. Uses listed as permissive in 14-16-2-17 C -2 Community Commercial Zone, with the following exceptions:

a. Signs: On-premise signs are permitted as regulated in the O-1 Zone 14-16-2-15 and General Sign Regulations 14-16-3-5 of the City Zoning Code, [+except that letter height is not regulated.+]

## Page 5-13

### **5.4.2 SU-2 East Gateway Neighborhood Activity Center Zone (SU-2/EG-NAC)**

b. Signs: On-premise signs are permitted as regulated in the O-1 Zone 14-16-2-15 and General Sign Regulations 14-16-3-5 of the City Zoning Code, [+except that letter height is not regulated.+]

## Page 5-16

### **5.4.3 SU-2 East Gateway Corridor Zone (SU-2/EG-C)**

a. Signs: On-premise signs are permitted as regulated in the O-1 Zone 14-16-2-15 and General Sign Regulations 14-16-3-5 of the City Zoning Code, [+except that letter height is not regulated.+]

## Page 5-20

### **5.4.4 SU-2 East Gateway Community Commercial Zone (SU-2/EG-C-2)**

b. Signs: On-premise signs are permitted as regulated in the O-1 Zone 14-16-2-

15 and General Sign Regulations 14-16-3-5 of the City Zoning Code, [except that letter height is not regulated.]

*The EGSDP references the O-Izone for signage height and size. This allows a sign of up to 75 square feet at a height of up to 26 feet; however it caps the height of individual letters. The uses allowed in all of the four SU-2 EG zones are similar to the C-2 zone, which has no letter height and allows a much larger sign. The existing restriction on sign size prevents signage clutter. The restriction on letter height has been brought up as a concern by many applicants who feel that this letter height is not easily viewed from the surrounding streets.*

Page 5-20 5.4.4, Permissive Uses

[+Beer/wine for on-premise consumption as part of restaurant is a permissive use+]

Page 5-21 5.4.4 Prohibited Uses

[-Alcoholic drink sales-] [+Sales of Alcohol for off-premise consumption, ]+

A change to the EG-C2 to clarify the alcoholic drink restrictions.

*“Alcoholic drink sales” is listed as a prohibited use in the EG-C-2 zone. This wording would prohibit all sales of alcohol. The proposed change would allow the sale of beer and wine as part of a restaurant, but would not allow the sale of alcohol for off-premise consumption.*

*The EGSDP states that the EG-C-2 zone “excludes some C-2 uses that are not compatible within residential neighborhoods”. The C-1 zone, 14-16-2-16 (8)( i) 2 allows the sale of beer and wine with a restaurant license. This zone is considered appropriate next to R-1, single family residential use, so this addition meets the intent of the EG-C-2 zone.*

*The sale of alcohol for off-premise consumption (package liquor) is not allowed until the C-2 zone. Package liquor sales have been a concern for many neighborhoods in the Central Avenue corridor. This is a use that may not be compatible with the surrounding residential uses. So its exclusion is appropriate in this context.*

Page 5-26

Apartment House, Courtyard Apartment Building and  
 Apartment Building and Lot Standards

BUILDING HEIGHT (linear feet)	MIN	MAX
Principal Building	<u>[-26-] [+No requirement+]</u>	50, provided parts of the building exceeding 26 feet in height are located a minimum of 85 feet from a lot zoned exclusively for <u>[+Single Family+]</u> residential uses



Page 5-28

Apartment Complex Building and Lot

<b>BUILDING HEIGHT (linear feet)</b>	<b>MIN</b>	<b>MAX</b>
	No requirement	50, provided parts of the building exceeding 26 feet in height are located a minimum of 85 feet from a lot zoned exclusively for [ <u>Single Family</u> ] residential uses

Page 5-30

Live/Work Building and Lot

<b>BUILDING HEIGHT (linear feet)</b>	<b>MIN</b>	<b>MAX</b>
Principal Building	<del>{26}</del> [ <u>No requirement</u> ]	50, provided parts of the building exceeding 26 feet in height are located a minimum of 85 feet from a lot zoned exclusively for [ <u>Single Family</u> ] residential uses

Page 5-32

Mixed Use Building Lot

<b>BUILDING HEIGHT (linear feet)</b>	<b>MIN</b>	<b>MAX</b>
Principal Building	<del>{26}</del> [ <u>No requirement</u> ]	65, provided parts of the building exceeding 26 feet in height are located a minimum of 85 feet from a lot zoned exclusively for [ <u>Single Family</u> ] residential uses

Page 5-34

Commercial Building and Lot

<b>BUILDING HEIGHT (linear feet)</b>	<b>MIN</b>	<b>MAX</b>
Principal Building	No requirement	65, provided parts of the building exceeding 26 feet in height are located a minimum of 85 feet from a lot zoned exclusively for [ <u>Single Family</u> ] residential uses

Page 5-36  
 Liner Building and Lot

BUILDING HEIGHT (linear feet)	MIN	MAX
Principal Building	No requirement	65, provided parts of the building exceeding 26 feet in height are located a minimum of 85 feet from a lot zoned exclusively for [ <u>+Single Family+</u> ] residential uses

Page 5-38  
 Institutional or Civic Building Lot

BUILDING HEIGHT (linear feet)	MIN	MAX
Principal Building	No requirement	65, provided parts of the building exceeding 26 feet in height are located a minimum of 85 feet from a lot zoned exclusively for [ <u>+Single Family+</u> ] residential uses

**Removal of minimum 26 foot building height for certain building forms**

*The plan requires a 26 minimum foot height for the Apartment House, Courtyard Apartment Building and Apartment Building, Mixed Use and Live /work buildings. The plan does not state the intent of this requirement. The minimum height does not seem to be necessary to achieve the goals of this plan.*

**Clarification of 26 foot maximum height within 80 feet of residential uses**

*The plan references the O-1 zone for building height near residential uses. The wording in the O-1 zone does not distinguish single-family residential use from multi-family residential use. Twenty-six feet is the maximum allowed height in the R-1 zone. For development that is near single family residential uses 26 feet as a maximum height may be appropriate to protect the character of the residential neighborhoods. However, for development that is not near single family residential use, this height cap hinders the kind of development that the EGSDP calls for.*

**III. ANALYSIS - 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 I, INCORPORATION AND POWERS

“The municipal corporation now existing and known as the City of Albuquerque shall remain and continue to be a body corporate and may exercise all legislative powers and perform all functions not expressly denied by general law or charter. Unless otherwise provided in this Charter, the power of the city to legislate is permissive and not mandatory. If the city does not legislate, it may nevertheless act in the manner provided by law. The purpose of this Charter is to provide for maximum local self-government. A liberal construction shall be given to the powers granted by this Charter.” (emphasis added)

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.”

*Clarification of a sector development plan is an exercise in local self-government and falls within the City’s powers (City Charter, Article I). The text amendments of the EGSDP “ensure the proper use and development of land, and promote and maintain an aesthetic and humane urban environment.” (City Charter, Article IX). Staff finds that the request is consistent with the City Charter.*

**B. Albuquerque Comprehensive Zoning Code**

The Preface of the Zoning Code includes the following applicable paragraphs:

Authority and Purpose, page v (summarized): The Zoning Code is Article 16 within Chapter 14 of the Revised Code of Ordinances of Albuquerque, New Mexico, 1994 (often cited as ROA 1994). The administration and enforcement of the Zoning Code is within the City’s general police power authority for the purposes of promoting the health, safety, and general welfare of the public. As such, the Zoning Code is a regulatory instrument for controlling land use activities for general public benefit.

Role of Land Use Boards, page viii (summarized): The City Council is the zoning authority for the City of Albuquerque and has sole authority to amend the Zoning Code. Through the City Charter, the City Council has delegated broad planning and zoning authorities to the Environmental Planning Commission (EPC). The EPC is advisory to the City Council regarding proposed text amendments to the Zoning Code.

*The EGSDP is an extension of the Zoning Code through the SU-2 zone. Therefore, amendments made to the EGSDP’s zoning are amendments made to the zoning regulations and are reflected as amendments to the zoning ordinance. The zoning ordinance is codified in the Zoning Code with extensions of modified regulations for unique areas in sector plans.*

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*The proposed text amendments generally further the intent of the Zoning Code to promote the health, safety and general welfare of the public because it will facilitate appropriate infill and revitalization of a major corridor and Metropolitan Redevelopment Area. As the zoning authority for the City of Albuquerque, the City Council will make the final determination on any proposed amendment to the EGSDP .*

### ***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 goals and policies include:

*The plan area is located within in the boundaries of the Established Urban area of the Comprehensive plan.*

### **B. LAND USE**

#### **5. Developing and Established Urban Areas**

***Goal: "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."***

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, or recreational concern.

*These text amendments will facilitate development and redevelopment in the plan area. The area is already developed, urban facilities and services already exist. Since this area is developed, the modifications offered by the amendments will help to improve development as intended by the EGSDP, which offers greater certainty to residents of the surrounding area and helps to ensure neighborhood integrity.*

Policy II.B 5h: Higher density housing is most appropriate in the following situations:

- In designated Activity Centers
- In areas with excellent access to the major street network.
- In areas where a mixed density pattern is already established by zoning or use, where it is compatible with existing area land uses and where adequate infrastructure is or will be available.
- In areas now predominantly zoned single-family only where it comprises a complete block face and faces onto similar or higher density development; up to 10 dwelling units per net acre.

- In areas where a transition is needed between single-family homes and much more intensive development: densities will vary up to 30 dwelling units per net acre according to the intensity of development in adjacent areas.

*The clarification of the maximum height near residential uses will allow the development of multi-family housing in areas where it is appropriate, such as Central Avenue. The area has excellent access to transit and a major street network.*

Policy II.B 5i: Employment and service uses shall be located to complement residential areas and shall be sited to minimize adverse effects of noise, lighting, pollution, and traffic on residential environments.

*The EGSDP contains zoning that allows a mix of uses and requires design standards that address many of the above adverse effects. The proposed amendments may encourage re-development in the plan area by offering flexibility while still requiring quality development.*

Policy II.B 5j: Where new commercial development occurs, it should generally be located in existing commercially zoned areas as follows:

- In small neighborhood-oriented centers provided with pedestrian and bicycle access within reasonable distance of residential areas for walking or bicycling.
- In larger area-wide shopping centers located at intersections of arterial streets and provided with access via mass transit; more than one shopping center should be allowed at an intersection only when transportation problems do not result.
- In freestanding retailing and contiguous storefronts along streets in older neighborhoods.

*New commercial development may be encouraged by the new flexibility in the plan. The area has all of the above conditions.*

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

*The EGSDP contains design standards that encourage quality development, although the request allows flexibility; it requires that all deviations must still meet the intent of the plan. This preserves the requirement for quality development.*

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

*The EGSDP is in the Established Urban Area of the City. The request will provide flexibility while still maintaining quality development standards for the area.*

#### ECONOMIC DEVELOPMENT

##### Policy II.B.6.b

Development of local business enterprises as well as the recruitment of outside firms shall be emphasized.

Policy II.B.6.f

The City and the County should remove obstacles to sound growth management and economic development throughout the community.

***The request clarifies the regulations in the EGSDP, provides a reasonable process for deviations and allows a new use in the EG-C2 zone. These changes should help encourage development of both local and outside business.***

C. ENVIRONMENTAL PROTECTION AND HERITAGE CONSERVATION

Air Quality Goal: to improve air quality to safeguard public health and enhance the quality of life.

Policy II.C.1.b: Automobile travel's adverse effects on air quality shall be reduced through a balanced land use/transportation system that promotes the efficient placement of housing, employment and services.

***The clarification of the maximum height near residential uses will allow the development of multi-family housing in areas where it is appropriate, such as Central Avenue. The area has excellent access to transit and a major street network. The flexibility in the plan will encourage new development and provide opportunities for employment and services.***

Community Identity and Urban Design

Policy II.C.9.e: Roadway corridors (collectors, arterials, Enhanced Transit and Major Transit) within each community and that connect the community's Activity Centers shall be designed and developed to reinforce the community's unique identity; streetscape improvements to these roadways shall be designed to:

- create useful and attractive signage and building facades
- facilitate walking safety and convenience

***The EGSDP provides design standards for Central Avenue and adjacent streets that contribute to an improved streetscape and sense of identity. These amendments help support this identity by clarifying the plan requirements.***

D. COMMUNITY RESOURCE MANAGEMENT

D. Community Resource Management

4. Transportation and Transit Policies

Policy II.D.4c: In order to add to transit ridership, and where it will not destabilize adjacent neighborhoods, additional dwelling units are encouraged close to Major Transit and Enhanced Transit streets.

***The clarification of height requirements for multi-family residential use will add to the transit ridership along the Comprehensive Plan designated Enhanced Transit Corridor along Central Avenue.***

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**Rank 2, Rank 3 or MRA Plans**

**The East Gateway Sector Development Plan**

The East Gateway Sector Development Plan was first adopted in 2010, and revised in 2013. The Plan generally is bounded by Copper and I-40 to the north, Wyoming to the west, the eastern city limits and Kirtland Air force Base and the southern City limits to the south. Specific boundaries are shown on Figure 1.a, in the Plan. The EGSDP sets forth goals regarding land use and redevelopment on page 2-1.

**2.1 Goals**

1. Create a safe, well-maintained, attractive community.
2. Enable the continued existence and new development of thriving businesses to provide jobs and local services.
3. Design and build streets and trails that offer multiple efficient, safe transportation choices: driving, cycling, walking, public transit.
4. Transform Central Avenue into a vibrant place that functions as a community destination — a seam rather than a barrier.
5. Provide accessible parks, Major Public Open Space, and community programs to serve the entire East Gateway Community.
6. Support existing stable, thriving residential neighborhoods and transform others.
7. Ensure well-maintained, safe housing for low income households.
8. Enable multi-family housing development close to public services, transit, and shopping.

***By clarifying the existing regulations and providing a process for deviation these amendments will help support redevelopment along Central Avenue, which could lead to the development of new business and services.***

***The clarification regarding height near residential uses will allow the development of multi-family and mixed use buildings along Central, and will protect the character of existing single-family areas by requiring that buildings not exceed 26 feet in height within 80 feet of these uses.***

**East Gateway Metropolitan Redevelopment Plan**

East Gateway Metropolitan Redevelopment Plan is under development. Please note that the draft may change before final adoption. The plan covers 665 acres primarily along Central Avenue, from Wyoming to just north of Tramway, figure 2, page 9. The goals of the plan are:

- Revitalize the East Central Corridor with new and expanded business and higher density, mixed income housing transit stops
- Brand the area as a Route 66 travel destination
- Redevelop vacant and underutilized lots through direct City investment
- Rehabilitate existing building facades and signs
- Improve public safety along the corridor and diminish property crimes
- Improve the image of the corridor with a pleasing streetscape for motorists and pedestrians

***New commercial development may be encouraged by the new flexibility in the plan. The clarification of the maximum height near residential uses will allow the development of multi-family housing in areas where it is appropriate, such as Central Avenue.***

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## Albuquerque Comprehensive Zoning Code

Authority and Purpose (summarized): The Zoning Code is Article 16 within Chapter 14 of the Revised Code of Ordinances of Albuquerque, New Mexico, 1994 (often cited as ROA 1994). The administration and enforcement of the Zoning Code is within the City's general police power authority for the purposes of promoting the health, safety, and general welfare of the public. As such, the Zoning Code is a regulatory instrument for controlling land use activities for general public benefit.

Amendment Process (summarized): The City Council is the zoning authority for the City of Albuquerque and has sole authority to amend the Zoning Code. Through the City Charter, the City Council has delegated broad planning and zoning authorities to the Environmental Planning Commission (EPC). The EPC is advisory to the City Council regarding proposed text amendments to the Zoning Code.

*Alcoholic drink sales" is listed as a prohibited use in the EG-C-2 zone. This wording would prohibit all sales of alcohol. The proposed change would allow the sale of beer and wine as part of a restaurant, but would not allow the sale of alcohol for off-premise consumption.*

*The EGSDP states that the EG-C-2 zone "excludes some C-2 uses that are not compatible within residential neighborhoods". The C-1 zone, 14-16-2-16 (8)( i) 2 allows the sale of beer and wine with a restaurant license. This zone is considered appropriate next to R-1, single family residential use, so this addition meets the intent of the EG-C-2 zone.*

*The sale of alcohol for off-premise consumption (package liquor) is not allowed until the C-2 zone. Package liquor sales have been a concern for many neighborhoods in the Central Avenue corridor. This is a use that may not be compatible with the surrounding residential uses. So its exclusion is appropriate in this context.*

### **Resolution 270-1980 (Policies for Zone Map Change)**

This Resolution outlines policies and requirements for deciding zone map change applications pursuant to the Comprehensive City Zoning Code. There are several tests that must be met and the applicant must provide sound justification for the change. The burden is on the applicant to show why a change should be made, not on the City to show why the change should not be made.

The applicant must demonstrate that the existing zoning is inappropriate because of one of three findings: there was an error when the existing zone map pattern was created; or changed neighborhood or community conditions justify the change; or a different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other City master plan.

- A. A proposed zone change must be found to be consistent with the health, safety, morals, and general welfare of the city.

*The request is consistent with the health, safety, morals and general welfare of the City because it has been demonstrated to further a preponderance of Comprehensive Plan and East Gateway Sector Development Plan policies.*



- B. Stability of land use and zoning is desirable; therefore the applicant must provide a sound justification for the change. The burden is on the applicant to show why the change should be made, not on the city to show why the change should not be made.

*The proposed changes provide clarity regarding the existing regulations, provide some flexibility in the current regulations without going against the intent of the sector plan and allow for the addition of a neighborhood compatible use, beer and wine with restaurant use. None of the proposed changes will add or remove uses that would cause destabilization in the area. The proposed changes should help to promote redevelopment and the continuation of existing business in the area.*

- C. This request is not in conflict with the Albuquerque Bernalillo County Comprehensive Plan or the East Gateway Sector Development Plan and furthers several policies of both plans.

#### COMPREHENSIVE PLAN POLICIES

##### COMPREHENSIVE PLAN ESTABLISHED URBAN AREA POLICIES

The request will encourage redevelopment, including multi-family residential use where appropriate, while protecting neighborhood character and will maintain the design standards that insure quality develop in the plan area.

II.B.5.d, h, I, j and o.

##### ECONOMIC DEVELOPMENT

The request clarifies the regulations in the EGSDP, provides a reasonable process for deviations and allows a new use in the EG-C2 zone. These changes should help encourage development of both local and outside business.

Policy II.B.6.b and f

##### ENVIRONMENTAL PROTECTION AND HERITAGE CONSERVATION

The clarification of the maximum height near residential uses will allow the development of multi-family housing in areas where it is appropriate, such as Central Avenue. The area has excellent access to transit and a major street network. The flexibility in the plan will encourage new development and provide employment and services.

Policy II.C.1.b

##### COMMUNITY IDENTITY AND URBAN DESIGN

The EGSDP provides design standards for Central Avenue and adjacent streets that contribute to an improved streetscape and sense of identity. These amendments help support this identity by clarifying the plan requirements.

Policy II.C.9.e

##### COMMUNITY RESOURCE MANAGEMENT

The residential use will add to the ridership of transit along the Comprehensive Plan designated Enhanced Transit Corridor along Central Avenue. Policy II.D.4.c

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EAST GATE SECTOR DEVELOPMENT PLAN

By clarifying the existing regulations and providing a process for deviation these amendments will help support redevelopment along Central Avenue, which could lead to the development of new business and services. The clarification regarding height near residential uses will allow the development of multi-family and mixed use buildings along Central, and will protect the character of existing single-family areas

Goals 1, 2, 4, 6, 8 of the EGSDP

EAST GATEWAY METROPOLITAN REDEVELOPMENT PLAN

New commercial development may be encouraged by the new flexibility in the plan. The clarification of the maximum height near residential uses will allow the development of multi-family housing in areas where it is appropriate, such as Central Avenue.

Goals 1 and 3 of the EGMR Plan

D. The applicant must demonstrate that the existing zoning is inappropriate because:

1. There was an error when the existing zone map pattern was created; or
2. Changed neighborhood or community conditions justify the change; or
3. A different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other city master plan, even though (D)(1) or (D)(2) above do not apply.

***The zone change request would be more advantageous to the community as articulated in the Comprehensive Plan; based on the following policies: II.B.5d, II.B.5h, II.B.5i, II.B.5j, II.B.5l, II.B.5o, Policy II.B.6.b, Policy II.C.9.e and Policy II.C.1.b . Please refer to the policy analysis beginning on page 11.***

E. A change of zone shall not be approved where some of the permissive uses in the zone would be harmful to adjacent property, the neighborhood, or the community.

***The only new use that will be allowed by the request would be beer and wines sales as part of a restaurant. This use is compatible with the existing development in the area. The clarifications and deviation language will allow some flexibility while still maintaining the standards of the plan.***

F. A proposed zone change which, to be utilized through land development, requires major and unprogrammed capital expenditures by the city may be:

1. Denied due to lack of capital funds; or
2. Granted with the implicit understanding that the city is not bound to provide the capital improvements on any special schedule.

***There are no capital expenditures associated with this request.***

G. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a change of zone.

***The cost of land is not a factor in these changes.***

H. Location on a collector or major street is not in itself sufficient justification for apartment, office, or commercial zoning.

***Most of the properties affected by this request are located along Central Avenue. The intent of the plan is to revitalize the Central Avenue Corridor. In this case the location on Central is relevant to the request.***

- I. A zone change request which would give a zone different from surrounding zoning to one small area, especially when only one premise is involved, is generally called a “spot zone.” Such a change of zone may be approved only when:
1. The change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
  2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

***The proposed changes will not create a spot zone. None of the existing zone designations are changed by this request.***

- J. A zone change request, which would give a zone different from surrounding zoning to a strip of land along a street, is generally called “strip zoning.” Strip commercial zoning will be approved only where:
1. The change will clearly facilitate realization of the Comprehensive Plan and any adopted sector development plan or area development plan; and
  2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones or because the site is not suitable for the uses allowed in any adjacent zone due to traffic or special adverse land uses nearby.

***The proposed changes will not create a strip zone. None of the existing zone designations are changed by this request.***

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

The concerns of Code Enforcement regarding the variance process through the ZHE has been addressed by adding language that states, “Variances to the regulations in Section 5.5 and 5.6 of this chapter may not be approved by the ZHE”.

#### ***V. NEIGHBORHOOD/PUBLIC CONCERNS***

Staff meet with representatives from the Four Hills HOA and Four Hills NA. There was some concern that minor deviations would not require public notification. Staff has addressed this by proposing that deviations over 10% and under 25% would require e-mail notification to neighborhood association representatives.

## **VI. CONCLUSION**

This is a request to amend the East Gateway Sector Development Plan (DSDP). This request is a Planning Department led initiative and is in response to staff and applicants who are working within the Plan's framework since the Plan was adopted in 2010. Planning Staff has identified areas of concern for both the development community and City staff. These amendments are to alleviate these areas of concern and make the Plan's framework easier to use while maintaining the Intent and Goals of the sector plan.

The amendments consist of the following:

- 1) Defining the process for approving minor changes or deviations from the Building Types and Standards.
- 2) Defining the process for approving major changes or deviation from the Building Types and Standards.
- 3) Providing a process for additions to existing buildings that cannot meet the standards of the plan.
- 4) Removing the 9 inch maximum letter height for signage.
- 5) Amending the EG-C zone to allow sales of beer or wine as part of a restaurant use and still prohibit the sale of alcohol for off-premise consumption.
- 6) Removing the minimum height requirement for the Apartment House, Courtyard Apartment Building and Apartment Building , Live/Work Building and Mixed Use Buildings
- 7) Clarifying that the 26 foot maximum building height is only within 85 feet of single family residential uses.

The proposed amendments only impact the:

- SU-2/EG-CAC (Community Activity Center Zone)
- SU-2/EG-NAC (Neighborhood Activity Center Zone)
- SU-2/EG-C (Corridor Zone)
- SU-2/EG-C-2 (Community Commercial Zone)

The amendment does not conflict with the City Charter and furthers a preponderance of applicable goals and policies in the Comprehensive Plan.

The affected neighborhood organizations and property owners in the affected zones were notified of the request. There is no known opposition to the requested amendments.

Staff recommends that the EPC forward a recommendation of approval of the text amendments to the City Council based on the following Findings and subject to the Conditions of a Recommendation of Approval.

***FINDINGS - 13EPC 40116, JUNE 13, 2013 - ZONE AMENDMENT***

1. The City of Albuquerque Planning Department is proposing text amendments to the East Gateway Sector Development Plan (EGSDP) to help clarify specific language in the Plan and to allow more flexibility with the regulations in the Plan.
2. The proposed amendments are both legislative and quasi-judicial in nature. The EPC is charged with evaluating the amendments and forwarding a recommendation to the City Council.
3. The amendments are sponsored by the City of Albuquerque Planning Department. The Planning Department has worked with Code Enforcement Staff, Planning Staff, City Council Policy Analysts and interested stakeholders in determining the text amendments.
4. The Charter of the City of Albuquerque, the Albuquerque Comprehensive Plan, the 2010 East Gateway Sector Development Plan (EGSDP) and the City of Albuquerque Zoning Code are incorporated herein by reference and made part of the record for all purposes.
5. The request meets the intent of the City Charter: Amending the text of an adopted sector development plan falls within the City's powers (Article I). The text amendments of the EGSDP "ensure the proper use and development of land, and promote and maintain an aesthetic and humane urban environment" (Article IX).
6. The proposed text amendments generally further the intent of City policies and regulations to promote the health, safety and general welfare of the public. As the zoning authority for the City of Albuquerque, the City Council will make the final determination.
7. The request is justified per R-270-1980:
  - A. The request is consistent with the health, safety, morals and general welfare of the City because it has been demonstrated to further a preponderance of Comprehensive Plan and East Gateway Sector Development Plan policies.
  - B. The proposed changes provide clarity regarding the existing regulations, provide some flexibility in the current regulations without going against the intent of the sector plan and allow for the addition of a neighborhood compatible use, beer and wine with restaurant use. None of the proposed changes will add or remove uses that would cause destabilization in the area. The proposed changes should help to promote redevelopment and the continuation of existing business in the area.

- C. This request is not in conflict with the Albuquerque Bernalillo County Comprehensive Plan or the East Gateway Sector Development Plan and furthers several policies of both plans.

#### COMPREHENSIVE PLAN POLICIES

##### COMPREHENSIVE PLAN ESTABLISHED URBAN AREA POLICIES

The request will encourage redevelopment, including multi-family residential use where appropriate, while protecting neighborhood character and will maintain the design standards that insure quality develop in the plan area.

##### II.B.5.d, h, I, j and o.

##### ECONOMIC DEVELOPMENT

The request clarifies the regulations in the EGSDP, provides a reasonable process for deviations and allows a new use in the EG-C2 zone. These changes should help encourage development of both local and outside business.

##### Policy II.B.6.b and f

##### ENVIRONMENTAL PROTECTION AND HERITAGE CONSERVATION

The clarification of the maximum height near residential uses will allow the development of multi-family housing in areas where it is appropriate, such as Central Avenue. The area has excellent access to transit and a major street network. The flexibility in the plan will encourage new development and provide employment and services.

##### Policy II.C.1.b

##### COMMUNITY IDENTITY AND URBAN DESIGN

The EGSDP provides design standards for Central Avenue and adjacent streets that contribute to an improved streetscape and sense of identity. These amendments help support this identity by clarifying the plan requirements.

##### Policy II.C.9.e

##### COMMUNITY RESOURCE MANAGEMENT

The residential use will add to the ridership of transit along the Comprehensive Plan designated Enhanced Transit Corridor along Central Avenue. Policy II.D.4.c

##### EAST GATE SECTOR DEVELOPMENT PLAN

By clarifying the existing regulations and providing a process for deviation these amendments will help support redevelopment along Central Avenue, which could lead to the development of new business and services. The clarification regarding height near residential uses will allow the development of multi-family and mixed use buildings along Central, and will protect the character of existing single-family areas

Goals 1, 2, 4, 6, 8 of the EGSDP

##### EAST GATEWAY METROPOLITAN REDEVELOPMENT PLAN

New commercial development may be encouraged by the new flexibility in the plan. The clarification of the maximum height near residential uses will allow the development of multi-family housing in areas where it is appropriate, such as Central Avenue.

Goals 1 and 3 of the EGMR Plan

- D. This request furthers a preponderance of policies in the Comprehensive Plan and East Gateway Sector Development Plan and draft East Gateway Metropolitan Redevelopment Plan and thus is more advantageous to the community. The request will allow flexibility while maintaining the standards of the Plan and will encourage development and redevelopment while protecting neighborhood character.
  - E. The only new use that will be allowed by the request would be beer and wine sales as part of a restaurant. This use is compatible with the existing development in the area. The clarifications and deviation language will allow some flexibility while still maintaining the standards of the plan.
  - F. There are no capital expenditures associated with this request.
  - G. The cost of land is not a factor in these changes.
  - H. Most of the properties affected by this request are located along Central Avenue, the intent of the plan is to revitalize the Central Avenue Corridor. In this case the location on Central is relevant to the request
  - I. This request will not create a strip zone.
  - J. This request will not create a spot zone.
8. The Coronado Terrace HOA, Executive Hills HOA, Four Hills Village HOA, and the Four Hills Village, Juan Tabo Hills, La Mesa Community Improvement, Mirabella-Miravista, Sandia Vista, Singing Arrow, South Los Altos, Terracita, Trumbull Village, Willow Wood, Winterwood Park Neighborhood Associations and the East Gateway Coalition were notified. Property owners in the affected zones were notified.

***RECOMMENDATION - 13EPC 40116, JUNE 13, 2013 - ZONE AMENDMENT***

**That a Recommendation of APPROVAL of case 13EPC 40098, to amend the East Gateway Sector Development Plan, be forwarded to the City Council, based on the preceding Findings and subject to the following Conditions of Approval.**

**CONDITIONS OF APPROVAL - 13EPC 40098, JUNE 13, 2013 – SECTOR DEVELOPMENT PLAN  
AMENDMENT**

1. The highlighted sections of this staff report shall be incorporated into the final document.
- 

***Maggie Gould  
Planner***

**Notice of Decision cc list:**

Roger Mickleson

Roger Hartman 1308 Wagon Train SE 87123

***Attachments***



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

### ***PLANNING DEPARTMENT***

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

If amending text to the Development Approval Process chart on pg 5-8 to now read "(Variances may not be approved by the ZHE)" Please specify what type of variance- since left as is, it is unclear and may be misinterpreted to mean that any and all types of variances may not be approved by the ZHE- i.e. a variance to the # of off-street parking spaces required or a variance to the wall height regulations etc.

It would be clear if the text amendment read "(Variances to the regulations in Section 5.5 and 5.6 of this chapter may not be approved by the ZHE)"

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

Coronado Terrace, Executive Hills Four Hills Village HOA, Four Hills Village NA, Juan Tabo Hills, La Mesa Community Improvement, Mirabella-Miravista, Sandia Vista, Singing Arrow, South Los Altos, Terracita, Trumbull Village, Willow Wood, Winterwood Park, East Gateway Coalition

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

### ***CITY ENGINEER***

#### ***Transportation Development Services***

Reviewed, no comments.

#### ***Traffic Engineering Operations***

No comments received.

#### ***Hydrology***

Hydrology has no adverse comments.

### ***DEPARTMENT OF MUNICIPAL DEVELOPMENT***

#### ***Transportation Planning***

### ***WATER UTILITY AUTHORITY***

#### ***Utility Services***

No adverse comment.

**ENVIRONMENTAL HEALTH DEPARTMENT**

**Air Quality Division**

**Environmental Services Division**

**PARKS AND RECREATION**

**Planning and Design**

Reviewed, no objection

**Open Space Division**

**City Forester**

**POLICE DEPARTMENT/PLANNING**

**SOLID WASTE MANAGEMENT DEPARTMENT**

**Refuse Division**

**FIRE DEPARTMENT/PLANNING**

**TRANSIT DEPARTMENT**

**COMMENTS FROM OTHER AGENCIES**

**BERNALILLO COUNTY**

**ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY**

**ALBUQUERQUE PUBLIC SCHOOLS**

**MID-REGION COUNCIL OF GOVERNMENTS**

**MIDDLE RIO GRANDE CONSERVANCY DISTRICT**

**PUBLIC SERVICE COMPANY OF NEW MEXICO**