SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

SPECIAL MEETING

November 5, 2013

Kathy Holian, Chair – District 4
Robert Anaya – District 3
Miguel Chavez – District 2
Liz Stefanics – District 5

Danny Mayfield, Vice Chair – District 1 [Excused]

BCC MINUTES
COUNTY OF SANTA FE) PAGES: 75
STATE OF NEW MEXICO) ss

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Deputy _____ County Clerk, Santa Fe, NM

SANTA FE COUNTY

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This study session of the Santa Fe Board of County Commissioners was called to order at approximately 9:20 a.m. by Chair Kathy Holian, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Roll was called and indicated the presence of a quorum as follows:

Members Present:
Commissioner, Kathy Holian, Chair
Commissioner Miguel Chavez
Commissioner Liz Stefanics
Commissioner Robert Anaya [9:40 arrival]

Members Excused:
Commissioner Danny Mayfield

Staff Present:
Katherine Miller, County Manager
Penny Ellis-Green, Growth Management Director
Willie Brown, Assistant County Attorney
Robert Griego, Planning Manager
Sarah Ijadi, Senior Planner
Tim Cannon, GIS Planner

III. Approval of the Agenda

CHAIR HOLIAN: Are there any changes to the agenda? Penny? Staff?
COMMISSIONER STEFANICS: Madam Chair.
CHAIR HOLIAN: Yes, Commissioner Stefanics.
COMMISSIONER STEFANICS: I would like to move public comments forward.

COMMISSIONER CHAVEZ: Is that a motion?
COMMISSIONER STEFANICS: I move.
COMMISSIONER CHAVEZ: Second.

The motion carried by 3-0 voice vote. [Commissioner Anaya was not present for this action.]

VII. Public Comment

COMMISSIONER STEFANICS: Madam Chair, could I make a comment?

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: I would just like to apologize in advance. At noon sharp I have to leave. And I know that our last meeting went over so I just wanted to alert the quorum. Thank you.

CHAIR HOLIAN: We will go to public comments, but I would like to make a couple of opening comments of my own first, prerogative of the chair. I would like to emphasize that we have had almost unprecedented public participation in this process for developing first the Sustainable Growth Management Plan and now the Land Development Code, which will implement the plan. And just in the last month and a half, County staff have organized three study sessions, this being the third study session, four public meetings. We've had three public meetings already and there's one more to come later on this week in the different areas of the county, and we will have our first public hearing on the code I believe on November 19th, and that meeting starts at 6:30. Is that correct?

MS. ELLIS-GREEN (Growth Management Director): Madam Chair, yes. Because of MPO yes, at the last meeting we decided it should start at 6:30.

CHAIR HOLIAN: We will take extensive public comment at that meeting. In fact that probably is the most important part of that meeting. Today, I just wanted to let you know what the topics of discussion are going to be. First, Penny will give a presentation on the procedures part of the code. Then design standards. This is something that is very important. Right now we have many different ordinances and amendments to ordinances that set standards of various kinds. We are now going to have a comprehensive design standard chapter in the new code and it will be easy to look up to see what has standards associated with it and what those standards will be, and it will be continually updated.

Then there will be a presentation on subdivisions, and finally, Penny and our attorney Steve Ross are going to make a presentation on the changes that have been put into the adoption draft of the code in response to public comment. And I believe she has a handout as well. Also, this is – I want to emphasize that this is a study session. That means that we aren't going to be making any decisions today, but I think what staff and I will try to get a feel for is areas of the code where we actually do have consensus among the Board and those areas in which we might, if the circumstances warrant, have to take a vote on how we should go forward. But we won't be taking any votes today. If we do finally vote we will be considering those at our first public hearing.

So with that, I will now like to open it up to public comment, and please try to be brief and succinct and to the point. And please identify yourself for the record as well.

ORALYNN GUERRERORTIZ: My name is Oralynn Guerrerortiz. Thank you. I have a substantial amount of comments and I'm going to sit down with staff and discuss those in detail. But I have two concerns I want to raise. A number of years ago I was here and when we were adopting the ordinances the BCC asked staff at that point to do two evaluations. One was an evaluation of what would be the financial impact of an ordinance to the County itself – determine your FTEs and so on and so forth. The second was what would

be the financial impact to various developments, whether it was a single-family home or whether it was a grocery store or something like that. And that was to understand really what kind of financial impact the project was going to have to development. I think you really need to seriously consider doing that.

There are things that are in this code that are laudable but painfully expensive. Requiring permeable pavement, for example. The opera is one of my clients. I investigated that in detail and it wasn't something that in the end that they could afford to do. I know that your own projects, I don't think you have any permeable pavement. I suspect the reason is due to cost. So I hope you'll consider that, that you'll consider actually having staff look at financial impacts. If you don't really care about the big developers think about the single-family homes. Those people putting in mobile homes or anything else, how much additional money it's going to cost them to follow these new regulations.

The second thing I ask is that comments are being made and statements, from different people and things are being brought up, but I haven't seen any revisions. I haven't seen any suggestions of revisions, and I think there are some real serious faults in this code that you don't want to adopt because you will be hit immediately with variances or requests to change the code. And I'm just wondering when we're going to see some of those modifications because I believe you all have recognized a few of them already but yet we haven't seen any revisions at this time and I'm hoping those will be coming before you actually adopt. Thank you.

CHAIR HOLIAN: Thank you, Ms. Guerrerortiz. Next.

ROSS LOCKRIDGE: Ross Lockridge from Cerrillos. Some of these comments that were at the Galisteo meeting are a little repetitious but I have more information and other people haven't heard these comments. *[Exhibit 1]* Since the last BCC study session I found some documents that surely played an important role in the Sustainable Growth Management Plan's wise directives in placing sand and gravel mining under DCIs for the current regulations have proven over the years to be insufficient for the protection of the public welfare and they have not played a role in lessening imports of gravel from outside the county. The industry has listed various companies operating in the county claiming that they would be negatively impacted by placing all sand and gravel mines as DCI. However, when investigated, these companies were either not mom and pop operations, not in the county, or they're distributors, not mining companies.

The list included Crocker Construction, Associated Asphalt and Materials, and even LaFarge North America, a French corporation that has a gravel mine operating out in the county. Industry claims that if regulations are not kept as is or as proposed this would result in forcing imports from outside the county. The problem with these arguments is that contractors seek the better deals. For example, when New Mexico 14 was being reconstructed to Lone Butte, LaFarge, located in an adjacent county, underbid Associated Asphalt's local operation in the Cerrillos Hills. Also, as I understand, when the Rail Runner was being built, Associated got a County permit to expand its operation it was thought, for the Rail Runner. But again, the contractors got a better deal from quite a distance.

The current sand and gravel regs have no effect on these decisions. Designing less regs for a mom and pop simply enables the large planners to all the more easily start and run largely unregulated unsustainable operations. What I think has been forgotten is that along

with considering all sand and gravel extraction a DCI, the adopted Sustainable Growth Management Plan stipulates that sand and gravel mining must fall under the mining ordinance where there is an important directive which deletes the need to debate the acreage or the scale of the operation in the code.

The type and size of mining, land use and mine site would then be evaluated by the Code Administrator to determine which submittals would be required of the applicant. The evaluation role of an appointed administrator determines what an applicant will submit. Since an administrator can play such a large role in the process it is reasonable to assume that staff and the Commissioners feel comfortable recommending all sand and gravel mining as a DCI in the adopted plan. Thus the Code Administrator is in fact directed by the mining ordinance to in effect guard against overregulation as well as underregulation. And if the application doesn't like what the administrator does they can appeal.

What makes a gravel mine a DCI is the industrial intensity, not necessarily the size. Gravel mining has an exception impact countywide as haul trucks looping to and from the mine site create industrial impacts on our roads and communities far beyond the original locale. These edits cannot until after adoption of the SLDC as a new application for a new mine could lock in lax section 10.19 regulations as written.

Support the Sustainable Growth Management Plan's directives on sand and gravel, please, as adopted by the BCC, Section 10.19, sand and gravel extraction, must be deleted, and sand and gravel extraction must be listed in Chapter 11, Developments of Countywide Impacts, under 11.2 designation. Thank you.

CHAIR HOLIAN: Thank you. Next.

GLEN SMERAGE: Glen Smerage, resident of Rancho Viejo. I notice in the adoption draft the appearance of the word aesthetic several times, yet I find nothing beyond the mere appearance of that word with no context or elaboration and so forth I think we have arrived at a time in American society where development of our communities, continuing development needs to have some aesthetic guidelines, consideration and even approval. I would like to see something started along these lines in this Sustainable Land Development Code and to illustrate my point I'll just take an example from Rancho Viejo which I observed and am sure appears numerous times throughout this county.

The residential community of Rancho Viejo which now is extensive is quite beautifully and pleasantly so in its architectural design. There have appeared in the last couple of years two large non-residential commercial sort of buildings that are highly contradictory to that architectural design. BTI has placed a large steel building, totally incompatible with the architectural design of the residential community which is the dominant appearance of Rancho Viejo. Easter Seals' building also presents an incompatible and frankly ugly building, not a good contribution in both cases – Easter Seals and BTI – to the character and appearance and so forth of Rancho Viejo.

I think the County staff and its procedures in reviewing developments and proposed institutional, industrial, commercial type of construction should give some sort of guideline at least. I know you can't really impose and demand but I think you need more of the nothing we have now.

CHAIR HOLIAN: Mr. Smerage, could you sort of summarize that fairly quickly? These are comments that you made last time as well.

MR. SMERAGE: I would like to see the code, this new code, contain some consideration and some pro-active means of assuring that there is architectural compatibility between the various juxtaposed pieces of a community, buildings of a community.

My second point is in the development from the outset of Rancho Viejo there was a 50 percent open space requirement. So far I'm not finding a counterpart in this new proposed code and I'm wondering why that might be and there are different criteria and I'm not sure how they relate to that 50 percent requirement that Rancho Viejo had which was good.

Also, I would like to ask if this code is going to have – even currently if we have, a private open space designation. There was a sleight of hand imposed or acted upon many of us who bought in Rancho Viejo by which a mysterious construction setback line was placed at the rear of our lots which allowed the developer to get the 50 percent open space and caused several of us some grief as we tried to make appropriate and adequate use of our rear yards adjacent to our houses. I won't say anything more about that now, but we need to have a better designation of what constitutes open space and if there is to be a private contribution to open space that should be also in the code explicitly. Thank you.

CHAIR HOLIAN: Thank you, Mr. Smerage. Commissioner Stefanics would like to address some of your comments.

COMMISSIONER STEFANICS: Yes. First of all I want to thank you for continuing to come and be interested in what we're doing. We need concerned citizens who will be part of the process. And the one thing is I know that many people in Rancho Viejo have concerns, not just about new activities but also the overall plan. And what every community – every community is different and they have their own community plan. And because of that mixed development plan it makes Rancho Viejo different from, say, Eldorado or 285 or Tesuque, etc. and I do think that the community has its own unique issues, just like every other one that we cannot really change.

And so while some communities – the code in my frame of mind is to set a foundation for the entire county and yet to allow community plans to address their unique requirements. It has been many years since the Community College District, of which Rancho Viejo is part of, had its plan passed. And it will be opened up once we pass a code. All the community plans are going to be opened up to conform. Is that not correct, Penny and Steve?

MS. ELLIS-GREEN: Madam Chair, Commissioner Stefanics, yes. The SGMP said that the plans would be reviewed to be in accordance with the SGMP and therefore the ordinances would be reviewed as well.

COMMISSIONER STEFANICS: Right. So when a code would be passed it doesn't end the work. Every community goes back to the drawing board to hook up its plan, to change its plan, etc. So I hear what you're saying. I have been approached by many individuals in your community about some of the concerns and we continue to watch that, and I appreciate your being part of the process.

CHAIR HOLIAN: Thank you. Commissioner Chavez has a question.

[Commissioner Anaya joined the meeting.]

COMMISSIONER CHAVEZ: Yes, thank you, Madam Chair. In the statements that we heard previous, some of what I got out of it were details about design standards, aesthetics, how commercial might fit in with residential, and design standards, so I want staff to touch on that a minute, because it sounded like there are no design standards at

all, and I'm sure that those design standards, for me they're important because aesthetics do mean something to me. I don't think that's been completely ignored by I do want staff to address that for just a minute.

MS. ELLIS-GREEN: Madam Chair, Commissioners, the area where we really regulate – color of building, light reflective value, things like that, are in areas of slope and on ridgetops. We don't really regulate what type of building or building design – whether there's a certain color, what the material is, for areas that are not included to be on ridgetop or slope. The Community College District not only established zoning of its own, it did establish employment centers, it established a whole concept of having mixed use, of having residential and non-residential within walking distance of one another. Unfortunately, you can't build the non-residential before you build the residential so the first thing you have to do is to build the rooftops, build the people who would use the non-residential facilities.

And so we're getting to the stage with Rancho Viejo I think that now that is happening, that we're seeing some of our employment centers built out, and some of our non-residential uses built out. It is consistent with the Community College District. The Community College District Ordinance is listed in Chapter 9 as being one of the community districts and so I think what we're hearing right now is the fact that we're starting to see some larger-scale business being constructed in the areas that are designated as employment center or as a mixed-use area. But that was the entire intent of the Community College District.

COMMISSIONER CHAVEZ: Well, thank you, staff and I think – I don't know what that doe to the residents, and aesthetics can only go so far; design standards can only do so much, but I think we have to find a balance between the residential need and the commercial and the retail need. That's the only way I can see it. Thank you, Madam Chair.

CHAIR HOLIAN: Thank you, Commissioner. Please continue.

KAREN YANK: My name's Karen Yank and I have to say I got here a few minutes late and you caught me off guard that the public comment was before instead of after, so I've been working with Penny over the phone on getting some correction for the mining issues, especially in the DCI part and the use chart, and I assume those red line corrections were done, Penny?

MS. ELLIS-GREEN: Madam Chair, Commissioners, that was part of what I was going to present after public comments.

MS. YANK: Okay. So I just want everyone to watch closely that we do get the notation that we are retaining the mining ordinance until that DCI section where we're going to beef it up a bit with some of the aspects from oil and gas, in that on the use chart we see that it is listed at DCI instead of condition, because that's a big issue for us, especially with Santa Fe Gold looming in the distance along the Turquoise Trail. Their application may come in some time between this. Hopefully, we'll get the new code in place before that happens.

Secondly, I sent all of you, all the Commissioners and staff and the Manager a letter on Friday via email concerning the same issues that Ross Lockridge spoke of about the sand and gravel and I just want to tell you that letter represents the Turquoise Trail Preservation Trust, which is a lot of the communities along the Turquoise Trail, the Galisteo Community Association, the Santa Fe Basin Water Association, Rural Conservation Alliance, United Communities, San Pedro Association, San Marcos Association and numerous others, and we're all united on this issue about the sand and gravel and we really feel very strongly that

we went through the long planning process and we participated in all of those meetings and worked very hard with staff and the Commissioners and we had a special meeting on mining. And at that meeting we decided that all mining should be treated as a DCI, and it's in the plan and it's spelled out very clearly that sand and gravel needs to be DCI.

Now, once it's in that DCI section there is room for language to have very small operations that aren't going to be commercial, you know, have less stringent overview. But we asked the Commissioners to support us and instruct staff to make sand and gravel a DCI as we were promised and all the related activities. Right now, as it stands, anything under 20 acres could have an asphalt plant or a cement plant on it and not be considered a DCI. That's ridiculous. So I'm asking you guys to use some common sense and put it in the DCI And we'll deal with it at that point. And we also need to – when we get to that DCI section, the mining issue has to be priority because we have several applications coming into the county which will have huge impacts. So we need to expediate this if possible. Thank you.

CHAIR HOLIAN: Thank you, Ms. Yank. And please, please try to keep your comments brief and to the point. We do want to get to the presentations by our staff and we've heard all these comments before but we actually have not heard what staff is going to say.

DEVIN BENT: Hi. I'm Devin Bent and I have some comments I think I certainly haven't made before. I'm Dr. Devin Bent. I live in Nambe, member of several organizations but speaking here on my own. The concept of mixed use has already come up. I think like I, like many people grew up all my life in a residential neighborhood where I live by choice and many people live in residential neighborhoods by choice. And so my concern here is that residential communities are all being sort of forced into this bed of mixed use, and maybe people don't want it. So I pass this out just to focus your attention on this particular section of the use matrix or use table. *[Exhibit 2]*

The use table is seven pages of small print. I've blown this section up. This is part of one page. It shows 22 possible uses, about a tenth of the possible uses that are listed, about 200 of them. Now, permitted by right – in some cases I may not understand this, but I don't think that's entirely my fault. This thing gets a little complex. Permitted by right, as I read that is that if a developer dots the i's and crosses the t's, it's in. Okay? Now, there are what we call the levels of service, but those are set very low, the levels of service. A lot of those levels of service are just about achieved and a lot of them are countywide, so that means you don't really have to satisfy the level of service for your community because if you've got enough parks 40 miles away – it's a big county – you don't need a park.

Conditional goes through a review process, accessory – it's an accessory the primary use I won't talk about. Anyway, talk about this. Excuse me. What strikes me first about that table is the vast expanse of P's, permitted by right. There's a large number of uses you can put just about anywhere, and what's scary is the array of things you can put in any residential neighborhood. Okay? Even those residential neighborhoods with lots as small as an acre or as small as a third of acre in some cases for traditional communities.

Now many of these traditional communities already are fairly crowded. So what are some of the uses [inaudible] just some of them. Just picking – a medical clinic, a daycare facility, a private grade school – they're all going to increase traffic and noise. Now, when I grew up, like I say and a lot of people still today, those things were on the main arteries and I

don't see it in here that those things are going to be on the main arteries. It seems like they can be anywhere. And if you do this in Nambe and you're going to put all these things on the main artery you're putting them on the high road, and 24-foot daycare clinics are maybe not appropriate on the high road.

They also are going to require parking. Like a daycare center with ten employees would require 20 parking spaces plus adequate stacking and pickup areas – that's from page 121 of this document. Now as I say, some people are satisfied. This is mixed use and they think I'll be content because I can walk my kid to a private school next door. Well, I don't have a kid. In fact nobody in my neighborhood has a kid. Okay? Yet still, permitted by use will be a daycare center in my neighborhood, if somebody wants to put it there; it's a lovely, idyllic setting. Be a great place. You could put a private school in there, etc.

Then there are things from the other pages. I'll read just a few of them.

CHAIR HOLIAN: Mr. Bent, please. We really don't need to go through each item.

MR. BENT: I'm not. I'm not going through each item.

CHAIR HOLIAN: Can you just sort of summarize in an overall sense what you would like to see?

MR. BENT: Yes. Okay. I would just like – I think I can only make my point. I'm just sampling the mixed uses. Okay? This is just a sample of the things. I'm not giving you the whole –

CHAIR HOLIAN: I know but it's still a comprehensive sample. So please –

MR. BENT: No, it's not. I've just got three more. That's all I want to give you. Three more. Okay? Townhouses, telecommunication lines and livestock watering tanks, any residential neighborhood can get a livestock watering tank by use. Okay? So anyway, as I say, maybe we like our communities. We don't necessarily want these things.

Now, looking at the community planning process of Chapter 2, can we find any help there? Well, we can form a committee but then we have to go through two levels of review just to get your permission to get together and plan. Then we an plan for our community, and we go through as many as five levels of approval and come back to you with our plan, and then – I'm very sorry. You don't want to listen to me?

COMMISSIONER STEFANICS: Well, I was just commenting, Tesuque is already working on a community plan.

MR. BENT: Okay. Let me jump to the point here. The point is the community plan cannot change the underlying zoning. That's what it says. So it doesn't touch any of these uses I've mentioned. That's what it says, right? Where is it? On page 207. Approved overlay community districts –

CHAIR HOLIAN: Excuse me, Mr. Bent. We are going to be talking about this in more detail so perhaps this question could be addressed by staff as we go forward.

MR. BENT: Okay. If I could make my last point here. Okay? I think you have the same loophole we've had in the other ones, which is SDL tax or map amendments should be granted primarily to promote various things including high density and mixed use. So if we can't prevent this mixed use from coming into our community, we're not allowed to, we violate the SLDC to do that, but somebody wants to build something in our neighborhood than they shall and shall in the definitions of the word shall is mandatory and not permissive.

Thank you.

CHAIR HOLIAN: Thank you, Mr. Bent

MR. BENT: Thank you for your attention.

ROGER TAYLOR: Roger Taylor, resident of Galisteo. Two quick items. One in Chapter 7, which I think maybe either an oversight or a potential conflict, it's on page 138, it's Section 7.13.4 and it talks about required connections to public or publicly regulated water systems. And underneath that area, that section in 7.13.4.2, it gives definitions as to what types of groups would be required to connect. And it lists in there, in addition to municipal water or wastewater utilities, etc. mutual domestic water associations. Now, in that subsection, 7.13.4 it doesn't mention mutual domestics again. And it also brings up on Table 7-18, on 139, it gives definitions of property locations and within distance of a public utility service as to when they would have to connect or not. It's still not clear on the mutual domestic where that would fit in on that table.

And I also question whether a mutual domestic could be required by the County to connect to a County utility pipeline. So that may just be an error that it's included in here, or an oversight, but it may be something to look at.

The second thing is I was thinking about the conversation at the Galisteo meeting last week between residential and non-residential concerns and in this particular one it was about the horse stables in Eldorado and there have been a couple of side references this morning already to that residential and non-residential. I don't know exactly what I would call it or how you would do it, but just a general description that could be helpful, and thinking of this, there's some sort of an overlap review that might be helpful to take place as people are coming through the permitting and application process, either at the CDRC or the BCC. So what we're doing is we're setting up zoning and you can have a residential zone next to a non-residential zone, but when the permit application comes through you're only looking primarily whether the permit application is meeting the requirements for the regulations in that zone. If you're not looking at the overlap to the next zone you're setting up a potential conflict like the one that was being discussed so that inadvertently, a residential development could be placed right next to a non-residential commercial component, which then brings residents and non-residents into conflict over what they're looking for.

So I'm thinking – and I don't know what to call it. I don't know how you would do it, but it seems to me in the approval process for these things, maybe there's not just looking at how does it fit the regulation of the zone, but maybe it's also looking at is there an overlapping conflict with an adjacent zone or activity in an adjacent zone.

CHAIR HOLIAN: Thank you, Mr. Taylor. Have you submitted your comments?

MR. TAYLOR: No, but I will send this in later.

CHAIR HOLIAN: Okay. Thank you.

KRISTIN KOHLER: Hi. I wasn't sure I was going to speak but several speakers before have mentioned issues that are – I'm Kristin Kohler. I live in East Ranch, which is on Ranch Road. Just a few. One, which is kind of sideways, but I did look it up after the meeting in Galisteo. Community organizations and registered organizations will have to register to have the "right to receive" information about what I'm not sure and why they have to register. Whatever happened to email lists and just asking to get on them?

Number two, stables and other equine facilities in rural residential, which abuts my area which is five acres in rural estates. There are no ten-acre – no. We're 2.5. We are surrounded by ten-acre or larger properties. So there is no rural fringe with ranchettes. Just ranches. And what is a stable? What is a non-residential stable in a residential area? Does that mean it's commercial? In which case we're making the area mixed use, which it isn't, I think, because it's all called residential. And if that's clearly commercial because there's no residents I think it should be conditional, not permitted by right. Does it also mean that we will have absentee owners, which is what non-residential means. Do we want absentee owners in a residential area? I think that's very potentially dangerous.

There's also no limit on the number of horses per acre. Two might be a little high. I understand from people who have horses that two horses per acre is a high number, but if it's commercial, then how many horses can be stabled there? What does that mean in terms of the acreage? There should be a traffic study, which is not required. The hours of operation should be limited, in the cases of absentee owners particularly who may not have their own animals there. They may be renting out the land to other people who live out of state, don't know the laws and don't feel bound by them.

Home occupation's hours of operation are limited. Why aren't commercial stables and other equine facilities in residential areas limited? And Chapter 14 is extremely weak. It has to do with – oh, I don't remember the name of it. Penalties, Inspections – that kind of thing. Full of "mays" – very few "shalls." And not enough "shalls. Too much discretion. Thank you.

CHAIR HOLIAN: Thank you, Ms. Kohler. Can I see a show of hands for how many others would like to speak? Okay. Please come forward.

CHRIS FURLANETTO: Hi. I'm Chris Fulanetto from the League of Women Voters in Santa Fe County and I'm going to be really brief. We have communicated several times at public comments and by letter or email that we strongly support getting the code approved and moving forward with this process and we've been asking for a target date for approval within this calendar year. I don't know if that's still possible. We would still encourage that if it is possible. I notice in the public meetings summary from the meeting on October 15th that staff said that there was an estimate that the zoning would not be adopted until spring of 2014, so that's a little vague but that just makes me think, do you have a date in mind of when the code might be voted on and approved that's leading to that estimate of spring of 2014. I know there's an agenda item about schedules so maybe it can be addressed then, or maybe staff is going to address it in their presentation but I think it would be helpful for us to know what the current thoughts are on how the adoption process itself is going.

CHAIR HOLIAN: Thank you, Ms. Furlanetto and we do have a schedule.

MS. FURLANETTO: Okay. Good.

CHAIR HOLIAN: We will address that.

WALTER WAIT: Walter Wait, San Marcos Association.

CHAIR HOLIAN: Thank you, Walter. I know you have a lot of items.

MR. WAIT: No, I don't, actually.

CHAIR HOLIAN: Oh, okay. Well, thank you. I really appreciate that.

MR. WAIT: First of all, I want to ask whether or not the comments that we prepared for the last two meetings in Galisteo and in Agua Fria have been passed to the

County Commission. *[Exhibits 3, 4 and 5]*

CHAIR HOLIAN: Let me ask the Commissioners? Have you received the comments that Walter prepared, that were presented at the public meetings? I received them but I was there.

COMMISSIONER STEFANICS: I just received them this morning from Walter.

MR. WAIT: The reason I ask that is there was some question as to whether or not the County Commission was getting some of the comments that the public was preparing and it looks like you have.

COMMISSIONER CHAVEZ: I would like to comment on that point, Walter. It's good that we get them, but it's more critical that staff gets them.

MR. WAIT: Right.

COMMISSIONER CHAVEZ: Because I may not always get it and may not always have the time to read all the details but I trust that staff will.

MR. WAIT: I'm trusting that too and I wanted to make sure. Okay. There are only a few things that the San Marcos Association and the San Marcos District is concerned with, that have been addressed in the questions that we already put in, so I will not go over them again. However, I did prepare something as a result of the Galisteo meeting and I'm not going to go through the scenarios that I prepared because it would take too long. However, I will suggest that there are a few things that we can learn from the scenarios which you can look at once you've got that material.

First of all, it's got to do with temporary uses, and temporary uses, when you look at Chapter 10, have a list that says here's what a temporary use is. Unfortunately, it would appear that there are a lot more temporary uses that will come into play over the years that are not addressed as temporary uses, and when you look through the document it becomes very vague as to how the procedure would be followed to either identify a temporary use that's not on that list, or what to do with it once you have. That's what the scenarios are all about.

And I think that we need to strengthen the proposed code to make sure that the temporary use process is a little bit more clearly understandable. And I go over that.

The time limits are very important for temporary uses and basically, take the administrator, make sure that the administrator is able to clearly define what that temporary use is, and how it relates to Appendix B and the use charts. Where can you put a temporary use? Right now it appears that you can put a temporary use anywhere, and the Appendix B charts don't seem to apply to temporary uses, and yet temporary uses are not really very clearly defined. They are for the movie industry, which is very, very useful under a separate ordinance, 2010-6. Okay. That's all. I think you're doing good job. I would really, really like, I think from the San Marcos Association, I do believe that we should pass this ordinance as quickly as possible. I don't think we should delay it. I think we can fix it now. This might be a little bit different from some of our public input, but I believe that we're very, very close and if the staff is able to address some of the problems that we can see as really, really difficult between now and the end of December I think we can go forward. Thank you very much.

CHAIR HOLIAN: Thank you, Mr. Wait, and I really appreciate your participation in this.

JOHN PARKS: Hi. I'm John Parks from Lamy, New Mexico, and I'm hoping you can – I think you can probably answer this pretty briefly for me. The one thing I don't understand in building or development is when no matter what the zoning and then you have the permitted uses, is the process pretty much the same whether the permitted use is a library building or a daycare center or a stable or what that permitted use is? It still has to go through an approval process. Is that correct?

CHAIR HOLIAN: Yes. Mr. Parks, as a matter of fact that is going to be one of the main topics of conversation this morning is procedures.

MR. PARKS: Okay. Thank you.

CHAIR HOLIAN: Thank you.

IV. Sustainable Land Development Code Adoption Draft Presentation

MS. ELLIS-GREEN: Madam Chair, Commissioners, so we will start with Procedures, not just in the Procedures section but when we started our presentations we were trying to group some areas together, so we had already done the zoning information, so we move onto Procedures, and that starts in the document with allowing concurrent processing. That is in Chapter 1, Section 1.12. That clearly states that if you have several different applications that you need to make that you can do those together. I would note anything that you submit has to be complete. So you couldn't submit, maybe like a rezoning request and a conditional use permit together if your conditional use permit wasn't complete. If both elements are complete though you could submit two different applications together. That can reduce the time that an application takes in the process. So even though we've got more requirements in here for a developer, you could reduce the amount of time it takes to get your approval.

The next section to do with procedures is ROs and COs – registered organizations and community organizations, and that's in Chapter 2, Section 2.2. It was part of the SGMP. The Planning Department worked long and hard on discussions on this with the community. I think we did take out the requirement for everyone's individual email addresses. That had been a public comment. Someone today asked why you would have to register. Well, you'd have to register so we know you exist. We can't really give you notice if we don't know that you exist. We do allow ROs and COs –

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Penny, could you touch on that process just for a minute. What does it take for a community to go through that process?

MS. ELLIS-GREEN: Let me just get to that section. So that is on page 19, Community Organizations. So they must file an application for recognition as a CO. File that with the administrator. Include name, address, telephone number, email address of the CO – again, for contract information. You do need to list your geographical boundaries. We're going to give people notice for land use cases and so we need to know which area you represent. And then the administrator reviews and make a recommendation for the Board. So it's actually the Board of County Commissioners that actually gives approval for the COs. The ROs I believe is slightly different. Without reading through this, Robert, the administrator keeps the list of the ROs, so they don't go in front of the Board. And again, you

get the similar kind of information. So you make your application, saying this is the area we're interested in; this is who we are.

COMMISSIONER CHAVEZ: There was a question asked earlier about the impact or the outcome of that process and if that was going to have the desired impact in how that neighborhood would change in the future. Could you touch on that for a little bit, Penny?

MS. ELLIS-GREEN: A CO or an RO would be noticed of land use cases, so as a land use case come in, the CO or the RO would be notified of certain cases. Also it would be notified of any pre-application meeting that was happening. So as far as being notified, being able to speak in favor or against a development, that is in here.

COMMISSIONER CHAVEZ: So they would have some – a process to influence how that design or how that project would be designed and how it would ultimately be built and so they would be part of the process from the beginning?

MS. ELLIS-GREEN: Madam Chair, Commissioner Chavez, yes. It would allow a community organization or registered organization to get that information up front. Again, as we look at a project, as a project comes in, a project would have to prove to us that whether it's residential, non-residential, subdivision, whatever it may be, that it meets the design standards and the criteria in the code. If it is a permitted use it is then reviewed and approved administratively. If it is a conditional use it goes to a public hearing. But allowing the COs and ROs, the way we've got it in here allows them to have input at the very beginning.

COMMISSIONER CHAVEZ: thank you, Madam Chair.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I'm not going to take a lot of time but this is actually an item that I spoke to many times. The feedback that I've received from constituents throughout the county from day one was that we as communities need to have input sooner and more often. I'm a little puzzled as to why, and I'm going to just be frank, why somebody would say they wouldn't want to register. The point is that I get feedback on a regular basis that says we want feedback. We want to know sooner rather than later. So when Mr. Taylor comes in from Galisteo I don't want him scratching his head wondering what's going on because he's already been notified because they registered and they're on the list and they're getting the information. So plain and simple, that's it. It was a direct response to what the public said. That's why it's in there.

CHAIR HOLIAN: Thank you. Please proceed, Penny.

MS. ELLIS-GREEN: Madam Chair, Commissioners, the next item I wanted to touch on was the hearing officer. That is on page 27, Section 3.5, so that's Chapter 3, Section 3.5. They hear conditional use permits, variances, planned development districts, overlay zones, rezonings, DCIs and beneficial use determinations. They get information to develop the record. So I hearing officer would conduct a public hearing and file a report of findings and conclusions. A lot of these items that I listed can be controversial. This ensures that there's a good record in case of any litigation. A hearing officer is appointed by the Board of County Commissioners for up to four years, can be reappointed, requires a law degree, six years of legal experience and licensed to practice law for three years. So it is an extra step that we've got that takes the place sometimes of other hearings and is used to develop the

record.

The main Procedures section is Chapter 4 and so I'm going to run through that quite quickly. One thing that Chapter 4 is that we've got the procedures really all in one chapter now. It makes it easier to read than the current code and on page 44, we have Table 4-1. It lays out the application types and the procedures. So you can clearly see from this regarding which application type you've got, and who approves that application, whether it's the Board, whether it's the CDRC or a hearing officer, or the Land Use Administrator.

We did make one change to 4.7.1.4, and that is on page – what I'm trying to do here is sort of touch on some of the changes that were made. We do require verbatim minutes but only verbatim minutes for a final hearing. At the moment, the Planning Commission does not have – or the CDRC does not have verbatim minutes, but we are requiring that if they're the final authority. Again, that's to assist in making sure that we have a good record.

The public process – the Growth Management Plan calls for an enhanced public process. I think it's more extensive than the current code. It does include a pre-application meeting, and that's Section 4.4.4 of Chapter 4. And so that means that applications come in – or before they come in, they actually go to a neighborhood meeting. So they haven't even made submittal with us. They can hear what the main concerns are from the community and then a developer has the ability then to modify their application before they come in to try and alleviate any community concern.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Commissioner Stefanics.

COMMISSIONER STEFANICS: Okay, so Penny, on that, is this where the COs, the ROs, the neighborhood associations come in, that they would then be notified to go to this pre-application hearing? Or is it up to the developer to take care of the notice for the pre-application?

MS. ELLIS-GREEN: Madam Chair, Commissioner Stefanics, it is down to the developer to notice it, but on page 35, it is required that applicable COs and ROs get notice of that meeting. And property –

COMMISSIONER STEFANICS: By the developer?

MS. ELLIS-GREEN: By the developer. And the developer then when they make application have to prove that they gave those people notice.

COMMISSIONER STEFANICS: Okay. So what if – and this happens all the time now – where there might be a developer who's going to do something and wants to include the community but maybe does it three days in advance so that people are kind of going like – well, they're meeting the spirit but they're not really giving us enough notice to make babysitting plans and investigate this, etc. So that's come up before. So I just wanted you to comment on that.

MS. ELLIS-GREEN: Madam Chair, I just asked Steve if he can see that in there. There doesn't actually seem to be a number of days notice in this section. It's on top of page 35. So at the moment there's not a period of time that you have to give notice, like 15 days or something like that.

COMMISSIONER STEFANICS: Well, I would just ask that we maybe consider something, because it has occurred in some communities where three days a meeting's been set up and it just hasn't quite been adequate. Thank you.

CHAIR HOLIAN: Yes, Commissioner Chavez.

COMMISSIONER CHAVEZ: Penny, in Section 4.6.4, there's a paragraph regarding posting. Would that be the section that the time would be addressed?

MS. ELLIS-GREEN: Madam Chair, that is the legal noticing requirements, Section 4.6 is the required noticing. That is after you've made an application and before you have an approval or a hearing.

COMMISSIONER CHAVEZ: So then what Commissioner Stefanics is suggesting is that for the pre-application meeting that there be a timeframe in there where the COs and the ROs would be noticed in advance of that pre-application meeting.

MS. ELLIS-GREEN: Commissioner Chavez, yes. I believe that's correct, and that would probably fall in Section 4.4.4.1 on page 35.

COMMISSIONER CHAVEZ: Got it. Thank you, Madam Chair.

CHAIR HOLIAN: Thank you, Commissioner. So Penny, it does look like we sort of have consensus on putting in a time limit.

MS. ELLIS-GREEN: That's going in red and highlighted. So, yes, that will come in. On the public process, just to continue, we did talk a little bit about noticing to COs and ROs. We also have mediation. We added this between the last draft and this draft, and that is Section 4.4.8, and page 37. So we did add –

CHAIR HOLIAN: Which is not in our current –

MS. ELLIS-GREEN: This is in the adoption draft. We did put it in this adoption draft on page 37. It mirrors the City of Albuquerque process, which seems to work well and is fast. It's designed to weed out issues. It doesn't necessarily seek to complete all resolution but it narrows down the issues. So by the time we come in front of the Board or the CDRC, we've just got a narrower field of issues. It would be required that a professional mediator would conduct the mediation, so really what we would do is we would have a list of mediators and we would rotate through that list. The applicant would bear the cost of that. So again, we would pick which mediator it was for a case, and then the applicant would need to pay for that. So we would really use it for any case that could be controversial and quite often that would happen after our technical review committee, our technical advisory committee, so an internal review. We would try to identify whether or not that would be something that would be controversial.

CHAIR HOLIAN: Thank you, Penny. I'm very supportive of this provision by the way. I just wanted to put that on record.

MS. ELLIS-GREEN: And then we do have complete submittals that are now required in Section 4.4.6 so we would actually produce a letter stating that an application is complete. The benefit for that is it allows a complete application before we start processing. So we won't get information submittals on the day of a meeting that staff hasn't been able to address, that reviewing agencies haven't been able to address, and that the public haven't been able to see. So we won't get those piecemeal submittals that we do get now. So we should be able to submit comprehensive submittals to reviewing agencies. Three, the process. If a reviewing agency comes back and says they're looking at the detail and says, well, this is actually incomplete, so maybe it's for some kind of hydrology work or a traffic impact analysis that the Building and Development Services staff has taken a cursory look at and deemed that it's complete, but when it actually gets reviewed by a technical person, comes

back to say it's incomplete there is the ability in here for the Land Use Administrator to change that determination and so say, no, it is actually incomplete, and then the applicant has to make the complete application and submit whatever technical information was lacking.

So one other thing to point out is there should be a simplified procedure. Again, we were asked to do that as part of the Growth Management Plan. That could be related to the zoning, the use list, so people can really understand what they can do, where they can do it. The Growth Management Plan and the discussion that we've had before, and actually the discussion in a lot of our community plans is about the need for non-residential uses within residential areas. At the moment, you have to be in a commercial district for almost all commercial variances to come in front of you to allow people to do commercial uses outside of commercial districts. So the use table is supposed to take care of that.

One other point I did want to make is that when we sent this out to public comments we got a lot of public comments; we got very, very few public comments on the use table. About the only public comments we got were regarding the mining, sand and gravel and DCI on that use table. We got very few other public comments on the use table. And just really quickly, the page that we had been handed earlier, a lot of these are community facility services which under our current code do not have to be located in commercial districts so are already allowed to be located within residential areas.

The enforcement chapter is Chapter 14. So really in our code now we have no basic enforcement language and this section includes violations of the Subdivision Act and criminal and civil enforcement and actually has enforcement language in here.

So in view of timing, we could move on to design standards and then again, try to just touch on some of the major changes that we had made.

CHAIR HOLIAN: Let me ask you this, Penny. I think design standards might encourage a lot of discussion, so should we perhaps talk about subdivisions first, because that's relatively brief, is my understanding.

MS. ELLIS-GREEN: The subdivision section would be extremely brief. Really, what we did was use the model subdivision regs and the changes that were that made were really related to the Subdivision Act to make sure that we're in conformance. So really I just wanted to touch base on a few things as to what a major subdivision is, what a minor subdivision is. So let me just get you that page number.

COMMISSIONER STEFANICS: Penny, I just want to clarify – you're talking about the state Subdivision Act.

MS. ELLIS-GREEN: Yes.

COMMISSIONER STEFANICS: So you've changed some of the language to come in to compliance.

MS. ELLIS-GREEN: Correct. So on page 50 you have Table 5-1 and it lays out what a major subdivision and a minor subdivision is. And so it relates to the type of subdivision and again, that comes straight from the Subdivision Act. A minor subdivision or a Type Three Subdivision, those are 2 to 25 lots or 2 to 24 lots? For the minor we've actually got written two to five parcels, and these are lots that are smaller than ten acres, or any one of which is smaller than 10 acres. The Type 5 subdivision, all the lots have to be larger than 10 acres, and that is 2 to 24 parcels. All the other subdivisions are considered major subdivisions under this code. So those are the only minor subdivisions. Under the Subdivision Act we do

have to treat them differently as a summary review subdivision.

CHAIR HOLIAN: Commissioner Chavez, and then Commissioner Anaya.

COMMISSIONER CHAVEZ: Thank you. Penny, earlier someone raised the concern about the fiscal impact in developing and I think they were more concerned about maybe a homeowner who is doing maybe a lot split or accessory dwelling unit or maybe a second home on a parcel. They're going to be expected to meet certain design standards. Are they the same as, let's say, someone who's doing a parcel that's less than ten acres? How does that correlate?

MS. ELLIS-GREEN: Commissioner Chavez, this section is specifically related to subdivisions, so these are the types of subdivisions. They don't include the exemptions to the Subdivision Act, and then someone that is doing – just building a house would be getting a development permit, so they wouldn't fall under the Subdivision Section.

COMMISSIONER CHAVEZ: So would they be required to follow the same standards as far as offsite improvements and things like that?

MS. ELLIS-GREEN: Madam Chair, Commissioner Chavez, in the design standard section, the section is specific as to who they apply to and so yes, there will be some changes and as we go through the design standard section I think kind of probably the major changes will be in the utility section, the water and the sewer section.

COMMISSIONER CHAVEZ: What about roads? Because I think in some cases the design standards for roads can be somewhat expensive and there's been a question about do I have to meet the same standards as the County would?

MS. ELLIS-GREEN: Madam Chair, Commissioner Chavez, one of the main problems we've had or the main issues that we've had that have come in front of the Board is all-weather crossing for someone building just a single family home. And in the design standards in the flood prevention section that has been taken out. So that is not a requirement if you are building a single-family home, if you've already got your lot created. It is written into the roads section in the design standards for anyone creating a major subdivision. So if you are crossing a floodplain and you are creating a major subdivision you do need to do all weather crossing. But that's one of the issues that has been in front of the Board numerous times.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I'm going to list them, but some of the things I'm trying to comprehend and maybe you can address them as you're presenting is the differences and the triggers between major and minor subdivisions and why. Because I could think of various things associated with utility and other issues but if you could try and help address some of those for clarity for my sake and for the public's sake I think that's important. Thank you.

MS. ELLIS-GREEN: Thank you, Commissioners, Commissioner Anaya. Actually, on page 73, which is in our Studies, Reports and Assessments, we list the studies, reports and assessments that are needed and you can see that there are differences between what a minor subdivision needs and a major subdivision needs. So a major subdivision that you're going to see would be a lot of smaller lots or a larger number of lots in general. The most lots you can create under a minor subdivision would be 24, but every one of those would have to be over ten acres in size. So they would be kind of the larger-lots. So those

would be kind of the larger-lot subdivision. We do not see that many minor subdivisions. We do not see that many 24-lot subdivisions that are all ten acres or more. You see a lot more of the 2.5, the five-acre lots.

COMMISSIONER ANAYA: If I could Madam Chair, could I ask a follow-up question to that?

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: In my understanding, and I'm thinking of a particular area. Let's talk about the area right adjacent to the Town of Edgewood that has infrastructure. That has utilities, essentially. Has a water system, let's say as a comprehensive point. And that will hopefully complement what their development structure is which is something we've had a lot of discussion about. Why would it jump from minor to major if the lots are smaller if the infrastructure is in place and it complements the actually development area? If it – and what I'm getting at is if an area makes pragmatic sense based on area and utility, why would it need to jump to major? You could take that in any area, if it has the essential infrastructure. Because when we – am I correct or incorrect in say that when we go from minor to major the complexity of what's required is elevated? And so that we might have a 24-unit, a 24-parcel subdivision that's still considered minor because it has ten acres, but for economic and pragmatic sense, you could have a 24-acre subdivision in a high-density area like close to Edgewood that would in my mind make more sense that the minor because of its proximity to utilities and infrastructure. Does that make sense?

The way I read it now is that 25 units on ten acres is minor but the 24, I should say, units, because the would go down in size would become major. I think we need to figure out – help me understand here. What's the logic associated with that, in an area like that that seems to make sense to afford that ability in an area like that?

MS. ELLIS-GREEN: Madam Chair, Commissioner Anaya, I think the reason why we did the major and minor subdivision has to do with the Subdivision Act. We have to treat the minor subdivisions differently with a summary review and procedure and at some point we have to have a cutoff as to what does and doesn't make a requirement. Now, the example that you gave, if you were trying to do a major subdivision where you had no infrastructure you would have a hard time meeting your adequate public facilities. But if you were in the Edgewood area where you do have facilities your adequate public facilities report would simply say for water, we're connecting. And so if you have your infrastructure down there, you have your roads, you have a fire station, you've got fire hydrants, you've got water, you've got sewer, that means that it's going to be an easier report for you to do for your studies, reports and assessments as if – compared to if you're in the middle of nowhere and you've got no water supply, got no sewer, got no fire protection, got no paved roads, then you're unlikely to be able to prove that you have adequate public facilities to build your subdivision.

So I think the cutoff between major and minor really is because under the Subdivision Act we should be treating the minor subdivisions differently with a summary review procedure and also it's that somewhere in here we have to have a cutoff. We could go and say absolutely everyone has to do every study and report, everyone has to do the all-weather crossing. What we were trying to do is to come up with kind of a cutoff as to when it makes sense, based on the type of submittals, the type of applications and projects that we've seen in

the past.

COMMISSIONER ANAYA: And so my comment on the record is that I think we need to have further analysis of the major and the minor aspects, and that the intent of the code is for the first time to be able to move from actually not having zoning to having zoning. And if the assumption in the code, which it is, is that we zone areas, that we have adequate zoning to accommodate the areas in and around populated areas and otherwise that have utilities and infrastructure. So that what I'm saying is, in that particular area it would seem that we would probably want to actually zone areas to accommodate those types of developments that have that infrastructure as opposed to saying here's a laundry list of things you have to do in addition, even though we already know that services exist and that utilities exist. So I think my end comment is we need more analysis and more discussion on that. And this isn't just off of my feedback; this is some of the feedback I'm getting in that particular area associated with development in and around Edgewood, in and around Bernalillo County and making sure, which I appreciate, Penny, that you've done based on the input is we've tried to complement what other jurisdictions are doing and work together. Right? We're still doing that, right? We're not working in a vacuum. We're trying to understand what those development patterns are and what other entities are doing in addition to what we're doing. Correct?

MS. ELLIS-GREEN: Right.

COMMISSIONER ANAYA: Okay. Thank you, Madam Chair. Thank you, Penny.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Penny, the area or the example that Commissioner Anaya uses or is using now, if that were applied to other areas, could those be designated as growth areas and could that also be defined as a type of infill? If there were areas that were obvious, using Commissioner Anaya's example, would it make sense to recognize those as possible growth areas with planning efforts behind them and with some type of infill concept attached to that. It may be just something to think about for later.

MS. ELLIS-GREEN: Madam Chair, I was kind of prepared to go on to design standards if that –

CHAIR HOLIAN: Okay. That seems reasonable, so we'll have time for that discussion.

MS. ELLIS-GREEN: So the design standards are in Chapter 7 and that begins on page 93, 94. And I just wanted to point out a few changes and a few things that we have done in this section. Section 7.2 is the fire and building codes, and I just wanted to point out that we have made sure that we referenced the correct fire and building codes. Those codes are not going to be duplicated in here but we reference them and incorporate them by reference.

The residential performance standards are in Section 7.3. I wanted to point out that we included a setback table. The setbacks have been scattered in other areas of the document, in design standards and zoning so what we've tried to do here is to pull them all together into one table just for ease of use.

And then there haven't been major changes again till the lighting section, Section 7.8, Table 7-3 on page 107 was updated. We had our Planning Division look at this to see if we

were using the up to date information. One thing we did add was LED as preferred lighting especially for street lighting. I know when the Board previously had street lighting we've required it to be LED. It's a lot cheaper then to pay the utility. We did prohibit laser and search lights. We really didn't think of that when the first code was done years and years ago and moving lights and mercury vapor lights as well. Those are really outdated.

In the sign section we did include that in Section 7.9, we included public signs, public monuments and commemorative plaques as signs that don't need a permit. We did have an issue in Agua Fria recently where they had proposed an entry monument sign. It was being designed by the County and the signage requirements that we had in the code were pretty restrictive on them, so for public monuments, commemorative plaques and public signs we have stated they do not need a permit.

Road design, Section 7.11, we modified Table 7-12 – let me get you a page number for that. Steve tells me it's 127. To require five-foot sidewalks, and this is where we added the section in for major subdivisions, non-residential, over 10,000 square foot and multifamily residential to provide all-weather access when crossing a floodplain and again, that was due to the multiple variance requests and requests that have come in front of the Board. And we did add on-road parking standards. And we actually have recently suggested an additional change to some of those sections. At the last hearing I think it was Oralynn made a statement that we were only allowing three homes or two homes on a cul-de-sac, and that was related I believe to the ADT shown on those tables on Table 7-12 and 7-13.

So the last thing I wanted to do as I'm going through this is to actually hand out some proposed changes to the adoption draft and since we're going over that section now it seems appropriate to hand those out. *[Exhibits 6 and 7]* So I'll try and touch base on those as we're going through this section. Robert actually has some additional ones that he can hand out to members of the public. But on the first page of that you'll see on page 7-12, we made the changes of the ADT, the first column for alleys to be NA, local roads, zero to 400, subcollectors, 401 to 600. And on the second page, on Table 7-13 is where you'll see the cul-de-sac change. It had been zero to 30 of an ADT and now it's zero to 300. That is consistent with a statement in the code for cul-de-sacs. It says that they shan't serve more than 30 dwelling units. So it wasn't intended to be three; it was intended to be 30. So we did make that change to the ADT.

Water supply, wastewater and water conservation is Section 7.13, and a lot of this section was rewritten –

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Commissioner Anaya, then Commissioner Chavez.

COMMISSIONER ANAYA: Madam Chair, Penny, on the draft changes in the design classifications and specifically on sidewalks and trails, something that comes into mind is areas where we've had subdivisions that were required to have trails and sidewalks but there's no connection to any other sidewalk or any other trail. You end up constructing a facility that's to nowhere and to no avail. So is there someway that we can have language that deals with that and talks about if there's an area that doesn't have – I'm thinking of – I think Rancho Viejo might be one of the areas where we have a section in the middle that has a sidewalk and a trail and then doesn't go anywhere. And the feedback we heard from the public and we hear in the hearings is what else can we do to still fulfill the intent of having

facilities but do so in a way that complements either what's existing or have some alternate mechanism for the area to look at and consider. Is that something that's reasonable to think about?

MS. ELLIS-GREEN: Madam Chair, Commissioner Anaya, yes, and I think we've kind of addressed it in a couple of different ways, or we can address it in a few different ways. One is our official map. We will have an official map that will show us where we want our main trails and so when a subdivision comes in we can make sure that we get the easement's that required for that. But specifically, on sidewalks, we have had that case and Rancho Viejo is a really good example of that. Some sidewalks are actually abutting the road very close to a road. Some are kind of more like trails and meander through like an open space area. And so one thing that we did do is we had exactly that situation when BTI came in to build and they were not sure where the rest of the employment center trail was going to be. Was it going to meander? Was it going to be up front to the road? So they actually submitted a financial guarantee that was separate to the building's financial guarantee and that will remain in place while the rest of the development is worked out as far as where that sidewalk will be. And we would hope that within a year we'll know where abouts it will be and then they construct that.

Quite often we've had the example, and it could be on a County road that may be a subdivision is coming in for approval, and in the future we know that we're going to want a trail. If we don't take easement now, if we don't have some kind of – either have it built out even if it does go to nowhere now, or have some kind of financial guarantee to be able to build it out, that means in the future when we want it it may end up being the County's burden to produce that sidewalk.

COMMISSIONER ANAYA: So on that point, let me say this. We've had feedback from people that are doing a project, let's say where we – let's take Edgewood again. I'm not using them only but let's just take them as an example where we've invested a substantial amount of money in an equestrian park and an open space sector that is going to have places for horses and then walking and biking trails, as three examples. The community, not even necessarily the potential developer developing property, but the community might rather have a sector of that community roped out and trails improved on the open space area and have the next phase of it completed than to have a sidewalk to nowhere or a trail to nowhere in their subdivision because we have it in the subdivision requirements.

So that's what I'm getting at. If there's a way – I don't know that there is but if there's a way to say that the investment and the access is what's important then it potentially could be another sidewalk that the community in the general area or specific area would be able to access. Is that something that's reasonable for consideration and thought?

MS. ELLIS-GREEN: Madam Chair, Commissioner Anaya, I think I understand where you're coming from. These two tables may not be the correct place to look. The first table is for our growth areas and our SDA-2 area, which does cover a lot of area close to Edgewood, actually, and that does require sidewalks from local roads up. So it is a requirement. It's actually the open space section on page 154, 7.15 is where we're going to talk about trail standards, trails defined on the official map, and one thing that in the future we would hope would modify our official map is an update of the Open Space and Trails Plan, which our new open space and trails planner is going to be actively working on.

That may identify other areas like equestrian trails that are needed to spaces like you're discussing.

COMMISSIONER ANAYA: And so if you are building on 344 for example, which is the corridor where Walmart sits and Walgreens sits and there's existing sidewalks on either side, it makes practical sense to say, no, the requirement would sustain. That's a major arterial into an interstate system. But if you moved off of that area, and this could go for any part of the county, it might make more sense for the community to say, no, no. We don't want you to invest in ¾ of a mile of sidewalk in this one little community. Yes, potentially the easement for potential use down the road. We'd rather go to the next phase in our open space and have a more expansive area that's used by the entire community. So let's give that some thought.

MS. ELLIS-GREEN: Okay.

COMMISSIONER STEFANICS: Thank you. Commissioner Chavez.

COMMISSIONER CHAVEZ: Yes, thank you, Madam Chair. Penny, I noticed that in your handout you've excluded mobile homes and manufactured homes from meeting the HERS, the home energy rating standards, and the residential energy service network. I thought most of the new manufactured homes were already built to those specifications. I may be wrong. And then I also wonder how these two – the HERS and this residential energy service network would apply to earthen building materials. Because we have two sections and I really appreciate these two sections. Section 7.2.4 and Section 7.2.8, that both speak to New Mexico earth and building materials code, and the New Mexico historic earthen buildings. So I'm wondering where the adobe component, or the earth-built units would fit into this section here.

MS. ELLIS-GREEN: Madam Chair, Commissioner Chavez, are you saying how they would fit into the HERS Section?

COMMISSIONER CHAVEZ: Yes. They would be required to, because I think in some cases that may be a little unrealistic.

MS. ELLIS-GREEN: I hadn't actually got onto this but since we're bringing this up, yes. The proposal is for – in Chapter 7, is to remove the requirement for mobile homes and manufactured homes to meet the HERS 70 rating. I spoke with Craig about this and basically, mobile homes and manufactured homes do not meet the same building code standard. They're regulated by HUD standards, not the same standards as a stick-built home. So his statement to me was that they should be excluded because they don't meet the same building standard. As far as earthen homes, I would have to go back and speak to him specifically as to whether or not an earthen home can meet those standards. But I believe that they are regulated by building code differently than a mobile home or a manufactured home.

COMMISSIONER CHAVEZ: Well, the problem with adobe, from what I understand is that it's not assigned an R value so you have to spray that polyurethane foam on the outside, and if I were building a historic adobe home I would not want to do that personally. I would want to find a way around that. And it's also cost-prohibitive for some to have to meet all of those requirements if you're building a basic adobe structure. And that may be rare in these days but I think we want to keep that option open.

COMMISSIONER STEFANICS: Anything else, Commissioner?

COMMISSIONER CHAVEZ: No, thank you.

COMMISSIONER STEFANICS: Okay. I think, Penny, we're back to you.

MS. ELLIS-GREEN: So again, the water supply, wastewater, water conservation, since a lot of this was rewritten by Steve I'm going to have him touch base on that section, which is 7.13.

STEVE ROSS (County Attorney): Madam Chair, members of the Commission, this section was fairly extensively rewritten in response to public comments and also to more clearly set out compliance with the goals and objectives of the plan and other planning documents like the conjunctive management plan for the Santa Fe Basin and things like our annexation agreements with the City, the Aamodt water settlement and all those kinds of policy statements which establish that as a policy matter, Santa Fe County prefers to use surface water supplies through the Buckman Direct Diversion and other sources preferentially to groundwater supplies. So you see that concept carry over very strongly in this section. I don't know how strongly it was carried out in the first version that was released about a year and a quarter ago, but I think it's very strong.

So if you take a look at these tables you're going to see some familiar elements that are in the current code but they're arranged in a different way and promote the idea that the County is going to prefer the use of surface water over groundwater. And the other important element that's advanced by these changes is the growth management element that is very strong in this code as well as very strong in the growth management plan. And that is that there's a preference for public infrastructure and a preference for utilizing public infrastructure particularly in SDA-1 which is the urbanizing, developing area just outside the city limits.

COMMISSIONER CHAVEZ: Could I ask a question on that, Steve.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Madam Chair, I'm sorry. I wanted to ask a question. Steve, there was a question earlier asked about mutual domestics and whether or not the County would – whether or not a mutual domestic would have to connect to the County system. And we have examples of that taking place already. So could you touch on that and give us the reason why we did that?

STEVE ROSS (County Attorney): That's not in here, actually. Here's what's happening. We have public water and wastewater facilities that the County operates and those are the subject of Table 7-17 and some of the text associated with that table. We also have public water supplies in the sense that we have state-sponsored types of systems like mutual domestics, like water and sanitation districts, like private and semi-public water supplies that are regulated by the Public Regulation Commission. Those types of systems are the subject of Table 7-18. There are also public water supplies that just don't happen to be County public water and wastewater supplies.

Then the third general category of water and wastewater supplies are those that are supplied by the person who's the proponent of the development, like a developer or person developing a house on a single lot, what have you. So how it works is in SDA-1, or really anywhere in the county, Table 7-17 presumptively applies. And that's the table that dictates when somebody must hook up to the County water and wastewater system. You see there's distance requirements. If you're in SDA-1 and you're near a public water supply, a community water supply or wastewater supply, you're going to be required to hook up or

make accommodations to be hooked up later when the community water and wastewater system gets to you. And then if you're in SDA-2, the distance is farther. If you're farther away from the County system you may or may not be required to hook up if you're certain distances.

So in SDA-2, the general assumption is if you're within a quarter mile of County water and wastewater supplies you should hook up, or make provisions to hook up later. In SDA-3, it's a half a mile. So that's how that works. Now, if you're either in SDA-2 or outside the service area of the County water and wastewater utility, and there is a mutual domestic or a private water and wastewater system that's regulated by the PRC, and you're within a certain distance of one of those systems, Table 7-18 is going to require you to hook up under similar terms that exist for County systems in Table 7-17.

If you can't hook up to any public water supply, County or otherwise, then you can self-supply and that's set out here in a number of pages of regulations beginning with 7.13.5, which is essentially the rules as they exist today for creating a community water system or doing a shared well system or even an individual well to supply a home or a development. These rules have just been updated from the current rules but they are probably no more restrictive than the current rules.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. Steve, we often get requests from different communities to assist with their water or their wastewater systems. And if we honored each and every one it would be pretty overwhelming, but that might be a future goal. So in this section, do we have some standards that could be utilized to determine when the County would want to be involved in that? We are saying when people should hook up, but what about when it's in the best interest of the County to do this for its residents?

MR. ROSS: Well, Madam Chair, Commissioner Stefanics that's not within the scope of the code. That's more of a policy matter for the Utility Department and this body to deal with. We've been kind of dealing with it on an ad hoc basis but it's not the responsibility of a developer to figure that out and to accomplish that. This code does not discriminate between other public water supply systems and the County water supply system except to require hookup to the County system if they are the closest.

COMMISSIONER STEFANICS: Okay so, Madam Chair, the issue here though is that a developer would have the responsibility to adhere to the code and the hookups.

MR. ROSS: Correct.

COMMISSIONER STEFANICS: And besides working with Land Use on that, would they also be working in any way – and Katherine's not here but in any way with our utilities director? Because it would seem to me that if you have lots of little systems out there that don't make sense in the long run for the big system, because every time somebody comes to us, whatever they've done on their own may or may not need total revamping, total rework before it can be adopted. So if we're putting something in here there needs to be some link. It's not just this section. It's several sections. If the code relates to something else, like business licenses, there needs to be a connection. If it's connected to utilities it has to have a

connection. If it's connected to roads, it has to have a connection. So I'm just asking about that interconnection.

MR. ROSS: Madam Chair, Commissioner Stefanics, a lot of that is going to come out in the reports, because the reports are reviewed by – let's say a developer proposes to hook up to a small mutual domestic which may or may not have the capacity to serve additional customers. That report analyzing whether that – the report by the developer analyzing whether that system is capable of supplying the additional development would go to the Utilities Director for comments. And at that point the Utilities Director and the Utilities Department would be able to say, look, this system is incapable of doing this. They need x, y, and z, and then it becomes incumbent on the developer to work with the Utilities Director and the mutual domestic to figure out how to address those things if they can be addressed.

So there's a provision in here if somebody proposes to hook up to a mutual domestic, and say, they seek a letter from the system committing to water or wastewater supply and the system can't provide the letter because they're incapable of doing it, then they can self-supply or go to another source. And the distance requirements here in these tables don't apply. And we drop back right into a conversation with the County Utility Director and Land Use staff over what can be done to get water to that particular development.

So I think it certainly doesn't prohibit all those kinds of discussions from occurring. There's a formal process to evaluate the commitments by the public water and wastewater suppliers concerning whether they can actually deliver on the commitment.

COMMISSIONER STEFANICS: Okay. Thank you, Madam Chair.

CHAIR HOLIAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you. Steve, regarding policy for mutual domestics, isn't there some policy that says that the County will not fund after a certain point, or use general fund money for these mutual domestic water systems?

MR. ROSS: Madam Chair, Commissioner Chavez, I think there have been attempts to develop a mutual domestic policy but I don't think there's one really in place right now, at least that contains that statement.

COMMISSIONER CHAVEZ: Okay. I thought there was so I stand corrected. So then it really is just ad hoc, case-by-case basis.

COMMISSIONER STEFANICS: Madam Chair, on this point.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: I don't know, Commissioner Chavez. Are you talking about – we do have a resolution that indicates that if communities want water assistance they have to become wholesale or retail customers.

COMMISSIONER CHAVEZ: No, I thought there was something specific to a mutual domestic that said that after a certain threshold the County would not invest any capital for that system. And I thought it was to your point about the condition of those mutual domestics and the standards that they were built under and if we're going to accept those as part of our system. I agree with you that we need to know what we're accepting. So anyway, mutual domestics, I guess there's an area there that needs some work.

MR. ROSS: Madam Chair, Commissioner Chavez, I think we're always kind of evolving with respect to those requests. I think there's at least three in the pipeline now for major assistance or for the County to assume operation of the system. So I think you're right.

You may be thinking of some initiatives Commissioner Campos developed five to seven years ago that restricted the ability of the County to work with those systems. But I think that's been superceded by all these subsequent developments where the County is actively trying to assist mutual domestics, and I think there's at least five or six in that category. The Chimayo and the Cuatro Villas system comes to mind, then there's the Chupadero, the Canoncito, and I think there are discussions – oh, La Bajada, and I think there's discussions occurring with even more.

COMMISSIONER CHAVEZ: And the concept there is that eventually those will become part of the countywide delivery system.

MR. ROSS: I think that or getting a surface water supply from the Buckman to them, to supplement in some cases difficult groundwater situations.

COMMISSIONER CHAVEZ: Thank you, Madam Chair.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Commissioner Chavez, and Mr. Ross, supporting a quasi-governmental entity that mutual domestics are in the interest of sustaining a viable water supply in a mutual domestic that is doing what they need to do and taking care of business or needing help to augment that. And I say that tied specifically to La Bajada and the work that we've even done in Galisteo in prior years as a County in collaboration with the state legislature.

A couple things, Steve, that I want to restate. I stated them at the last meeting but I want to just state them again for clarity, and maybe there's a place where we need to enhance the definition. Public utility does not mean government utility. And can we clarify that in our definition?

MR. ROSS: Madam Chair, Commissioner Anaya, the definition for that classification of utilities is here in 7.13.4.2.d, Water and wastewater system, public or private, that is regulated by the Public Regulation Commission. So I think that's quite a large universe there and covers everyone you're thinking of, but if we can clarify it further. Page 138.

COMMISSIONER ANAYA: Okay, Steve. So tell me again.

MR. ROSS: 7.13.4.2, it's like a third of the way down, left side of the page there, and look at d.

COMMISSIONER ANAYA: And so just to further clarify, any entity that delivers water to multiple parties, people, is required to be regulated under the PRC. Correct? That's not a government utility?

MR. ROSS: I think the threshold is 15 customers.

COMMISSIONER ANAYA: Fifteen customers. So if it's under 15 but still accommodating the need then that would still be determined as public? If it's providing a service and fulfilling the requirement of adequate water supply? Don't they still have reporting requirements for water quality and testing?

MR. ROSS: I don't think under 15 they do. But we don't discriminate against that classification of that system in this proposed document but Table 7-18 doesn't require a developer to hook up to a system like that. They could. They certainly aren't barred from doing that and that might be under the category of a self-supplied water system. If there's a

little tiny system that serves ten houses for example, it's not regulated by the PRC and I don't remember the ED requirement, whether they have to report to ED under 15 or not. I don't think they do, but that would bar a developer from hooking up to that system. If they put enough rooftops on the system they might move into regulatory status just by virtue of that, but assuming they didn't there's nothing in here that would bar that type of a system, but we wouldn't require it, is what I'm saying. Table 7-18 requires people to hook up to public water supplies if they're available.

COMMISSIONER ANAYA: And just another question, moving in and around the urban area of Santa Fe, let me ask this question. If we have an area that we know has all of the services that are required to meet the intent and the requirements of the code as well as the plan, what are the requirements on the developer in that area? I mean if everything is in place and we know it, maybe it's our utility or the linkage to other community infrastructure, do we still have a laundry list of requirements or are we doing an area that essentially is zoned already?

MR. ROSS: Madam Chair, Commissioner Anaya, this whole code is a carrot and a stick to promote development where infrastructure and services exist and have already been provided by the local government. So the carrot in that instance is that you just turn in a preliminary, as long as you don't want to do anything special or anything that's not accommodated in here and you go forward.

COMMISSIONER ANAYA: So in any area, if there are defined, proven infrastructure and services and the like then the development process will be greatly streamlined.

MR. ROSS: Greatly streamlined from what it is currently.

COMMISSIONER ANAYA: Okay. Thank you, Madam Chair.

CHAIR HOLIAN: You have further things to present, correct?

MR. ROSS: There's a couple other things. If we could move on from water at this point. One of the things we did, just to remind you, one of the things we did in the water section was update all of the well standards that are currently in existence and the water conservation standards.

Another section that got a lot of comments that I was responsible for working over was the historic and archaeological section. It starts at 7.16. This section in the current code is kind of a mess and we've had some regulatory failures in this area over the past couple years. We rewrote this section as well fairly comprehensively. Page 156. You can see that the requirements that are set out here are what everybody thought they were but they're actually written down now. There's no assumptions made here. Everything that is required with respect to archaeological resources is set out in detail and is written down. So there's no assumptions, there's no unwritten rules here. It should all be written down. The big difference from the original draft of this section and this draft is 7.16.5. After reviewing some of the problems that we've experienced with historic and archaeological issues we actually went back to the current system which is we map, currently, areas which have low, medium and high potential for archaeological resources so that people know right away which regulatory path they're going to have to take.

If they're in an area of high potential there are requirements to investigate on the property proposed for development what's there and to do it in a professional manner with

professionally trained people, and submit reports to the County. Medium, same thing. Low is a far lesser standard. But these things are always – these things have to be done flawlessly, because the potential for permanent damage to cultural and archaeological resources is of great concern. So we spent a lot of time on this section and hopefully have straightened out some of the problems.

Penny, what else were we going to talk about?

MS. ELLIS-GREEN: On that same section, I just wanted to point out one additional thing that we wrote on in there is where there is a designated cultural property, a cultural site that has been designated and is listed, if a development is going to affect it in some way, so I guess move it, destroy it – if it's just going to affect it it's required to do a conditional use permit so it comes in front of a Commission, and if it is going to destroy it, if a development proposes to destroy a listed site then first there has to be a beneficial use determination to make sure that, say you had a ten-acre site and you were putting a building here, going to destroy a listed site, that there's nowhere else on the site that you could actually put your building and therefore not destroy the archaeological site that is listed. Again, that's just for listed sites.

And then just really quickly going back to open space on page 154, we are requiring 30 percent of gross acreage for the major subdivisions to be left in natural state or for passive open space. Trail standards were added, and developed open space was added based on population for a subdivision.

We briefly talked before about the flood prevention and flood control. This section now follows the FEMA regulations. It is not a requirement for all-weather crossing. Again, we touched base as to where that was in the road section and it applies to special flood areas in the county.

The financial guarantee section actually states the type of guarantees we accept, which are cash, letter of credit, escrow agreement, surety bond or payment and performance bond. Let's see, Steve, if you wanted to touch base on maybe the special protection for riparian areas, because again, that was something that was added after the last public comment.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, on 7.15.3.3, when you talk about minimum required open space and then on one of 30 percent and then you talk in two of one acre per 100 population. You talk about a developed acre of open space. This is also an area that I think we need to have some analysis and consideration tied to an existing property or open space that the County, the state or some other entity may have – federal government entity may have that provides that to a community. So that it's not necessarily just automatic, that there might be an enhancement that the community can get based on its proximity to an existing facility. And rather than expending resources there or even space that that may be transferred to an area that can be improved or enhanced. If that makes sense.

MS. ELLIS-GREEN: Okay.

COMMISSIONER ANAYA: And I would follow up by saying this: I can think of a handful of subdivisions off the top of my head in and around the City of Santa Fe as well as in outlying communities that have designated areas that were either parks – I can think of one right off of Airport Road, that it's a park that was required to be put in by the

County that is in disarray and disrepair and never utilized. And so if we're making an improvement for the sake of the code, I don't think that's good, but if we maybe allow for investment in a bigger, broader project that's maintained and it's part of an overall community or County plan then I think it's money better spent.

MR. ROSS: Madam Chair, Commissioner Anaya, that was the whole idea behind the official map concept so that the County actually plans the stuff and doesn't make requirements – place requirements on developers that don't make any sense, to have unmaintained [inaudible] somewhere. It wouldn't seem to be a good goal of this plan. So the idea of the official map was let's put it all on the map, see how it works together and then everyone's on the same page. When somebody comes in to develop they come in and look and see what we're thinking about in terms of a sensible plan for trails, parks, open space, the whole – roads, even.

COMMISSIONER ANAYA: The other addition I would make in working in multifamily housing for several years, we always made accommodation for community space and so I think we need to figure out language that complements what I just said. It might be complementing a community space within the subdivision or it might be an enhancement of a community space in the region. It might be an enhancement of the Eldorado Library if it's in that region, as opposed to a separate building just for that hundred-lot parcel.

So I'd make that as well, for us to figure out the language in there so that we can – there can be alternatives that enhance our existing not only space and trails but properties that are for a community overall purpose.

MR. ROSS: Okay, so Madam Chair, Penny wants me to talk about this new section towards the back of the design standards called special protection of riparian areas. It's on page 183, Section 7.25. This is something that's in the La Cienega plan and ordinance right now. And in discussing this with some of the La Cienega people and other people we thought it might be a good idea to, as we're planning adopt all the community standards and all the various community plans and ordinances, this seemed like one of those areas that might be needed countywide. So this language here comes from the 21st Century Land Development Code and it basically sets up a regulatory program for stream banks, basically, so that uses aren't established there that are inconsistent with the riparian environment. The La Cienega people – Penny wrote this a long time ago in their plan and ordinance, but this would be, if you accepted this approach this would apply countywide.

You can see that if you're within one of these riparian buffers, 7-23 on 184 tells you – gives you a laundry list of things you can do that are consistent with the riparian environment but there are obviously things that aren't listed there like construction of homes or what have you. That wouldn't be permitted in those areas.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I think it makes logical sense to consider it but I also think you might have parcels of property that are in these zones that wouldn't sustain enough space to afford somebody that had a really small lot and I don't want to ignore that fact. I think we have to figure out a way to not exclude them from being able to do anything at all because their entire piece may fit within that. So that would be my comment on that. Because if we don't accommodate it in the code then rest assured future

Commissions will be sitting here hearing case after case after case in some areas of variances, which is what we're trying to avoid I think. And so maybe we could figure out some reasonable modifications based on that fact, that all properties won't have the ability to lose that 150 feet and still be able to do something on their property. And we're talking about many, many families that are multigenerational in not only La Cienega but throughout the county.

CHAIR HOLIAN: My comment is I think that this is a very important section, because riparian areas – and we don't have a whole lot of them in the county – they're really important for wildlife, the survival of wildlife in the county. They're often part of migration corridors and if we block off migration corridors we might not have, for example, elks surviving anymore in our mountains. Also, they're important for aquifers because they help replenish aquifers. So I think we have to be very careful about putting the rights of people to develop above the rights to maintain riparian areas which are so precious and so rare in the county.

COMMISSIONER ANAYA: And Madam Chair, I would agree that the riparian areas are crucial and very important but I think it's a balance, and maybe staff can help us figure out. Because if we do not accommodate those questions then we know, as Commissioners that sit up here, we know we will be dealing with variance issues associated with that aspect. So I'm being honest and upfront and I'm agreeing with you that they're crucial but can we give it some thought and figure out if there's some options for us to analyze and consider as a Commission?

CHAIR HOLIAN: I'm certainly willing to consider some options, but I think protecting our riparian areas should be non-negotiable because we have so few of them and they're so precious. And it's not just for the animals, it's for the people as well. People are having their wells go dry because the aquifers are being overstressed, and part of it is destruction of riparian area that has caused that. So we need to be extremely careful about that.

MS. ELLIS-GREEN: Madam Chair, Commissioners, the last thing that staff wanted to do is to just go over these adoption draft changes. *[Exhibit 6]* I did want to point out this is going to be an ongoing list. It has just been started and these are really a list of things that we have found out as far as mistakes or issues. It is not us taking all the public comments and making the changes. This is the first, the start of this. It will be updated as we go through this, as we start reviewing the public comments, which we will be reviewing as a team and determining what makes sense to put in here. Also, as the Board gives us directions at the public hearings, that would lead to this being updated with possible changes.

So the changes that we have seen in Section 1.7 actually reference Article III, Section 4, mineral exploration and extraction, is actually Section 5 and it was added in right after 2006-10, that ordinance. It needed to be moved to be right after 1996-10, so we've moved that. Again, that is the existing hard rock mining language. We did go through Table 7-12 and 7-13, those changes. We briefly talked about the HERS rating, that's on page 2. The 7.1.4.2.1 and 7.14.2.2 excluding mobile homes and manufactured homes. 7.22.8.3, this is regarding financial guarantees, and we've had discussion that once there's a release made that the Land Use Administrator would sign the release. This is on the top of page 3 of the handout. 7.22.8.3, that the Land Use Administrator would sign the release and so would the County

Attorney. So we don't release something that shouldn't be released.

Table 8-1, we think in the first study session I explained that the commercial neighborhood had not been listed in there and neither had public institution. Those were two new zoning districts that we came up with. On the next page, Table 8-4, we actually – this is what explains the use list, and we actually didn't have a code for DCI, so we added that DCI code in. Also in the first study session I explained and we added the commercial neighborhood base zoning district. We actually wrote over the commercial general. So this is just putting commercial general back in, as that was in error. And that changes the next two pages, and that will lead to us needing to renumber commercial neighborhood and industrial, and the tables within Chapter 8, and there will just be a renumbering because the commercial general is going back in.

At the top of the next page, on 8.10.2.2, Application. Again, this is under planned development district and at the moment it states that a PD zoning shall be accompanied by a master site plan, and we added a rezoning request if applicable. So if someone's coming in with a planned development district they may actually require to rezone areas as well.

Accessory dwelling units, we added in the intent of this section is to house an immediate family member. There has been discussion about the accessory dwelling units and I put the whole section in there because we had added in that a manufactured home shall not be considered to be an accessory dwelling, but we're recommending that be deleted because we're not actually sure why we added that in. So we're recommending that that get deleted.

Under Chapter 11, the DCI chapter, we had been requested to, rather than just now just saying it's reserved and see Chapter 1.7 or Section 1.7, actually it was a request to state "and County Ordinance 1996-10, Article III, Section 5." So it actually clearly quotes the existing hard rock mining section. And then under recreation vehicle in Appendix A, this is a definition, just adding the phrase, "not as a permanent residential use."

And then on the use table *[Exhibit 7]* –

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, just quickly. It's something that I've said before and I say it respectfully to those that have been here and those that have provided information. I absolutely believe there are areas in the county that should have DCIs relative to sand and gravel, community areas that are deliberate and clear. I do not, however, believe that the entire county across the board should fall under that same criteria. And so I've said it publicly before; I'll say it again. Maybe staff – we keep hearing the concern. I respect the concern, but hearing what I've said, and I've said it publicly and I've said it individually, if staff could think about potential options that assist in the clarity and that also give credence to those that have the concern about sand and gravel mining. But to say it's the entire county, border to border, I do not think that's reasonable. But maybe staff can help us between what we have and what's being suggested. Maybe we could figure out some options for us to consider as a Commission. That's my feedback individually.

MS. ELLIS-GREEN: Madam Chair, Commissioner Anaya, we can do that. We have not proposed changes other than in the use table, and that again is hard rock; it's not sand and gravel.

COMMISSIONER CHAVEZ: But I'm saying it because it's continually

coming up. I'm hearing what the folks are saying. I respect what they're saying, and I just want to be clear about what I've said publicly and that we need to evaluate it and figure out if there's some other options and mechanisms for us to consider.

MS. ELLIS-GREEN: Madam Chair, Commissioner Anaya, yes, and I believe that would be something that we would want to discuss at the public hearing and actually get direction, but we can bring options forward.

CHAIR HOLIAN: Commissioner Chavez, and then Commissioner Stefanics.

COMMISSIONER CHAVEZ: So, Commissioner Anaya, so that I understand, you're feeling that the ordinance regarding mining and sand and gravel extraction should not be countywide but sort of site-specific to areas that we –

COMMISSIONER ANAYA: The concern that's being raised now is that there's not a DCI required on sand and gravel and the recommendation is that we remove the language that's' in the code right now, that has 20 acres, I believe, as –

COMMISSIONER CHAVEZ: A threshold.

COMMISSIONER ANAYA: The threshold. There's concern about that and I respect that concern. The recommendations are that we make the entire county DCI for sand and gravel and I think that would have vast impacts economically to road projects, to individual consumers, and I think it's helpful if staff can evaluate that and then provide us some options that we can consider. Right now it's in there as 20 acres, no DCI. Correct?

MS. ELLIS-GREEN: Under 20 acres that doesn't require any blasting is not considered a DCI under the current code.

CHAIR HOLIAN: Commissioner Stefanics.

COMMISSIONER STEFANICS: No, I'm going to wait until the staff come back to discuss this. Thanks.

MS. ELLIS-GREEN: So Madam Chair, the last thing is just on the use table. *[Exhibit 7]* We really only have two areas of proposed change. One is hotels, motels and tourist courts. That's on page B:1. It was listed as accessory, and I believe that was a mistake so we changed it. There were only two pages of changes to the use table, so you've got page 1 and page 8, which are the two pages that changed so far, an page 1 is just hotels, motels and tourist courts, changing it from accessory, and ag/ranch, rural and rural fringe, changing it to conditional. And on the second page of that Appendix B:8, you'll see in red, DCIs for metallic minerals mining, coal mining, and non-metallic minerals mining. Again, I believe that was an error because we did have the hard rock mining being a DCI in our DCI section. So we just added DCI on that one. Again, we did not at this point make any change to sand and gravel. We'll bring back options and we'll see what the direction is.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Commissioner Stefanics.

COMMISSIONER STEFANICS: Let me ask, as you consider the sand and gravel, let me just ask you to consider rather than the acreage, maybe something – and I understand about the blasting, but maybe something – some other standard, because it still seems to me that some smaller operations can have detrimental effects upon surrounding communities. So if we didn't use the acreage, we didn't use the blasting, is there some other standard we could also stick in? Just like you did with HERS rating or some other energy performance evaluation. Maybe there's some way to do something like that. Thank you very

much.

MS. ELLIS-GREEN: Madam Chair, that's really the end of staff's presentation.

COMMISSIONER ANAYA: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Mr. Ross, relative to the mining issue, can you differentiate between existing mines, either active or inactive, and new mines and what our regulatory authority associated with either of those two? New mines, I could understand we'd probably have a broader regulatory authority, but what regulatory authority do we have as a County Commission associated with existing mining claims or claims that were in place. How does that work?

MR. ROSS: Madam Chair, Commissioner Anaya, given the fact that the code regulates new mining, previous mines, I guess we're talking about gravel pits because I don't believe there are any active mines in the county, they're permitted under the current land development code. They're regulated separately just as is proposed here. Currently under the land development code we have a section on sand and gravel. And so if a miner, sand and gravel miner, has an existing sand and gravel mine that's properly permitted through the current code and is actually engaged in mining they have vested rights.

COMMISSIONER ANAYA: What about a mining interest that's a hard rock mine? Because I constantly hear feedback about mining claims. What's the relevance of a mining claim and the associated land use code that we might have? What rights do citizens have that don't want the mining or what rights do people that have the mining claims have? How do we fit into that?

MR. ROSS: Madam Chair, Commissioner Anaya, mining claims are usually associated with federal land, because that's how you perfect a mining claim on federal land is to designate your claim, do the work, file your reports with the Bureau of Land Management and you get your patent at some point to that property. Those being federal claims there's a question, a substantial question, whether the County has any jurisdiction over those kinds of activities to begin with. If they came in and got a permit for that activity, say on a mining claim, then voluntarily accepting the jurisdiction of the County over that activity, then had they obtained a permit and done the work that's required they would have obtained vested rights, which means their rights are vested for all time. There's nothing we can do about it. That's like if you develop a house on your property. The government can't then come in and rezone your property as open space or something like that.

COMMISSIONER ANAYA: A condemnation type thing.

MR. ROSS: Yes. That ends up being takings. That gets you right into the takings issue. So what we did in here is preserve the current system which is regulating sand and gravel separately, knowing that there would be a re-examination of mining in general down the road when we do DCIs. The caution I have for the Commission about this particular issue is that sand and gravel is currently in the code and if we eliminate any regulation of sand and gravel pending some future process, during the interim period we have no regulation on the activity whatsoever. So when we set the 20-acre limit that's currently in the draft it was a pragmatic attempt to set the number as high as possible so that there would still be regulation on sand and gravel in the interim. Otherwise we don't have any regulations and

a big problem. So if you start line-drawing, if you say, okay, well let's set the line at five acres or set the line at three acres or two acres, all applications are going to be for a number in excess of that in the unregulated portion. So there's some strategy behind what you're looking at and the controversy that's come up. There's some strategy behind what we did and how we selected the regulatory techniques we did. One, to be consistent with what we're doing now, and two, to try and avoid a regulatory gap, which is always a problem.

COMMISSIONER ANAYA: My last comment is this, is that as we progress through the final adoption, any areas where we have partial regulatory authority or basically that, I think we need to delineate. I think we need to have some way in a table, and maybe – I don't know if it's in here already but we should show the public where our authority and responsibility begins and where it ends. And then who has regulatory authority beyond that. Because in open space issues we face it all the time. We have no statutory responsibility over Bureau of Land Management lands. We don't. We have no regulatory authority and so in those gray areas we need to clarify them and say here's where we start, here's where we end and here's the body that does.

So at minimum, the public, if they have concerns can address those concerns with the appropriate parties to say, well, it's not us but it's them. And this is why. Thank you, Madam Chair. That's all I have.

CHAIR HOLIAN: Steve, I have a question on the sand and gravel mining operations. What if somebody came in in the interim with an application for a 21-acre sand and gravel operation? What would happen?

MR. ROSS: That would be a regulatory void. We wouldn't have any regulations applicable to that.

CHAIR HOLIAN: Could we pass a moratorium on operations that were greater than 20 acres in the interim?

MR. ROSS: Madam Chair, as long as we had a process in place to develop some sort of regulatory scheme in the near future we could pass a moratorium. It would have to be – that's in part why we set the number at 20 acres because arguably you can line-draw this ad infinitum but we theorized that since a gravel mine or any sort of mine that's in excess of 20 acres was not going to have just a community impact but an impact on the entire county which is after all, what developments of countywide impact are intended to address. So you would – in order to address the regulatory void you'd have to have a process in place for putting regulations into effect in the near term, then you could pass a moratorium. And we already kind of have that sketched out with the DCI to be regulated within the year.

CHAIR HOLIAN: We do have a process in place?

MR. ROSS: Yes.

CHAIR HOLIAN: Thank you. I think we will go on – we have two minutes left and I think it would be important to talk about the hearing schedule for future public meetings and so on. Penny.

V. Hearing Schedule: Future Public Meetings, Study Sessions and Public Hearings

MS. ELLIS-GREEN: Thank you, Madam Chair, Commissioners. We do have our last community meeting this Thursday at the Bennie J. Chavez Center in Chimayo. That's

at 6:00. That would be the fourth of our public meetings. And then our first public hearing is scheduled for November 19th at 6:30 here in the chambers, and the second one would be scheduled for December 3rd. We haven't yet set a time. We were looking at November 19th starting at 6:30 because I think three Commissioners have MPO before that, to allow them enough time to get over here but perhaps on the 3rd of December we could start a little earlier to have a little bit more time.

CHAIR HOLIAN: Okay. Thank you, Penny, and in principle, we could vote on the adoption draft at that December 3rd meeting, or we could possibly consider it at, say, our next Board of County Commissioners meeting. Correct?

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair, that first week of December I'm at a NACo national board meeting, so I would request that the Board of County Commissioners not vote on the code until our first full BCC meeting in December.

CHAIR HOLIAN: Okay. Thank you.

MS. ELLIS-GREEN: Madam Chair, just for the public, that would be December 10th.

CHAIR HOLIAN: Correct. Commissioner Chavez.

COMMISSIONER CHAVEZ: Penny, the last public meeting that you had was at the Nancy Rodriguez Center. Was it well attended?

MS. ELLIS-GREEN: We've had four meetings so far and I believe all of them have been fairly well attended. The one at the Nancy Rodriguez Center was actually two weeks ago and I believe we had about 15 to 20 people.

COMMISSIONER CHAVEZ: That was scheduled on a BCC night so I wasn't able to attend.

MS. ELLIS-GREEN: It was on October 22nd. I don't believe that was a BCC night. But the one last week was at Galisteo and I understand there were at least 20 at Galisteo. And we had, I think, like 18 to 22 at the one in Edgewood.

COMMISSIONER CHAVEZ: Okay. Good. Thank you, Madam Chair.

CHAIR HOLIAN: Any further questions or comments from the Commissioners?

VIII. ADJOURNMENT

Having completed the agenda and with no further business to come before this body, Chair Holian declared this meeting adjourned at 11:56 p.m.

Approved by:

Board of County Commissioners
Kathy Holian, Chair

ATTEST TO:

Geraldine Salazar by VT 11-26-13

GERALDINE SALAZAR
SANTA FE COUNTY CLERK

Respectfully submitted:

Karen Farrell, Wordswork
453 Cerrillos Road
Santa Fe, NM 87501

EXHIBIT

tabbies 1

SIMPLE CORRECTIONS NEEDED IN SAND AND GRAVEL MINING EXTRACTION REGULATIONS ADOPTION DRAFT SANTA FE COUNTY LAND DEVELOPMENT COD

For the public health, safety, welfare and order in the development of Santa Fe County, the SLDC must include these edits:

1) "Section 10.19. Sand and Gravel Extraction" must be deleted, and

2) "Sand and Gravel Extraction" must be listed in Chapter Eleven - Developments of Countywide Impact (DCIs) under "11.2. Designation".

Along with considering all sand and gravel extraction a DCI, **the SGMP stipulates that sand and gravel mining must fall under the "mining ordinance" where there is an important directive which deletes the need to debate the acreage or the scale of an operation, as follows:**

"The type and size of mining land use and mine site will then be evaluated by the Code Administrator to determine which submittals will be required of the applicant."

The **evaluation role of an appointed Administrator determines what an applicant must submit.** Since an Administrator can play such a large role in the process, it is reasonable to assume that staff felt comfortable during planning to assign ALL of sand & gravel mining as a DCI in the adopted SGMP.

Thus the Code Administrator is in fact directed by the mining ordinance to guard against over-regulation. Here's the sentence in context:

5.4.1 Submittals for Types of Mines and Operations Each application for mineral exploration or extraction permit or by a mine operator who proposes an expanded mining land use shall be evaluated for the purpose of establishing the type of mine that is proposed. The type and size of mining land use and mine site will then be evaluated by the Code Administrator to determine which submittals will be required of the applicant. Objections to the findings of the Code Administrator can be appealed by any interested person to the CDRC."

--From existing 1996 code, Article III, Sect. 5, Mineral Exploration and Extraction

And if an applicant doesn't like what the Administrator decides, they can appeal.

What we experienced in Cerrillos was an *intensity* of mining that sprung from a really tiny failing mom & pop operation. **What makes a gravel mine a DCI is the industrial intensity, not necessarily the size.** Gravel mining has an exceptional impact countywide as haul trucks looping to and from a mine site create industrial impact on our roads and communities far beyond the original locale.

These edits can NOT wait until after adoption of the SLDC as applications for new mines are pending that would lock in the lax regulations, as written.

Support the Sustainable Growth Management Plan (SGMP) directives on sand and gravel, as adopted by the BCC. Press for deleting from the SLDC Adoption Draft Section 10.19. and list Sand and Gravel Extraction in Chapter Eleven as a DCI under 11.2. Designation.

10/30/13, compiled by Ross Lockridge, Cerrillos

A portion of page 4 of Appendix B, called the Use Table or sometimes the Use Matrix.

Appendix B: Use Table — Sustainable Land Development Code Public Review Draft Use Table

Use	Function	Structure	Activity	Agriculture/Ranching	Rural	Rural Fringe	Rural Residential	Residential Fringe	Residential Estate	Residential Community	Traditional Community	Commercial Neighborhood	Mixed Use	Commercial	Industrial	Public Institutional	Planned Development
Performing arts or supporting establishment	5100			C	C	C	X	X	X	X	P	P	P	P	P	P	
Theater, dance, or music establishment	5101			C	C	C	X	X	X	X	P	P	P	P	C	P	
Institutional or community facilities																	
Hospitals		4110		X	X	X	X	X	X	X	X	X	X	P	X	P	P
Medical clinics		4120		P	P	P	P	P	P	P	P	P	P	P	C	P	P
Social assistance, welfare, and charitable services (not otherwise enumerated)	6560			P	P	P	P	P	P	P	P	P	P	P	P	P	P
Child and youth services	6561			P	P	P	P	P	P	P	P	P	P	P	P	P	P
Child care institution (basic)	6562			P	P	P	P	P	P	P	P	P	P	P	P	P	P
Child care institution (specialized)	6562			P	P	P	P	P	P	P	P	P	P	P	P	P	P
Day care center	6562			P	P	P	P	P	P	P	P	P	P	P	P	P	P
Community food services	6563			P	P	P	P	P	P	P	P	P	P	P	P	P	P
Emergency and relief services	6564			P	P	P	P	P	P	P	P	P	P	P	P	P	P
Other family services	6565			P	P	P	P	P	P	P	P	P	P	P	P	P	P
Services for elderly and disabled	6566			P	P	P	P	P	P	P	P	P	P	P	P	P	P
Animal hospitals	6730			P	P	P	P	C	C	C	P	C	P	P	P	P	P
School or university buildings (privately owned)		4200		P	P	P	C	C	C	C	P	C	P	P	P	P	P
Grade school (privately owned)		4210		P	P	P	P	P	P	P	P	P	P	P	P	P	P
College or university facility (privately owned)		4220		P	P	P	C	C	C	C	C	C	P	P	P	P	P
Technical, trade, and other specialty schools	6140	4230		P	P	P	C	C	C	C	C	C	P	P	P	P	P
Library building		4300		P	P	P	P	P	P	P	P	P	P	P	P	P	P
Museum, exhibition, or similar facility	5200	4400		P	P	P	C	C	C	C	P	P	P	P	P	P	P
Exhibitions and art galleries			4410	P	P	P	X	X	X	X	P	P	P	P	P	P	P
Planetarium		4420		P	P	C	X	X	X	X	P	C	P	P	P	P	P

The Use Table is seven pages of fine print. The portion above shows 22 possible uses or about 1/10 of the total uses in the table. Uses go down the left side of the table. Different zoning districts go across the top. The zoning districts are grouped with similar districts. E.g., the first three zoning district are agricultural/rural districts, the next four are residential.

Comments Concerning the Draft SLDC provided to the County at the Oct. 30th 2013 Community meeting by the San Marcos Association

The Capital Improvement Plan and the County Land Use Code

The SLDC draft attempts to link the Capital Improvement Plan (CIP), the Level of Service (LOS), and Development Agreements to a common Process. The following pages describe what appears to be the links needed to achieve this legal goal. Some of these links appear in the draft, others either do not appear or appear in conflicting ways. There is a sense that "prioritization" means not only priority by importance but by time. The draft code, however, does not distinguish between the two. This appears to make it impossible to combine Capital Improvement Priorities with Development Agreement timelines.
We will present the perceived linkages in a "if"- "then" format. We will then suggest language that needs to be added to the code draft in order to make coherent sense of the CIP-LOS-Development Agreement process.

If CIP projects are prioritized by importance within three, seven year cycles (12.3.4.1.) (SDLP 12.3.6)

if CIP projects are re-prioritized every two years (12.3.4.2.)

If CIP projects are funded annually through the County Budget Cycle and only a small percentage get funding

If CIP projects are added to the list annually and by application to the County's Department of Public Works,

If CIP projects once prioritized, are expected to be funded within one of the seven year "cycles" within a twenty year period.

If CIP projects that fall within a specific seven year period but are not funded within that seven year period - are automatically pushed into the next seven year period,

If development orders approved by the Board become CIP priorities within a specific period of time provided that the capital improvement is funded by an approved Development Contract (5.8.4.4

if Development Orders include an approved request for the capital improvement to be added to the CIP by the Dept. of Public Works

If the development order CIP entry provides a specific date for start and completion that falls within a specific seven year CIP cycle,

If all LOS requirements are met by either in place and prioritized CIP entries or newly developed development orders added to the CIP and placed within the appropriate priority dates,

If the Board approved the planning committee's recommended changes to the CIP (14.2.16 and 3.2)

If the CIP advisory committee reviews each seven year cycle beginning five years before the last cycle begins (12.5.14.3

If the CIP advisory Committee review creates a new 15-20 year cycle and re-orders the prioritization of existing CIP projects (when necessary).

If completed CIP projects are dropped from the CIP list at the close of each fiscal year

If the CIP priority project list request form(s) are approved by the CIP administrator at Public Works

If the CIP projects are approved and prioritized under the Development Project are scheduled for completion within the CID no more than two years after they are inserted into the CIP (5.8.4.4)

If the Development Order is approved according to the procedures required by the SLDC

If all required impact fees agreed to under the code have been paid

If all development Order appeals have been satisfied

Then the development order CIP entry(s) may be added to the CIP and a permit issued.

Suggested Additions to the Code Draft

A development Order CIP request can be "tied" to an existing CIP entry's priority by the CIP administrator. A change in the existing prioritization shall likewise change the priority of all linked development order CIP entires. A "tied" CIP entry is an entry that requires both a developer funded project and a linked County Capital Improvement to be completed (ie. a County funded waterline extension and a Developer funded link).

Since CIP projects are prioritized and not necessarily given a tentative start and finish date (except within a seven year cycle), then the CIP project list must be placed within date ranges within each seven year cycle. Otherwise the priority system cannot be linked to Development timelines described in a development contract.

If a seven year cycle starts in 2014, for example, those projects that fit within the 2014 budget year must be tagged for planning purposes with a 2014 "start" date. Projected annual CIP funding will provide projected "start" dates within each seven year cycle for each prioritized CIP entry.

Projected "start" dates for each prioritized CIP entry shall be reviewed annually by the CIP advisory committee and the Dept. of Public Works CIP Administrator (if such a position exists). Any recommended changes must be approved by the Board.

CIP entries that remain unfunded within a seven year cycle and have had their start date delayed for at least five review periods, will be stricken from the CIP or shall be placed within the third cycle (upon recommendation of the CIP Administrator)

CIP entries will be given a fixed number that can be referenced by any subsequent development order where the LOS is linked to it.

CIP entries within the first seven year cycle will be given a "fixed" start date that may be used by any subsequently "linked" development order. This date shall remain on record even if the CIP entry's priority is changed due to funding constraints or committee review.

12.3.4 CIP Implementation

12.3.4 states that the CIP entries will be broken into not only three schedules based on seven year cycles, but into three sections based on SDA-1, 2 and 3.

What occurs if a CIP entry crosses SDA areas. Does the listed capital improvement (lets say pick-up truck) get listed three times? Would the priority change with the SDA area?

12.3.4. Who is responsible for this prioritization, and who approves it?

12.3.4. How does the CIP prioritization scheme work if there are in effect three CIP lists, one for each SDA area? How is an overall priority maintained? Does the first priority in each SDA get priority for funding? Does the priority list from SDA-1 come first?

12.3.4 ADD: Capital Improvement Project lists shall be ranked according to prioritization independently of their SDA location. The ranking shall be reviewed annually by the CIP Administrator and the CIP Committee. CIP projects inserted into the plan as part of an approved Development Contract shall be assigned a ranking of "0", but will be inserted into the appropriate CIP listing according to the project "Start date".
CIP entries that reflect a County - wide requirement will be listed as "County-Wide". CIP Entries that crosscut SDA areas will be listed under each SDA area affected, may have different "start dates" associated, but will retain a single

priority ranking unless the CIP administrator chooses to break the CIP capital Improvement project into several different seven year cycles.

12.5.7.1. states that the County will engage a "qualified Professional" to prepare the CIP. Does "engage" mean hire? Will this qualified Professional act as the CIP Administer? Is there such an entity? How does the qualified professional interact with the CIP advisory committee? Will the qualified professional take over administration of the CIP from the department of Public Works?

Suggested Addition: 3.6 CIP Administrator

3.6.1 Establishment and Responsibilities. The SDLC hereby establishes the position of CIP Administrator for the purpose of assisting in the development and management of the CIP, prioritization of CIP entries, coordinating the activities of the CIP advisory committee, and providing timely reports to the Board concerning Development Order and other proposed amendments to the CIP. The CIP Administrator shall insure that all functions, schedules and requirements outlined in the New Mexico Development Fee Act, Chapter 12.2,12.3,12.4 and 12.5 of the Code are fulfilled. The CIP Administrator shall coordinate with the Administrator (3.4.1) in processing proposed development agreements that require financial instruments binding the County to specific CIP projects, or sub-projects. The CIP Administrator shall maintain the CIP and be responsible for Insuring that additions to the CIP are promptly recorded.

3.6.3. Terms and Removal: The CIP Administrator shall be appointed by the Board, and may be removed solely for reasonable cause.

3.6.4. Qualifications. The CIP Administrator shall be a qualified professional having as a minimum, a BA degree in either Business Administration, Accounting, (or similar), and six years of administrative experience and meet all of the "qualified professional" requirements outlined in the New Mexico Development Fee Act.

12.5.7.1. Change: to reflect a CIP Administrator (3.6.1)

12.5.8.1. How do the Land Use Assumptions (LUA) interact with the LOS? How does the LUA mesh with the CIP . The LUA appears to "float within the Code, without real meaning or context.

12.5.8.2.2 If the CIP Advisory Committee must file written comments on any CIP or LUA amendment before the fifth business day before a public hearing on the amendment, why is this not mentioned in Chapter 4. Should't this written report be required as one of the "required reports" .

12.5.8.2.2. The CIP Advisory Committee is a volunteer board and may not be capable of providing written comments on every Development Order that requires an amendment to the CIP.

12.5.8.2.2. Change to: The CIP Administrator, in cooperation with the CIP Advisory Committee shall....

12.5.8.2.3. If the Board must (a) conduct a public hearing, and (b) accept or refuse amendments to the CIP within thirty days, how does this fit into the requirements listed in Chapter 3,4 and 6.

A Question Concerning the Development of a PID

12.7.3 Creation of a Public Improvement District. A PID can be formed by a petition signed by at least 25% of the real property by assessed valuation....

If a single owner builds a 15 million dollar Estate in a neighborhood where the average valuation is $200,000 and the proposed PID includes eighty properties (16 million in appraised value), then the single landowner could petition for a PID affecting all eighty properties. Lets say that the proposed pid is to pave an existing County road that goes past the Estate owners house. If approved, all of the property owners would be subject to an increase in property taxes to pay for the improvement. Is this not true?

How does the PID process fit in with the CIP project prioritization process? Do PID Applications require any studies or reports? It is not mentioned in Chapter 6.

Table 12.1. Adopted Levels of Service.

The Code Draft lists trails at 0.5 miles per 1000 residents as the Trail LOS, yet the plan states that the LOS SHOULD be 1.0 miles per 1000 residents (Plan Section 12.3.8.4). The first draft of the proposed Code provided the recommended plan LOS. Why was this cut by 50% in the second draft?

The Plan lists 85 acres per 1000 residents for open space. The second code draft lists 8.5 acres. Is this a type-o? The first draft lists 85 acres of open space.

Trail heads in the first draft list 0.36 acres per 1,000 residents, as does the recommendations of the Plan. Why were trailheads altered to "1 each at the ends of the trail, and a trailhead every five miles? If trails are slowly extended, the new draft could gradually create trailheads in places where they are not needed.

Additional Proposed Changes to the Draft

2.1.5.1. Strike "Proposed amendments to a Community Plan shall be accomplished through the procedures set forth above". Procedures for amending a SGMP,Area, District, or community plan should be standardized.

2.1.5.1. **Add " a board appointed planning committee"** to the first sentence.

2.2.3.3 Strike the requirement for a list of members as a requirement in the "RO" application

4.4.3. Written Report of the TAC meeting and requirements must be provided to interested parties with standing.

4.4.8.4. Add CO's and RO's as well as "homeowner's associations.

10.4.2.1. Occupancy

add: unless expressly permitted in Community and District plans and overlays, only immediate family members mat occupy the principle dwelling and the accessory dwelling unit.

or

add: unless expressly permitted in Community and District plans and overlays, only immediate family members may occupy an accessory dwelling unit.

or

delete 10.4.2.1

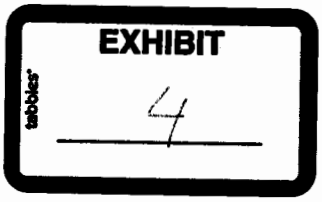
10.19. Delete the Section

or

10.19 **(add) "Sand and Gravel extraction, processing, and transportation is governed under Section 11.3.2.**

11.3.2. add: see County Ordinance No 2009-"N", mining Ordinance.

11.3.2. add: All mining and resource extraction activities including sand and gravel extraction, mining, milling and transportation are considered "DCI" activities and are governed by County Ordinance Number 2009-N



Scenario #1

A Movie Studio rents a ten acre fenced pasture and wished to place 50 horses and 30 sheep in it as a "holding" area for livestock used in it's production.

1. The production Assistant sees the land use administrator and describes the desired land use. He states that the intended use is described in the production company's application for a film permit under Santa Fe County ordinance 2010-6, and Table 10-2, "film Production" and article 10.9.6, the Land Use Code.

The Land Use Administrator has checked the production Company's application against the requirements listed in Ordinance 2010-6. He checks the application for "completeness", and sees that Section 5E requires "clean-up, Section 5f requires proof of owners consent, Section 5I requires traffic control, Section 6 requires insurance and performance bonds to insure clean-up and restoration. Section 7 requires the provision of specific dates including arrival and departure times. Section 7.7 requires the specific location of all staging area and section 7.9 must detail all use of animals.

He sees that the specifically identified ten acre plot is listed as a staging area for animals and that all conditions will be met.

Since all other requirements for the production company's application have been met, he issues a "completeness order". Since the production is considered a Temporary Use, he administratively issues a development order for a temporary use permit for the production. He attaches the following restrictions:

concerning the animal holding area;

a) adequate water and feed must be provided and humane animal husbandry standards must be observed (Santa Fe County ordinance 2001-6).
b) the site must be cleaned up (Ordinance 2010-6.5.E)
c) The Site may be inspected by County Animal Control (Ordinance 2001-6)
d) the appropriate insurance and performance bond has been paid for the production
e) Access traffic to the holding pen is limited to daylight hours only with the exception of handlers employed in care and husbandry activities.
f) Number of animals contained in the identified holding area can be no greater than the fifty horses and thirty sheep for a period no longer than the days identified in the production schedule.

Shortly thereafter the animals are placed in the holding area.

Two weeks later the Administrator receives written complaints from the neighbors concerning the holding area.

He tells the neighbors that while the time limit for appealing the development order is long past, he would investigate the following claims:

The neighbors claimed:

there were problems of noise, traffic, smell , and inhumane conditions.

Specifically they claimed that the stock tank used for watering purposes was not adequate for the number of animals, and that the tank had been fouled.

They stated that traffic, including the loading and unloading of animals occurred late at night and in early morning.

The administrator asks the Animal Control Officer to check on the animal's welfare, and after a site visit determines that the community complaints are valid.

Since the production company application and permit approval is for the whole production, the administrator has the authority to shut down the whole production if conditions are not immediately rectified in the animal holding area.

The production Company is notified.

Conditions are remedied and the production is allowed to continue.

Scenario 2

The production has ended, the sheep are gone, but the property owner hears rumors that another production will soon start. The fifty horses are still on the property and he wants to keep them there until he finds out if he can lease both the horses and the holding area to a new production company.

He approaches the administrator and asks if he can extend the "temporary Use Permit". The answer is "no" since the temporary use permit was connected to the Movie Production Company under Ordinance 2010-6.

The administrator looks at the proposed site location and determines that it sits within a "Rural" zone. The use table indicates that Livestock Pens, Stables and other equine facilities" are permitted. It also states that "grazing of other livestock" is permitted. He determines that the ten acre plot can be classified as a "livestock pen". He tells the developer that he does not need a permit and may keep the horses on the property indefinitely.

or

The administrator determines that the temporary quasi-commercial use needs a temporary use permit. He states that if the activity becomes long term it would fall under "concentrated animal feeding operation" which according to the use table is considered a DCI.

The applicant disagrees, stating that his activity is "grazing of other livestock" which is a permitted activity permitted anywhere in the County. The administrator counters stating that fifty horses cannot exist on a ten acre plot without "concentrated animal feeding".

The Administrator advises the developer that he should submit a new application for a one month temporary use permit, especially since the activity was previously permitted under ordinance 2010-6.
He tells the applicant that he will have to fill out an application form (Code 4.4.5.) He tells the applicant that a "temporary Use Permit" requires approval by the Administrator (Table 4-1) and that conditions set forth in the previous permit would have to be met. He states that while the specific activity is not covered specifically under 10.9, He can make such a determination under 3.4.2 (Responsibilities of the Administrator).

The developer disagrees and states that based on his interpretation of the code, he does not need a permit and will keep the horses on the property indefinitely.

The administrator cites Chapter 14.3. and states that the developer would be in violation of the SLDC and he shall be held in violation unless a) the horses are removed, or b) the developer complies with the administrators permitting direction. He states that a code enforcement officer shall direct the discontinuance of the unlawful action (14.3.2). He states that since no continuance of the completed production company activity has been applied for, the permission to maintain a "holding area" is no longer valid. Since there is no new permit application to consider, and since the activity is ongoing,He will base his decision solely on the SLDC notion that the activity is illegal without proper permitting.

Scenario 3

Same as number 2 above only this time the application falls under "Rural Fringe" in the use table.

The Administrator tells the applicant that his requested development falls under "conditional" use, and will require a permit application under Chapter 4 of the code (Table 4-1). He states that he considers the use as "livestock pens" under the Agricultural use table in Appendix A of the SLDC.in He has specified this use because the acreage involved would not support fifty grazing horses and as such must be considered a "pen". He tells the applicant that since the horses are already on the property, they would have to be removed until the application is approved. This application will require (a) a TAC meeting to determine what reports and studies would be required for approval, (b) and a public hearing conducted by a hearing officer. The Administrator informs the applicant that in light of the previous problems with the activity (conducted under 2010-6), he would require a pre-application neighborhood meeting as well.
The Administrator explains the requirement for a "completeness Review".

An application form is filled out and the administrator schedules a pre-application TAC meeting.

The administrator requires that the horses be removed from the parcel.

At the TAC meeting, TAC concludes that the project rises significant environmental and water quality concerns and requires both an Environmental Impact Report or "EIR" (6.3) and a Water Service Availability Report (WSAR). Based on the Fee schedule approved by the board, the TAC details what the County's expenses will be and the procedures available for the applicant to pay the fees.

The applicant asks that the development be classified as a "temporary use" under Chapter 10.9 since it is planned for only a "month or two". He states that he cannot afford to pay for the required studies and reports.

The Administrator states that none of the conditions for temporary use under chapter 10 are met under the SLDC and that the use tables in Appendix B dictate the procedures necessary for approval. He states that he does have the authority to determine that the planned development is in fact subject to a temporary use permit, however, he cannot avoid the zoning requirement and use table determination that states that a conditional use process is required.

The applicant states that since grazing is allowed anywhere in the county, he will graze the animals on the ten acre parcel until such time as the land can no longer support them. He will move the animals only then. He states that he does not need any permitting under the SLDC for this course of action and cites Appendix B Use Tables as his authority.

What can we learn from these "Scenarios"

(1)The Administrator should have language in Chapter 10.9 "Temporary Uses" that reaffirms the responsibilities outlined in Chapter 3 . Section 3.4 states that "The Administrator shall make a reasonable interpretation of the SDLC that is not inconsistent with the SGMP".

Add to 10.9.1. The administrator may make a discretionary decision to create a "temporary" use of no more than one month's duration provided that that use does not conflict with the intent of long term use Matrix found in Appendix B, SLDC.

(2)Conflicts appear to rise when development applications affect properties on the border of land use zones. The SDLC would work more smoothly if it was changed to require that proposed "permitted" development that may affect property in an adjacent zone be subject to "conditional use",

(3)"Temporary Use" needs to be more clearly stated. Are temporary uses allowed anywhere in the County unless explicitly prohibited by overlay? It does not appear that "temporary Use" is integrated into Appendix B Use Table.

(4) Temporary use is defined in Appendix A as a "use that is permitted within the relevant zoning district but permitted only for temporary use as provided in the SDLC." Chapter 10 only covers a few examples of possible "temporary" use.

(5) The Temporary use chapter should explicitly prohibit mining and milling operations as a "temporary use"..

(6)Temporary Use should have a maximum time limit established, and should have a written development order associated with it that specifically lists time limits and any other conditions. set by the administrator.

Can a "car wash" sponsored by a junior high school,which is banned in all residential areas in Appendix B, be given a one day temporary use permit by the Administrator?

(7)Last, when it comes to equine husbandry, perhaps there should be a distinction between personal use and commercial or "for-profit" stables and other equine related facilities. "Equine Related Facilities" needs to be defined in Appendix A.

(8)Concentrated animal feeding" is not defined.

(9)There is no requirements in the SDLC regarding animal density limits as it may relate to zoning. Would it be legal to maintain fifty horses on a ten acre tract? Is this covered in Ordinance 2000-6 (the Animal Control Ordinance)?

Preliminary Comment on the 2013 Draft Code

The comments generated by this review are the results of a single "read through". Some comments therefore, generated in early chapters, may have been addressed in later chapters. There was no attempt to compare this draft with the 2012 draft and no attempt to extract comments made in years past. Never-the-less, it appears that many suggestions made in the past were either ignored or purposely omitted from the current document.
The comments detailed below should be used as a starting point to question the 2013 draft's viability as County Land Use law. It is important to remind reviewers that this document is not a plan, it is a legal code. Consistency is vital to law. It does not appear that the document has been reviewed for consistency.

Comments are arranged by the chapter and paragraph number, as detailed in the draft. It is suggested that in the final draft, Chapter and Date of approval be placed alongside the page number. In this manner, subsequent changes to the document may be tracked and the printed Code could be assured of "currency".

1.4.2. IO. Is the establishment of "rights" only pertinent to pre-application meetings?

1.4.28. "Discretionary Approval" is mentioned for the first time. The document should cite where to find a definition.

1.4.2.28.3. DCT. While the paragraph mentions accidents in "a", it does not mention possible accidents or impacts of transport vehicles off site. While this is covered under "2" TIA, a TIA is not always required for a DCT. The document should require a TIA, and not leave it to the discretion of the administrator.

1.7. Since several of the communities and districts have completed and approved plans but not ordinance, they are not recognized here. Creating these Ordinances is the responsibility of the County. Some have been delayed for over five years. There needs to be clarification about what is to become of these "orphan" plans. Will the County honor them with overlays, or will the County require these plans to be updated prior to them being included as parts of the Code. There is an injustice here.

1.11. Transitional Provisions. If the County has not completed an ordinance for a completed and approved community plan, do the transitional provisions apply.

1.11.2. Are platted lots created after 1980 considered "vested"? Is this to be assumed under 1.11.3?

1.11.7. Previously Approved Subdivisions. "Reserved". If it is "reserved" does it mean that there are no transitional provisions for owners of property with a legitimate plat, except or what is contained under 1.11.1,2,3? Reference to "vesting" should be included in 1.11.2. There is some concern that there is a conflict between what

becomes "non-conforming" under the new law and therefore, under 1.11.2, subject to the SLDC, and the use of existing properties that are currently 'vacant land".
1.13. Shouldn't there be a clause that stipulates that a review should be made at least every "N" years, rather than "periodically". "Periodically" is very nebulous term for a legal document. See 2.1.5.,9 which states every three to five years.

1.15.2.1 This paragraph should refer to 1.15.2.2. and 1.15.2.3 to insure clarity.

1.15.5. There is no procedure in Chapter 4 to concurrently alter the County Plan. Does an alteration to a Community plan require a hearing not connected with the specific land use. For example. In Table 4-1 a minor subdivision application which may attempt to alter a specific zoning requirement does not require a hearing. However, a concurrent application to alter the zoning requirements in a community plan overlay does.
This should be clarified in 1.15.5 and in 2.1.5 to avoid conflicting interpretations of the law.

1.15.6. There is an assumption here that zoning amendments are included here. "consistency" here is an operative word yet it is not defined in Appendix "A" or within the text.

1.15.6.3 There is a concern that a large land owner could plan a development in stages to insure that vacant lands in or near a newly approved subdivision are so altered by the subdivision that they could be subdivided merely because they are now "changed" and therefore should be re-zoned as well.

Part of the fee for an approved zoning change should be a proportional charge for at least one a year update of the Official Map and a requirement that the change be recorded in the appropriate pAge of the code as a dated amendment.

The zoning map must be updated annually as a requirement of law.

CHAPTER TWO

2,1,4,5, Community Planning Process. Why is there no comparable "process" detailed for "area" and "district" plans? Who makes these, and how?

2.1.4.9. It would appear that "implementation" is the end of the the Community Planning process, yet there is no requirement for County implementation. The San Marcos District, for example, has been waiting for over five years for the County to develop an ordinance for its approved District plan. The code should require a timeline for developing a new overlay.

"Periodic review" is fraught with complications in a legal sense. Period review should at least have a "but no later than" attached to satisfy future legal challenge.

2.1.4.9. assumes that a Community Planning Committee (CPC)is a standing or on-going committee that continues on after a community plan is adopted. This is not represented in Chapter 2. There are no real rules listed for such a standing committee?. Are there limits to service? How does the CPC recommend changes to an approved overlay. Is there a requirement that any proposed change to a Community Plan or overlay be brought first to the appropriate CPC for review. How does the CPC relate to a CO? What IS a CPC? Does it fall under the open meetings Act?
Since each CPC initial membership is approved by the Board, does the CPC have official status as a County entity? Can representatives of a CPC have status on the TAC? Should the Administrator be required to provide notice of zoning decisions involving land use to CPC's who's boundary's might be affected?

2.1.5 " procedures set forth above" should read "procedures set forth in 2.1.4.

2.1.5. Is extremely unclear. If an application calls for a zoning amendment, then it could not be heard for a year? How does this fit into the procedures outlined in Chapter 4? 2.1.5. could be interpreted to mean that only the Board, Planning Commission, or Administrator can initiate amendments and that these amendments are held for a year before they are brought to a vote. How does this process work? it is not discussed in Chapter 4. It appears that application can only be made internally within County Government. Who does this? Perhaps logic is flawed here. If this is meant only to apply to community plan amendments, it needs to be made clear.

Who is the applicant here. It appears that the intent is for the section to refer only to applications made by the planning commission, the Board , or the administrator. It does appear to mention planning committees at all. If this is the case, does the Board become an "applicant"? if so, to whom?

2.1.5.6. This paragraph seems to state that no amendment to the plan can be made that is not consistent to the current plan. What is an amendment for if it is not to alter the current law? If the requirement is to apply for a concurrent change in a plan when an application is made (1.15.5), then that application would wait for a year before it could be "concurrently" approved. This is inconsistent with the development order process.

2.1.6. Consistency. This statement implies that the SLDC must be consistent with ... community plans, and yet other parts of the code insist that community plans must be consistent with the SLDC. If there is a conflict, how is it resolved?

2.1.5.9. What is a three or five year "county-wide review". What are the procedures. Are they the same as the very confusing 2.1.5.3. annual review? What is the review for? Is it to provide recommendations for changes? will this review have to wait another year, as in 2.1.5.3. before the Board acts on the recommendations?

Section 2.1.5
needs to be broken out into clear and distinct elements.

Section 2.2. COMMUNITY PARTICIPATION

What is the distinction between a "CO" and a "Standing Planning Committee" Can they be one and the same? Is there any provision for this? Can there be more than one CO for a defined area. If not, then say so in 2.2.2.2. Can CO's overlap in defined territory? If so say so.

2.2..2.5..1. The right to receive notice does not appear in Chapter 4, especially when it comes to decisions made by the administrator. COs should receive these decisions in a fashion that would allow appeal. The right to receive notice also includes notice of discretionary development applications. This does not appear in Chapter 4 either. There are no elements in the code that permit completed application review by the public except "at the County Offices". This makes review almost impossible for residents , CO, or ROs in the Southern Part of the County.

SECTION 3. DECISION MAKING BODIES

3.4 The administrator may delegate the responsibility to "any employee" should be changed to any "qualified empoyee".

Should not the code detail the minimum qualifications for an "administrtaor". They have extraordinary requirements to understand land use, and land use law.
As it stands the code that the County Manager will create the qualificatikns needed to hold the administrtaors job. Technically, as it stands, the administrtaor could be a secretary without a high school education.
The Board shiould be required to approve a recommendation b y the Coun ty Manager for the Administrator's Position.

3.5.5. There is not mention on how quasi-judicial meetings would be conducted.

CHAPTER 4.

4. The short turn around time built into the appeal process makes it impossible for residents in the southern part of the County to respond in a timely manner.

Table 4-1.. Who makes the determination when the Table states "as needed"
Needed by whom. what if there is differences of opinion as to "what is needed".

4.4.3. There is an assumption here that someone in the TAC is proficient in the Code's provisions. If that is the cae than the description of TAC membership must include such a requirement. If not, then how can TAC provide a reasonable review and recommend a reasonable set of studies, reports and other Assessments? Can the proficiency of the TAC be challenged by the applicant? by the public? How?

4.4.3. There needs to be a provision for appeal of the TAC decisions. There is not provision for TAC's written reqirement to be made available to the public at the pre-application meeting. As it stands, TAC's decisions do not become public information until after the application has been filed. With a five day appeal window, the public would have literally no time to review the technical aspects of any submitted application. There needs to be a distribution of any TAC decision to identified CO,s , and RO,s.

Since the TAC recommends specific reports, studies, etc, the written recommendation needs to be approved by the administrator.

Since the written requirements generated by TAC could have a profound effect on wether or not a project is permitted, it is important that it be made public as soon as it has been authorized by the Administrator.

4.4.4.4 The Tac requirement report must be included in the Pre-Application meeting.

4.4.8.3. This statement should specifically include CO and RO as well as "homeowner associations.

4.4.12 Notice of TAC decisions must also be provided to COs and RO's that have expressed interest or attended pre-application meetings.

4.5 The retention of a five day turn around for an appeal is unacceptable. Since ther is no notification to the public of a decision made by an administrator, the public can never meet a five day requirement for written appeal.
If I was the head of a CO, I would have to prepare an automatic notice of appeal for every decision just to maintain standing!

4.52 lists a five day appeal process. 5.14.2 lists thirty days.

4.6.7. The notice of the issuance of a development permit for a subdivision is posted for fifteen days. Appeals of an administrative Decision is five working days, Appeals of a final decision by the Planning Commission is thirty working days. Is there an inconsistency between notification and appeal times?

4.7.2. The County should not make a recommendation to a decision making body prior to evidence being submitted. It would make more sense for the County representative to offer the County's recommendations at 4.7.2.1.6 rather than at 4.7.2.1.2. Presentation of evidence and finding of fact should not be clouded by opinion, even if it is the opinion of the County's administrator.

4.7. Once a decision is made, does that constitute the issuance of a development permit? Does the five day appeal process start the following business day, or when the administrator actually writes the development permit?

4.7. It is disturbing to not find any reference to disclosure. If evidence is presented only at the hearing, how does either party prepare either a defense or an answer to a specific line of questioning. If, as in 4.7.2, the applicant provides expert witnesses, and any protestant is unprepared to question that witness because rules of disclosure were not followed, the hearing could become biased and any decision suspect.

CHAPTER 5

5.8.1 Minor Subdivision requires a "Final Plat". 5.8.6... The board shall approve... final plat at a public meeting within thirty days after application is deemed complete.

5,,8,1, and 5.8.6 conflict with Table 4.1 which states that no public meetings are required for minor subdivision plats.
5.9.2.5. When and how does the Admin ensure that the Board has approved the schedule of road development?

5.8.4.2. Statement indicating the zoning district. Should this be indicating conformance with the zoning district?

5.10.4.3 Is their a requirement for Board approval. How and when is this accomplished. The Board generally meand the BCC .

5.11.2, Vacation must be approved by the board. When? how? Process?

5.14. Appeals . Chapter 4 "appeals" and Chapter 5 "appeals appear to be in conflict.

CHAPTER 6

6.1.2.1. Minor subdivisions are not required to identify archeological sites?

6.1.3. At what point can SRA's be challenged by the public for validity, accuracy, and scope? Since a minor subdivision does not require a public hearing, when does the required reports become part of the public record, and when will the public, to include CO's and RO's gain access to these critical documents.

If the SRA's are extensive (large documents) how can the public a) gain access, review, and make formal appeal within the five day (or even thirty day period.

SRA,s are presented at a public hearing (6.1.3). Minor subdivisions do not require a public hearing (table 4-1)

TABLE 6.1. Why shouldn't a minor subdivision submit WSAR, FIS and EIR reports?

Conditional Use: If an administrator requires (or not) a specific SRA, what is the procedure to appeal this decision, or is there one. If the public objects to a decision

NOT to require a specific SRA for a conditional use permit (ie. gravel mining) where in the Code is there a procedure for appeal.

Development Permit for up to 10,000 square feet commercial. Why is there no requirement for Reports and and Studies other then a TIA. A 10,000 square foot building could be quite intrusive.

6.3 Since an EIR lists any controversial elements identified in the pre-application meeting, then minor subdivisions should also be required to have a pre-application meeting or at least written advertisement of intent so that interested parties might state their concerns to the administrator.

A "minor subdivision of 300 acres into, 24 ten acre lots does not require an EIS, FIS, WSAR. There is no water study, no pre-application meeting, no public meetings, is approved by the administrator and there is only a five day appeal period.

6.4.2.3. The table calls for minor sub-division applicatyions to prepare an APFA repoirt but not a WSAR. The APFA requires an WSAR in 6.4.2.3.7. The table needs to be corrected.

6.4.2.5 "may be considered" should read "will be considered". As this is an ordinance, there is no room for "may". What does "nearby" mean? who determines this.

6.5.5.2 Who will make the determination that the County should do the work. What is the process of notification? How does this process relate to the application process? Is the application then incomplete until this portion of the WSAR report is submitted by the County? At what point in the process does the Administrator request an assessment from a water company FOR an applicant

6.6.4.9 calls for "paved roads" as "access roads". Access roads are not defined in Appendix A. "Access Easement" is, and that implies that access roads to and from a property must be paved. Can this be interpreted to mean that all driveways must be paved?

6.6.5.10 How will this requirement be operationalized. Where will the data be located to draw from? How is the Area in which the development project is located determined. Who establishes the boundaries. How will the administrator determine the accuracy or reasonableness of these boundaries within the context of his/her review of the report? Who makes the call for "proportional value". A proportion of what? Is the County prepared to calculate the annual road maintenance costs for an artificially created development project area. What if the CIP does not list any major reconstruction projects over a seven year period, but does expect to "someday" get to paving the road.

How does the requirements set forth in 6.6.5.10 get recorded, monitored and managed over the long CIP term and who does it.

6.6.6. Who is the traffic consultant. What are the criteria for expertise. Who and when is the traffic consultant brought on board. Is this always paid out in advance to the County? Are the traffic consultsants findings written as a report? To whom. How does it fit into the process outlined in chapter 4? What is the timing relative to the overall approval process?

Is the traffic consultant's report independent of the TIA?

6.7.2. What are "nationally accepted and longstanding fiscal and economic models"? There needs to be an appendix listing some of the accepted alternatives for reference. What if the public does not agree with the economic model proposed?

6.7 in its entirety this section provides no legal requirement or directive that is followable by an applicant or could be made understanable by an administrator. It opens a door to the creation of fictitious LOS calculations and a false understanding of true fiscal and costs and receipts.

Chapter 7 (not reviewed as yet)

CHAPTER 8

Does an overlay district meet the State zoning requirements to limit family transfer to the size of the established zone?

8.3.2. Planned development District... may be established in appropriate areas in lieu of Bae Zoning in accordance with 8.9. What is "appropriate" who determines. What is the process.

What is the difference between a Planned Development District and a Mixed Use Zoning District?

8.3.2. It would appear that this should reference 8.10 and not 8.9

8.10 Planned Development Zoning District (PDZ)

can a PDZ be placed anywhere in the County upon the approval of an application? If so, how does this effect the County's zoning strategy?

Is a PDZ only reviewed annually, as a change to the zoning map?

Can a planned zoning district supercede base zoning? If so, are there no guarantee what-so-ever for base zoning other than the requirement to create a master plan?

8.10.3 -8.10.8 Why are these "reserved" and not included in the "completed" code. As they are reserved, does it mean that there are no regulations for Planned Traditional Neighborhood developments (PD-TND). So what happens?

8.11.3.4 language appears to preclude adoption of currently existing community plans.

CHAPTER 9

Revision of community plans under these rules is as lengthy and onerous as creating the original plan. Revision needs to be revised and streamlined.

9.1 the term "consistency" must be defined. If it means that community plans must be rewritten to conform to the CODE, then there is very little leeway for a community plan to identify differences that better fit the communities traditional ideals.

9.2 Since communities with ordinances are not affected by the SLDC, then the first district overlays as described in 9.2, should be those of communities having established plans and no ordinances. How does the County expect to establish priorities for the procedures set forth in Chapter 2.1.4.5 for all of the exising districts at once. The rule makes the establishment of community overlay's almost impossible given limitations on staff time.

9.3 Community Districts were established by the BCC, as were these communities plans and ordinances. It is an insult to those communities who have completed and approved plans not to be listed here. The fact that ordinances have not been forth coming is because of County Planning Staff failure to act, and these communities should not be penalized by the new code for the County's failure to act.

CHAPTER 10

10.2.3 appears to negate community plan requirement for supplemental zoning standards.

10.4.2.1. This paragraph puts a prohibition on (1) the rental of accessory structures , and the use of accessory buildings by anyone but immediate family members. Since guest houses are accessory structures, you technically could not put guests in them.

You COULD, under the definition of "immediate Family Member" allow the sons, daughters, grandchildren and all neices and nephewa of a domestic partner to live in the accessory structure. This is fine. However, this contradicts the prohibition of allowing unrelated families to reside within the same structure. 10.4.2.1. is also contricted by the Affordable Housing act and section 13.4 Rental of affordable units.

Under 13.4, if the home owner is "under duress", the owner could rent an affordable unit to a non-family member.

10.4.2.1 specifically outlaws rental of guesthouses. Guest house rental has been approved by the BCC as a form of a form of affordable housing in the San Marcos District under the BCC approved San Marcos District Plan. If a community plan sets precedence over the Code, then 10.4.2.1 must be amended to read "except where specifically allowed under approved County or Community plans..

10..4.2.4. If a "manufactured home" is not considered a "dwelling" then what is it? If a manufactured accessory building is designed for that purpose (a guest house), how can the county legally prohibit it?

10.5. Group home 's, permitted throughout the County allow for unrelated individuals with disabilities to reside under the same roof or in an accessory structure. This is in confllict with 10.4.2.1.

There appears to be a bias against unrelated individuals residing under one roof. left as written, there could be legal challenges based on civil liberties arguments.

Under Appendix B, "multi-family Dwellings are conditionally allowed anywhere in the County. Multi-family Dwelling is not described in Appendix A, nor are they discussed in the code.
Multi Family Dwellings need to be addressed under 10.4 "Accessory Dwelling Units". 10.4.1 needs to add a paragraph allowing Multi-Family Dwellings, where the family or individual residing in the accessory dwelling unit, resides there at the express invitation of the home owner.

10.6.4.3 Table 10.1
Having a home occupation employing five people would require a conditional use permit. This would require SRA's and public meetings. If a Community Plan changes the requirement to a development permit for a five person (medium impact) home occupation , would it be a change acceptable to the County under it's "consistency" rules?

10.9.5. This paragraph makes no reference to "community" sales, fire department sales, school sales, senior center sales etc. They would not be covered under 10.11 " retail outdoor sales" either.

10.19. Sand and Gravel.

10.19.1 While the recommendation was made many times to reduce the size of sand and gravel oeprations, it is still set at twenty acres. This is far to high. Anything over five acres should be treated as a DCI.

10.19.3.1 This should include a requirement for a transportation plan detailing routes and numbers of vehicles and potential affects on roads throughout the county. This may be added to the TIA if over 100 trips a day (chapter 6) but should be required even if there is as only a single daily trip.

There should be a requirement for daylight operation only for operation and transport of any sand and gravel operation.

There should be a sunset clause for any sand and gravel operation.

CHAPTER 11

It is hard to imagine that only a single page is devoted to DCIs. I believe that at the very least, the suggestion made for the first draft, that Chapter 11 mimic Chapter 10.2, be reconsidered. DCI's are one of the most serious matters to be considered in County Land Use and yet they seem to be shrugged off. Why is so much "reserved (11.3). What happens to applications for DCI's where chapters are yet to be written. If there is no law, does it mean that they get a "free pass" until such time as the County gets around to writing a reserved section.

Chapter 10 states that regulations listed under chapter ten do NOT apply to Sand and Gravel extraction where the proposed area covers over twenty acres. It refers to chapter 11, DCI regulations. Chapter 11.3.2. states that sand and gravel mining regulations are "reserved" and refers the reader back to chapter 10 - which doesn't apply. It also suggests reference to Section 1.1.7 which does not exist.

If there is an existing ordinance that governs mining , then it must be cited just as the oil and gas regulation (2009-19).

It seems obvious that the code has deliberately avoided mining rules of any kind.

There does not appear to be any regulation of Junk Yards in Chapter 11 even though they are listed as a DCI in 11.2.5. Who makes the determination that a "junk yard" exisits?

Are there no regulations for hard rock mining? not even a reference?

11.2 it seems that there might be other forms of development that might warrant "DCI" status. If Microsoft, for example decided that it wished to place a chip manufacturing plant anywhere in the County, it would have the potential to create another Rio Rancho. Would this not be a development project that should have DCI status? Perhaps this is why the code needs to at the very least define 'Substantial Land Alteration" (11.3.3. Reserved). The term isn't mentioned in Appendix A.

11.2.6. What is "large Scale"? It is not defined. Who makes the call?

11.2.3. What is "substantial" it is not defined. Who makes the call?

The Code should at least provide some caveat to it's "reserved" sections. Perhaps a statement that no project of Countywide Impact may go forward until rules have been formulated and accepted as addenda to the code.

Appendix B allows gravel mining under twenty acres in Rural Residential areas with an approved conditional use permit. Rural Residential Zoning should not permit gravel mining and milling operations.12[1]

CHAPTER 12

12.2.3.2. This paragraph is very difficult to understand. It should be rewritten for clarity.

12.2.6.2.2. If the CIP is updated every two years and if Developor must have improvements identified in the CIP in order to be approved, how do developments gain approval?

If the CIP is updated every two years and each CIP entry is prioritized over a seven year cycle, what happens when a CIP entry, prioritized in prior years, gets pushed back down the list. Where does this put a development contract?

12.2.6.4. What happens when the original developer is gone? What happens in a bankruptcy. Is the funding part of the proceeding?

12.2.7. "later in this chapter" is not legal language. There needs to be a specific reference.

12.3.3 I thought that the CIP was an independent piece of legislation with its own guidelines and requirements. Surely the CIP is used for other things besides land use. If this is true, should 12.3.3. be attempting to dictate how the CIP is derived?

12.3.4.2. How does an item in the CIP move between first, second, and third priority. Is it a product of timing, or are such items shuffled each time the CIP is revisited. If priority does not have an automatic component for advancement on the list, how can the County tie a development order time line to a specific CIP project?

It would appear that CIP reviews reshuffle priorities as new ones are identified. If this is the case, then there will be a conflict with approved development orders which insist upon an approved timeline. The cumulative affect of multiple years of development orders could wind up freezing the CIP funding formula.

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[1] October 16, 2013 Santa Fe County Code 2013 Draft comments

QWill the re-prioritization process put the County into some form of legal limbo where approved development agreement priorities must come before any other CIP funding requirement (even emergency funding priorities).

12.5. Development Fees. Since no development can occur until a schedule is passed by the Board.. This appears to mean that no development can occur until this schedule is passed. This process does not appear in Chapter 4 procedures. What happens if it takes years for the County to prepare the "Schedule". If development fee's cannot be calculated... no development order could be processed.

12.5.4.2 What procedure is followed to determine "roughly proportionate share". This is not defined in the code. Who will make this determination. How is it approved. When is it altered.

12.5.6. Who calculates, assesses, and collects development impact fees. What are the qualifications of the fund manager and where are these qualifications found. If the Administrator is responsible for some of this then the position description had better have a CPA degree.

Where is the appeal process for a developer who believes that the imnpact fees are unjust?

When are the impact fees calculated and by whom? By TAC? by the Administrtaor? by the Board?

12.5.7.2 What qualifications are necessary for members of the CIP advisory Committee. Why is this committee not described in Chapter 3? How will members of the committee be appointed?

12.5.7.2. Could it be possible that all of the members of the CIP advisory board are members or affiliated with the real estate.development, or building industry. What would be the implications of that? How should the non-biased make-up of this committee be safeguarded?

What is the term of office for the CIP advisory committee?
Is this a standing committee? re-appointed annually by the Board?

What would be the process if there is a resignation? Board Approval? Is this covered in NMSA 1978; 5-8-37?

12.5.8. Five years? Why? Perhaps it should be linked to the seven year CIP cycle.

The public hearing to consider the LUA doesn't appear in chapter 4, procedures. When is it conducted? Is it conducted after the proposed project is approved? Prior to a development order being issued? As part of the approval process of a development

order? The LUA is poorly defined within the context of the Chapter four development process.

12.5.8.2 How is a development order that affects the CIP added to the CIP? Who does it. How does it affect existing priorities. When is this done? Annually? if this is the case, how does this alter the development order and permiting approval process.

12.5.9. What does this mean. How does the board determine that something is appropriate without seeing it?

This appears to be a blanket authority for the acceptance of ANY report, regardless of how "off base", or does the standing committee review them.

The strange langue of this section tens to cloud the reality that the County hasn't the slightest idea of how to operationalize this section.
12.5.13.3. What is a "qualified Professional" Professional what? Qualified Professional is defined in Appendix A. Are Legal professionals excluded on purpose?

12.5.17.2. Since the CIP is updated every five years, how can new development proposals proceed with approval of a development plan within that five year period?

12.5.19.1. An assessment is made (by whom) when development approval is granted by development order. Payment is made on issue of a development permit. Is there any appeal process? Who gets to know what the assessment is. How does a community appeal an assessment in its "five day" appeal window. Does the appeal process begin after the assessment has been paid? Is the assessment published?

12.5.19.5 Can the County legally commit to completing construction of services within a specific time period that over-reaches any given budget year? Again this paragraph appears to commit the County to CIP prioritization dictated by development agreement.

12.5.19.7 This paragraph impliues that there is, in fact, a moving target for the CIP. How does this conflict with 12.3.4, CIP implementation.

12.5.23. The Administrator shall evaluate proposed impact fees submitted by an applicant. Once again, does the Administrator have the "qualified Professional" expertise to do this?

12.5.23 The impact fee study seems to be different from the "fiscal Impact Study" described in 6.7. Is this true? If so where does it fit into the approval process. There is no mention of this in Chapter 6.

If the impact fee calculation (independent or otherwise) is in fact a separate report, then it needs to be added in Table 6-1.

12.5.25. Periodic Evaluation

Are development orders become amendments to the CIP, how does this fit into a five year review and a seven year priority cycle?

12.7.1.4 When PID costs are deferred to "future residents" there needs to be a clear understanding of what occurs should bankruptcy occur. This is especially true when the developer goes bust without selling any lots to "future residents.
Are there provisions in the code to deal with this contingency?

12.7.1.5. Who authorizes these activities? The County? What is the process used to determine which vehicle or vehicles are used to develop a PID.

12.7.3.2 There is concern that the owner of a large property could ask for a PID for a portion of the holding without any public input. Is there a potential loop-hole here?
If a PID is requiested for an area where a single owner owns 25% of the assessed value of a property and the rest is held by small stake holders, then the single owner could request a PID affecting all of the property owners, for its own over-riding benefit.

12.7.3.2. The Process for creating a PID. Where is it? How long does the public have to file written objections.

12.14.2. Development Rights. BUD relief is not refined.

12.14.3.4 This incentive is excessive and warrants additional study.

12.14.5.1. Change "may" to "will"

CHAPTER 13

13.2.2.2 "Affordable Housing Plan" is not included in Table 4.1 or Table 6.1 and is not mentioned as a requirement for "completeness (4.4.6)

13.2.2.3. Final Plat requirements in 13.2.2.3 are not mentioned in Chapter 6.

13.4, Allows for rental of an affordable housing unit upon approval of the affordable housing administrator. Who is this? Why is this position not mentioned din Chapter 3.

13.6. Major Project? what is a "major project"? Major Subdivision? What is it?

13.6.5 This statement appears to through out all zoning requirements. Is this interpretation true? What occurs if all units are "affordably priced".

13.10 How does the housing administrator integrate with the Land Use Administrator when an application for a development is received?

Chapter 13 needs to be carefully looked at for its impacts on the zoning map, and land use limitations imposed by County-wide zoning laws.

CHAPTER 14

14.9.7. Variances

There appears to be a conflict between 14.9.7.1.... specifically to the provisions of the SDLC regarding height, area, and yard requirements and 14.9.7.3, wher the planning commission may grant zoning variance from ANY provision of the SDLC.
If a variance could be granted for any zoning requirement, then the system would be flooded with variance requests... like it is now.

14.9.9.10.3 Can a non-conforming lot that cannot be reduced in size be further subdivided by family transfer?

EXHIBIT 6

Adoption Draft Changes

1.7. ENACTMENT AND REPEALS. Upon the adoption of the SLDC, the following are hereby repealed in their entirety: the Flood Prevention and Stormwater Management Ordinance of 2008-10; the Santa Fe County Land Development Code, Ordinance 1996-10 (except Article III, sec. 5 "Mineral Exploration and Extraction"); together with all amendments thereto; the original Santa Fe County Land Development Code Ordinance No. 1980-6. Ordinances No. 2000-8, 2000-12, 2000-13, 2002-1, 2002-02, 2002-9, 2003-7, 2005-08, 2006-10 ~~(except Article III, sec. 4 "Mineral Exploration and Extraction")~~, 2006-11, 2007-2, and 2008-5 shall remain in effect until amended following adoption of revised community plans that are consistent with the SGMP and this ordinance. Ordinance 2008-19 shall remain in effect until amended following adoption of Chapter 11, Developments of County Impact. To the extent there is any conflict between the SLDC and any land-use ordinance that is not repealed by this §1.7 or otherwise addressed in the SLDC, the provisions of the SLDC shall apply.

Table 7-12: Urban Road Classification and Design Standards (SDA-1 and SDA-2).

	Avg. daily traffic	# of driving lanes	Lane width (ft)	Sidewalks	Bike lanes	Minimum ROW (ft)	Design Speeds (mph)	Max % Grade	Min. agg. base course	Min. bit. pavement	Max % Super-elev.
Arterial or highway	5000 +	6	12	Two 5'	Two 5 ft on-road	100	Level: 50+ Rolling: 50+ Mount.: 50+	5%	6"	6"	Refer to AASHTO
Minor arterial	2000 to 4999	2 - 4	12	Two 5'	Two 5 ft on-road	60 to 100	Level: 30-60 Rolling: 30-60 Mount.: 30-60	5%	6"	5"	Refer to AASHTO
Collector	601 to 1999	2	11	Two 5'	Two 5 ft on-road	45 to 72	Level: 30+ Rolling: 30+ Mount.: 30+	8%	6"	4"	5%
Sub-collector	~~301~~ 401 to 600	2	11	Two 5'	Two 5 ft on-road	60	Level: 30+ Rolling: 30+ Mount.: 30+	8%	6"	4"	5%
Local	0 to ~~300~~ 400	2	10	Two 5'	n/a	34 to 48	Level: 20-30 Rolling: 20-30 Mount.: 20-30	7%	6"	3"	5%
Alley	~~0 to 30~~ n/a	1	12	n/a	n/a	19	n/a	7%	6"	3"	n/a
Driveway	n/a	1	14	n/a	n/a	20	n/a	6%	n/a	n/a	n/a

Table 7-13: Rural Road Classification and Design Standards (SDA-3).

	Avg. daily trraffic	# of driving lanes	Lane width (ft)	Non- vehicular side paths	Bike lanes	Minimum ROW (ft)	Design Speeds (mph)	Max % Grade	Min. agg. base course	Min. bit. pavement	Max % Super-elev.
Major arterialor highway	5000 +	4	12	n/a	Two 5 ft on-road	150	Level: 70 Rolling: 70 Mount.: 50-60	5%	6"	6"	8%
Minor arterial	2000 to 4999	2 - 4	12	n/a	Two 5 ft on-road	70 to 100	Level: 60-75 Rolling: 50-60 Mount.: 40-50	5%	6"	5"	8%
Collector	~~100 to 1999~~ 401-1999	2	11	n/a	n/a	60 to 80	Level: 40-60 Rolling: 20-50 Mount.: 20-40	8%	6"	4"	8%
Local	~~1-99~~ 0-400	2	10	n/a	n/a	56	Level: 30-50 Rolling: 20-40 Mount.: 20-30	9%	6"	4"	8%
Cul-de-Sac	0 to 300	2	10	n/a	n/a	20	Level: 30-50 Rolling: 20-40 Mount.: 20-30	9%	6"	n/a	n/a
Driveway	n/a	1	14	n/a	n/a	20	n/a	9%	4"	n/a	n/a

7.14.2.1. Each new residential structure, excluding mobile homes and manufactured homes, shall be designed, constructed, tested and certified according to the Home Energy Rating Standards (HERS) index, as most recently adopted by the Residential Energy Services Network (RESNET).

7.14.2.2. Each new residential structure, excluding mobile homes and manufactured homes, shall achieve a HERS rating of 70 or less, or have demonstrated that it achieve some equivalent energy performance.

7.22.8.3. Upon receipt of the application, the Administrator shall inspect the required improvements, both those completed and those uncompleted. If the Administrator determines from the inspection that the required improvements shown on the application have been completed as provided herein, that portion of the collateral supporting the commitment guaranty shall be released. The release shall be made in writing signed by the Administrator and the County Attorney. The amount to be released shall be the total amount of the collateral:

Table 8-1: Base Zoning Districts.

Residential:	
A/R	Agriculture/ranching
RUR	Rural
RUR-F	Rural Fringe
RUR-R	Rural Residential
RES-F	Residential Fringe
RES-E	Residential Estate
RES-C	Residential Community
TC	Traditional Community
Non-Residential:	
C	Commercial
CN	Commercial Neighborhood
I	Industrial
P/I	Public/Institutional
Mixed Use:	
MU	Mixed Use

Table 8-4: Use Matrix Labels.

P	**Permitted Use:** The letter "P" indicates that the listed use is permitted by right within the zoning district. Permitted uses are subject to all other applicable standards of the SLDC.
A	**Accessory Use:** The letter "A" indicates that the listed use is permitted only where it is accessory to a use that is permitted or conditionally approved for that district. Accessory uses must be clearly incidental and subordinate to the principal use and located on the same tract or lot as the principal use.
C	**Conditional Use:** The letter "C" indicates that the listed use is permitted within the zoning district only after review and approval of a Conditional Use Permit in accordance with Chapter 14.
DCI	**Development Of Countywide Impact:** The letters "DCI" indicate that the listed use is permitted within the zoning district only after review and approval as a Development Of Countywide Impact.
-	**Prohibited Use:** A dash "-" indicates that the use is not permitted within the district.

8.7.1. Commercial General (CG).

8.7.1.1. Purpose. The purpose of the Commercial General (CG) district is to designate areas suitable for general commercial activities such as retail and wholesale sales, offices, repair shops, limited manufacturing, warehouses and indoor and outdoor display of goods. The CG district promotes a broad range of commercial operations and services while ensuring that land uses and development are compatible with surrounding areas.

8.7.1.2. Permitted Uses. Appendix B contains a list of all permitted, accessory and conditional uses allowed within the within the CG district.

8.7.1.3. Dimensional Standards. The dimensional standards within the CG district are outlined in Table 8-13.

8.7.1.4. Review/approval procedures. All CG developments must meet the design standards of this section in addition to the applicable standards of Chapter 7. A master site plan must be approved in accordance with procedures outlined in Chapter 4.

Table 8-13: Dimensional Standards – CG (Commercial General).

Zoning District	CG
Density	n/a
Frontage (minimum, feet)	40
Lot width (minimum, feet)	n/a
Lot width (maximum, feet)	n/a
Height (maximum, feet)	48
Front setback (minimum, feet)	5
Front setback (maximum, feet)	100
Side setback (minimum, feet)	0
Rear setback (minimum, feet)	30
Lot coverage (maximum, percent)	80
Maximum building size (individual)	25,000
Maximum building size (aggregate)	75,000

8.7.2

Table 8-~~13~~14: Dimensional Standards – ~~CG~~ CN (Commercial ~~General~~ Neighborhood).

CN Zoning District	CN
Density	n/a
Frontage (minimum, feet)	30
Lot width (minimum, feet)	n/a
Lot width (maximum, feet)	n/a
Height (maximum, feet)	24
Lot coverage (maximum, percent)	80
Maximum building size ~~(individual buildings, sq. ft~~ aggregate)	50,000*
Maximum size of individual establishments (sq. ft.)	10,000**

*Building size may be increased up to 100,000 square feet with the issuance of a conditional use permit.

**Establishment size may be increased up to 20,000 square feet with the issuance of a conditional use permit.

Renumber Commercial neighborhood to 8.7.2 and Industrial to 8.7.3 and all subsequent tables in chapter 8

8.10.2.2. Application. Every application for creation of a PD zoning shall be accompanied by a master site plan, a rezoning request if applicable and any concurrent preliminary subdivision plat, where applicable.

10.4. ACCESSORY DWELLING UNITS.

10.4.1. Purpose and Findings. Accessory dwellings are an important means by which persons can provide separate and affordable housing for elderly, single-parent, and multi-generational family situations. The intent of this section is to house an immediate family member. This section permits the development of a small dwelling unit separate and accessory to a principal residence. Design standards are established to ensure that accessory dwelling units are located, designed and constructed in such a manner that, to the maximum extent feasible, the appearance of the property is consistent with the zoning district in which the structure is located.

10.4.2. Applicability. This section applies to any accessory dwelling unit located in a building whether or not attached to the principal dwelling. Accessory dwelling units must be clearly incidental and subordinate to the use of the principal dwelling. Accessory dwelling units are permissible only: (a) where permitted by the Use Matrix; and (b) where constructed and maintained in compliance with the this §10.4.

10.4.2.1. Occupancy.

1. Only immediate family members may occupy the principal dwelling unit and the accessory dwelling unit.

2. The property owner shall execute an affidavit that the accessory dwelling unit is accessory to the principal dwelling unit and that the owner will at all times comply with the provisions of this § 10.4. This affidavit shall be recorded with the County Clerk.

10.4.2.2. Number Permitted. Only one accessory dwelling unit shall be permitted per legal lot of record.

10.4.2.3. Size. The heated area of the accessory dwelling unit shall not exceed the lesser of: (a) fifty percent (50%) of the building footprint of the principal residence; or (b) 1,200 square feet.

10.4.2.4. Building and Site Design.

1. In order to maintain the architectural design, style, appearance, and character of the main building as a single-family residence, the accessory dwelling unit shall be of the same architectural style and of the same exterior materials as the principal dwelling.

2. An accessory dwelling shall not exceed one story in height and may not exceed the height of the principal dwelling unit.

3. An accessory dwelling shall be accessed through the same driveway as the principal residence. There shall be no separate curb cut or driveway for the accessory dwelling.

~~**4.** A manufactured home shall not be considered to be an accessory dwelling.~~

10.4.2.5. Utilities. Water and electricity for the accessory dwelling unit shall be shared with the principal residence. Liquid waste disposal shall be in common with the principal residence; however, if the principal residence is on a septic system, then any modifications to the system to accommodate the accessory dwelling unit shall be approved by NMED.

11.3.2. Mining and Resource Extraction. Reserved (*but see* Section ~~1.~~1.7. and Chapter 10, *generally* and County Ordinance 1996-10, Article III, Section 5 "Mineral Exploration and Extraction").

Appendix A

Recreational Vehicle: a vehicle with a camping body that has its own mode of power, is affixed to or is drawn by another vehicle, and includes motor homes, travel trailers and truck campers and is designed for recreational, camping, travel or seasonal use, not as a permanent residential use.

EXHIBIT 7

e	Function	Structure	Activity	Agriculture/Ranching	Rural	Rural Fringe	Rural Residential	Residential Fringe	Residential Estate	Resicential Community	Traditional Community	Commercial Neighborhood	Mixed Use	Commercial	Industrial	Public Institutional	Planned Development	Special Conditions
		1110		P	P	P	P	P	P	P	P	P	P	X	X	A	P	
		1120		P	P	P	P	P	P	P	P	P	P	X	X	A	P	
		1121		P	P	P	C	C	C	C	C	P	P	X	X	A	P	
		1130		A	A	A	A	A	A	A	A	P	A	A	A	A	P	Chapter 10
				P	P	P	P	P	P	P	P	P	P	P	X	A	P	
	1202-99			C	C	C	C	C	C	C	C	P	P	C	X	A	P	
	1210			P	P	P	P	P	P	P	P	P	P	X	X	P	P	
	1230			P	P	P	C	C	C	C	C	P	P	P	X	P	P	
	1240			P	P	P	C	C	C	C	C	P	P	P	X	P	P	
	1250			P	P	P	C	C	C	C	C	P	P	P	X	P	P	
				P	P	P	C	C	C	C	C	P	P	P	X	P	P	
		1310		A	A	A	X	X	X	X	X	X	A	A	A	P	P	
		1320		A	A	A	X	X	X	X	X	C	A	A	X	P	P	
		1340		A	A	A	X	X	X	X	X	C	C	A	X	P	P	Chapter 10
		1350		P	P	P	A	A	A	A	A	C	A	P	P	P	P	
	1310			P	P	P	C	C	C	C	P	P	C	C	X	X	P	Chapter 10
	1320			C	C	C	C	C	C	C	C	P	P	P	X	C	P	
				C	C	C	X	X	X	X	C	C	P	P	X	X	P	
	1330			C	C	C	X	X	X	X	X	X	P	P	X	X	P	
		2200		P	P	P	C	C	C	C	C	P	P	P	X	P	P	
		2210		X	X	X	X	X	X	X	X	C	X	C	C	X	P	
erages		2220		X	X	X	X	X	X	X	C	P	C	P	X	X	P	
permitted		2220		X	X	X	X	X	X	X	C	P	P	P	C	X	P	
		2230		X	X	X	X	X	X	X	C	P	P	P	C	X	P	
		2240		X	X	X	X	X	X	X	X	X	C	P	X	X	P	
	2124	2250		X	X	X	X	X	X	X	X	X	C	P	C	X	P	
		2260		A	A	A	X	X	X	X	C	P	P	P	C	X	P	
		2270		C	C	C	X	X	X	X	C	C	C	P	P	X	P	
		2280		C	C	C	X	X	X	X	C	P	P	P	P	X	P	
	2111			C	C	C	X	X	X	X	X	X	C	P	P	X	P	
	2112			C	C	C	X	X	X	X	X	X	X	P	P	X	P	
	2113			C	C	C	X	X	X	X	X	X	C	P	P	X	P	
	2114			C	C	C	X	X	X	X	X	X	X	P	P	X	P	
	2115			C	C	C	X	X	X	X	C	P	P	P	P	X	P	

Use	Function	Structure	Activity	Agriculture/Ranching	Rural	Rural Fringe	Rural Residential	Residential Fringe	Residential Estate	Resicential Community	Traditional Community	Commercial Neighborhood	Mixed Use	Commercial	Industrial	Public Institutional
Crop production outdoor	9100			P	P	P	P	P	P	P	P	P	P	P	P	P
Crop production greenhouse		8500		P	P	P	C	C	C	C	C	C	C	C	C	C
Display or sale of agricultural products raised on the same premises				P	P	P	A	A	A	A	A	P	P	P	P	P
Forestry and logging operations [6]	9300			P	P	P	P	P	P	P	P	X	P	P	P	P
Game preserves and retreats [4]	9400			P	P	P	C	C	C	C	C	X	C	C	C	P
Support business and operations for agriculture and forestry				P	P	P	A	A	A	A	C	P	P	P	P	P
Parks, open space areas, conservation areas, and preservation areas				P	P	P	P	P	P	P	P	P	P	P	P	P
Public or community outdoor recreation facilities				P	P	P	P	P	P	P	P	P	P	P	P	P
Concentrated animal feeding operation		8310		DCI	DCI	DCI	X	X	X	X	X	X	X	X	X	X
Cattle ranching, and the grazing or cattle or other livestock [7]		8230		P	P	P	P	P	P	P	P	P	P	P	P	P
Dairy farms		8210		P	P	C	X	X	X	X	X	X	X	X	X	X
Other farm and farming-related structures		8900		P	P	P	A	A	A	A	P	A	A	A	A	A
Poultry farms and poultry production facilities		8220		P	P	C	X	X	X	X	X	X	X	X	X	X
Sheds, farm buildings, or other agricultural facilities		8000		P	P	P	A	A	A	A	A	A	A	A	A	A
Animal waste lagoons		8420		DCI	DCI	DCI	X	X	X	X	X	X	X	X	X	X
Mining and extraction establishments																
Oil and natural gas exploration or extraction [1]	8100			DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI
Metallic minerals mining [1]	8200			DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI
Coal mining [1]	8300			DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI
Nonmetallic minerals mining [1]	8400			DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI	DCI
Quarrying and stone cutting [1]	8500			C	C	C	X	X	X	X	X	X	X	X	C	X
Sand and gravel Mining under 20 acres				C	C	C	C	C	X	X	X	X	C	C	C	X
Sand and gravel mining over 20 acres or with Blasting [1]				DCI	DCI	DCI	DCI	DCI	X	X	X	X	X	DCI	DCI	X
*** Subject to inclusion in approved list of uses that is part of the master plan for the Planned Development District.**																

OTHER NOTES:

[5] The growing of crops and ornamental plants per se should be allowed anywhere, either for profit or for personal use. Regulating crop and ornamental plant growing would be more trouble than it is worth - doing so impossible to enforce, and besides, very few people object if the person next door is growing crops or ornamental plants in the outdoors.

[6] It is also recommended that the County not regulate bona fide forestry and logging operations, or vegetation removal in conjunction with bona fide agricultural activities, because of the difficulties involved in permi related to same. The County should, however, regulate tree and vegetation removal that occurs in conjunction with development, and prohibit pre-development clearing that is simply an attempt to skirt vegetation and t regulations