

MINUTES OF THE
SANTA FE COUNTY
PLANNING COMMISSION

Santa Fe, New Mexico

June 18, 2026

1. **A.** This meeting of the Santa Fe County Planning Commission called to order by Chair Erik Aaboe on the above-cited date at approximately 4:00 p.m.

B. & C. Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Erik Aaboe, Chair
Carl Trujillo, Vice Chair
Steve Brugger
Jose La Cruz-Crawford
John Neunuebel
Dan Pava

Member(s) Absent:

Jessica Griffin

Staff Present:

Roger Prucino, Assistant County Attorney
Michael Vos, Land Use Administrator
Dominic Sisneros, Building & Development Supervisor
Destiny Romero, Building & Development Planner

D. Approval of Agenda

Upon motion by Member Trujillo and second by Member Brugger, the agenda was unanimously [5-0] approved as amended. [Member La Cruz-Crawford was not present for this action.]

2. **Approval of Minutes:**

A. Request Approval of the May 21, 2026 Minutes

Member Brugger moved to approve the minutes as presented. Member Trujillo seconded and the motion passed by unanimous [5-0] voice vote. [Member La Cruz-Crawford was not present for this action.]

3. **Miscellaneous Action Items:**

A. Case No. 25-5180 Globemallow Energy LLC Project 1 (FINAL ORDER)

SFC CLERK RECORDED 07/22/2026

Conditional Use Permit (CUP) Linea Energy LLC (“Applicant”) requests approval of two Conditional Use Permit (“CUP”) applications. Project 1 (Case No. 25-5180) and Project 2 (Case No. 25-5190) have been consolidated for hearing purposes only and are collectively referred to herein as the “Project” for ease of reference. The Applicant seeks approval to allow a Commercial Solar Energy Production Facility with an associated Battery Energy Storage System (“BESS”) and a generation tie-in (“gen-tie”) line approximately 900–1,000 feet in length. Project 1 consists of approximately 1,936 acres across 20 parcels and is zoned Rural (RUR) and Agricultural Ranching (A/R). Project 2 consists of approximately 960 acres across 2 parcels and is zoned Agricultural Ranching (A/R). The project site address is 4234 NM 41, Stanley, New Mexico (Commission District 3, SDA-3). Case Manager, Dominic J. Sisneros (APPROVED 4-2 ROLL CALL VOTE)

Member Brugger moved to approve the final order on Case #25-5180. Member Pava seconded and the motion passed by unanimous [5-0] voice vote. [Member La Cruz-Crawford was not present for this action and arrived immediately thereafter.]

- B. Case No. 25-5190 Globemallow Energy LLC Project 2 (FINAL ORDER)**
Conditional Use Permit (CUP) Linea Energy LLC (“Applicant”) requests approval of two Conditional Use Permit (“CUP”) applications. Project 1 (Case No. 25-5180) and Project 2 (Case No. 25-5190) have been consolidated for hearing purposes only and are collectively referred to herein as the “Project” for ease of reference. The Applicant seeks approval to allow a Commercial Solar Energy Production Facility with an associated Battery Energy Storage System (“BESS”) and a generation tie-in (“gen-tie”) line approximately 900–1,000 feet in length. Project 1 consists of approximately 1,936 acres across 20 parcels and is zoned Rural (RUR) and Agricultural Ranching (A/R). Project 2 consists of approximately 960 acres across 2 parcels and is zoned Agricultural Ranching (A/R). The project site address is 4234 NM 41, Stanley, New Mexico (Commission District 3, SDA-3). Case Manager, Dominic J. Sisneros (APPROVED 4-2 ROLL CALL VOTE)

Member Pava moved to approve the final order on Case #25-5190. Member Brugger seconded and the motion passed by unanimous [6-0] voice vote.

- C. Case #24-5270 Robert Sherwin (FINAL ORDER) Variance Robert Sherwin, Applicant, requests approval of a variance of Chapter 8, Table 8-9 Dimensional Standards to allow a second two story residence on a 2.5-acre parcel. Currently, the Applicant has an existing residence that is 4,000 square feet and a second residence with a loft which is 922 square feet. The subject property lies within the Residential Estate Zoning District (RES-E) where the base density is 1 dwelling per 2.5-acres. The property is located at 28 Estrellas De Tano within Township 17 North, Range 9 East, Section 4, (Commission District 1), SDA-2. John Lovato, Case Manager (APPROVED 4-1 ROLL CALL VOTE)**

Member Trujillo moved to approve the final order. Member Neunuebel seconded and the motion passed by unanimous [6-0] voice vote.

4. New Business

- A. Case No. 26-5060 Carlos Portillo and Marcos Portillo Variance Requests.**

Carlos Portillo and Marcos Portillo, Applicants, request a variance of Chapter 8, Section 8.6.6, Table 8-10: Dimensional Standards Residential Estate of the Sustainable Land Development Code (Ordinance 2016-9; hereafter SLDC). The request is to allow a family transfer lot split of a parcel consisting of approximately 2.5 acres resulting in two lots of 1.25 acres each. The base zoning allows one dwelling unit per 2.5 acres. (Growth Management Department/Destiny Romero, Case Manager)

[Duly sworn, Destiny Romero, presented staff report as follows:]

DESTINY ROMERO: Destiny Romero, 2240 Grant Avenue, Santa Fe, New Mexico.

Thank you, Mr. Chair and Commission members. Destiny Romero, Building and Development Review Specialist Senior. Before I begin my presentation, I want to address Exhibits F and G. Exhibit F should be approved well permit and Exhibit G review agency comments. When staff uploaded those, it looks like they got swapped with the exhibit letters.

Carlos Portillo and Marcos Portillo applicants request a variance of Chapter 8, Section 8.6.6, Table 8-10 Dimensional Standards, Residential Estate of the Sustainable Land Development Code. The request is to allow a family transfer lot split of a parcel consisting of approximately 2.5 acres, resulting in two lots of 1.25 acres each. The base zoning allows one dwelling unit per 2.5 acres. The property is located at 7 Calle de Portillos. The property will be served by a well, and if approved, both lots will share the approved well by the Office of the State Engineer.

The applicants have addressed the variance criteria and staff has responded to the applicant's comments as contained in the memo.

On May 14, 2026, this request was presented to the Sustainable Land Development Hearing Officer. The Hearing Officer memorialized findings of fact and conclusions of law in a recommended order on this request. The Hearing Officer, based on the evidence presented, recommended denial of the applicant's variance.

Building and Development services staff has reviewed this request for compliance with pertinent SLDC requirements and find that the facts presented do not support the request for a variance. As stated above, staff does not believe applicants have justified that any of the variance criteria of SLDC 4.9.7.4 have been satisfied.

Staff recommends denial of the requested density variance. If the Planning Commission finds that the application has met the variance criteria and recommends approval of the variance, staff recommends that the following conditions at a minimum be imposed. Mr. Chair, may I enter the conditions into the record?

CHAIR AABOE: Yes, you may. They are entered into the record. Thank you.

MS. ROMERO: Thank you. To be clear, staff's identification of these conditions is not intended as an indication that staff approves or would approve the granting of the requested variance. Staff's position is that this application does not comply with the SLDC and does not satisfy the variance criteria of Section 4.9.7.4, and that no conditions, regardless of how carefully crafted, can change that non-compliance.

These conditions are presented simply to inform the Planning Commission of recommended conditions if the evidence presented convinces you that approval of the variance is in fact warranted. Thank you, Mr. Chair, Commission members. I stand for any questions.

CHAIR AABOE: Thank you very much, Ms. Romero. Are there any questions from Commissioners? Commissioner Brugger.

MEMBER BRUGGER: Thank you, Mr. Chair. Ms. Romero, so the subject lot was also the subject of a small lot family transfer land division for Arthur and Nancy Portillo that was done in 2000 where the larger lot, 7.5-acre lot, into two small 1.25-acre lots were created.

SFC CLERK RECORDED 07/22/2026

MS. ROMERO: Mr. Chair, Commission members, that is correct.

MEMBER BRUGGER: Okay. And understanding from the previous case was that subsequently to this small lot family transfer when the Sustainable Land Development Code was enacted in 2015, then the small lot family transfer program that would've otherwise allowed this to be approved by that, that went away.

MS. ROMERO: Mr. Chair, Commission members, that is also correct.

MEMBER BRUGGER: And, if my memory serves, then for that 7.5 acre lot that was subject to this small lot family transfer land division, there was a subsequent division in, I believe it was, you could give me a date, but after this where the 7.5-acre lot was divided into three lots of 2.5 acres.

And one of those was the subject of our deliberations in February of 2025 where we had a small lot family transfer request, and this is the second one.

MS. ROMERO: Mr. Chair, Commission members, yes, that is correct.

MEMBER BRUGGER: Okay. The other thing, just a comment. It's a great website that we can track former previous agenda items, but it'd be nice when this request is next to a case which happened in the last few years, for there to be a link of some way or notification that there was a previous deliberation on a nearby case. So just a comment. Thank you, Ms. Romero.

CHAIR AABOE: Thank you, Commissioner Brugger. Do any other Commissioners have questions of Ms. Romero? Thanks very much, Destiny. Appreciate it.

Who will be representing the applicant? Please be sworn.

[Duly sworn, Marcos Portillo and Carlos Portillo, testified as follows:]

MARCOS PORTILLO: My name is Marcos Portillo. I reside at 86 North Fork.

CARLOS PORTILLO: And my name is Carlos Portillo, and I also reside at 86 North Fork.

MARCOS PORTILLO: Good evening. My name is Marcos Portillo, and I'm here today with my brother, Carlos Portillo, to respectfully ask for approval of request to subdivide our 2.5-acre property into two separate 1.25-acre lots.

This property was gifted to us by our grandparents, Arthur and Nancy Portillo, with the intention that this land remain in our family to provide future generations with the opportunity to build homes of their own. Our grandparents have owned this land in the area since 1980, and keeping our family close has always been important to them. Our request is simply to continue this tradition. Right now, because of the property is one parcel, we aren't able to get individual loans to build our own homes. The current zoning would only allow one main house and one guest house, which doesn't work for us as two separate households planning our future. Granting this variance would allow each of us to build our own homes, manage our own households, and remain close to our families.

I plan to get married next year, so having the opportunity to establish my own home is important for this stage in my life. I want to emphasize that we have no intentions of selling these two lots. Our goal is simply to build our homes for ourselves to continue caring for this land that has been in our family for generations.

We also believe this request is not contrary to public interest. Similar family subdivisions already exist, including our cousins' neighboring property, which was approved under similar circumstances.

We respectfully ask that you consider the hardship created by the current zoning restrictions and allow us the opportunity to use this property as it was intended by our grandparents.

Thank you for your time, your consideration, and the opportunity to speak today. We are happy to answer any questions you may have.

CHAIR AABOE: Thank you, Mr. Portillo. Are you also, sir, are you also going to be presenting? Commissioners, does anyone have a question for the applicant? Commissioner Vice Chair Trujillo.

SFC CLERK RECORDED 07/22/2026

MEMBER TRUJILLO: Thank you Mr. Chair. Mr. Portillo you mentioned your cousins were under a similar situation. Is that a property that's close to these ones?

M. PORTILLO: It's the neighboring property right next to ours.

MEMBER TRUJILLO: So it's the adjoining property to the west or the east?

M. PORTILLO: To the west, yes.

MEMBER TRUJILLO: Okay. And do you know what year that took place?

MR. PORTILLO: I believe that was last year. I don't know the exact month or date.

MEMBER TRUJILLO: Okay. And Mr. Chair, Mr. Portillo when did your grandparents intend – when did they gift it to you? Is it something that was gifted some time ago?

M. PORTILLO: It was gifted to us after my grandfather passed away. It was written in all his will and stuff, so he divided the 7.5 acres to all of his grandkids, me and my brother included, and then my other two cousins James and Miguel Portillo, and then my other two cousins which is not in their name, but their father's name 'cause they're not 18 yet. They have the other property on the 7.5 acres.

MEMBER TRUJILLO: So Mr. Chair, Mr. Portillo, if you don't mind me asking when/what year did your grandfather pass on?

M. PORTILLO: It was last year December of '24.

MEMBER TRUJILLO: Okay. Okay. Thank you, Mr. Chair.

CHAIR AABOE: Thank you, Vice Chair. Any other questions of the applicant from Commissioners? Commissioner Brugger.

MEMBER BRUGGER: Thank you, Mr. Chair. But just a little bit of history Mr. Portillo, so the 15 acres that your grandfather purchased in 1980 or 1981 have other tracts been transferred to other family members?

M. PORTILLO: Yes. My dad has 1.25, and so does my uncle have an 1.25 acre. And that's the only the transfers that is known of right now. And then, like I said earlier, both of my cousins, James and Miguel.

MEMBER BRUGGER: Has at any time your grandfather before or the estate since sought to sell any of the land, any of this 15 acres to anyone outside of the family?

M. PORTILLO: No, he hasn't – it wasn't in his wishes or intentions during his life.

MEMBER BRUGGER: Okay. Thank you.

CHAIR AABOE: Any other questions from Commissioners for the applicant? Commissioner Pava.

MEMBER PAVA: Thank you, Mr. Chair. For los hermanos Portillos, I have a question. In your dream scenario, if this was to happen, what kind of a house could you put on the lot? You're familiar with the property and all.

M. PORTILLO: Yes. It, it would be a modular home.

MEMBER PAVA: Thanks very much.

CHAIR AABOE: Vice Chair.

MEMBER TRUJILLO: Mr. Chair, Mr. Portillo, so currently is there a well on the property?

M. PORTILLO: Not currently, but we have a well agreement between all of the family members. Each 2.5 acres will share one well. I'm sorry, each 2.5 acres will share one well. So there'll be three wells for each 1.5 acre, yeah.

MEMBER TRUJILLO: So currently there's three wells between the 7.5 acres. Am I hearing correct?

M. PORTILLO: Not currently. There is one on the on my cousins' right now, but there's not on any other 7.5 acres but there will be.

MEMBER TRUJILLO: Okay. And this Mr. Chairman and Mr. Portillo, this is in the El Rancho area?

M. PORTILLO: It's the San Marcos area.

MEMBER TRUJILLO: San Marcos?

M. PORTILLO: Yeah. Off of Highway 14.

MEMBER TRUJILLO: Oh, okay. Okay. And so Mr. Chair, Mr. Portillo, you said your cousins had successfully split one of these 2.5 acres to an 1.25, and is that the one that's listed James Portillo and -- what were their names?

M. PORTILLO: James and Miguel.

MEMBER TRUJILLO: Okay. Okay. Thank you, Mr. Chair.

CHAIR AABOE: Thank you. Mr. Portillo, I have a question. You said that you hope to get married. Congratulations. Thank you. And I don't know if you're planning to have kids, but if you are fortunate enough to have children, would you hope to have them live adjacent to you as well?

M. PORTILLO: I wouldn't know about their situation but for now I would like to, if I did have kids, raise them there and raise them how my grandpa raised us and my parents raised us, keeping everything in the family. And hopefully I can give that home, their childhood home to them.

CHAIR AABOE: Right, you kind of see where I'm going, where your grandparents split the lot in, split their 20 acres. They carved out three, 2.5-acre lots, and your cousins successfully requested a variance to split those lots. And if we were to authorize the splitting of your joint lot I'm just wondering what the next generation -- you know, the argument remains the same, that you're interested in having the family live adjacent to each other. And it's just a thought experiment. So any other questions from any Commissioners? Commissioner.

MEMBER LA CRUZ-CRAWFORD: So one thing I'm kind of noticing more obviously is in the provisions or at least in the recommendations and conditions, right? It did mention that if we do, if this board does approve this variance that no accessory dwelling units would be allowed, right? And this is where I'm kinda, where I'm looking at this is okay, like as far as density scenario and so on and so forth, right? We've got a law where it right now it allows one single family dwelling unit and one accessory dwelling unit. That accessory dwelling unit can be half the square footage of the primary. In this scenario, you'd be dealing with two primary residences that can be sized an accessory dwelling unit attached to it. And you guys are aware with that, and you guys --

CHAIR AABOE: Yeah, please speak into the mic.

MEMBER LA CRUZ-CRAWFORD: Oh, apologize about that. Okay. So yeah so I guess my question to you guys is are you guys are aware of that, and you guys are good with the fact that you would not be having an accessory dwelling unit, as Commissioner here mentioned, if you're trying to grow a family, et cetera, et cetera, and stuff like that you would be limited to one single house at this lot?

M. PORTILLO: Yeah, we'll be, we're fine.

MEMBER LA CRUZ-CRAWFORD: And then I know Commissioner Trujillo had mentioned as far as the wells concerned, can you explain to me that a little bit more? 'Cause I'm a little confused 'cause I'm seeing here the family transfer land division plat, which does have three lots but there's no indication on this plat as far as where those, where any current or existing wells are located. Can either staff or the applicant explain where current existing wells are, where proposed wells are going to be, et cetera?

M. PORTILLO: So there's not any existing wells on mine and my brother's 2.5 acres as of right now. But I know for my cousins, James and Miguel, they have dug a well and hit water, so they have their own well, and they're sharing it between their 1.25 acre lots. And then on the other 2.5 acre lots, there's nothing. It's just bare land. Same with mine and my brother's as of right now.

MEMBER LA CRUZ-CRAWFORD: Okay, thank you.

MR. SISNEROS: Chair Aaboe, Planning Commissioner La Cruz-Crawford, I think staff can clarify on the well situation as well.

MS. ROMERO: Mr. Chair, Commission members. So our applicants, they went to the State Engineer's Office and got an approved well permit. They have not drilled the well yet, depending on the outcome of their variance situation.

Also I do want to clarify condition number four, where no further subdivision of the property beyond the proposed two lots will be allowed. So if the variance does get approved after today, there will be no more further subdivision allowed on those two lots.

CHAIR AABOE: Thank you very much, Ms. Romero.

MS. ROMERO: Thank you.

CHAIR AABOE: Any further questions, Commissioners? Thanks very much. And so this is a public hearing. Is there anyone in the audience or online who is interested in speaking for or against this request? Thank you. Thank you. Please be sworn.

[Duly sworn, Arthur Gene Portillo and Michelle Portillo, testified as follows:]

ARTHUR GENE PORTILLO: Arthur Gene Portillo, 86 North Fork/

MICHELLE PORTILLO: Michelle Portillo, Michelle Portillo, 86 North Fork.

ARTHUR PORTILLO: Commissioners, thank you for your time this afternoon.

Basically, I just wanted to give you a little bit more about my sons. They really have been trying to get this taken care of and they are -- they're really anxious to get this kinda passed them. We know it's not granted. I worked for the County. I used to deal with these situations all the time and I know that it's not it's not in the, you know-- it's not a given. So we're just asking that you please take this into consideration as they're all living with us right now, and it's a big household. So if they get their own houses, we'll be kinda set free a little bit and given our own space now. But we just hope that they have given you enough information that will help you make your decision and allow them to proceed with what they need to do.

MICHELLE PORTILLO: Commissioners, again, thank you for allowing us to speak to you today. I would just like to reiterate how important it is for our family to have our children to be able to live next to us. As we know, we're not getting any older [sic], and I'm currently working part-time for a home healthcare, and I see how important it is for families to have their families next to them. And as Arthur and I are getting older, and my mother-in-law who lives just within walking distance from our house, it would be a nice thing to be able to have our sons next to us. For future when we get older, I hope they don't send us to nursing homes or anything like that, and they would be able, in walking distance to be able to take care of us and not have that burden on driving long distances in order to take care of us as we get older.

So again, thank you for allowing us to speak today, and it would be an honor to have our sons next to us.

CHAIR AABOE: Thank you very much. I have a question. So you live adjacent to them somewhere and do you live elsewhere on the property, the of the parcel that your parents or their grandparents subdivided the land into three. You live somewhere else on the remaining 15 acres?

A. PORTILLO: Yes. That's correct. It's like you had said in the beginning, it's a 15-acre area. My mom lives on 5 acres of it. There was 7.5 acres that were divided for the boys. That's been done. And then the other 2.5 acres is the 2.5 that me and my brother live on that was separated back in 1990, I believe it was '95 or '94.

CHAIR AABOE: Before this code happened.

A. PORTILLO: Yeah, it was a family transfer. Yeah. It was considered a family, a small-lot family transfer is what it was called. And once those lots were created, then we were able to have our own lot, and we still live there.

CHAIR AABOE: Okay. Thank you. Any questions? Commissioner Brugger.

MEMBER BRUGGER: Thank you, Mr. Chair. Mr. Portillo, thank you for this presentation and also your presentation before the hearing examiner, because looking at the transcript of that, it was clear what your grandfather's intent was when according to you when he did purchase

the property back in 1981, that it wasn't, if I understood it correctly, it wasn't for speculation or sales, but it was for family members. Did I understand that correctly?

A. PORTILLO: That's correct.

MEMBER BRUGGER: And then, so intent matters in something like this. And then after he did purchase this in 1981, then this small lot family transfer land division was done in 2000, which covered 10 of the 15 acres, which further demonstrated, in my mind, the intent to keep this for family members. We heard one case last year and now another case this year.

Just as a note that covers 10 of the 15 acres. Five acres were not included in the small lot family transfer land division done in 2000. The intent of that is still unclear.

A. PORTILLO: That is currently where my mother is living.

MEMBER BRUGGER: That clarifies the intent. Thank you very much.

A. PORTILLO: You're welcome.

CHAIR AABOE: Vice Chair Trujillo.

MEMBER TRUJILLO: Thank you, Mr. Chair. I just want to apologize for the, to the Portillos. I said their name incorrectly earlier –

A. PORTILLO: Oh, that's okay.

MEMBER TRUJILLO: So I just want to apologize for that.

A. PORTILLO: That's fine. You're not the first one to do that.

MEMBER TRUJILLO: Okay. Thank you.

CHAIR AABOE: Any other questions from commissioners? Thank you very much. Is there anyone else either online or in the audience who wishes to speak for or against this application?

MR. SISNEROS: Chair Aaboe, Planning Commission members, there's nobody online indicating that they wish to speak on this matter.

CHAIR AABOE: Thank you very much. Commissioner Brugger, I believe you had additional questions for staff. Please.

MEMBER BRUGGER: Thank you, Mr. Chair. Thank you, Ms. Romero. It's not for this case specifically it's just for the future. There is going to be updates of the Sustainable Growth Management Plan, and then updates of the Sustainable Land Development Code. There in the current Sustainable Growth Management Plan there and I looked again. In the code, there's not one mention of family transfers. I don't think there's a mention in the SGMP either. There should be. This issue will be recurring, so I would encourage staff to include this issue in the updates of both the SGMP and the SLDC. Thank you.

MR. SISNEROS: Chair Aaboe, Panning Commissioner Brugger. family transfers are identified in the Sustainable Land Development Code. It's the small lot family transfer that went away and was, did not carry over. But small the original family transfers are still an exempt plat exemption, and so they still are identified and defined in the SLDC.

MEMBER BRUGGER: So I'd like to amend my statement to include small lot family transfers. Thank you.

CHAIR AABOE: Thanks. And so there is no one else interested in speaking either for or against this matter, so we'll close the public hearing portion of this. What's the will of the Commission? Vice Chair Trujillo.

MEMBER TRUJILLO: Mr. Chair, I'd like to make a motion to do pass of this variance, case number 26-5060. I will state that I do have – well, I'll just leave it at that. I make a motion for a do pass.

CHAIR AABOE: Is there a second?

MEMBER BRUGGER: I'll second.

The motion passed by majority [4-2] roll call vote. Chair Aaboe and Member Neunuebel voting against the motion.

- B. Case No. 26-5010 & Case No. 26-5020 The Grayson Schaffer Revocable Trust - Conditional Use Permit (CUP and Variance Requests. Grayson Schaffer, Applicant and property owner requests approval of a Conditional Use Permit to allow an Accessory Dwelling Unit. On a separate request the Applicant also seeks approval of a variance of Chapter 4, Section 10.4, Subsection 10.4.2.3.2 to allow the proposed Accessory Dwelling Unit to utilize a second story as a loft area. For hearing purposes, these cases are consolidated but are to be considered separately. The subject property is 7.360-acres, zoned Rural Residential (RUR-R), within the Tesuque Community District Overlay (TCD). The site is located at 26 A Camino Miguel (Commission District 1), SDA-2. Parcel ID No. 49000714. (Growth Management Department/Jerome Roybal, Case Manager)**

[Duly sworn, Jerome Roybal, testified as follows:]

JEROME ROYBAL: Mr. Chair, Planning Commission, my name is Jerome Roybal, development review specialist senior, and my address is 240 Grant Avenue.

Mr. Chair, Planning Commission Grayson Schaefer, the applicant and property owner request an approval of a conditional use permit to allow an accessory dwelling unit. On a separate matter, the applicant also seeks an approval of a variance of Chapter 4, Section 10.4, Subsection 10.4.2.3.2 to allow an accessory dwelling unit to utilize as a second story as a loft area. For hearing purposes, this case are consolidated but are to be considered separately.

The subject property is 7.360 acres, zoned rural residential within the Tesuque Community District Overlay District. The site is located at 26A Camino Miguel, Commissioner District 1, SDA 2, Parcel Number 49000714.

The 7.36-acre parcel was created by the approved plat dated June 23, 2008. The property consists of a primary residence. It's 3,154 square feet. It has an accessory structure, a well house, a developed driveway, the utilities, and a storage shed that have all been permitted. The applicant is requesting the conditional use permit for an accessory dwelling unit, an ADU, that will be 1,240 gross square feet.

The ADU will be used for immediate family members. The owner has also indicated that the ADU will not be used as a short-term rental. Separately, the applicant wishes to request the variance as to allow the second floor/story, as the proposed ADU will incorporate a loft area in the bunk room that will be used for separate sleeping quarters. The loft area will not be closed off in the bunk room, but rather accessed by ladder or an open floor below, being separate by the floor, either a low wall or railing

The subject property is zoned rural residential with the overlay district of Tesuque, Chapter 9.5. The zoning allows the accessory dwelling unit as a conditional use permit. Through the zoning district, Chapter 10, Section 10.4, subsection 10.4.2.3.2, stated that an accessory dwelling unit shall not exceed one story in height. Per the Sustainable Land Development Code Appendix A, the rules of interpretation, definition, or acronyms a story is defined as part of a building between the surface of floor and the ceiling immediately above, and that was Exhibit H.

The applicant and staff reviewed for all following applicant design standards as the Chapter 7, Sustainable Land Development or Sustainable Design Standards in the Sustainable Land Development Code in the CUP. They have its access and easements, Section 7.4, fire protection, Section 7.5, landscaping and buffering, Section 7.6, fences and walls, Section 7.7, lighting, Section 7.8, signs, Section 7.9, parking and loading, Section 7.10, road design standards, Section 7.11, utilities, Section 7.12, water supply, wastewater, and water conversation conservation, sorry, Section 7.1 13, energy efficiency, Section 7.14, open space, Section 7.15, pro- protection of historic and archeological

resources, Section 7.16, terrain management Section 7.17 or 17, sorry, flood prevention and control, Section 7.18, air quality, noise, Section 7.2- 21, financial guarantee, Section 7.22, infrastructure and right of way dedication is Section 7.26

The Building and Development staff has reviewed the requested conditional use permit to allow the accessory dwelling unit and the associated variance request for loft area used as a sleeping quarter, creating a second-floor story. Based on the material submitted, the agency review comments, staff finds that the proposed accessory dwelling unit is consistent with the applicable provisions of the Sustainable Land Development Code. Staff further finds that the use is compatible with the extending development with the affected zoning districts, and will not impact adjacent land uses, and satisfies the applicable submittal requirements and conditional use criteria set forth in Chapter 4, Section 4.9.6.5 of the Sustainable Land Development Code.

Staff also finds that the variance request meets the applicable variance criteria of the SLDC, and request relief is limited to scope and does not confer a special privilege as it remains consistent with the spirit of the Sustainable Land Development Code and the Sustainable Growth Management Plan.

On May 14, 2026, this request was presented to the Sustainable Land Development Hearing Officer. The Hearing Officer memorializes in finding the facts of conclusion of law in the recommended order on this request. The Hearing Officer based it on the evidence presented, recommended approval of the requests to allow the accessory dwelling unit and variance to allow a second floor as a loft area with the conditions recommended by staff. The transcripts and the recommended order on May 14th for that hearing was attached, Exhibits K and L

The review comments for case 26-5010 for Santa Fe County Fire Prevention, the environment department, the reviews from county staff has established findings the application to allow the accessory dwelling unit is in compliance with the Sustainable Land Development Code, including all of the design standards subject to conditional lists below.

The recommendation of Hearing Officer and staff recommendations for approval of the conditional use permit to allow the accessory dwelling unit and variance for the secondary loft area subject to the following conditions. If the Planning Commission finds that this case 26-5010 meets the conditional use criteria and the case number 26-5020 meets the variance criteria and grants approval, both staff recommends the following conditions. Chair Aaboe and Commissioners, may I enter these conditions?

CHAIR AABOE: Yes, you may. The conditions for both cases are entered into the record. Thank you.

MR. ROYBAL: This report and exhibits listed below hereby submitted part of the hearing of record. Chair Aaboe, Planning Commissioners, I stand for any questions.

CHAIR AABOE: Thank you. Commissioners, does anyone have a question of Mr. Roybal? Vice Chair Trujillo.

MEMBER TRUJILLO: Thank you, Mr. Chair. Thank you for the presentation, Mr. Roybal. Just help me understand the, there's two variances that they're asking for, and the first one here is stated as a conditional use permit for an ADU that'll be 1,240 gross square feet. If it's half of that of the main home why is a conditional use permit required for this?

MR. ROYBAL: Mr. Chair, Planning Commission, that is not a variance request. It does meet the ADU standards. However, it's just part of the conditional use permit process.

MR. SISNEROS: Chair Aaboe, Commission Member Trujillo. Some overlays do require an accessory dwelling unit as a conditional use permit. The Tesuque Village Community Overlay is one of those overlays that does require a conditional use permit for an ADU.

MR. ROYBAL: Regardless of size.

MEMBER TRUJILLO: Okay. And then so the second one is just because of the height restriction, if I understand correct, but looking at the plans there is this, that bunk area that's basically,

there's a lot of attic space 'cause this, these properties have pitched roofs. There's a lot of attic space, and so just that partial attic space where the floor below it is only 7 foot 4 and the second bunk above it is that's the area that is now deemed a second story. Is that correct?

MR. SISNEROS: Chair Aaboe, Commission Member Trujillo. So it's kind of a technicality. The SLDC defines a story as a floor level with the ceiling above. And so with the addition of the loft in the bunk room and the fact that they're using it as sleeping quarters, it's technically considered a second floor. It meets all the height standards and requirements it just doesn't meet the requirement of the ADU standards to not allow a second story.

MEMBER TRUJILLO: Okay. And Mr. Chair and staff or Mr. Roybal, I noticed that on some of the conditions here towards the bottom, was that the County placed, and so I was just curious more than anything, is that it should comply with all building life safety fire code requirements. These plans are presented by a licensed architect and have to go through CID, and they're the ones that do the inspection. I would assume that this would all be taken care of during that time. Is that correct? Would it be your opinion?

MR. SISNEROS: Chair Aaboe Commissioner Member Trujillo, that is correct. And one of the reasons why that condition was put into place is because what staff reviewed, we really didn't see any type of egress for that bunk room. And so we just want to make sure that they are understanding that they still have to come into requirements with those other those other offices and departments.

MEMBER TRUJILLO: Okay. Okay. Thank you, Mr. Chair. Thank you, Mr. Roybal.

MR. SISNEROS: Thank you. Any other Commissioners have questions of staff?
Commissioner Brugger.

MEMBER BRUGGER: Welcome, Mr. Roybal. So on the variance request, I think that there are two items in the code that control this. One is the section that you properly noted on the accessory dwelling units that can only be one story. The other one is in the Tesuque Community District overlay, where there's a height limit for all other structures other than a barn, 20 feet. And I will, Commissioner La Cruz Crawford knows more about architectural plans than I do, but I do know it's can be tricky to measure the height of the structure. And in the plan, it's – rather than go into what I think, how did you measure the height of this to ensure that it complies with the 20-foot limit? And maybe this'll be a question for the applicant when it comes up too, but thought I'd toss it to you first.

MR. ROYBAL: Chair, Planning Commission, the Sustainable Land Development Code goes from the lowest point of disturbance of any land to the highest point. The architectural, the design standards of this building is all one story. It's just an internal architectural design standard of the loft that is the question of second story

MEMBER BRUGGER: So if I understand it it'd be from the top, the very top of the building --

MR. ROYBAL: Correct.

MEMBER BRUGGER: -- the structure, to the point where the ground is disturbed, which may be below the finished floor.

MR. ROYBAL: Correct.

MEMBER BRUGGER: Okay. In the site plan I see the primary access going down to the main house, and then there's a long road, long road called, secondary access that goes around kind of closer to where this proposed unit is. Does that secondary access, does that exist now or is that proposed anew?

MR. SISNEROS: Chair Aaboe, Commissioner, member Brugger. No, that access is existing.

MEMBER BRUGGER: So you're comfortable in one of the provisions of the Section 10, the accessory dwelling units, is that if an accessory dwelling unit is approved, that it would have, it

would utilize the same access as the primary unit. Because otherwise, then one would think, oh, it might be for another purpose non-associated with a family use. But you're comfortable with this satisfaction of this provision?

MR. ROYBAL: Chair, Planning Commission, I do believe the driveway access is only a one access point to the property, and then it branches off their property. So internally it's only one driveway access onto the property. And if it branches off on their property, then it meets code.

MEMBER BRUGGER: I did have one other question. So the reason, one of the reasons for this variance request is that there wasn't, in the applicant's evaluation, there wasn't sufficient room to expand the footprint of the first floor, therefore, there had to be a second floor. If the footprint were to be expanded, then we wouldn't even have to consider this request. Is it in your estimation, staff estimation was there a constraint, topographical constraint that made expansion of the footprint impractical?

MR. SISNEROS: Chair Aaboe, Commission Member Brugger. so there's limitations on the size that an accessory dwelling unit can be. It's only allowed to be 50 percent of the heated square footage of the primary residence. So the applicant decided that rather than adding additional square footage onto the proposed ADU, they wanted to utilize a loft area, not of the entire structure, but mainly only probably about less than 50 percent of a bunk room that is being proposed on the floor plan.

MEMBER BRUGGER: Thank you.

MR. SISNEROS: Chair Aaboe, Commissioner Brugger I also wanted to clarify. It sounded like you said a 20-foot height restriction?

MEMBER BRUGGER: In the Tesuque Community District overlay, there's a 20-foot height restriction for rural residential.

MR. SISNEROS: So that is the old Tesuque Overlay Ordinance. There was a newer Tesuque ordinance that was updated, and they have put that height up now to 24 feet. So now they have a 24-foot maximum height restriction.

MEMBER BRUGGER: Then I stand corrected. Thank you.

CHAIR AABOE: Thank you. Any other questions of staff from any Commissioners?

MEMBER NEUNUEBEL: Mr. Chair Mr. Roybal, just for my own, as I continue to learn about the codes and requirements the condition stating that the overall building height of the proposed accessory dwelling unit shall not exceed the height of the principal dwelling unit, isn't that a standard requirement for all accessory dwelling units?

MR. ROYBAL: Chair, Planning Commission, yes, it is a standard requirement

MEMBER NEUNUEBEL: Thank you.

CHAIR AABOE: Any other questions? Commissioner La Cruz Crawford.

MEMBER LA CRUZ-CRAWFORD: Thank you. So I just wanted to clarify some of the other questions that have been asked already and stuff. But so in this particular district an accessory dwelling is allowed, but only with a CUP, right? With a conditional use permit.

MR. ROYBAL: Mr. Commissioner, Planning Commission, yes. It's a conditional use permit.

MEMBER LA CRUZ-CRAWFORD: And just a general question for staff, does the accessory dwelling unit still need to meet the basic ADU requirements of Chapter 10, even in a conditional use permit, or can you actually exceed that?

MR. SISNEROS: Chair Aaboe, Commissioner Member La Cruz Crawford no, it's still required to meet all the requirements of Chapter 10, Section 10.4 of the accessory dwelling unit requirements.

MEMBER LA CRUZ-CRAWFORD: Thank you. And it does seem like the applicant has essentially done that, right? It looks like they met all the height requirements, they met the square footage requirements, all the connection requirements, everything associated with Chapter 10, and

that's where the additional variance request is coming in, though. Again, just to clarify, it's basically more of a legal technicality with respect to the fact that it's considered a second story. Although, in this scenario, the height still meets all the requirements and so on and so forth, so there's no visual impact or no architectural impact with respect to zoning. As far as zoning is concerned which we're dealing with. There's no real implications there other than the fact that it would be considered a second story, that single loft area. Is that kind of what I'm gathering? Is that right?

MR. ROYBAL: Mr. Chair, Planning Commission, you're absolutely right. It's not going to look like a two story. It's all just based off one elevation.

MEMBER LA CRUZ-CRAWFORD: And then I know there's obviously, there's a provision in here and that's saying that it would still need to meet code requirements and CID requirements, et cetera, which obviously there's some head height things. I'm looking at the sections. That's not my department to say or whatnot, right? So it's really -- I'm sure they've, the architects have figured it out. But I guess on just a question for legal, if us as a board approves something that is dealing with a two story, I guess some sort of second story language in this approval process, does that, I guess, get the board into any legal problems with respect to -- I'm sorry, I'm trying to figure out how to pre- how to question this correctly. So if CID says, Hey you're not meeting height, head height requirements, there particular ladder steps do not work because of code reissues, et cetera, does that fall back on us if we approve it?

MR. SISNEROS: Chair Aaboe, Commission Member La Cruz-Crawford, so Santa Fe County, we don't have a internal building department, so what we're looking at are development permit standards/zoning standards. We're not looking at head heights or anything like that. We do regulate actual overall height of structures. But once an approval comes from Santa Fe County, it then goes on to CID for the actual building permit. That's where they're going to review all the building code requirements. If they don't meet any of the building code requirements, they won't be required to come back to Santa Fe County for an amendment to any type of CUP or anything. They would just have to update their plans to come into regulation with what their requirements are.

MEMBER LA CRUZ-CRAWFORD: Great, thank you.

CHAIR AABOE: Any other questions from commissioners of staff? Thanks very much, Mr. Roybal.

So if the applicant would like to come forward. Is the applicant present, do we know?

MR. SISNEROS: I don't think they're here. Chair Aaboe, I do not see the applicant present in the room. I'm trying to see if I see him online. And I do not see him online either.

CHAIR AABOE: Okay. So this is a public hearing. Is there anyone in the audience or online who is interested in speaking either for or against these requested approvals? Okay. Hearing none, the public hearing portion is closed. What's the will of the Commission?

MEMBER TRUJILLO: I have but one question for staff, if you don't mind.

CHAIR AABOE: Please, Vice Chair.

MEMBER TRUJILLO: Mr. Chair, Ms. Roybal, staff, so technically, I'm looking at even at these drawings, so there's a mechanical room that's a basement level, and if this was a technicality, how is that described? Wouldn't that be considered a second floor, the floor above it, if there's a basement?

MR. SISNEROS: Chair Aaboe, Commission Member Trujillo, so basically we're looking at that as almost a crawl space not an actual full basement. It's a smaller room used for mechanical equipment, and so we're not seeing that as an exact floor level, to be honest.

MEMBER TRUJILLO: Okay. And Mr. Chair and staff, obviously you've reviewed these drawings and, essentially this is one room that they've almost made like a bunk bed basically of a floor.

But it looks to appear pretty open to the bottom other than, I guess you'd have to jump about six feet to get down. And there's a ladder obviously to get up to it. But anyways, I just as mentioned earlier, when

these plans go to CID, if they don't approve them, they don't approve them because if there's something that's, it doesn't meet fire code or some standard like that and then they would have to redo them. I do believe there's an opportunity to – they could add more square footage here because this is only 1,200 and some square foot. Half is the main house is 3,154 and this is 1,240, so literally there's another 300 square feet or 400 square foot that could be added. But anyhow I'm just making note of it as it basically looks like one room sharing the same height of the –

MR. SISNEROS: Chair Aaboe, Planning Commissioner Trujillo, keep in mind that ADU requirements is also limited in size, so it has to either be 50 percent of the heated square footage or a maximum of 1,400 square feet. So in this case, there would be maxed out at 1,400 square feet.

MEMBER TRUJILLO: Okay, Mr. Chair, and thank you for that clarification. I had no idea. I thought it was just 50 percent, I didn't realize there was a max of 1,400. Thank you.

CHAIR AABOE: Any other questions from any Commissioners? Commissioner Brugger.

MEMBER BRUGGER: Thank you, Mr. Chair. I was looking forward to asking these questions of the applicant, but the applicant isn't here. So I'll ask you the so the architectural plans that were submitted the title on them is Schaffer Bath House. I couldn't tell what the square footage of this structure was allocated to dwelling versus sauna, mud room, bath. Do you have any idea? And the reason maybe the more the general query is how did – with that title, Bath House, how did you come to the conclusion that this is an accessory dwelling unit?

MR. SISNEROS: Chair Aaboe, Commission Member Group Brugger, so the gross square footage is indicated, that's for the entire structure. That's the 1,200 or 1,240 square feet. So that's the gross square footage of the entire structure. Therefore, it does meet the standard of an accessory dwelling unit. What makes the structure an accessory dwelling unit and not an accessory structure is that there are dwellings and living quarters in the structure. If this was just a standard bath house and no bedrooms, and they are allowed for an accessory structure, one toilet and one sink, then we would consider it an accessory structure. The fact that it has the dwellings and it has full bathrooms it has bedrooms and it has full bathrooms, it's considered an accessory dwelling unit.

MEMBER BRUGGER: Thank you for that. So you're convinced that apart from the numbers and that the intent of this proposal is for a dwelling unit, not for a bathhouse?

MR. SISNEROS: Chair Aaboe, Commission Member Brugger, yes. Obviously, staff has to somewhat take, some type of word from the applicant and believe what they're submitting is true and accurate. But if something were to change and they were to change the structure into any type of other use staff would find out by code enforcement. The Tesuque Village Community Overlay District also was included in the neighborhood meeting and they show support for this accessory dwelling unit as well, as they know the current owner and they know the architect and previous owners as well

MEMBER BRUGGER: Thank you.

CHAIR AABOE: I have a question, excuse me, but I have a question for staff. If these requests are approved and the plans go to CID and CID says, This will not work, for whatever reason and so they need to be revised, does that come back to us for subsequent approval or we let it go. So I'm just trying to understand if they're a minor change the insulation that would not be a factor. But I'm just wondering what would happen if there were some deficiencies at the CID level?

MICHAEL VOS: Chair and Commissioners, Michael Vos, Land Use Administrator, that would depend on the scope of the changes that would have to be made to come into compliance with the CID requirements. What you're hearing is a conditional use for the use. There are obviously plans. There is a height. They would have to come back to the County for their development permit to be revised. If they revised it in a way that no longer needed the variance or did something else that was administratively approvable, it would not come back to you. And then certain minor, there are minor amendments to a conditional use approval that are within the administrator's authority. So if it's small enough staff could approve those changes. But if it was a big enough change and it's still related to

what you are approving in terms of the variance and whatnot we could send it back to the Commission. So it kind of depends on the scope of the change.

CHAIR AABOE: Thank you very much. Appreciate that. Vice Chair Trujillo.

MEMBER TRUJILLO: Mr. Chair and Mr. Roybal, just out of curiosity, I don't know if you'll know the answer to this, but obviously they've been in contact, either the architect or Mr. Schaffer. Did they indicate that they would be here tonight or try to make it? Could it be a flat tire? Could it be something? Just out of curiosity, did they indicate they were going to try or they were going to be here?

MR. ROYBAL: Chair, Mr. Chair, Planning Commission I did not hear from them but they were supposed to be here. And those are all very valid questions, and they are open to any changes, like Mr. Vos said, if it doesn't meet code, they can make those changes as needed.

MR. SISNEROS: Chair Aaboe and Commission Member Trujillo, I also want to let you know, I did speak to Mr. Schaffer. He was aware of the meeting. He did come to the Hearing Officer meeting but he didn't indicate that he was going to be absent for this meeting. We don't have any indication of why he's not here.

And then to go back on the CID question typically when CID rejects something it's actually a building code issue. And what I've seen mostly is window wrap details, the wiring for stucco does not meet, the building code requirement, rebar size, insulation. And those issues do not interfere with our zoning approval or conditional use permit approval.

CHAIR AABOE: Thank you very much. Any other questions from Commissioners? Commissioner La Cruz Crawford.

MEMBER LA CRUZ-CRAWFORD: Yeah, just a quick follow-up. Like I didn't see anything in the plans that showed the actual or any photos, I might have missed it, but that showed the primary residence.

Just knowing that the accessory dwelling unit is supposed to meet the overall design of the primary residence for, I'm sure it meets it, but just figured I'd ask 'cause I didn't see anything with respect to the drawings or photos or anything that show that this does meet that criteria.

MR. ROYBAL: Mr. Chair, Planning Commission, it does.

MEMBER LA CRUZ-CRAWFORD: A second question 'cause it just kinda came up to my mind. Looking at the floor plan, et cetera, and stuff like that, like you mentioned, like this appears shown as 1,240 square feet. Technical question. Anytime we deal with a two-story structure, we actually do the gross square feet of both the first and the second story, correct? And so in this scenario with a loft, are you aware whether the loft is included in that 1,240 or not? 'Cause I do see that it's approximately 7 feet by 20 feet. It'd be about 140 feet. That would add about – that would get really close to that 1,400 square foot limit

MR. SISNEROS: Chair Aaboe, Commissioner La Cruz-Crawford, we would have to look into that but I'm sure the addition of the loft area is incidental and so small that we think that it would still meet. And to the point that I think Commissioner Trujillo brought up not all of this would be considered the accessory dwelling unit square footage. Obviously, it looks like the bathhouse is separated. So almost if you had an accessory dwelling unit with an attached garage, we're only going to look at the heated or conditioned space of the accessory dwelling unit as the required square footage to meet the 50 percent. We wouldn't include the square footage of the garage to meet that as well. So it's only going to be limited to the actual livable conditioned space.

MEMBER LA CRUZ-CRAWFORD: No, that's totally understandable. That's interesting though. So when you guys looked at this as staff, was the entire L-shaped building considered the habitable gross square footage, the heated square footage? Or was, as you mentioned, was the sauna and the storage, or what portion of this building was not considered heated? I would imagine maybe the mechanical basement, but if you could just clarify that a little bit.

MR. SISNEROS: Chair Aaboe, Commission Member La Cruz Crawford. So looking at the floor plan, since there's no separation between the bathhouse and the bedrooms, we would consider this entire structure, and I believe that during our technical advisory committee meeting, we looked at this and identified the entire structure as the accessory dwelling unit

MEMBER LA CRUZ-CRAWFORD: Thank you.

MR. VOS: And Chair Aaboe and Commissioner La Cruz Crawford if you want us to and we can definitely do this regardless, but if you want to ensure that we consider that the loft square footage is in the calculation for the total square footage and that they don't surpass the 1,400 square feet, you are welcome as a Commission to put that as an additional condition of approval.

CHAIR AABOE: Any other questions? Commissioner Brugger.

MEMBER BRUGGER: Thank you, Mr. Chair. Question for staff. Then it was noted here that the applicant said that there are no plans for short-term rental. So then for the record then they would be prohibited from applying later if for a short-term rental?

MR. SISNEROS: Chair Aaboe, Commission Member Brugger, no. So the short-term rental, that's not part of the Sustainable Land Development Code. That's actually part of the business license ordinance. If they meet all requirements for a short-term rental, they would be allowed to have a short-term rental. I believe that statement came from the applicant to show, his intent is to use this for immediate family. He indicated to myself and to our technical advisory committee meeting members that he has some smaller children and that they're basically outgrowing, the existing residence, and therefore they attempted to try do an addition. But due to the design of the house, it was not very feasible, and that's why they decided to try and go for an accessory dwelling unit, which is the detached structure.

But that statement was just to indicate to staff what their intent of that structure was going to be used for.

MEMBER BRUGGER: Got it. Thank you. And if there is a motion later, I certainly would hope that the square footage of the loft be included in this given that was the intent of the applicant to do that loft. Thank you.

CHAIR AABOE: Any other questions from Commissioners? Commissioner La Cruz Crawford.

MEMBER LA CRUZ-CRAWFORD: I'm sorry. I just have a general comment, which I just kind of think is interesting, obviously, it's not necessarily planning and zoning related or necessarily code related but I know like for instance in a septic tank scenario, I saw it in some of the language right there in the application, that the applicant would obviously need to go through the Environmental Department and whatnot to seek an amendment to their septic, right, because we would not allow a secondary septic. Is that correct?

MR. SISNEROS: Chair Aaboe, Commissioner member La Cruz Crawford, yes, one of the requirements for an accessory dwelling unit is that they must share the driveway and all utilities. They can have a separate septic tank, but it has to be a looping system which means it has to be one leach field. But I believe that they're close enough to the existing septic tank where they can modify the size if need be, and they are going to apply for a modification to the leach field to include the accessory dwelling unit.

MEMBER LA CRUZ-CRAWFORD: Wonderful. And this is again, more of just a general comment. It has nothing to do with anything, but as far as septic systems are concerned, they just look at it as far as how many bedrooms there are, right? And they say, Okay, that's how much additional capacity you need in your tank, et cetera, and stuff. But in this particular unit plan, right, you've got what looks like two bedrooms, but really you have four beds in a loft type scenario, which you have potentially a lot of occupants there.

So just a general comment with respect to the fact that there's kind of some, potential concern there with respect to waste and how much use you're actually getting by having this, what appears to

be a small accessory dwelling unit with only two bedrooms, although it has a capacity of having five, six people there.

MR. SISNEROS: Chair Aaboe, Planning Commission member La Cruz Crawford, and that's typically at the discretion of the New Mexico Environment Department. What I've seen a lot of times in applications with plans is even if something's identified as a number of bedrooms on the floor plan and they have an office space per se or any other type of room sometimes the Environment Department will oversize and they will include those other rooms, to be able to accommodate for another bedroom. In this case, it's going to be at the discretion of the Environment Department on how they feel fit to, to, size this system. But that's something that we require as part of the submittal requirement, so they will be required to submit the actual approved application from the Environment Department.

MEMBER LA CRUZ-CRAWFORD: Wonderful. Thank you so much. And I'll just add one little note and then I'll get off, is that I did do some quick calculations on at least the L-shaped plan. It did come out to be about 1,242 on my quick calcs, so that loft might not have been included in that, but it does seem that the loft would meet that regardless. But if we do move forward or however we move forward we should provide some sort of provision to ensure to meet -- .

CHAIR AABOE: Thank you. And I wanted to mention something, Commissioner Brugger, you were concerned about the possibility of, although the applicant has stated it, the possibility of this becoming a short-term rental. It does not have a kitchen area, and so it'd be a really crummy short-term rental. I think, having a couple of kids there who are willing to walk through the snow to get breakfast I think that's a more appropriate use.

MEMBER TRUJILLO: And Mr. Chair, just one other comment. Being someone that has taken to go, to add additional rooms in an accessory dwelling, to NMED, they make you take your plans. They have their formula, and then they figure out their leach field capacity. So they're pretty stringent about that, and then they inspect it too. So I think as a Commission, we can feel very safe about that.

CHAIR AABOE: And one other thing, since we're all experts I think the reason they didn't expand the existing dwelling is those hip-pitch roofs are a kind of a bear to add onto. It's a cross shape with hips, and there's no real eave. It's just a very challenging thing to add onto.

Any other questions for staff? Commissioner Pava.

MEMBER PAVA: Hello up there. I'd like to note for the record, thank you, staff, for the excellent presentation and fielding the most obscure questions, Dominic. And I'm always impressed your knowledge of the code.

I'm just going to make an observation as my fellow Commissioners have done so. This was actually, this has had due process to the extreme, I think in terms of advertising. There was a gap from like September, October last year to April this year. So the fact that the agent didn't show up tonight, I'm sorry the applicant himself I'm not so concerned about that because I think they've made a lot of -- they have made an honest effort to comply. And when there was the oversight with not notifying the Tesuque Community Association and all of that, and then they went through the extra effort to do that. And we have a letter in the packet from Lynn Pickert from the TVCA. Evidently there's been some form of architectural review, if not by a committee. The folks in Tesuque think this will fit in just well. Maybe they have dibs on using the sauna. I don't know. Thank you.

MR. ROYBAL: Mr. Chair, Planning Commission, also, the applicant's wife was pregnant, so their absence may be that. And as it is for their children, as they indicated in their application process.

CHAIR AABOE: Thanks. Welcome. Any other questions? Thank you very much. Appreciate it. So the applicant is not here. Have we closed -- there's no one interested in speaking either

for or against this, right? We've closed the public hearing. If not, let's close the public hearing. What's the will of the Commission? Commissioner Trujillo.

MEMBER TRUJILLO: Mr. Chair with comments of Mr. Pava, I agree the applicant has done a lot of due process here and spent a lot of money on this. I'm not exactly sure why he's not here or she. But I do move to approve the variance of case number 26-5010 and case number 26-5020 with staff recommendations.

CHAIR AABOE: Before we get a second, should we move them as one or should we move them individually?

MR. VOS: Chair Aaboe and Commissioners, you can move it either way at your discretion.

CHAIR AABOE: Thank you very much. Thank you, Commissioner Vice Chair Trujillo, for the motion to move to approve both of these. May I have a second?

MEMBER LA CRUZ-CRAWFORD: I would like to second, but I would like to make sure we add that provision to the conditions just to ensure that it does meet the 1,400 square feet, which apparently it probably does,

MR. VOS: Chair, I would ask the motion maker, are you okay with that as a friendly amendment?

MEMBER TRUJILLO: That is a friendly amendment.

CHAIR AABOE: With the additional provision that the final plans will be less than 1,400 square feet, including the loft area, may I get a second.

MEMBER LA CRUZ-CRAWFORD: I second it.

CHAIR AABOE: Thank you. We have a motion and a second. All in favor, please signify by saying aye.

The motion passed by unanimous [6-0] voice vote.

- C. Case Nos. 26-5140, 26-5141, and 26-5142 – Appeals of Administrative Decision Regarding Development Permit 2026-22383 by Frederick Diehl, Sundance Estate Homeowners Association, Inc, and Patrick Heagerty, Appellants. These cases are proposed to be consolidated for hearing purposes only before the Santa Fe County Planning Commission.**

Three parties -- Frederick Diehl, through his counsel, Peter Ives; Sundance Estate Homeowners Association, Inc., through its counsel, Heather Travis Boone of Cuddy McCarthy; and Patrick Heagerty (jointly referred to as "Appellants") -- filed appeals pursuant to Section 4.5.2 of the Santa Fe County Sustainable Land Development Code (Ordinance No. 2016-09; hereafter "SLDC"). The appeals challenge the administrative decision of the Land Use Administrator dated May 21, 2026, approving Sunrise Vista LLC's ("Applicant") Residential Development Permit application, Development Permit 2026-22383. The subject property is located at 18 Sunrise Vista, Santa Fe, NM 87506 (the "Property"), within Section 4, Township 17 North, Range 9 East, Parcel ID No. 910016929, SDA-2 (Commission District 1). (Growth Management Department/Dominic J. Sisneros, Case Manager)

[Duly sworn, Dominic Sisneros, presented the staff report:]

MR. SISNEROS: Dominic Sisneros, Building and Development Supervisor, 240 Grant Avenue, Santa Fe, New Mexico 87501.

Chair Aaboe, Commission members, before I get started, I'd like to make a brief statement here. I want to make a couple of points at the outset of to you to keep in mind throughout today's

hearing. These issues are also addressed in the staff report so keep in mind that I may discuss them in more detail later. But I think it's important to make you aware of them before we go into more detailed discussion. Keep in mind that the actions being appealed are the issuance of the permit for an extra room that was added to the house when it was first built by the previous owner. Issuing a permit for some grade work on the property after the fact, and also including some proposed upgrades to the septic system to accommodate the number of bedrooms, and the conversion of a non-bedroom into a fifth bedroom, allowing the placement without the need for a permit of a stargazing dome that is slightly over 7-feet tall and approximately 11 feet in diameter. As you might expect these types of development regularly come before our department, and they are routinely handled administratively in accordance with the SLDC. In fact, I'm not personally aware of any appeal ever being taken from the granting of a non-discretionary permit. It is a very unique situation that raises some procedural, jurisdictional, and legal issues which can be addressed by staff or legal if you have specific questions.

Equally important to understand is that the issuance of the STR license for the property is not part of the appeal. STR licenses are issued pursuant to the Business Registration and Licensing Ordinance, not the SLDC, and therefore not within this body's jurisdiction.

The development permit that is the subject of the hearing were issued administratively as part of a non-discretionary review process pursuant to Table 4-1. The very nature of non-discretionary reviews leads to several unavoidable conclusions. First, approval of these applications is mandatory so as long as the application are complete and no variances from the standards of the SLDC are needed. That is just the incapable of conclusion of a review of being deemed non-discretionary.

Second, no public involvement is anticipated in this type of review. In fact, the code specifies that no public meeting is called for with the administrative proceedings. The allowing input from third parties would give the wrong impression and some discretion is involved in the decision-making process. It is not.

Third, the complete lack of third-party involvement suggests that there are no due process rights to be protected. Mr. Prucino can address this issue in more detail, but the appellants cannot make a showing that the County's action in approving the permits has deprived them of any protectable interest under the state or federal due process causes.

Fourth, it is far from certain that any of the appellants actually have standing to bring these appeals. Because approval of the application is mandatory, it is arguable that only an applicant would have standing to take an appeal, and only when such an application is denied. Nonetheless, we are bringing this appeal before you to afford the appealing parties an opportunity to be heard. We do not concede any party's status as an aggrieved party withstanding, but we acknowledge their right to be heard, even if only as members of the public. And in spite of bringing this matter before you, staff stands by its conclusion that the Land Use Administrator was legally obligated to approve the permit in question, and this Commission is leg- legally bound by the provisions of the SLDC to make the same determination.

Three parties, Frederick Diehl through his counsel Peter Ives, Sundance Estates Homeowners Association Inc. through its counsel Heather Travis Boone of Cuddy & McCarthy, and Patrick Heagerty, jointly referred to as appellants, filed timely appeals pursuant to Section 4.5.2 of the Santa Fe County Sustainable Land Development Code.

The appeals challenge the administrative decision of the Land Use Administrator dated May 21, 2026, approving Sunrise Vista LLC applicant residential development permit application, Development Permit 2026-22383. The subject property is located at 18 Sunrise Vista, Santa Fe, New Mexico, and is within Section 4, Township 17 North, Range 9 East, SDA-2, Commission District 1. The 3.25 acre subject property was created by an approved plat recorded on November 16, 2006. Previous owners were approved for a development permit application number 20-446 for a single-family residence and was approved on August 19, 2020. Aerial imagery indicates that development of this residence began on or about March 1, 2021.

David Greenblatt deeded the property to the applicant, Sunrise Vista LLC, on January 23, 2026. The beneficial owners of Sunrise Vista LLC are Zachary Greenblatt and David Greenblatt. The applicant applied for a short-term rental non-owner occupied license. The application was approved and the license was issued effective February 16, 2026 for a period of 12 months.

Peter Ives, counsel for Frederick Diehl, raised concerns regarding possible development of a proposed pickleball court on the property, including trenching for electrical work via a phone discussion with county staff on March 9, 2026. Additional concerns were raised regarding the adequacy of the existing on-site septic system, specifically whether the system's capacity is adequate for the size of the residence.

Following some investigation, staff learned that the residence as now exist, five bedrooms, is inconsistent with the plans that were originally submitted and approved by County staff, which reflected a three bedroom residence. Staff further confirmed that the approved and issued septic permit from the New Mexico Environment Department was for a three bedroom. Santa Fe County's code enforcement issued notice of violation on March 12, 2026. Subsequently, staff conveyed compliance concerns to the applicant and mentioned the need to obtain after-the-fact permits to bring the property into compliance with the Sustainable Land Development Code.

Eventually, the applicant indicated it would not move forward with the proposed pickleball court, and in response to staff's comments, the applicant sought an after-the-fact development permit that included the following items: permitting of a fourth bedroom that a prior owner had built, although only three bedrooms were identified on the approved plans; the fact that the applicant proposed to convert a non-bedroom into a fifth bedroom; and grading and trenching that had been commenced without a permit; and, the proposed modification to an existing septic system.

None of these items require variance, and all the items qualify as non-discretionary residential development. On May 21, 2026, a development permit application for a residential addition was approved. The approval included an after-the-fact fourth bedroom addition, after-the-fact grading and trenching, the proposed conversion of the flex room into a fifth bedroom, and the modification to a septic system as approved by the New Mexico Environment Department.

The appellants generally asserted that the development approval of the associated administrative decision are inconsistent with the purpose and intent of the SLDC and raised concerns regarding neighborhood compatibility, infrastructure capacity, grading and trenching activities, lighting, wastewater and septic capacity, water usage, accessory structure, traffic and road impacts, notice procedures, and cumulative development impacts associated with the proposed development. More specifically, the appeals raised issue related to after-the-fact approval associated with the fourth bedroom and the proposed conversion of a flex bonus room into a fifth bedroom, grading and trenching and electrical work conducted prior to permit's approval, septic system concerns relating to the fourth and fifth bedrooms, water usage restrictions and potential impacts associated with the increased occupancy, the installation and classification of a proposed stargazing dome, including questions regarding occupancy and use, the adequacy of notice and procedural review associated with the development permit approvals, and whether the project should be classified as a resort.

Staff has identified that this project is identified as a residential dwelling, and the use is not consistent with the use of a resort. Staff reviewed the application material submitted in support of the development permit request for compliance with the applicable administrative review standards of SLDC Section 4.8.2, the residential estate development standards of Section 8.6.6, and applicable development standards contained in Section 7.3, residential performance standards.

Regarding the issue of the stargazing dome, while it may technically qualify as a structure, the relevant question is not whether it is a structure, but whether its placement triggers a permit requirement under the SLDC. Section 4.8.2 specifies that development permits are issued for construction, renovation, or addition to structures. The assembly and placement of a portable prefabricated stargazing dome does not involve traditional construction, renovation, or expansion of a

structure. Unlike a building constructed from the ground up, the dome is assembled from manufactured components and can be removed without permanent alteration to the site. Further, the SLDC does not specifically identify portable recreational amenities or temporary structures of this nature as activities requiring administrative development approval. In the absence or clear code language requiring a permit for the assembly of a portable stargazing dome, staff reasonably interpreted the code in favor of not requiring a development permit.

Staff finds the approved development permit complies with the applicable development standards and does not constitute a circumstance requiring relief due to discretionary variance hearing pursuant to SLDC Section 4.9.7.1.

For these reasons, the Land Use Administrator acted properly by administratively granting the requested permit. Specifically, the after-the-fact fourth bedroom addition, staff determined the addition complies with the applicable d-dimensional and development standards of the residential estate zoning district, including required setbacks, lot coverage, and residential use standards. The addition remains part of the principal residence dwelling that is on the property and residential use standards. The SLDC does not contain any limitations on the number of bedrooms within the residential dwelling if all other design standards are met. Proposed conversion of the flex room/bonus room into a fifth bedroom. Staff determined the proposed conversion constitute an interior residential modification consistent with the permitted residential use of the property and does not alter the overall character or density standards applicable to the site. As with the fourth bedroom, the SLDC does not impose any limitations on the number of bedrooms within the residential dwelling.

After the fact grading and trenching and proposed modification to existing septic. Staff determined the grading and trenching activities are associated with residential improvements permitted within the zoning district and are subject to compliance with applicable drainage, erosion control, and revegetation requirements. Further, no specific issues related to the grading and trenching were raised in any of the three appeals except for erosion control and that it may be related to new outdoor lighting. No new lighting was approved, and any changes to lighting must comply with the applicable provisions of the SLDC.

Staff determined the proposed septic system modifications are subject to review and permitting by the applicable state regulatory authority and are necessary to support the approved residential occupancy Staff recommends affirming the land use administrator's decision approving development permit 2026-22383 subject to the following conditions.

Chair Aaboe, may I enter these conditions into the record?

CHAIR AABOE: Yes, you may consider them entered into the record. Thank you.

MR. SISNEROS: This report and exhibit listed below are hereby submitted as part of the hearing record. Chair Aaboe, Planning Commission members, I stand for any questions.

CHAIR AABOE: Thank you very much for the presentation. ccerer Brugger.

MEMBER BRUGGER: Thank you, Mr. Chair. Thank you, Mr. Sisneros, for the excellent presentation. So we got a lot of materials. I also wanted to thank everybody in the audience for showing up. That's respected. In the materials we received, and there were many materials, I have a residential addition application that's part of the development permit request, right? And I have, residential addition application supporting documentation package provided by Sunrise Vista. That was part of the application, right?

MR. SISNEROS: Chair Aaboe, Commissioner Brugger, yes, that is correct.

MEMBER BRUGGER: Okay.

MR. SISNEROS: And again, I just want -- Chair Aaboe and Commissioner Brugger, some of the exhibits and documents, and materials may overlap and may be duplicates as well.

MEMBER BRUGGER: That's what I have. In the formal, the online application, proposed addition includes, select all that apply, bedroom, garage, patio. Then it describes the additional development that's being permitted, which you described, the grading, the conversion of the

bedrooms, grading for electrical service for the cold plunge, sauna, cowboy pool, stargazing dome, fire table. I found it interesting that in the application summary of what the applicant provided for the supporting documentation package, they had the scope of work, as you said additional bedroom, garage to game room. They had change of use of existing three-car garage, I guess 1,208 square feet, to game/movie room. Then the cowboy pool. I had to look up what a cowboy pool was. Barrel sauna, cold plunge, stargazing dome, and fire table. So my question is when you reviewed, when staff reviewed all of this information as part of the development permit did you not feel that with these improvements that are being proposed, all of them, including the change of use, the applicant's words, not mine in at least one of the components, that the use of this property was changing?

If it were changing then there might be an issue as code section 4.8.29 which has to do with the administrative development approval, the authority of the land use administrator to make non-discretionary approvals. He can do that to authorize a change of use from residential to non-residential use as allowed in the use table, but this may be considered to be a change of use which is not explicitly allowed in this zoning category.

If this development permit was just for a five-bedroom house that's it, just conversion of the bedrooms, nothing else, I think I'd be home already. I wouldn't be here. Wouldn't be an issue. But it's not. There are other uses. The counsel for the applicants says adding backyard recreation accessories to a dwelling is ordinary in residential uses, I think. So when you made this determination of these improvements do you consider this as ordinary in a residential district in Santa Fe County?

MR. SISNEROS: Chair Aaboe, Planning Commission members yes, staff identified these additions as amenities, recreational amenities such like if someone wanted to install a trampoline on their property that's not considered development or construction to staff, those are, determined as amenities or equipment. The cowboy pool, the fire pit, the stargazing dome, again, nothing is being modified with the structure or for the land to include those. Now, if the cowboy pool was going to be an in-ground pool and they were going to excavate to put that in ground that would require a development permit.

But my understanding is that the cowboy pool and all the other amenities that were being included and we didn't recognize those as items that needed to be part of the development permit. My indication and from code enforcement's inspections is that all that addition of those amenities were done on already pre-developed property, either within the portal or on existing patio areas or graveled patio areas. No new construction, no new development was needed for that equipment.

MEMBER BRUGGER: So is the 1,208 square-foot conversion of a garage to a game room was it just not considered to be part of this development permit even though it seems like it was? Or is that considered to be an ordinary improvement in a residential district?

MR. SISNEROS: Chair Aaboe, Commission members, we would look at that as typically an ordinary improvement. I see that quite often with development permit applications, someone wanting to convert their garage into an art studio, into a yoga studio. What we're really looking at here and trying to identify is the use the use of the bedroom, the use of the bonus room, flex room into a bonus room. That's going to expand the use of the dwelling, and so that's what we're looking at. That's what we're looking at as far as permitting goes. We're not looking at the conversion of a garage into a game room as an expansion of use for the structure itself.

MEMBER BRUGGER: All right. Thank you.

CHAIR AABOE: Any other commissioners have questions of staff? Commissioner Pava.

MEMBER PAVA: Thank you, Mr. Chair, members of the Commission. Mr. Sisneros, granted that this is a decision of the land use director, but we are talking about short-term rentals, which is not part of the land development code. I'm going to try to weave through this a little bit what I believe is pertinent to the case, and not specifically about whether or not a short-term rental is a matter of the appeal.

So In my line of work when I retired from Los Alamos, we did National Environmental Policy Act and we talk about cumulative impacts. Does the County consider cumulative impacts, whether it's a decision of the land use director for a short-term rental or whether it's something else covered by the Sustainable Land Development Code.

MR. SISNEROS: Chair Aaboe, Commission members, staff does look at those items and I think you can kinda see that as well with the Board of County Commissioners. When the short-term rental ordinance first came out, there was no cap. And so people were allowed to get short-term rentals for a number of people. Now with the latest update, it is capped at 10-nightly occupants. And so I think that's something that was looked at as an accumulative impact on these properties and why it's capped out as part of the short-term rental ordinance.

MEMBER PAVA: That does make some sense. I appreciate that perspective. A follow-up question was how the number of short-term, non-owner occupied short-term rentals are calculated. And I understand from reading through the ordinance that the County is divided into areas based on census tract or statistical areas. So in this particular neighborhood, my question would be is was there an analysis done during the approval of this particular application of the number of or the percentage? I know there's a specific number. So was there analysis done? And if there was an analysis is there documentation supporting the land use director's determination in this case?

MR. SISNEROS: Chair Aaboe, Planning Commission members, so each short-term rental application goes through a vetting process and an application process, and so those items are looked at. Those numbers are updated, and we do track those numbers. And so all that was taken care of during the short-term rental application process.

MEMBER PAVA: My obvious next question is, do we know where we were close to the threshold in this neighborhood or area for the granting of this particular permit?

MR. SISNEROS: Chair Aaboe, Planning Commission members, I do not have that information with me as the short-term rental issue is not really part of this hearing.

MEMBER PAVA: Thank you. A follow-up question about mention of private covenants, and this is probably going to come up later with applicant and as various parties here during the appeal. I note that in Ordinance 2022-07 a statement SDRs are not allowed or prohibited by private covenants. Now, I do understand that this is not part of the County's governance and oversight, but I do also understand, and I think Commissioner Brugger has a copy of the application where there's a checkbox or a checklist, and I think one of the items is, are there private covenants? I could be – I may not be stating it exactly as I recall, but I think there's something there that the land use director or designee has to check off. Was that considered?

MR. SISNEROS: Chair Aaboe, Planning Commission members, so there's an ask, a question about water covenants on the application. Now, when it comes to private HOA covenants originally we were going to regulate any short-term rentals that came in and that were not allowed by private covenants, but that language was changed through a later ordinance, and so we no longer govern those private covenants. So now we consider if something goes against the private covenants of an HOA for a short-term rental, Santa Fe County does not govern that. That would become a civil matter between the HOA and the property owner. If they meet all standards of the short-term rental ordinance, we will issue them a short-term rental license.

MEMBER PAVA: Okay. Now the copy that I was able to download this morning of ordinance 2022-07 must be older language then?

MR. SISNEROS: I believe that is one of the older ordinances. I believe we have a more updated ordinance.

MR. VOS: Chair and Commissioners, I don't have the s- exact number off the top of my head, but the 2022 ordinance was amended in 2024 to remove the language regarding covenants.

MEMBER PAVA: Okay. Yeah, that was something I wanted to ask about because I think that if that's no longer part of the application, then that's not germane here. It is something extra. It's outside the jurisdiction of the County, as you mentioned Mr. Sisneros.

A more general question, this is my final. In your opinion as County staff in your position when does a short-term rental become a resort or a hotel per the Sustainable Land Development Code definitions? Does it have to do with context, intensity on a case-by-case basis? Is it something like okay, you go to a hotel, obviously you get a key, you walk down the hall, and you check in someplace, or same with a resort. So it seems like this could be a bit fluid. So how do you determine that this is strictly a residential use in a residential area as opposed to a commercial business that in, is in fact de facto a resort or hotel as defined by the code?

MR. SISNEROS: Chair Aaboe, Commission members, so if the applicant would've come to staff and asked for an application to have a resort or anything that's going to maximize or intensify the use, go over the number of bedrooms, go over the number of occupants, include activities and stuff like that, we would look at that as a different use, and we would use our use matrix in Appendix B of the Sustainable Land Development Code to identify which use that would fall under.

The applicant came to us for a short-term rental with the intent to run a short-term rental for a maximum of 10-nightly occupants. There has been talk from the applicant previously of wanting to put a pickleball court for the use of that short-term rental, but with a lot of the opposition from the neighbors, they have withdrew that proposal and no longer moving forward with that. But we don't identify anything with this property as far as an amusement, any type of resort or retreat. It's a short-term rental application that came in. It was a short-term rental application that was approved

MEMBER PAVA: Thank you. I appreciate that clarification. And one final question regards the notification process as set up by this ordinance and in general for County decisions affecting land use. In staff's opinion were the notification requirements per the ordinance once the decision was made, were those decisions made in good faith by the applicant? Were both the intent, both the letter and intent of the ordinance for public notification, were things done per the timeline? I'd like to get this in the record.

MR. SISNEROS: Chair Aaboe, Planning Commission members, are you speaking about the short-term rental? For the short-term rental, yes, all the noticing there's actually an option that the applicant can pay extra for staff to do the mail-outs. Staff did do the mail-outs. Staff did find that there was an error. Initially, the license was issued for 12-nightly occupants, which went over the max, and so a reissuance of the license showing 10 occupants was changed for the license. Staff decided since the notice that went out to neighbors did not increase the number of occupants, but rather decreased to what the max standards are for the ordinance, we did not re-send out a new notification that the original one was rescinded from 12 occupants to 10-nightly occupants I'm sorry, from 12 occupants to 10-nightly occupants.

MEMBER PAVA: In staff's opinion, did the applicant comply with notification requirements?

MR. SISNEROS: Chair Aaboe, Planning Commission members, yes.

CHAIR AABOE: Thanks very much. I've had a request to do a short recess for a bio break, and so I'd like to do that now and then bring you back up in case there are any additional questions. So let's recess. It's 6 o'clock until 10 minutes after.

[The meeting recessed from 5:57 – 6:13]

CHAIR AABOE: Are there any questions from the commissioners for Mr. Sisneros? Vice Chair Trujillo;

MEMBER TRUJILLO: Thank you, Mr. Chair. Thank you, Mr. Sisneros. Just as a question here, I noticed that this is filed timely by the appeals pursuant to Section 4.5.2 of the

Sustainable Land Development Code. And when you go there, it says an aggrieved person with standing may appeal. What is the definition of aggrieved person? What does the County or what position does the County take as an aggrieved person in this, in reference to this?

MR. SISNEROS: Chair Aaboe, Planning Commission members and maybe Legal can help me out with this if I get this incorrect. But I believe, I don't know if it's the definition, but I believe the intent of an aggrieved party would be a party or property owner that is impacted directly, I believe it would be the definition of aggrieved. But I think Legal could probably help me with that definition.

ROGER PRUCINO (Assistant County Attorney): Mr. Chair, Commissioner Trujillo, there is no specific definition of the phrase aggrieved party withstanding. We have determined that that is not a black and white answer. It's something of a gray area. A determination was made to allow these three appellants to come forward and bring their arguments and their position to the Planning Commission regardless of whether they legally constitute or qualify as aggrieved parties withstanding. The fact that the appeal is pending does allow and then that you're conducting a public hearing does allow members of the public to present their cases or to present their positions in any event.

So whether these parties are truly aggrieved parties withstanding or not staff has brought this appeal forward so that you can hear their positions.

MEMBER TRUJILLO: Thank you. Thank you, Mr. Chair, and thank you. Mr. Sisneros, as you understand it this property does belong, is within the Sundance Estates Homeowner Association. Is that correct?

MR. SISNEROS: Chair Aaboe, Commission Member Trujillo, no, this property is not within the Sundance Estates subdivision or homeowners association.

MEMBER TRUJILLO: So Mr. Chair and Mr. Sisneros, is property, to your knowledge, is it part of any HOA association out there?

MR. SISNEROS: I believe the association is the Sunrise Vista Association and subdivision that this property is a part of. The Sundance Estates HOA or subdivision I believe there are two adjoining lots or one or two adjoining lots, I think, or one adjoining lot to the east of 18 Sunrise Vista. Other than that, I think the, it's a 60-lot subdivision that's governed by an HOA. But again, only one adjoining lot is a part of the Sundance Estates.

MEMBER TRUJILLO: So Mr. Chairman and Mr. Sisneros, of the individuals bringing protests here, is it to your knowledge are any of them of this particular HOA association that this house, this property sits on, or are they of the adjoining HOA association?

MR. SISNEROS: So the appellants Frederick Diehl, who's represented by counsel Peter Ives, they are directly north of 18 Sunrise Vista and part of the same subdivision. And the appellants, Patrick Heagerty, they are another adjoining property owner that is just to the south of 18 Sunrise Vista.

MEMBER TRUJILLO: And so those two – so those two are part of the same HOA association?

MR. SISNEROS: That is correct.

MEMBER TRUJILLO: Okay. And presumably, I know it's not the County's position, but and I'll ask that question. There is HOA rules associated with that, and I guess I'll get my answers then. Thank you.

MR. SISNEROS: And Chair and Commission members, since this come, had come up, I do want to read you guys a definition. According to Appendix A, Rules of Interpretation, A resort is a building or group of buildings containing guest rooms with the majority of the property devoted to recreational activities such as tennis, horseback riding, yoga, spa, swimming, and/or golf. A resort may or may not provide meals. That is according to Appendix A, Rules and of Interpretation.

CHAIR AABOE: So that's in your use table?

MR. SISNEROS: That is correct.

CHAIR AABOE: That's referenced in your use table. Thank you. Any other questions of Mr. Sisneros? Commissioner La Cruz Crawford.

MEMBER LA CRUZ-CRAWFORD: So just a clarification with what Commissioner Trujillo had asked. So I do look at the aerial maps here, and I saw that there's a house directly north right adjacent to this house. Is that or any of –

MR. SISNEROS: That is correct. Chair Aaboe, Commission Member La Cruz Crawford, yes, the property directly north of 18 Sunrise Vista is owned by the Diehls who is represented by Peter Ives, their counsel. And yes, they are one of the appellants.

MEMBER LA CRUZ-CRAWFORD: And okay, so they're one of the appellants, but they are not part of the, that HOA because I did see in another exhibit that did show that the HOA adjacent to it is to the east of that.

MR. SISNEROS: That is correct. They are not part of the Sundance Estate Homeowners Association, nor is the property directly to the south of 18 Sunrise Vista, which is owned by the Heagertys, which is also one of the appellants. Those two properties, along with 18 Sunrise Vista, are not part of the Sundance Estates Homeowners Association.

MEMBER LA CRUZ-CRAWFORD: Okay. So we have an appellant from both the north and the south, and then another representing the homeowners association to the east that's also an appellant. Is that correct?

MR. SISNEROS: Chair Aaboe, Commission La Cruz-Crawford, that is correct.

MEMBER LA CRUZ-CRAWFORD: Okay. And then just for my own, 'cause I like to kinda just reiterate or kinda understand the process and timeline on this. So just to confirm this property requested a development permit, correct, to, to build a residence? Step one, is that what happened at one point in time, right? I think my understanding is that it was supposed to be a three-bedroom. Is that right?

MR. SISNEROS: Yeah. So during the conversation with one of the appellant's counsel they had concerns about the septic system, and so I reached out to the Environment Department, and I got the approved septic permit. It was only approved for a three-bedroom. So I did a little bit more investigation. I went into our archives, and I found the permit back in 2020, and it was submitted and approved as only a three-bedroom. As you can see in one of the exhibits, I submitted an aerial, and it looks like during construction, the current homeowner at the time, or the previous homeowner and the builder, it looks like they just made a decision to just square off a corner and add a fourth bedroom, and they never came back to County to update their permit file.

And therefore, it was built that way since 2021 and it went unfounded until it was brought to my attention.

MEMBER LA CRUZ-CRAWFORD: Okay. So in 2021, a permit was issued by the County for presumably a three-bedroom. They went ahead and built another fourth bedroom, did not notify the County about that. But even with that being said my understanding is that permit does meet and does currently meet the SLDC code requirements?

MR. SISNEROS: Yes. So even with the addition of that fourth bedroom it didn't exceed density, it didn't encroach into any setbacks/easements didn't exceed height. So even with that fourth bedroom, other than that, them not coming back and amending their permit to show a fourth bedroom and updating their septic permit, it complied with all SLDC standards. Since they came back and made the after-the-fact application for the five bedrooms, they have obtained an approved application from the New Mexico Environment Department to upgrade their septic system to a five-bedroom system, which I believe is a 500-gallon per day system.

MEMBER LA CRUZ-CRAWFORD: Okay. And then to confirm, there was a previous owner that had built this house initially, right? And did that fourth bedroom, et cetera. There's a new owner that took it over, and when did they purchase the property, and this is the person that, that currently owns it, correct?

MR. SISNEROS: Chair Aaboe, Planning Commission member La Cruz-Crawford, so when I had a discussion with the property owner he was not aware of the previous approval for only a three-bedroom. They thought they had, naturally purchased a legal structure with four bedrooms. So they were not aware of that. And in doing so, in purchasing the property, they purchased a violation that they were not aware of and frankly, we weren't aware of until it was brought to our attention.

MEMBER LA CRUZ-CRAWFORD: Okay. So they purchased the property now obviously it was, you guys weren't aware of it, they weren't aware of it. But then they've since, because they got because you guys got notified of the septic, then they had to basically submit an after-the-fact permit for that fourth bedroom and for that conversion that they did for the fifth bedroom, correct?

MR. SISNEROS: Chair Aaboe, Planning Commission member La Cruz-Crawford. So the after-the-fact permit was for the addition of that fourth bedroom and for the after-the-fact grading that they had started, that the current owner started to do some electrical work and to grade out a proposed pickleball court, which they are no longer doing. The conversion of the fifth bedroom is something that they just wanted to include, that way they could get the maximum of the 10-nightly occupants for the, for their short-term rental. So they decided to include that in this permit, the change of the use of that one room into a fifth bedroom.

MEMBER LA CRUZ-CRAWFORD: Gotcha. So overall, it sounds like these, the new homeowners, and I can ask them the same questions or whatnot afterwards, but it does appear that the new homeowners essentially bought this piece of property, found out through this process that it was non-compliant, and have been doing what they need to do in order to become compliant with respect to an after-the-fact permit and so on and so forth. Is that correct?

MR. SISNEROS: That is correct.

MEMBER LA CRUZ-CRAWFORD: Okay. And then what they've done so far, and this is the question, so if they went in and went after a development permit from the beginning and said, Hey, I want to build a five-bedroom house. Here it is. Here's my lot, et cetera; would that in any way require a variance, or would they have even have to come to the board or anything like that? Or is that something that would just go through the standard process and would they have met all the requirements for the SLDC and code compliance and so on if they had done that?

MR. SISNEROS: Yeah. So as it currently stands with the approved development permit for the five-bedroom, it meets all the Sustainable Land Development Code design standards and setbacks, height, everything, density. It's not including a separate structure, a separate dwelling. There is access within the existing structure for all those bedrooms, so we don't consider any one of those bedrooms a separate accessory dwelling unit or ex- a separate dwelling at all. It does all meet current code.

MEMBER LA CRUZ-CRAWFORD: Okay. And lastly, so then my understanding is that the appeal by the appellants is more so with respect to some of these amenities that they have in place and the potential of or that definition of the resort, which you just mentioned, would not necessarily fall as a resort, it's still a residence. But is that kinda what I'm understanding? I just want to make sure I – and I'll ask the appellants as well, but is that correct?

MR. SISNEROS: Chair Aaboe, Commissioner La Cruz-Crawford. that is correct. One of the other, concerns from the neighbors is the water usage. There are water restrictive covenants on that property.

I believe they do share a well, and they are limited to a quarter acre foot. But that is the limitation for a dwelling within Santa Fe County according to the Sustainable Land Development Code either way. And so they are limited to the quarter acre-foot per year per dwelling.

MEMBER LA CRUZ-CRAWFORD: Okay. Thank you.

CHAIR AABOE: Commissioner Pava.

MEMBER PAVA: Chairman, Member La Cruz-Crawford just makes me think of other questions, so I apologize. Thank you, Mr. Chair.

Mr. Sisneros, can the decision of this Commission, assuming this evening, be appealed to the Board of County Commissioners?

MR. SISNEROS: Chair Aaboe, Planning Commissioner Pava, it is my understanding that any decision made by the Planning Commission can be appealed to the Board of County Commissioners.

MEMBER PAVA: And that would be by a determined to be by an aggrieved party?

MR. SISNEROS: Yes, that is correct.

MEMBER PAVA: Follow-up question to some of my earlier questioning is about the length of this permit approval. How long is this in place? And subsequently, when a permit comes in for reapplication or re-renewal what is taken into consideration? Because I'm sure there are good neighbors and bad neighbors, and this happens all the time with owner or even, and non-owner occupied STRs. So this or some other application comes in, how does staff evaluate whether they're going to renew it?

MR. SISNEROS: Chair Aaboe, Planning Commission members, so the renewal process goes for a non-owner occupied goes through a reapplication process. And so they have to submit paperwork again to be reviewed by the County and by County staff.

And then just to kind of go back, when the, this application first came, in the owner, obviously he provided a floor plan showing the four bedrooms. Again, he was not aware of the after the fact of the fourth bedroom. But they came in and they provided with the documentation that was provided to them. And then that's how we based our decision on the approval of the short-term rental

MEMBER PAVA: Thanks.

CHAIR AABOE: Thanks, any other questions from Commissioners for Mr. Sisneros? I think I have one. I'm trying to separate the appeals we have before us, which are for the modifications to this house and the short-term rental process, which is obviously intertwined because otherwise folks would not be here. Am I correct in assuming that the non-owner occupied short-term rental permit was noticed and approved and if the number of bedrooms in the house were the same, would that have been subject to the same kind of appeal as this action is? What I'm trying to understand is if the house already had five bedrooms and a short-term rental permit was approved, is there an appeal process for that?

MR. SISNEROS: Chair Aaboe, Planning Commission members, so a short-term rental is not appealable by the Sustainable Land Development Code. An appeal of the short-term rental would be under the business license registration, and I believe would go straight to the Board of County Commissioners is my understanding.

CHAIR AABOE: Got it. Thank you very much. Any other questions of Mr. Sisneros? Thank you. Before the appellants come forward, I'd like to get an understanding of about how much time you believe you would need to present. So there are three appellants so about how much time do each of the appellant -- I don't know. Feel free to raise your hands, folks, and let us know about how much time you think. We're trying to figure out how much time we will need, because I imagine some of the people sitting in the room would also like to speak. Let's take it from the top. Appellant number one is that Frederick Diehl, Peter Ives? About how much time do you need, folks? Twenty to thirty minutes. And how about appellant number two which is Travis Boone, Cuddy McCarthy, about how much time do you believe you need? The same. And I guess Mr. Heagarty, you have a presentation. About how long is that presentation if you rock through it? Fifteen minutes. Okay. So far we've got and I'm cutting on the low side. We've got twenty and twenty and fifteen, and other than those three and I guess the Sunrise Vista folks, will twenty minutes work for y'all? Five minutes. Okay, great. I like the sound of that. And other than the folks who've given us these numbers, how many people are interested in speaking on this? One, two, three, four. Okay. Okay. Great. I'm just trying to do a time check. So it looks like if we have an hour, and I'm optimistic, if we have an hour, that should cover it. Let's please proceed. And just to allow folks, I'll just keep an informal time on my clock. So for the first appellant,

if you'd like to come up, be sworn in, and state your case. And I will politely remind you that that's been 20 minutes. Thanks. So anyone interested in speaking, please raise your hand, be sworn, and state your name and address for the record when you begin to speak.

[Duly sworn, Frederick Diehl and Peter Ives, testified as follows:]

FREDERICK DIEHL: Frederick Deal, 19 Sunrise Vista, Santa Fe County.

CHAIR AABOE: Thank you all. And when you present, please speak into the microphone. I believe there may be some people online. Thanks.

PETER IVES: Thank you, Mr. Chair and members of the Commission. As you've I think perceived from some of the testimony previously given by Mr. Sisneros this is a somewhat confusing circumstance and a certain somewhat confusing case. The initial STR application that was filed back in February was approved with an occupancy of 12, even though the statute limited it to 10. And that was subsequently rather than being reissued, was simply folks notified to cross out the 12 and put 10 down. So whether or not there was even adequate notice at the first instance in this entire proceeding is certainly subject to question. And, of course, the house plans submitted at that time which I believe only reflected four bedrooms were how you issue an SDR for six bedrooms when you have a floor plan that details four bedrooms without requiring, as County code requires, a permit to be issued to do additional bedrooms, I have no clue.

And part of the challenge here is that County takes the position that this is a unquestionable action. There is nothing you can do to contest or bring before you or anyone else the determination by the Land Use Administrator. And it's the position of the Diehls that this just does not make sense under the Sustainable Land Development Code.

So for instance, if you look at the purpose and intent statement in the Land Use Development Code, it says that, it's designed to protect and promote the health, safety, and general welfare of present and future residents of the County. It's a police power designed to avoid public nuisance, environmental and land use regulations designed to establish if you will. It's really designed to protect and prevent adverse climate change, promotion of sustainability, green development, and to provide standards to protect from adverse public nuisance or land use effects and impacts resulting from public or private development within the County. And this STR, which has been described by a number of people as a party house is just such a use that goes beyond the pale, if you will, of a simple residence and into this position of being a commercial use.

The County staff interprets the code that anything under – that they can constitute a residence, and they consider a STR a residence because people do live there that any other use that anybody wants to bring in, such as a stargazing dome, and I'm not sure there is any other stargazing dome in the entire county, the plunge pool, the sauna and initially they were proposing to do a pickleball court, that all of those things are part and parcel of every residential use and could never be questioned by anybody if they had been approved by the Land Use Administrator. So the Land Use Administrator has this incredible power under their interpretation of the code to prevent anybody from weighing in on these decisions. And again, based upon the purpose and intent of the Sustainable Land Use Development Code, that does not seem appropriate.

We do believe that the cumulative effect of this property is to take it outside the realm of the norms here. The Land Use Administrator, at least under the code, is allowed to engage in an investigation of a permit that is applied for of an application but chose not to, again, determining that this is a residence, so there is nothing that should be or could be done. This is of right, without question, no appeals, nothing. Even though the appeals provision is in the code and certainly would apply to that determination or at least that is our position in this particular matter.

The application that was made did have errors on it, not only as to the number of bedrooms and again, was approved apparently without any review. But it also suggested that there were no covenants or water restrictions, which is not the case. There are the County water restrictions. There's also a well-

SFC CLERK RECORDED 07/22/2026

sharing agreement and other covenants that deal with water issues. So again, there is a clear misstatement in the application, and again, no investigation.

There were three or four different notices of violation that were issued by the County after residents and neighbors brought issues to the County's attention, which proved to be sufficient to cause the County to issue a stop work order on the work being done at the residence, which included, at that point in time, grading for this pickle court, which has now been withdrawn, which is certainly a good result from everybody's perspective, as that would have been horribly disruptive.

But again, there was no indication or no effort by the applicant to, if you will, seemingly to comply with the code. They left trash blowing in the wind. They had a septic system which was insufficient to accompany and serve the number of bedrooms that they were seeking for in their application. They did this grading without having a permit to do it. They were proposing to build this pickleball court without having gotten any permits either from the County or from CID.

That's the backdrop from our perspective, and we do believe that you are correct in saying that the issues relating to the initial issuance of the short-term rental license are germane here and remain germane in this appeal and are among the considerations that the Commission should take into effect or into consideration as you deliberate on this.

With that, let me call my first witness because I know we are at limited time, and that is Frederick Diehl.

MR. DIEHL: Good afternoon, Commissioners.

MR. IVES: How long have you lived at 19 Sunrise Vista?

MR. DIEHL: The question was how long have I lived at my residence? I live at 19 Sunrise Vista, and my wife and I have been there for 18 and a half years.

MR. IVES: Can you describe the neighborhood in which you live?

MR. DIEHL: The neighborhood is one lot among five that has covenants that were put together by the landowners there before us, and that sold off the lots one by one until we bought the second to the last lot and built our house in 2006, 2007. And we've been there quite a while. The neighborhood is on – our home is on approximately three acres, and the homes around us, the minimum acreage is two and a half, so there's a nice breathing space between houses. And the country is beautiful, rolling hills, and our home has a direct view of the Sangre de Cristo Mountains. And it's a peaceful place to spend one's retiring years.

MR. IVES: Let me just ask when you walk out your back patio and look out towards the Sangre de Cristos what's it like in the afternoon?

MR. DIEHL: In the afternoon, in spite of the heat, the portal is all in shade, and the view is breathtaking of the mountains, whatever time of year it is. So when I go out on that portal, which is almost like a fourth bedroom, it's a three-bedroom house, there's a sense of peace, and the quiet is incredible. On certain days, depending on the atmospheric conditions, you can hear the bells of the cathedral. It's that crisp and clear.

MR. IVES: Can you see from your house the house at 18 Sunrise Vista?

MR. DIEHL: When that house was built, the that lot, both lots kind of came together at this juncture, even though they're both on three acres. And so the distance from the house that was built before it was presently turned into a short-term rental is approximately 65 feet from their porch wall, this narrow wall that has all the toys, to our bedroom, 65 feet. The pickleball court, which was all laid out and drawn, and I only discovered that because I saw a man taking photographs, and he's the one who told us. This is an STR. Didn't you know that? And we said, No, we did not. And he said it's going to be right here. And they had lines drawn, and they were 81 feet from our bedroom window

MR. IVES: The people who had lived in 18 Sunrise Vista before the current owner, can you describe what types of families.

MR. DIEHL: This was a young family and in the midst of people who were either in their final days of working or had already retired. This young family with two small children under the

age of seven, had this house built by a builder in Albuquerque, and the design was rather odd for the territory because it was a pitched-roofed house that looked like it had two stories, but it was a fake second story with dormer windows and no second story. And it was approved for three bedrooms, and the septic tank was built for a three-bedroom house. But the builder, who I think liked to cut corners, got a wall put in there and took the third bedroom where the young children were to stay and divided it into two bedrooms with one cramped bathroom. So thusly, we had them living in a four-bedroom house with a cramped bathroom, a guest room with a bathroom, and a master with a bathroom.

And the water source—not the water source, but the septic source supported a three-bedroom house.

CHAIR AABOE: Mr. Ives, please speak into the microphone. Please use the microphone.

MR. IVES: Yes, sir. I was going to ask next when did you first receive the notice that 12 people occupying the house had been permitted in the STR, and how did you receive that?

MR. DIEHL: Again, the only notice that I had that there was an STR afoot was from an employee of someone hired by the family who own the house now to start measuring off things for a pickleball court and maybe even go inside and start figuring out how they were going to convert garage to party house and all that sort of stuff.

But we did receive an official notice around February 13th or 14th if I'm correct, that came from the County and simply said that the property at number 18 Sunrise Vista has now been approved as a short-term rental. And if you have questions about this short-term rental, you have a number here of one of the owners who can answer your questions. And it is approved for 12 nightly occupants and a total of 20 during the day. And then informally somehow the word came from the County that, Nope, that's a mistake we made. It's not 12, it's 10. Ten at night. But a total of 20 during the day.

MR. IVES: Were you ever, well, let me ask first, when you received that, quote-unquote, official notice, that was erroneous from the county was it accompanied by a copy of the permit or any other documents?

MR. DIEHL: There was no other documentation included in that mailing and there was no other explanation on the face sheet. It was a one-page sheet.

MR. IVES: Prior to receiving that, had you ever received any inquiry from anybody at the County with regards to the STR or its potential impact on you as the closest proximate neighbor to it?

MR. DIEHL: No communication with the County was ever received.

MR. IVES: Thank you. I'd call the next witness, Lynn Diehl.

CHAIR AABOE: Thank you very much.

[Previously sworn, Lynn Diehl, testified as follows:]

MR. IVES: Let me first ask, just to simplify things here, you've heard the testimony that your husband Fred has given. Do you concur that his testimony was accurate and correct?

LYNN DIEHL: I do.

MR. IVES: Very good. Let me ask if the events surrounding this appeal and the approval of the house next door as an STR have caused you to seek to understand what the role of the County is in its work in this instance?

CHAIR AABOE: Please use the microphone, thank you. Just move the mic back and forth, thanks.

MS. DIEHL: There we go. Yes. I've been reviewing the County code. The mission statement I found states that, quote, To preserve the character of our existing communities and unique rural landscapes, and to address the needs and concerns of our citizens while ensuring their quality of life, unquote.

MR. IVES: Having seen the STR permit and having been involved in these proceedings do you have a sense as to whether or not the purposes as expressed in the code have been fulfilled by the proceedings in this particular case?

MS. DIEHL: Absolutely not. There was no investigation or effort to consult with or learn of any concerns of ours or our neighbors, much less address our needs and concerns. To my knowledge, none of the County people came out and investigated this home for its purpose of becoming a non-owner STR.

MR. IVES: And I note you state that it's a non-owner STR. Do you have anything else you would like to say?

MS. DIEHL: Yes. The code states for the purpose of an STR that it is, quote, To protect the peace and enjoyment of surrounding communities and neighborhoods, protect water resources and environment, and promote the health and general welfare of the County, unquote.

MR. IVES: I believe that's all that I have.

MS. DIEHL: Well, I have something more.

MR. IVES: Please.

MS. DIEHL: I do not understand how an STR party house with extra bedrooms and party house attributes can be allowed for an out-of-state commercial business that has no ties to the community and no respect for the community, as we discovered with their intent to do things without a permit, like degrading the whole backyard of this property.

It seems there has been a disregard of your own mission statement for growth management, as well as the stated purpose of the STR ordinance. As tax-paying Santa Fe County constituents, we expect that you, as officers of your commissions, would respect the valid concerns of your constituents instead of county laxity in favor of an out-of-state commercial business that operates strictly for maximum profit. Thank you.

CHAIR AABOE: Thank you. I have a question either Mr. or Mrs. Diehl.

MS. DIEHL: Yes.

CHAIR AABOE: So is this currently a functioning short-term rental?

MS. DIEHL: I don't believe they've been able to due to all the after-the-fact situations they're having to take care of.

CHAIR AABOE: Okay. Thank you. Thanks very much, Mr. Ives and folks. I appreciate it.

MR. IVES: I actually was hoping to pose questions to Mr. Sisneros, but I can wait till the end.

CHAIR AABOE: Let's let everyone make presentations, please.

MR. IVES: Okay.

CHAIR AABOE: Thank you. And so who is the second appellant?

[Duly sworn, Heather Travis Boone, testified as follows:]

HEATHER TRAVIS BOONE: Sure. Heather Travis Boone for Cuddy & McCarthy. The business address is 1701 Old Pecos Trail, and I'm here on behalf of Sundance Estates Homeowner Association.

CHAIR AABOE: Thank you.

MS. BOONE: Thank you. I will try not to repeat points that Mr. Ives made in his presentation, but please know that our association is in agreement with the points that The Diehls made and Mr. Ives made on their behalf.

And to answer some of the questions that have come up, I'll try to weave those into the presentation as we go. Sundance Estates has 61 total lots in the association, and at least two of them are adjacent, meaning they are touching the Sunrise Vista property. There are also more within Sunrise or within Sundance Estates that are within that 500-foot notice area. And before I begin and go on the clock, I just want to thank staff. While we disagree with them on their on their interpretation and

decisions they have been extremely helpful and extremely responsive, and we very much appreciate the work they do.

So to answer a question that came up from Commissioner Brugger, there is a change that is included in this permit that affects all of those toys, the amenities that have been included, and that is the permit for electrical grading. Without that electrical, our understanding is they couldn't plug in their spa or their sauna, their cold pool filtration or any other lighting that is going to be used out there, the hot tub, all of those amenities. My understanding is that those are tied to this permit approval for the electrical.

The property is advertised as built for gathering. It allows 10 guests, and that's 10 adult guests and their kids overnight. It allows 20 adult guests and their kids during the day from 7:00 AM to 10:00 PM, and you can bring your dogs, too. You can enjoy their multiple living areas, their multiple covered patios, the coffee wet bar, a cold plunge, a sauna, fire pit, a hot tub, a gym, more than 1,200 square feet of billiard and game room with a pool table, foosball, air hockey, poker table, and more. It no longer has a garage, so all the parking will now be on the street, a cowboy pool, and a geodesic stargazing dome. This is only part of the marketing. Of course, there's all sorts of other things included in it, but it makes clear that this is not an ordinary property. It's not a residential property. It's not an ordinary short-term rental property. It is a resort.

A question came up of what is it? Commissioner Pava asked the question of what makes this – what triggers a property becoming a resort versus a short-term rental property? It's a great question. I have the same question. When is it too much? And the answer that we got is when they ask permission to become a resort. That cannot be the answer. You have sat here, staff, I know numerous times every day probably, sees violations because people didn't ask permission. Just because they didn't ask permission doesn't mean they're in violation or it doesn't mean that they're in compliance with the rules of the SDLC. It is truly a resort whether they ask permission for approval as a resort or not.

They are renting the property for \$600 a night. That's \$220,000 a year. It is a commercial business.

Now, the problem that the interested parties, the aggrieved parties, the appellants that you have before you tonight have, is that they really don't have the opportunity to have their voice heard in a meaningful way because there's a prevention here of looking at the holistic view. Staff is forced to look at a bedroom here and an electrical outlet there. They're not allowed to look at the entirety of the project, which is what should be done under the intent and purpose, the mission statement. And I will posit it's the constitutional portion of the SDLC. What is the purpose of this document that you're setting out and trying to enforce? It is to balance the interests of all property holders. It is about balancing, and so far there has been no balance.

The neighboring property owners, if they got notice, got notice after the fact that now they can have 10 people outdoors at all times of the day, 20 people at all times of the day, 10 people all times of the night in their neighborhood. Oh, and by the way, they started grading for a pickleball court. And I don't know if you've seen how loud those are, but they're really loud. There's been a lack of consideration and input from the residents in this area, and part of that process – it indicates that the process is truly broken.

This isn't a single family residence. There are no residents. It's not a second home that gets rented out from time to time. It is a commercial business. It's never been occupied by these owners. It's required to have a business permit and a license, and it is a commercial enterprise for the specific purpose and use of maximizing profits without regard to the impact on its neighbors.

And to Commissioner Pava's earlier question as well, the cumulative impact is why we're here. If we were looking at a bedroom here maybe there wouldn't be any issue. But when you start seeing 20 people all day long and 10 adults overnight and their kids and their dogs out on the patio, there is an imbalance in the land use with this approval.

It is not the type of property that is permitted within a residential estate zoned area, which is what Sundance is, and it is what Sunrise Vista is zoned. It is not a permitted use. When evaluating the short-term rental license, which had a multitude of problems most of which Mr. Ives mentioned, but also was signed, was issued before it was even signed by the Land Use Administrator. The process has got some issues. How it was approved for six bedrooms when it was submitted with a three-bedroom ILR. How it was approved for six bedrooms when there's a septic tank review that was submitted with the application that clearly states in its notes, pointing out by the inspector that it is a three-bedroom approved house with four bedrooms currently on it. How that turned into six bedrooms approval is a mystery. A residential short-term rental is different from this property. This property does breach into what is the definition of a resort, which Mr. Sisneros did provide earlier. It is a group – it is a building or group of buildings containing guest rooms with the majority of the property devoted to recreational activities. Remember I said a plunge pool, a sauna, a hot tub, a star gazing dome, 1,200 square feet of a game room, a gym, there's not a whole lot left except for the rooms itself. Which of course are required in order to make money off of. This does go over the line on the spectrum of what is residential, what is short-term, and what is a resort.

The developer acknowledged in its position statement that a resort is a commercial lodging enterprise operated as the principal use of the land. That's what they're doing here. The failure to take the holistic view of the effect of the development approvals in this permit is an error, and it has resulted in an arbitrary and capricious decision.

The stargazing dome, the sauna, the cold plunge, and the cowboy pool were all approved as recreational structures without any scrutiny, and they were deemed by the Land Use Administrator as incapable of being denied. The stargazing dome has already created a nuisance. It's this big, clear, plastic, reflective dome that depending on the time of day and where your position is, you're going to get glare, a blinding glare. And at night, it's going to become a great beacon as soon as somebody puts a light in it.

I understand from the newspaper several years ago during COVID that there was a property owner who had a dome on their property that they were renting as a short-term rental, and the county came in with an enforcement action and said, You can't do that. You can't have people sleeping in there. And the owners are not owner-occupied here. This is a short-term rental where the people don't live there. They don't live next door, so they have no control over what their guests are going to do. And I tell you, if my kids went and rented that house, if we went and rented that house, my kids would be sleeping out there. You know it's going to happen, and there's no control over it once it gets put in. And I believe it's going to cause additional problems under the New Mexico Night Sky Protection Act.

The amenities were approved without consideration for input from the other property owners and the impact that's going to have on them. These are not comparable to the installation of a trampoline or a basketball court or a soccer net. These are installed to maximize profit for a commercial business in a residential estate neighborhood. The same is true for the conversion of the bedroom and the flex room into another bedroom.

As such, as not taking into account the balance that the SLDC requires these decisions to be arbitrary and capricious. In short, the developers have done an end run around the zoning prohibition for resorts within the residential estate zoning area. They are so certain that you're going to ignore the totality of the circumstances that they are marketing and renting the property as of tomorrow I noted that there were some process concerns and including what Mr. Ives stated, there are a lot of concerns with the lack of input or consideration to the neighboring property holders and ensuring that the intent of the SLDC is carried out. In this case, there's been no balance of interest. Instead, the developer has gotten almost everything they wanted. This includes the failure to provide timely and meaningful notice. The timely production of public records under the Inspection of Public Records Act, and the exclusion of what could be presented here at this hearing for you to consider.

While we believe that there was a failure to provide the required notice under the STR licensing the delayed permitting notice is perhaps even more concerning. The current permit that we're here about tonight was granted on May 21st. You have five business days to file your appeal, and that poster was put up on the fourth business day. Now, in this case, staff said, We're going to give everybody an extra five business days because we knew that they didn't put it up on day one, because they had been out there on enforcement action. So I don't know that's going to be the case again. There is a fundamental problem when the neighbors don't get timely notice of the ability to appeal something that's going on right next door to them, because they probably knew after the pickleball outcry that the neighborhood was not going to be happy, that they were going to file appeals. The only reason we got notice timely is because staff provided it because they knew we were interested. This may not be the case in the future. They have already gone in and graded and started planning for a pickleball court without a permit, which they installed on their other property that they own in Santa Fe. And they still have the pickleball tiles and the court installation items sitting in their driveway

The issues with the issuance of the STR license and the approvals create good cause for the denial of the application. Not only were there errors there, there were false statements in those. There are covenants regarding the property. There are water restrictions. If they didn't know that, they didn't do their due diligence They had to sign that over to the County. Their application is signed. It is a certification that what they're saying is true, and it wasn't. They were easily identifiable deficiencies that took Peter and I probably an hour or two to find. The Land Use Administrator may also place restrictions or limitations on licensed activity in order to protect the health, safety, or welfare of its citizens. That means there could be limits saying in this property, in this neighborhood, 10 adults overnight is not appropriate. There can be restrictions put on the properties based on where they are.

I mentioned IPRA. As somebody who deals a lot with the governmental entities that receive IPRA requests, I know an overbroad and unduly burdensome request when I see one, and this was not it. We asked for all permit applications, denials, hearing notices, approval, and related communications for 18 Sunrise Vista from March 27, 26 to present. We asked for about a month and two months. This was done on May 26th. We have not gotten a single document. There is a fundamental problem when we're being asked within five business days of approval when we don't even see a poster go up for four business days. We don't get documents, so we don't know what we're appealing because the application isn't provided to us.

There is a fundamental imbalance here where the interest of the neighbors is not being considered. We also interestingly filed a IPRA request with the New Mexico Environmental Department regarding the septic tank, which the new approved permit was produced as part of the exhibits to this application. However, NMED did not produce it in response to their IPRA, which is curious.

The development of a prohibited resort property within a quiet, quasi-rural neighborhood should not be permitted. The interest of an out-of-state absentee developer to create this resort and party property and short-term rental business with the extensive recreational facilities that adversely impact the neighboring property owners should not outweigh all the interests of the Santa Fe constituents who wish to continue the quiet enjoyment of their property.

As we've described, we have serious concerns with the process. These are further exacerbated when the flagrant disregard for the Santa Fe County development regulations were discovered. Three notices of violation, a red tag, and that's just on this property. They have other violations on their other property, which we understand they never got a permit for putting in that pickleball court. The process is broken. The lack of notice to affected neighbors heightens the distrust created when developers brazenly grade the land and proceed with their plans regardless of the impact of regulations. It was further eroded when it was found out the egregious conditions under which the STR license was granted with false certifications and erroneous information. It was granted without prior notice and hardly any post-issuance notice. Trust was further eroded when this permit was approved, and if not

for the diligence of staff, the residents would have been denied the ability to appeal due, due to developers' failure to timely post its notice despite and likely due to its clear knowledge of the opposition of their neighbors. The process is broken when residents are forced to file an appeal without any access to the application and approval documents. The process is broken when an IPRA goes unresponded to for almost two months, not one document. The process is broken when the balance of interest is absent. And when the broken-- when the process is broken, it leads to arbitrary and capricious decisions that should not stand under the SLDC.

Finally, I will ask you to keep in mind the precedent created in these decisions. Denial of the appeals will encourage private equity and out-of-state investors to take advantage of weak enforcement standards designed and adopted to keep neighborhoods as communities that can be enjoyed by all of its residents. Thank you.

CHAIR AABOE: Thank you, Ms. Boone. Do any Commissioners have questions for Ms. Boone?

Okay. Thank you very much. And next, do we have a presentation?

[Duly sworn, Patrick Heagerty, testified as follows:]

PATRICK HEAGERTY: My name is Patrick Heagerty. I live at 10 Sunrise Vista. I'm the property to the south of the property we're discussing. I'm very grateful for this opportunity to talk to you, the leadership of our County planning and development. I want to focus on really three key themes, high level. I want to keep it high level.

Governance in Santa Fe and everywhere relies on principles and procedures. I want you to think about the questions in front of you with respect to peace versus profit. I want to encourage you to take your purview of protection of the county and its constituents seriously in your mandate. What I think we heard earlier was it's procedure. It's just procedure. If you follow procedure, that's all that matters. A five-minute follow-up can easily say the same thing. It's just procedure. But we've heard testimony very clearly from your documents that your mandate is to ensure more than adherence to procedures. It says clearly your mandate is to ensure balance, that the balance of the actions you take with respect to benefit to private companies, with respect to burden and impact on adjoining properties. That's part of your purview.

I singularly appealed the fifth bedroom. The property was bought as a four-bedroom house. I understand that. It was a mistake in some sense that the prior owner didn't do something. But why do they want the fifth bedroom designated? It's not going to be lived in by them. It's to maximize their profit, and that profit maximization impinges directly on me as a neighbor to the south.

We have a small gravel road. Serves the Diehls, me, and this property. That road has been decimated by the activity of the development that's been happening. That's not part of what they care about, but it's what I need you to care about. The impact of that property's ask to expand its footprint from a four-bedroom house to a five-bedroom house. It's irrelevant whether that ask would have been put forward, would it have been granted. The ask is in front of you. Will you endorse the maximization of profit at the expense of the neighbors? I own a 6.5-acre property house. I own three adjoining 2.5-lots. I bought those lots to preserve the peace and tranquility that defines our neighborhood.

It is your purview to protect that, and I'm here asking you to step forward in your leadership role and execute that leadership and protect what's mandated in your code. Your code is not simply procedure. Your code is principles that guide the development of procedures that are insufficient for ensuring adherence to those principles, but that's your role.

The code requires interpretation. We heard that earlier from the legal team very clearly. What's an aggrieved party? It's gray. We have to interpret. We make interpretations. The procedures are clear, but they still require interpretation, and your role is to ensure that the guidelines, the principles of this document, SLDC Growth Management, those principles are adhered to.

So I'm asking you one simple thing: deny that fifth bedroom. It's totally clear the role of that fifth bedroom. It's to maximize profit at the expense of neighborhood peace. Thank you.

CHAIR AABOE: Thank you, Mr. Heagerty.

MR. HEAGERTY: Any questions?

CHAIR AABOE: Are there any questions for Mr. Heagerty from the Commission?

Thank you, sir. So how many people again are interested in speaking either for or against this? I see two, four. Is there anyone online?

MR. SISNEROS: Chair Aaboe, Planning Commission members, I do want to ask the people online, if you do wish to speak on this matter, please push the raise button to show that you virtually would like to speak on this matter.

CHAIR AABOE: Meanwhile if anyone in – it looks like with four folks please come forward, be sworn.

MR. SISNEROS: Chair Aaboe, Planning Commission members, before we go forward with public comment you may want to hear from the applicant and their counsel.

CHAIR AABOE: Okay, that sounds great. Yes. Sorry, sir. Yeah, so team, if you can come up be sworn and give your presentation. Thank you very much

[Duly sworn, David Richter, testified as follows:]

DAVID RICHTER: And yes, my name is David Richter, and I'm with the law firm Richter Jones. We're at 313 Paseo de Peralta, Santa Fe, New Mexico. And I'm here with my law partner, Jeremy Jones, and our assistant, Rashid.

I actually don't think I'm going to even talk for five minutes. What I would like to say briefly is that when a permit application is submitted, say to formalize the existence of a fourth or fifth bedroom, I don't see anything in the code that requires an inquiry into the purpose or the motive. That is to say, you don't have to ask the person what are you going to do with this fifth bedroom? Are you going to mine Bitcoin? Are you going to get on the internet and collude with Russian hackers to undermine the election? What are you going to do? There is no such inquiry under the code. It's just not there.

And I want to say that I appreciate the frustration of many of the speakers here, and I would encourage them to reach out to us as counsel for the property owner to try to address some of these issues. I would've happily provided counsel for the association with the documentation that they were having difficulty obtaining through IPRA requests. I would've happily provided it to her.

I also want to say that I'm a little concerned about the way in which the after-the-fact process is being treated here. I don't think seeking after-the-fact approvals is bad. I think it's something we want to encourage, and I'm afraid an unintended consequence of some of the rhetoric and some of the discussion today will be to discourage people from seeking after-the-fact approvals, and that concerns me.

But what I want to conclude with, frankly, is I'm extending an invitation to all the parties concerned to communicate with both Jeremy and I about their concerns. I didn't even know what a pickleball court was. I know what a pickle is, I know what a ball is, I know what court is. I had no idea what a pickleball court is. But what I do know is it's not happening. It's not being built. So with that, I'm happy to answer any questions or I'll sit down. It's up to you.

CHAIR AABOE: Thank you very much, sir. Do any Commissioners have questions? Vice Chair Trujillo.

MEMBER TRUJILLO: Thank you, Mr. Chair. From the testimony earlier, from what I understand now is that this property is not part of an HOA. It's one of five properties that has covenants on it; is that correct?

MR. RICHTER: It is not a part of an association. That is correct. Whether or not it most certainly has covenants of some kind. The scope of those covenants I'm not particularly familiar with. I do know, however, that it is not the County's obligation or the state's obligation or anyone's obligation to enforce covenants unless they are specified as county or state enforcement.

MEMBER TRUJILLO: Okay, that's it. Thank you.

CHAIR AABOE: Any other Commissioners have question? Thank you, sir.

SFC CLERK RECORDED 07/22/2026

MR. RICHTER: No, thank you. Thank all of you.

CHAIR AABOE: Appreciate it. Okay, now let's those interested in making comments, please come forward, be sworn, and please limit your comments to five minutes.

[Duly sworn, David Sterling testified as follows:]

DAVID STERLING: My name is David Sterling. I live at 15 Sombrillo los Cerros in Santa Fe, New Mexico. I'm also a part of the board of directors representing Las Cordillas HOA. And we do have several members who are affected by this particular appeal. And I do, I just want to make sure that the Commissioners know that it's not just the appellants that are being affected. There are others and we do have members in our HOA that are adjacent to the property. So it's, again, a bit wider, and I would go back and I won't-- I'm not going to go through what Mr. Ives and Ms. Boone and Mr. Heagerty has stated, but I will again just similar to what was said before that there's a, there's an expectation, certainly by our HOA members, that the existing quality of residential life will be sustained and a part of your decision process. Even though we first got involved with this, and it got at least awareness around what was going on around the pickleball activity and I know that has not gone forward. We think that's a good thing.

But when you have the number of people that are allowed on the property on any given day, and also at night it is not consistent with what our expectations are from a HOA. So again I would just go back to what has been put forward by all three of the appellants and ask for your consideration about the quality of life and the expectation that we had to live in a residential zoned location. Thank you.

CHAIR AABOE: Thank you, sir. Who's next?

[Duly sworn, Valerie Brier, testified as follows:]

My name is Valerie Brier. I'm a real estate agent with Keller Williams. Yes Brier, B-R-I-E-R. And I've been a real estate agent here in Santa Fe for 28 years.

CHAIR AABOE: Excuse me, ma'am. Please give your address for the record. Thank you.

MS. BRIER: Oh, I'm sorry. My, my work address is 130 Lincoln Avenue, Suite H. Just over here.

My job is to market properties and to help all of us, any of us that are selling our properties, to get the most money for our properties that we can. And things like this affect, will affect the property values in the area. When buyers come to Santa Fe, they do ask about noise. They'll sit there and look around. They will listen. They will spend time because they want peaceful enjoyment, which is the highest and best use of residential property according to realtors. I think the thing that you have to-- that hasn't been mentioned 100 percent is the road that leads to this property, it goes up a hill, and at the top of the hill sits this property in question, 18 Sunrise Vista, and the Diehls property right next door, and it curves down the hill. And I can tell you, any partying or activity that happens on that deck, you're going to hear for miles around, and the light is going to affect it for miles around. And it is going to affect the property values of not just the people that are here appealing it, but anybody that lives in this area.

The Northwest Corridor is right now the most popular area in Santa Fe. People are coming from all over the country to live in the Northwest Corridor because of what it offers to retirees mostly.

Here's another interesting piece of information. When I heard about -- I'm friends with Lynn and Fred, and I'm friends with some of the other people here, Susan and Roger, and I know Patrick and his wife. When I heard about the pickleball from Lynn and Fred, and I found out who sold the property, and I called that realtor, who is a very good realtor with a lot of experience, and I said, Is there any way you can talk to them -- I kind of couched it from this perspective. I know as realtors, we all want to protect Santa Fe and what it means to us, the value that it has. It's a special place, and I understand that they're going to put a pickleball court in there. Is there any way you can talk them out of that? He said, Oh, no. They came to me with the idea that's what they were going to do. I cannot talk

SFC CLERK RECORDED 07/22/2026

them out of anything. And the other thing that even though it's been mentioned about the commercial thing, these people have never been to – the people that own this property now, it's the name, it's under now under, deeded under the name of this commercial enterprise and not this person, and they've never even been to see the property or know what Santa Fe's about. And that's not okay. And I think that it really does speak to what other people are saying is in general the county ordinance and whatever's happening with short-term rentals needs to be relooked at. This is going to ruin everybody's enjoyment and their property values. And I guess that's all I have to say. So I hope you guys can somehow figure out a way to overthrow this.

CHAIR AABOE: Thank you, ma'am.

[Duly sworn, Susan Peirce, testified as follows:]

SUSAN PEIRCE: My name is Susan Peirce. I live at 18 Paseo de Aguila. We are the west tangential property to 18 Sunrise Vista. We share borders and we share a cul-de-sac.

In February, Santa Fe County approved a commercial scale short-term rental at 18 Sunrise Vista operated by Azure Luxe LLC An out-of-state luxury vacation rental corporation in our quiet, five-home subdivision, zoned single-family residential estate. The decision was made in violation of our CC&Rs without notifying neighboring property owners, seeking community input, or providing residents any opportunity to comment before approval was granted. We learned about it only after the fact when the impacts to our neighborhood had already been set in motion. Built as a three to four-bedroom single-family residence, the property will now be operated as a destination rental with expanding sleeping capacity to five bedrooms, resort-style amenities with two pools, sauna, hot tub, garage conversion to a pool hall and entertainment space, and a proposed pickleball court currently on hold. It's authorized to host up to 10 overnight guests and 10 daytime visitors from 7:00 AM to 10:00 PM, creating significant concerns regarding noise, traffic, road maintenance, water consumption, and compatibility with a small residential neighborhood served by a shared private dirt road and a domestic well limited to .25 acre-feet per home.

Azure Luxe markets the property as part of its nationwide portfolio of luxury vacation rentals, and public booking calendars on their website indicate extensive reservations well in advance. This is not an occasional non-owner occupied SDR. It's a professionally operated commercial lodging business located in the middle of a peaceful residential enclave. Neither the operator nor the County has meaningfully addressed concerns regarding the shared road, shared well, or the cumulative impacts on neighboring homeowners.

When residents have sought assistance, we've reportedly been told that these concerns are civil matters beyond the County's responsibility. For five months, residents have sought answers, filed complaints and petitions, attended meetings, researched regulations, hired attorneys simply to understand what rights, if any, remain available under the County's STR ordinance for neighboring properties. The result has been obfuscation and indifference, resulting in uncertainty, disruption, and frustration for families who believed that their homes were located in a protected residential neighborhood.

This experience raises a larger question: What obligation does Santa Fe County have to protect established residential neighborhoods and ensure, quote, the peaceful enjoyment of one's property," according to your own website? Under the current ordinance, an out-of-state investor can purchase a home in single-family zoning and convert it into a high-intensity commercial lodging operation with no notice to or input from surrounding property owners until after the fact.

This is not simply about one property. It's about a process that excludes neighbors, favors commercial interests over residents, and erodes trust in local government. Santa Fe County residents deserve meaningful notice, meaningful participation, and meaningful protection. We urge the county to revise the STR ordinance and restore a fair balance between property rights, neighborhood protection, and the interests of full-time residents.

Thank you for hearing me out.

CHAIR AABOE: Thank you, ma'am.

[Duly sworn, Roger Peirce, testified as follows:]

ROGER PEIRCE: My name is Roger Peirce, residing at 18 Paseo de Aguila, Santa Fe. Thank you for the opportunity to speak to you all this afternoon. Five months ago, the lives of residents in our five-home subdivision and surrounding neighborhoods were completely disrupted when Santa Fe County approved a commercial short-term rental at 18 Sunrise Vista in our single-family RES-EST neighborhood with no notice or approval or ability to comment. Since then, we have spent countless hours, significant financial resources, and enormous emotional energy trying to understand and respond to a situation that the County has created. We have submitted petitions, attended meetings, contacted land use and growth management, spoken with our Commissioner, and hired attorneys only to be told now that it is a civil matter.

The property at 18 Sunrise Vista has been transformed from a single-family home into what is effectively a luxury lodging destination owned by out-of-state corporate operators. The STR is what authorized to hold and host up to 10 overnight guests, 10 daytime visitors. These are things that we've heard before. The property now includes expanded sleeping capacity to five bedrooms and numerous resort-style amenities with the possibility of future pickleball court. And I must say, I'm glad to hear that has been, at least in theory canceled, that would further intensify the activity should it ever become a reality. Because the home sits on a hill, the impacts extend well beyond our subdivision, affecting neighboring communities, including Sundance Estate and Las Cordilleras. We purchased our homes relying on County zoning, tax classifications, and recorded documents identifying this area as a single-family residential neighborhood.

Yet the County changed the rules and now allows commercial lodging operations in residential communities without meaningful notice or input from the homeowners most affected. We are repeatedly told that the County is simply following code, but a code that excludes residents from the decisions that fundamentally alter their neighborhoods and not serving the people who live there. This is not simply about one property. It is about the process, as we've heard, that the County residents, it erodes trust and local government. We, the homeowners of Santa Fe County, deserve meaningful notice and to be heard before, not after, these decisions are made. Thank you very much for your time.

CHAIR AABOE: Thank you, sir. Is there anyone else in the room who wishes to make comment? Is there anyone online who's raised their hand and is interested in making comment?

MR. SISNEROS: Chair Aaboe, Planning Commission members there is a Diane Kramer online wishing to speak.

CHAIR AABOE: Okay, Ms. Kramer, if you have a camera, are you able to –

DIANE KRAMER: I was trying to get it to work, but I apologize, I cannot get it to work. But am I still able to speak?

CHAIR AABOE: Yes. You must raise your hand and we'll trust you on that and be sworn.

[Duly sworn, Diane Kramer, testified as follows:]

DIANE KRAMER: My name is Diane Kramer, and my address is 36 Stardancer Trail, and I live in Sundance Estates. And I'm going to just speak for a minute or two, but I live in direct sight from this property. My backyard is below 'cause this house is pretty – is very high up on a hill, so the noise travels quite a bit. And my husband and I have lived in this neighborhood, we moved in 2004, so over 20 years. And it's really been our dream home because of, number one, it's a very, very dark sky where we live, so we see the Milky Way. And number two, because it is so quiet. We both work full time. We both have to get up by 6:00 AM every day to get to work, and we're very, very concerned about the noise because even with that property, they had young children living there when they first moved in and, we would sit out in our yard and just hear the children playing. So I can't even imagine what it's going to be like when there is a resort behind us where we're trying to sleep so we can get up for work the next day, and to have to listen to people who are on vacation on a property. So I just,

SFC CLERK RECORDED 07/22/2026

think it's really important that, we just plead with you that you would please listen to the concerns about our quality of life. And that's all I have to say. Thank you.

CHAIR AABOE: Thank you, Ms. Kramer. Is there anyone else online who has raised their virtual hand?

MR. SISNEROS: Yes, Chair Aaboe, we have Um Rutherford online.

CHAIR AABOE: Hello, Mr. or Ms. Rutherford. If you are able to turn your camera on and be sworn.

UM RUTHERFORD: Hello, can you hear us?

MR. SISNEROS: You'll have to unmute yourself in order to speak.

CHAIR AABOE: Hello, can we, can you hear us? We cannot hear you.

MS. RUTHERFORD: Okay, here you go. Can you hear me now?

[Duly sworn, Anne Rutherford, testified as follows:]

UM RUTHERFORD: Yes. MY name is Um Rutherford. I'm at 38 Calle San Martin. And I'm the president of the Tano Road Association and speaking on behalf of them, obviously. We are a registered organization with the County, and we are a neighborhood association that represents around 500 property owners on the Tano Road corridor area. So I've been living here for 12 years now. We've owned several homes. And we are here just as, just like everyone else, enjoy the quiet the solitude of Santa Fe. And we support the appellants in this case.

This 18 Sunrise Vista is a non-owner occupied, commercially owned short-term rental that's hosting the 20 people during the day, 10 people overnight. We believe that this far exceeds what's defined as residential use. Rather, as everyone else has said, it functions more as an event venue in a residential zone, and thus it threatens the character of the neighborhoods that we just adore. So Tano Road Association not being -- we actually, our area does comprise of Sundance and also the Sunrise Vista neighborhood. A lot of us live -- it's a rather large area.

But we're concerned about the precedent that this could set. Approving this use will open doors to commercial event venue type situations through our residential neighborhoods. So I've actually started spreading the word out to our members. So I just want to let you know that beyond just the Sundance and Sunrise Vista community areas we're informing everybody about what's happening here. And so we ask that the Commission consider upholding this appeal. Thank you so much.

CHAIR AABOE: Thank you, ma'am. Appreciate it. Anyone else?

MR. SISNEROS: Chair Aaboe, there is nobody else online identifying that they wish to speak on this matter.

CHAIR AABOE: Thank you. So all of those who have been interested in speaking have spoken

Commissioners, do you have any questions for the staff, the applicant's representative, or any of the parties who have spoken to us? Commissioner Brugger.

MEMBER BRUGGER: How about comments? Can I make some comments?

CHAIR AABOE: Can I stop you? [laughter] No, of course. Please.

MEMBER BRUGGER: Thank you, Mr. Chair. Couple comments and couple save some of my responses to some of the speakers until, till y'all were done. I wrote things down. I saved them up. I thank everybody coming here you're heard.

So the first thing, I agree with the speakers that the short-term rental ordinance and the process needs to be re-looked at. And having said that's not the item on the agenda before us tonight. And nor is that within our purview. That's Board of County Commissioners. I hear what everybody said, but I just wanted to make it clear that that's not something we can do at this meeting at this time.

The second thing in response to Mr. Richter, where if I got it right, that there shouldn't be an inquiry as to what you're going to do, what your client's going to do with the improvement that's being proposed. And I argue and I make reference to the code, because you'd made reference that you don't see that being part of the code. I do. Section 1.51, that the purpose of the code, it promote health,

SFC CLERK RECORDED 07/22/2026

safety, and welfare of the county so that development does not create land use and public nuisance impacts or effects upon surrounding property, county in the region. Everything that we've heard here tonight have to do with folks' views that indeed there is an impact. So it's something that we need to consider in my estimation.

The third point what I hear or interpret from what I hear is the per code section 3.42, where the Land Use Administrator making a decision is it a reasonable interpretation of the SLDC that is not inconsistent with a Sustainable Growth Management Plan that is that's a matter of opinion. But what I heard was quite a few opinions that it may not have been the most reasonable decision. And even when comments on the process were made, that possibly it shouldn't have been an administrative decision, that it should have been subject to more of a public meeting, public hearing process.

And the last point at least that I heard, was from many other speakers, question of whether – we're not looking at the short-term rental because we can't. We look at the development permit and the process and what was in it. That's what we need to do and the decision that was made. That's what we need to look at. Question is whether the improvements enabled or that would be enabled by this development permit represent a change in land use that is not typically residential. If that were the case, then in my mind, that opens up quite a few things, even whether there should have been an administrative decision or whether it should have been a different decision.

So those are my main points that I gleaned from the testimony that was given offhand. So just to start the ball rolling.

CHAIR AABOE: Thank you, Commissioner Brugger. Are there any other questions or comments from any of the Commissioners? Commissioner La Cruz-Crawford.

MEMBER LA CRUZ-CRAWFORD: So this is a question for staff, 'cause I'm curious about this since there's obviously discussion about the intent of the SLDC. There's been some, I guess my question is, what is our review criteria, right? When we have a variance, we have a particular review criterion, so three points that we have to follow, right? So in this particular case, 'cause it's not a variance, it's kind of unique, what is our review criteria?

MR. VOS: Chair Aaboe and Commissioner La Cruz-Crawford. these administrative development permits are ministerial development proceedings, which are described as non-discretionary application of the standards in the SLDC to an application. So it is going through the design standards, the development standards of the code, and does it meet it or does it not meet those standards? There is no balancing of policy and that sort of thing in a ministerial administrative approval.

MEMBER LA CRUZ-CRAWFORD: Thank you. And I guess just some random comments and I'll pass it on to anybody else who wants to talk. So yeah thank you for everybody for coming here, and I kind of hear where everybody's coming from, and obviously there is concern, with respect to an out-of-state entity coming, turning a residence into an STR. We hear that throughout that that is a concern. As Commissioner mentioned here though, that is not something that we are necessarily as a board, the discussion of the STR is not necessarily in our purview, right? But I do hear where you guys are coming from and why that's a concern,

I also see the other side of the table. If I'm a homeowner and I buy a house, yeah, and I decide to put a pool in it or a sauna or any of these things that are obviously amenities that this entity is obviously using to market their STR, as an individual homeowner, I should be allowed to do that as well. And I'm sure every one of you guys should be allowed to do what, to the extent that's allowed by law and code, that you should be able to do that. So there's kinda two sides to the table, and I guess where I'm looking at this right now is, as Commissioner mentioned, seems like the fact that this got converted into an STR is the concern, right? Is the fact that it's going to be used as you guys are saying, as a party house potentially, et cetera, but I guess my understanding having heard staff here is that really our review is did it meet the development code, right? Did it meet the permit scenario? And so far, as far as I can tell based on what I'm reading and seeing, it seems like at least the process of

actually developing and seeking a building permit, even if it's an after-the-fact building permit, et cetera, that process seems to have been properly done. Once somebody does that and say builds a house, and then they decide to then use it as STR, use it as something else, that's all of a sudden kind of a separate item. Is somewhat what I'm in my head I'm thinking of it in that way, right?

And so just I guess I'll leave that as just kinda some thoughts as far as what -- development permit-wise, planning and zoning-wise, it appears that this met mustard, right? And then unfortunately, whoever this entity was decided to go and use it in STR, and that's where all this conflict is coming from.

CHAIR AABOE: Thank you, Commissioner. Vice Chair.

MEMBER TRUJILLO: Thank you, Chair. And I just have a couple comments as well. I just want to thank everybody for coming out this evening. As I sit up here I think it's pretty clear that it's the short-term rental policy that's really affecting this neighborhood. The growth management and building and developmental services department is just approving a permit. Now with that said, there's a lot of -- you'd be surprised how many after the fact permits are issued across the county, countywide, and people go to correct stuff all the time. This is a very common practice that takes place, and I get contacted by people all the time asking about this, and I always tell people immediately, make sure that your permitting done correctly. But a lot of this stuff is even historical. This one isn't as historical as that. But I can see how it affects people in their homes in this rural part as far as feeling that they could be a big party house where it's going to just get noisy. I get that. But it is not really the purview of, at least in my opinion, of this Commission. This is actually the County Commissioners and their ability to revamp the STR, the short-term rental code. And, there's going to be issues. Anytime you pass a policy or legislation, there's unintended consequences. And obviously, here's an unintended consequence in this neighborhood. And so with that said, I just want to say that I do feel and I do understand you all coming out here tonight.

I'm not sure that's the decision we have to make is actually we can't make a decision based on the short-term rental policy, in my opinion. Thank you.

CHAIR AABOE: Thank you, Vice Chair. Any other comments from the Commission? Commissioner Pava.

MEMBER PAVA: I appreciate. Thank you, Mr. Chair, fellow Commissioners. I appreciate hearing your thoughts and sentiments. Appreciate the candor of staff. I appreciate everybody who's taken time out to come here this evening. There's plenty of other things to be engaged in, and not only this evening, but all the time, effort that has been invested pro and con, if you will regarding this situation. I also believe that in due process we have appeals, and the appeal process, that's why I asked this earlier and put it into the record, was that no matter how this Commission decides this evening, aggrieved parties can appeal this, and it will go to the Board of County Commissioners. And this is where I think the conversation could be broadened considerably, touching on the issues we're not supposed to be touching on here.

And I would also encourage, having been in, in a land use director in long previous ago, life previously, I would say that it's a difficult position if you've got something that's non-discretionary. But sometimes it's important to look at context and intensity. I say that because I did NEPA up at the lab for a long time, and if you could just go by the book you can bend the law one way or another. I think it's really important for somebody in this position to look at and ask the hard questions, and perhaps a bit of due diligence in a situation like this. I'm not saying it wasn't done, and I think some of it was. I think maybe there might have been a way to probe a bit more and come to a slightly different result. And in some cases, it looks like that was done with the pickleball court what have you. So those are my comments. Thank you,

CHAIR AABOE: Thank you, Commissioner Pava. Commissioner Brugger.

MEMBER BRUGGER: Thank you, Mr. Chair. So here's a question for staff. So if y'all had decided that this development permit approval could not or should not have been done administratively, then what would've been the option to that?

MR. SISNEROS: Chair Aaboe, Commission Member Brugger, so if staff had decided once reviewing the application that it did not meet any of the code requirements of the SLDC and required a variance, then they would've gone through the process of the variance application process going to Technical Advisory Committee meetings, public notice before the public hearings and going through the public hearing process. But since the development that was approved didn't require any discretionary hearing it was just administratively approved.

MEMBER BRUGGER: Okay. So I'll just put something out there that I would contend that the improvements that were cited in the development permit application and the support documentation provided by the applicant indicated a creep in use from a standard single-family detached home that was enabled in the previous development permit.

With that opinion, then I would contend that per section 4.8.2.9, change of use the Land Use Administrator does not have the authority to approve a change in use through administrative action, that it would have to go to public meeting, public review process. And that is my opinion. Thank you. So it'd be great to hear some comments on it, or total silence would be a comment too.

CHAIR AABOE: Thanks, Commissioner Brugger. Michael, are you interested in –

MR. VOS: Chair and Commissioners, and perhaps I should officially be sworn for this item, because I don't think I have. Would you like to swear Michael in, please?

[Duly sworn, Michael Vos, testified as follows:]

MR. VOS: To the comment made that section 4.8.2.9 change of use, that is listed under a development permit which is administrative. The administrator can administratively permit a change of use, but we need to determine what that use is being changed to in the appendix B use matrix. And if it's permitted, it's administrative. If it's conditional, then it requires the public hearing process, and it's a different decision being made, just for clarity.

MEMBER BRUGGER: May I?

CHAIR AABOE: Please.

MEMBER BRUGGER: As I read this you may only make an administrative decision if that's explicitly a permitted use in the zoning category. And again, wish there was more clarity, but there is not. But if it is not a residential use; what is it? We've heard some opinions on what it is. I could read a code on what a residence is and what a dwelling is and try to match that up with what this is. But we're running late, so I won't do that. But anyway, my response. Thanks.

CHAIR AABOE: Any other Commissioners, Commissioner Pava.

MEMBER PAVA: I'm glad that Commissioner Brugger brought the use issue up. We've beat this one down to a pulp, I think. But when you look at the matrix in the appendix, and I did this morning, and I've done this in the past, what are the kinds of uses that are permitted, accessory, prohibited, conditional? And you look at this zoning district, and there's a lot of things that people could consider to be quite noxious that are part and parcel part of this kind of rural residential area. I'm talking about farm animals, for example. Now they don't maybe play pickleball and party in the cowboy tub, but there's a whole lot of stuff that is allowed. And we did this before in another zoning district. We had some issues with a proposed use for a healing retreat. And I had to inform folks that you could put a convenience store in there as a conditional use.

And there's lots of things that people may consider, but the code does certainly allow a lot of variety. And it's also interesting that if this wasn't a short-term rental, if it was just a big residential house, and all these things could be done. You can convert your garage, you can do a pool, a cowboy pool or cowgirl pool or whatever that is and you could do all the kinds of amenities. Tennis courts, for example. You see that all around Santa Fe. And that's not to justify that this particular – I just get back

to context and intensity with this. And I do think there are some definite issues here with this particular situation, and I'll leave it at that.

CHAIR AABOE: Thank you, Commissioner Pava. Any other questions or comments from the Commission? What is your wish? And I guess, Roger, I'd like to ask, this is a relatively unusual case in that actions of the administrator have not yet been appealed. And so I wonder what is a proper motion? Could you help us walk through that?

MR. PRUCINO: Sure. I think given the way the case has been presented, staff identified three appeals, three case numbers, they were consolidated. It was presented as an appeal. The appellants, after staff, the appellants spoke first the applicant next. Given that structure of the hearing and the process, it makes sense to me for a motion to be on whether or not to approve the appeal. That's my take.

CHAIR AABOE: Thank you. That makes sense. And so Commissioners.
Commissioner Pava.

MEMBER PAVA: Thank you, Mr. Chair. I would in the matter of case numbers 26-5140, 26-5141, and 26-5142, I would motion for approval of the appeal.

CHAIR AABOE: We have a motion to approve the appeal. Do we have a second?

MEMBER BRUGGER: May I ask a question?

CHAIR AABOE: Please.

MEMBER BRUGGER: So this, the motion, if I understand it, is to approve the appeal made by the Appellants?

MEMBER PAVA: Yes, the intent is, since it is an appeal brought by these three appellants, the motion to approve would be to approve their appeal, which of course can be appealed to a higher authority.

MEMBER BRUGGER: Thank you. I'll second that.

CHAIR AABOE: We have a motion and a second. Any discussion? Let's take a roll call vote, please.

The motion failed by majority [2-4] roll call vote as follows:

Dan Pava	Yes
Carl Trujillo	No
John Neunuebel	No
Steve Brugger	Yes
Jose La Cruz-Crawford	No
Erik Aaboe, Chair	No

CHAIR AABOE: Thank you all

5. **Matters of Public Concern** – None were presented

6. **Matters from the Commission**

CHAIR AABOE: Commissioner Brugger.

MEMBER BRUGGER: Yes. One thing just what in future cases what when you asked, when the Chair asked for what would a motion be for this case, I think it would be a great standard practice if in the staff report you had, you gave us alternative motions. And so then we wouldn't have to – we could modify them, but at least that'd give us a starting point to go from. That would be very helpful to me.

CHAIR AABOE: Thanks.

MR. VOS: Chair and Commissioners we'll make note of that. I think we also had some questions about the form of the motion up until this evening as well. So we'll look into that a bit more for the future.

7. **Matters from the Attorney** None were presented.

8. **Matters from Land Use Staff**

CHAIR AABOE: And staff, can you tell us what you expect to come before us next?

MR. SISNEROS: Chair Aaboe, Planning Commission members. I believe for last week's hearing officer, we had, I believe it was just one case on the agenda, two cases on the agenda. One was for a conditional use permit for a health retreat center, the Teen Challenge Center that was previously a previous use. And then we also had, I believe, a variance for density. And so those two items should be coming forward next month.

CHAIR AABOE: Okay, and thank you very much.

9. **Next Planning Commission Meeting: July 16, 2026**

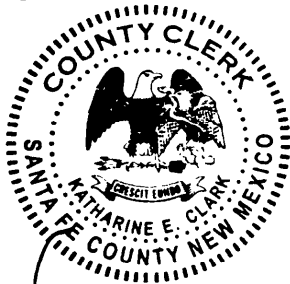
CHAIR AABOE: And our next meeting is the 16th of July. Do all Commissioners expect that they plan to attend? Great.

Recognizing that this was her last Planning Commission meeting, Ms. Farrell was thanked for her services.

10. **Concluding Business**

A. **Adjournment**

With no further business, Member Trujillo moved to adjourn. Member Pava seconded, and the meeting adjourned at 8:15 p.m.



Approved by:

Erik Aaboe, Chair
Planning Commission

ATTEST TO:

KATHARINE CLARK
SANTA FE COUNTY CLERK

PLANNING COMMISSION MI
PAGES: 46

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

[Hereby Certify That This Instrument Was Filed for
Record On The 22ND Day Of July, 2026 at 01:16:38 PM
and Was Duly Recorded as Instrument # 2088159
of The Records Of Santa Fe County

Respectfully submitted by:
Karen Farrell, Wordswork

Deputy

Witness My Hand And Seal Of Office
Katharine E. Clark
County Clerk, Santa Fe, NM