Camilla Brom

Exhibit 3

Santa Fe County Sustainable Land Development Code

a. Ch. 4 Procedures and Permits; pg. 4-2 to 4-15, 4-18 to 4-20
b. Ch. 6 Studies, Reports and Assessments; pg. 6-1 to 6-10
c. Ch. 8 Zoning; pg. 8-1 to 8-5, 8-14 to 8-24, 8-45 to 8-48. 8-54 to 8-56, 8-63, 8-67 to 8-72
d. Appendix A Terminology

CHAPTER FOUR – PROCEDURES AND PERMITS

4.1. PURPOSE AND FINDINGS. The purpose of this chapter is to designate the procedures for filing and processing applications. It is formatted to allow users to quickly and efficiently ascertain the various steps involved in processing applications, from the initiation and filing of an application, review for completeness and compliance with SLDC standards, through public hearings, determination and appeal. The first part of this chapter describes the standards and procedures common to processing most application requests. Procedural requirements for specific types of applications are set out in Table 4-1. Chapter provides specific review and approval requirements for conditional use permits, variances and beneficial use and value determinations.

4.2. APPROVAL REQUIRED. No change in use shall be made, no land division, subdivision, construction, land alteration, land use or development activity and no building or structure shall be erected, added to, or structurally altered or occupied unless all applicable development approvals and the appropriate development order are obtained in accordance with this chapter. Development orders are required for land division, subdivision, construction, land alteration, land use or development activity to ensure compliance with the SLDC, other County ordinances and regulations and applicable state and federal laws and regulations.

4.3. CATEGORIES OF DEVELOPMENT PROCEEDINGS. There are three basic types or categories of proceedings authorized in the SLDC, which are Legislative, Quasi-Judicial and Ministerial:

4.3.1. Legislative. Legislative proceedings involve a change in land-use policy by the Board that does not concern a single tract, parcel, or lot under common ownership or land predominantly owned by a single person or entity under common ownership, including adoption of any change in the SGMP or adoption of any change to an Area, District or Community Plan; adoption of or any amendment to the text of the SLDC, the CIP or the Official Map; and approval of any voluntary development agreements. A public hearing is required but the procedural requirements of a quasi-judicial hearing do not apply.

4.3.2. Quasi-Judicial Proceedings. A quasi-judicial proceeding involves the use of a discretionary standard, as specified in the SLDC, to an application for discretionary development approval that is applicable to specific land in common ownership or to an area of land in which the predominant ownership is in a single ownership. Quasi-judicial discretionary proceedings require a public hearing consistent with the standards of procedural due process as established in Section 4.7.2. In making quasi-judicial decisions, the Board, Planning Commission or Hearing Officer shall investigate facts or ascertain the existence of facts, hold hearings, weigh evidence, make written findings of fact, conclusions of law and recommendations and exercise discretion of a judicial nature. In the land-use context, these quasi-judicial decisions generally involve the application of land-use policies to individual properties in common ownership as opposed to the creation of policy. These decisions require an exercise of discretion in applying the requirements and standards of the SLDC, state and federal law.

4.3.3. Ministerial Development Proceedings. Ministerial development proceedings involve nondiscretionary application of the standards of the SLDC to an application. A public hearing is not required for action on an application for ministerial development approval.

4.4. PROCEDURAL REQUIREMENTS.

4.4.1. In General. This Section describes the procedural elements applicable to the various types of applications. Generally, the procedures for all applications have the following common

elements, although individual procedures may not apply to every application type. A more detailed explanation of the procedural elements follows.

4.4.1.1. Pre-application meeting with the County Technical Advisory Committee (TAC) and pre-application neighborhood meeting;

4.4.1.2. Submittal of a complete application, including required fees, appropriate affidavits, plats, site development plans, variances requested, and Studies, Reports and Assessments specified in Chapter 6;

4.4.1.3. Review of the application by the Administrator and a determination that the application is complete or incomplete;

4.4.1.4. As appropriate, referral of application to State and Tribal review agencies for review and response;

4.4.1.5. Staff review, take final action or make recommendation to the Hearing Officer, Planning Commission or the Board;

4.4.1.6. Notice and publication for applications requiring a public hearing;

4.4.1.7. As appropriate, public hearing before the Hearing Officer, Planning Commission, or Board;

4.4.1.8. Issuance of a development order approving, approving with conditions, or denying the application, together with written findings describing and supporting the action adopted;

4.4.1.9. Any appeal of the development order; and

4.4.1.10. Any application for beneficial use or value determination (BUD).

4.4.2. Procedures Required for Each Application Type. The specific procedural requirements for each type of application are set forth in Table 4-1.

4.4.3. Pre-Application TAC Meeting. Applicants required to conduct a pre-application meeting with the Technical Advisory Committee shall do so prior to filing an application. During the meeting, the applicant will discuss the application in general but in enough detail so that a reasonable assessment can be made of its compliance with the SLDC. The meeting should include a discussion of requirements of the SLDC that are applicable to the application, the procedure to be followed, notice to be provided, schedule for review and hearing, the studies, reports and assessments to be undertaken, and other relevant subjects. Technical requirements may also be discussed. After the meeting, County staff will provide the applicant with a written summary of the relevant issues to be covered by the applicant in its submittal materials.

Table 4-1: Procedural Requirements by Application Type

Application Type	Discretionary review?	Application Requirements			Review/Approval Process				
		Pre-application TAC meeting	Pre-application neighborhood meeting	Studies, reports, assessments	Agency review	Approval by Administrator	Hearing required?		
							Hearing Officer	Planning Commission	BCC
Development permit: residential	no	no	no	no	as needed	yes	no	no	no
Development permit: non-residential, mixed use & multi-family	no	yes	as needed	see Table 6-1	as needed	yes	no	no	no
Land divisions, subdivision exemptions and other plat reviews	no	no	no	no	as needed	yes	no	no	no
Family transfer	no	no	no	no	as needed	yes	no	no	no
Temporary use permit	no	no	no	no	as needed	yes	no	no	no
Minor subdivision - final plat, 5 or fewer lots	no	yes	no	see Table 6-1	as needed	yes	no	no	no
Minor subdivision - final plat, more than 5 lots	yes	yes	no	see Table 6-1	as needed	no	no	no	yes
Major subdivision - preliminary plat	yes	yes	yes	see Table 6-1	yes	no	no	no	yes
Major subdivision final plat	yes	yes	No	no	no	no	no	no	yes
Conceptual plan for subdivision - phased or over 24 lots, phased MU, I, IL, CG, CN	yes	yes	Subdivision – yes Others - no	see Table 6-1	as needed	no	no	no	yes
Conceptual plan PDD, CCD	yes	yes	yes	see Table 6-1	yes	no	yes	yes	yes
Vacation of subdivision plat	yes	no	no	no	as needed	no	no	no	yes
Conditional use permit	yes	yes	as needed	see Table 6-1	as needed	no	yes	yes	no
DCI Conditional use permit	yes	yes	yes	yes	yes	no	yes	yes	no
Variance	yes	yes	as needed	no	as needed	no	yes	yes	no
Time extension	yes	no	no	as needed	as needed	no	no	no	yes
Planned development district	yes	yes	yes	see Table 6-1	yes	no	yes	yes	yes
Overlay zones	yes	yes	yes	no	as needed	no	yes	yes	yes
DCI overlay zones	yes	yes	yes	yes	yes	no	yes	yes	yes
Zoning map amendment (rezoning)	yes	yes	yes	see Table 6-1	as needed	no	yes	yes	yes
Text amendment	yes	yes	no	no	as needed	no	no	yes	yes
Area, district community plan, or plan amendment	yes	yes	yes	no	as needed	no	no	yes	yes
Beneficial use determination	yes	yes	no	no	no	no	yes	no	yes
Appeals	See Sec. 4.5	no	no	no	no	no	no	See Sec. 4.5	See Sec. 4.5

4.4.4. Pre-Application Neighborhood Meeting. A pre-application neighborhood meeting shall be conducted as specified in Table 4-1.

4.4.4.1. Notice of Pre-Application Meeting. The following entities and persons shall be invited by a letter sent first class mail 15 days prior to the pre-application meeting:

1. The applicable Community Organization (CO) and/or Registered Organization (RO) (see Section 2.2); and

2. Property owners entitled to notice of the application as required in Section 4.6.

4.4.4.2. Where Held. The meeting shall be held at a convenient meeting space near the land that is the subject of the application.

4.4.4.3. When Conducted. The pre-application neighborhood meeting shall take place after the pre-application TAC meeting and prior to filing of the application.

4.4.4.4. Materials for the Pre-Application Neighborhood Meeting. The applicant shall prepare an adequate number of the plans described below of the proposed development in rough format to present during the meeting. Plans should include: the boundary lines of the development; the approximate location of any significant features, such as roadways, utilities, wetlands, floodways, hillsides, trails and open space and existing buildings or structures; the proposed uses for the property; the number of dwelling units and approximate square footage for non-residential uses; and the proposed layout including open space, location of buildings, roadways, schools and other community facilities, if applicable.

4.4.4.5. Report on Pre-Application Neighborhood Meeting. At the time of application, the applicant shall furnish a written report to the Administrator on the pre-application neighborhood meeting. At a minimum, the report shall include:

1. date and location of the neighborhood meeting or meetings;

2. a list of persons and organizations invited to the meeting;

3. a copy of the notice of pre-application meeting issued together with return receipts from letters mailed;

4. a list of persons and organizations who attended the pre-application meeting;

5. a copy of all materials distributed at the neighborhood meeting;

6. a summary of all concerns, issues and problems identified at the meeting, including how the applicant has addressed or intends to address the concerns and whether the applicant is unable to address them. Specific attention should be paid to any conditions or mitigating measures agreed to at the meeting.

4.4.4.6. Applicant shall bring to any public hearing determining that applicant's application at least three sets of documents handed out or displayed during the Neighborhood Meeting which shall be put on display for members of the public attending such hearings.

4.4.4.7. Any CO, RO or person entitled to notice of the application shall also have the right to furnish a written report to the Administrator.

4.4.4.8. County staff shall not be expected to attend any pre-application neighborhood meetings.

4.4.4.9. The applicant may request a land use facilitation meeting (Section 4.4.8) to address concerns from the neighborhood pre-application meeting.

4.4.5. Application.

4.4.5.1. Application Form. A completed application form, on a form provided by the Administrator, shall be submitted to the Administrator before an application will be considered.

4.4.5.2. Submittals. Before an application will be considered or processed it shall contain all required submittals.

4.4.5.3. Fees. Before an application will be deemed complete for consideration, all required application fees shall be paid to the Administrator.

4.4.5.4. Public Access. All complete applications submitted to the Administrator shall be placed on file and made available to the public; except for information concerning the location of archeological resources, which shall be removed from the application packet pursuant to NMSA 1978, § 18-6-11.1 of the Cultural Properties Act.

4.4.6. Completeness Review.

4.4.6.1. Scope. All applications shall be reviewed by the Administrator for completeness.

4.4.6.2. Completeness Review Determination. The Administrator shall issue a written determination on completeness after review of an application and attachments within fourteen (14) days, which may be extended an additional ten (10) days if determined to be necessary by the Administrator due to the complexity of the application.

4.4.6.3. Determination that an Application is Incomplete. If the Administrator determines that the materials submitted to the review agency or department in support of the application are not complete, any completeness determination may be revised by the Administrator and the applicant shall be notified in writing of the information required. The owner/applicant may resubmit the application with the information required by the Administrator. The owner/applicant shall not be required to pay any additional fees if the application is resubmitted or the Administrator's decision is appealed within six months.

4.4.6.4. Determination Constitutes a Final Development Order. The final determination of the Administrator on completeness of an application constitutes a final development order and is appealable to the Planning Commission.

4.4.6.5. Review by the Planning Commission. The Planning Commission shall issue a final development order on any appeal of a completeness determination of the Administrator at its next available meeting. The development order on completeness, issued by the Planning Commission upon any appeal, shall be final and not be appealable to the Board.

4.4.6.6. Further Information Requests. After the Administrator or the Planning Commission accepts a development application as complete, the Administrator, the Hearing Officer, the Planning Commission or the Board may, in the course of processing the application, request the owner/applicant to clarify, amplify, correct, or otherwise supplement the information required for the application, if such is required to render a final development order on the merits.

4.4.7. Agency Review and Opinions. Except as otherwise provided in Section 5.7.5 (agency review of major subdivisions), the Administrator shall refer applications, as appropriate, to the following federal, State or County agencies for completeness review, substantive review and opinions:

4.4.7.1. the Office of the New Mexico State Engineer (OSE);

4.4.7.2. the New Mexico Environment Department (NMED);

4.4.7.3. the New Mexico Department of Transportation (NMDOT);

4.4.7.4. the applicable Soil and Water Conservation District;

4.4.7.5. the State Historic Preservation Office (SHPO);

4.4.7.6. a Tribal Government within Santa Fe County;

4.4.7.7. any County Departments and other public agencies that the Administrator deems necessary to assist the Administrator and staff to determine compliance with this and other relevant Ordinances; and

4.4.7.8. the County may hire qualified technical experts to review any application submitted at the expense of the applicant in accordance with the approved fee schedule.

4.4.7.9. These agencies shall have thirty (30) days from the date the request is received to submit their reviews.

4.4.8. Land Use Facilitation.

4.4.8.1 Purpose. Land use facilitation is intended to provide a means of communication between an applicant proposing a development, and persons that would be impacted by the proposed development. Land use facilitation provides an opportunity for the applicant and residents to exchange information, ask questions, and discuss concerns about the proposed development.

4.4.8.2. In General. Land use facilitation uses a professional facilitator to assist the applicant and residents to discuss issues related to the proposed development, identify and achieve goals and complete tasks in a mutually satisfactory manner. The process uses a facilitator, who will focus on the process and assist and guide the participants in principles of dispute resolution and decision-making. The facilitator is impartial to the issues being discussed, has no advisory role in the content of the meeting, and has no interest in the outcome of the meeting.

4.4.8.3. Types of Cases Referred. In general, any application which presents controversy, in which residents have questions or concerns, or that the applicant feels is appropriate for facilitation, may be referred to facilitation.

4.4.8.4. General Process.

1. Referral. An application may be referred to a land use facilitation by the Administrator or the applicant coincidentally with a determination of completeness.

2. Assignment of a Land Use Facilitator. The Administrator shall assign a case referred to facilitation to a land use facilitator contracted by the County. Any facilitator selected for a given case shall have no interest in the case and shall not be an employee of Santa Fe County.

3. Initiation of Process. The facilitator shall contact the applicant, Community Organizations, Registered Organizations, and persons affected by the proposed development to determine the level of interest in a facilitated meeting. If there is no interest in a land use facilitation by persons and/or entities affected by the application or if there is no person affected by the proposed development, the facilitator shall generate a "no facilitation held" report and refer the matter back to the Administrator, but an applicant may not opt out of a facilitation required by the Administrator.

4. Facilitation. If interest exists, the facilitator shall schedule a facilitation. During the facilitation, the applicant shall present the proposed project, followed by a presentation (if any) of residents or homeowners associations, followed by a discussion among the participants. The facilitator shall record comments, questions, concerns and areas of agreement among the parties.

5. Report and Completion of Process. Following the facilitation, the facilitator shall generate a complete and neutral report on the facilitation. All areas of agreement shall be highlighted, and areas of severe disagreement also noted. The report shall be distributed to the Administrator and all participants in the facilitation. Areas in which agreement was reached during the facilitation shall be reported as resolved in the staff report to the decision maker and the application shall be amended by the applicant to include the conditions of agreement.

6. Timeline. The facilitation described in this Subsection shall be completed no later than thirty (30) days from the date of referral, unless waived by the applicant.

7. Costs of Facilitation. All the costs of facilitation shall be paid by the applicant. Following completion of the facilitation, the Administrator shall present an invoice to the applicant.

4.4.9. Review and Final Action by the Administrator. Within ten (10) days of the receipt of all necessary agency review opinions, or as soon thereafter as possible, the Administrator shall complete the review. If an application has been referred for agency or department review under Section 4.4.7 and referral comments have not been received by the Administrator within thirty (30) days, then the Administrator shall complete the application review absent the comments. Provided however, that if a referral agency indicates in writing to the Administrator that more time is needed to complete its review, the Administrator may extend time for completing his/her application review by an additional fifteen (15) days. Following completion of the review, the Administrator may take final action, make the appropriate recommendation to the Planning Commission or the Board, or may take other appropriate action. The Administrator may, in the Administrator's discretion, refer an Application that is committed to the Administrator's authority

for review and final action to the Planning Commission or the Board. Consistent with Chapter 12 herein, all final actions on applications for approval shall contain a finding as to whether the application addresses the adequacy of public facilities and services associated with the proposed development. Failure to meet the adequate public facilities and services requirements in Chapter 12, either because both the proposed development is located in a sustainable development area other than SDA-1 and adequate public facilities are not available, or because a level of service is not met, may result in an application being denied.

4.4.10. Review and Final Action by the Planning Commission or the Board. Upon receipt of a complete application and appropriate recommendation of the Administrator or the Hearing Officer, the Planning Commission or the Board shall review the application for compliance with the SLDC and other applicable law. Following completion of the review and following a public hearing on the application, the Planning Commission or the Board, as applicable, may take final action, make the appropriate recommendation or take other appropriate action.

4.4.11. Conditions. In acting upon an application, the decision-making body shall be authorized to impose such conditions upon the application as allowed by law and as may be necessary to reduce or minimize any potential adverse impact upon other property in the area or to carry out the general purpose and intent of the SLDC, so long as the condition relates to a situation created or aggravated by the proposed use and is roughly proportional to its impact.

4.4.12. Notice of Decision by the Administrator. Written notice of a final decision of the Administrator to approve an application or approve an application with conditions shall constitute the issuance of the permit. Written notice of a final decision of the Administrator to deny an application shall be provided to the Applicant and a copy shall be filed in the office of the Administrator. If an Application has not been approved, the specific reasons for disapproval shall be indicated in the written notice.

4.4.13. Notice of Decision by the Planning Commission or The Board; Findings of Fact, Conclusions of Law. Written notice of a final decision of the Planning Commission or the Board to approve, or approve with conditions, an application which can be in the form of a development order, shall constitute the issuance of the permit. Staff or the Hearing Officer, where one is used, shall prepare findings of fact and conclusions of law as required by NMSA 1978, § 39-3-1.1 to document final action taken on each application. Such findings and conclusions shall be approved by the decision-making body and filed with the County Clerk.

4.4.14. Reapplication. After final action by the Administrator or abandonment of an application, another application shall not be filed within two years of the date of final action, or abandonment unless the new application is materially different from the prior application (e.g., a new use, a substantial decrease in proposed density and/or intensity) or unless there has been a material change to either the facts or law governing the application. After final action denying an application by the Planning Commission or the Board, another application shall only be filed if there is a material change to either the facts or law governing the application

4.4.15. Withdrawal; Subsequent Applications. An application may be withdrawn by the applicant at any time. However, if an applicant withdraws the application after a public hearing has been noticed in compliance with the SLDC and state law, an application requesting substantially the same use on all or part of the same described land shall not be considered or reconsidered within twelve (12) months of withdrawal.

4.5. APPEALS.

4.5.1. Applicability. Any aggrieved person with standing may appeal a development order to the Planning Commission or Board, as designated in this chapter.

4.5.2. Appeals of an Administrative Decision of the Administrator. An aggrieved person with standing may appeal the decision of the Administrator to approve, deny or approve with conditions an application to the Planning Commission. An appeal from a decision of the Administrator shall be filed in writing with the Administrator within five (5) working days of the date of the decision. If no appeal is filed within five (5) days, the decision of the Administrator shall be final and not subject to further appeal, review or reconsideration. The timely filing of an appeal shall stay further processing of the application unless the Administrator certifies to the Planning Commission that special circumstances exist.

4.5.3. Appeals of Subdivision Decisions Under Summary Review. Any person with standing who is or may be adversely affected by a decision approving or disapproving a final plat under summary review must appeal the decision to the Board within five (5) working days of the decision. The Board shall hear the appeal and shall render a final decision.

4.5.4. Appeal of a Final Decision of the Planning Commission. Any party with standing may appeal a final decision of the Planning Commission to the Board. The application seeking an appeal of a decision of the Planning Commission must be filed with the Administrator. An appeal from a decision of the Planning Commission must be filed within thirty (30) working days of the date of the decision and recordation of the final development order by the Planning Commission. The application shall be forwarded by the Administrator to the Board. The Administrator shall provide to the Board a copy of the record of the proceedings below of the decision appealed. The appeal shall be placed on the docket of the Board for consideration on the next available agenda. An appeal of the decision of the Planning Commission shall be reviewed *de novo* by the Board. The timely filing of an appeal shall stay further processing of the application unless the Board determines that special circumstances exist.

4.5.5. Appeals of Board Decisions. Any person aggrieved by a final decision of the Board pursuant to this section may appeal to District Court in accordance with NMSA 1978, § 39-3-1.1 (as amended) and Rule 1-074 NMRA.

4.6. NOTICE.

4.6.1. Generally. The notice requirements for each application are prescribed in the Subsections of this chapter and by state law.

4.6.2. Notice of Hearing. Notice of a public hearing to be conducted by the Hearing Officer, Planning Commission, or the Board, shall be provided as described in the resolution adopted by the Board pursuant to the Open Meetings Act. Public hearings shall be conducted according to the Board's rules of order. The name of the applicant and agent if any shall be stated in the notice.

4.6.3. General Notice of Applications Requiring a Public Hearing. All applications not requiring specific notice under subsequent sections shall provide the following notice:

4.6.3.1. Newspaper. Notice of hearing shall be published by the applicant in a newspaper of general circulation at least fifteen days (15) prior to the date of the hearing. The Administrator shall provide the form of the notice to the applicant.

4.6.3.2. First Class Mail. Notice of the public hearing shall be mailed by the applicant by first class mail at least fifteen days (15) prior to the date of the hearing to the owners, as shown by the records of the County Assessor, of lots or of land within 500 feet of the subject property, excluding public right-of-ways. The Administrator shall provide the form of the notice to the applicant.

4.6.3.3. Posting. Notice of the public hearing shall be posted by the applicant on the parcel at least fifteen (15) days prior to the date of the hearing. The notice to be posted shall be provided by the Administrator and shall be prominently posted on the property in such a way as to give reasonable notice to persons interested in the application. The notice shall be visible from a public road. If no part of the property or structure is visible from a public road, the property shall be posted as required in this paragraph and a second notice shall be posted on a public road nearest the property. Posted notice shall be removed no later than seven (7) days after a final decision has been made on the application.

4.6.3.4. Supplemental Notice. Reasonable effort shall be made by the applicant to give notice by first class mail or email, to all persons, COs and ROs who have made a written request to the Board for advance notice of its hearings. Notice shall also be given to any public agency that issued an opinion or withheld an opinion on the basis of insufficient information.

4.6.3.5. Verification. Written verification of the publication, a list of persons sent a mailing, and an affidavit of posting which includes a photograph of the posted notice taken from a public road, shall be provided to the Administrator prior to the public hearing.

4.6.4. Specific Notice of Zoning, Rezoning, Amendment, Repeal.

4.6.4.1. Newspaper. Notice of the public hearing concerning an application to zone a parcel or parcels, or to amend, rezone, supplement or repeal zoning on a parcel or parcel, shall be provided by the Administrator and published by the applicant in a newspaper of general circulation at least fifteen days prior to the date of the hearing.

4.6.4.2. Certified Mail. Whenever a change in zoning is proposed for an area of one block or less, notice of the public hearing shall be mailed by the applicant by certified mail, return receipt requested, to the owners, as shown by the records of the County Assessor at least fifteen days prior to the date of the hearing, of lots within the area proposed to be changed by the zoning regulation and within 100 feet of subject property, excluding public right-of-way.

4.6.4.3. First Class Mail. Whenever an application proposes to zone a parcel, or to amend, rezone, supplement or repeal zoning of a parcel or parcels for an area of more than one block, notice of the public hearing shall be mailed by the applicant by first class mail to the owners, as shown by the records of the County Assessor at least fifteen days prior to the date of the hearing, of lots or of land within the area proposed to be changed by a zoning regulation and within 100 feet from subject property or area, excluding public right-of-ways. If notice by first class mail to the owner is returned undelivered, the applicant shall attempt to discover the owner's most recent address and shall remit the notice by certified mail, return receipt requested, to that address.

4.6.4.4. Posting. Whenever an application proposes to zone a parcel, or to amend, rezone, supplement or repeal zoning on a parcel or parcels for an area of more than one block, notice of the public hearing shall be posted on the parcel by the Applicant at least fifteen days prior to the date of the hearing. The notice to be posted shall be provided by the Administrator and shall be prominently posted on the property in such a way as to give reasonable notice to persons interested in the application. The notice shall be visible from a public road. If no part of the property or structure is visible from a public road, the property shall be posted as required in this paragraph and a second notice shall be posted on a public road nearest the property. A posted notice shall be removed by the

Applicant no later than seven (7) days after a final decision has been made on the application.

4.6.4.5. Supplemental Notice. Reasonable effort shall be made by the Applicant to give notice to all persons, COs and ROs who have made a written request to the Board for advance notice of its hearings. Notice shall also be given to any public agency that either issued an opinion or withheld an opinion on the basis of insufficient information.

4.6.4.6. Verification. Written verification of the publication, list of persons sent a mailing, certificates of mailing with return receipts and affidavit of posting which includes a photograph of the posted notice shall be provided to the Administrator prior to the public hearing.

4.6.5. Specific Notice Applicable to Subdivisions.

4.6.5.1. Newspaper. Notice of the hearing on an application for approval of a preliminary plat pursuant to NMSA 1978, § 47-6-14(A) shall be provided by the Administrator and shall be published by the applicant at least twenty-one (21) days prior to the hearing date. The notice of hearing shall include the subject of the hearing, the time and place of the hearing, the manner for interested persons to present their views, and the place and manner for interested persons to secure copies of any favorable or adverse opinion and of the developer's proposal. The notice shall be published in a newspaper of general circulation in the county.

4.6.5.2. Posting. Notice of the hearing on an application for approval of a preliminary plat pursuant to NMSA 1978, § 47-6-14(A), shall in addition to newspaper publication, be posted on the property at least fifteen (15) days prior to the date of the hearing. The notice to be posted shall be provided by the Administrator and shall be prominently posted on the property in such a way as to give reasonable notice to persons interested in the application. The notice shall be visible from a public road. If no part of the property or structure is visible from a public road, the notice on property shall be posted as required in this paragraph and a second notice shall be posted on a public road nearest the property. Posted Notice shall be removed no later than seven (7) days after a final decision has been made on the application.

4.6.5.3. Supplemental Notice. Reasonable effort shall be made by applicant to give notice to all persons, COs and ROs who have made a written request to the Board for advance notice of its hearings. Notice shall also be given to any public agency that issued an opinion or withheld an opinion on the basis of insufficient information.

4.6.5.4. Verification. Written verification of the publication, list of persons sent a mailing, and affidavit of posting which includes a photograph of the posted notice shall be provided to the Administrator prior to the public hearing.

4.6.6. Notice of Administrative Action. Notice of a proposed land division, subdivision, multifamily or non-residential use that is to be approved administratively shall provide the following notice:

4.6.6.1. Posting. Notice of the pending application shall be posted on the parcel at least fifteen (15) days prior to the date of the approval of the application. The notice to be posted shall be provided by the Administrator and shall be prominently posted on the property in such a way as to give reasonable notice to persons interested in the application. The notice shall be visible from a public road. If no part of the property or structure is visible from a public road, the property notice shall be posted as required in

this paragraph and a second notice shall be posted on a public road nearest the property. Posted notice shall be removed no later than seven (7) days after a final decision has been made on the application.

4.6.7. Notice of Issuance of a Development Permit. Notice of issuance of a development permit shall be posted on the property for at least fifteen (15) days subsequent to the issuance of the permit except that a development permit for construction of a building shall remain posted during construction.

4.6.8. Contents of Notice. Published, posted and mailed notice shall include a minimum of the following:

4.6.8.1. the name of the applicant and the name of the person(s) who the applicant is agent for or otherwise representing in the application;

4.6.8.2. the general location of the parcel that is the subject of the application;

4.6.8.3. the road address of the property subject to the application or, if the road address is unavailable, a legal description by metes and bounds;

4.6.8.4. the current zoning classification(s) and zoning district in which the property is located, and the present use of the property;

4.6.8.5. the nature and type of approval requested and a brief description of the proposed development, including proposed density or building intensity, zoning classifications and uses requested;

4.6.8.6. the time, date and location where a decision on the application is expected;

4.6.8.7. a phone number to contact the County; and

4.6.8.8. a statement that interested parties may appear at a public hearing.

4.6.9. Constructive Notice. Minor defects in public notice shall not invalidate proceedings so long as a bona fide attempt has been made to provide notice and that notice was constructively received. In all cases, however, the requirements for the timing of the notice and for specifying the date, time and place of a hearing and the location of the subject property shall be strictly construed. If questions arise regarding the adequacy of notice, the body conducting the hearing shall make a finding concerning compliance with the notice requirements of this Ordinance.

4.6.10. Action to Be Consistent with Notice. The Administrator, Hearing Officer, Planning Commission or Board shall only take action, including approval, conditional approval or denial of the application that is consistent with and relates to the notice given.

4.6.11. Minor Amendments Not Requiring Re-notification. The Administrator, Hearing Officer, Planning Commission or Board may allow minor amendments to the application without re-submittal and re-notification of the entire application. For purposes of this Section, "minor amendments" are amendments that do not:

4.6.11.1. increase the number of dwelling units, floor area, height, impervious surface development, or require any additional land-use disturbance;

4.6.11.2. introduce different land uses than that requested in the application;

4.6.11.3. request consideration of a larger land area than indicated in the original application;

4.6.11.4. request a greater variance than that requested in the application;

4.6.11.5. request any diminution in buffer or transition area dimensions, reduction in required yards, setbacks or landscaping, increase of maximum allowed height, or any change in the design characteristics or materials used in construction of the structures; or

4.6.11.6. reduce or eliminate conditions attached to a legislative or quasi-judicial development order unless a new application is filed.

4.7. HEARING STANDARDS.

4.7.1. Legislative Hearings.

4.7.1.1. Conduct of Hearing. Testimony may be presented by the owner/applicant, any member of the public, and by the County or other affected governmental entities. Testimony need not be submitted under oath or affirmation. The Hearing Officer, Planning Commission or Board may establish a time limit for testimony and may limit testimony where it is repetitive.

4.7.1.2. Special Rules: Contested Zoning Matters. If the owners of twenty percent or more of the area of the land or representing more than twenty percent (20%) of the lots included in an area proposed to be changed by a zoning regulation, or within one hundred feet, excluding public right-of-way, of the area proposed to be changed by a zoning regulation, protest in writing the proposed change in the zoning regulation, the proposed change in zoning shall not become effective unless the change is approved by a two thirds vote of the Board. NMSA 1978, §3-21-6(C).

4.7.1.3. Planning Commission Recommendation. The Planning Commission shall make a written recommendation to the Board on any application requiring final approval of the Board that an application be approved, approved with conditions, or denied. If an application requiring final approval of the Board has been duly submitted to the Planning Commission, and the Planning Commission has failed to convene a quorum or to make a recommendation approving, approving with conditions or denying such development approval at two (2) meetings on the application, the application shall move to the Board without a recommendation unless the Applicant waives this requirement and agrees in writing to any additional Planning Commission meetings.

4.7.1.4. Minutes. Written verbatim minutes shall be prepared and retained with the evidence submitted at the final hearing. Verbatim or summary minutes shall be prepared and retained with the evidence submitted at a preliminary hearing.

4.7.1.5. Board Action. The Board shall hold a public hearing to consider a legislative application. The Board shall duly consider the recommendation of the Planning Commission.

4.7.2. Quasi-Judicial Public Hearings.

4.7.2.1. Conduct of Hearing. Any person or persons may appear at a quasi-judicial public hearing and submit evidence, either on their own behalf or as a representative. Each person who appears at a public hearing shall take a proper oath and state, for the record, his/her name, address, and, if appearing on behalf of an association, the name and

mailing address of the association. The hearing shall be conducted in accordance with the procedures set forth in the Board's Rules of Order. At any point, members of the Board, the Planning Commission or the Hearing Officer conducting the hearing may ask questions of the owner/applicant, staff, or public, or of any witness, or require cross-examination by persons with standing in the proceeding to be conducted through questions submitted to the chair of the Board, Planning Commission or to the Hearing Officer, who will in turn direct questions to the witness. The order of proceedings shall be as follows:

1. The Administrator, or other County staff member designated by the Administrator, shall present a description of the proposed development, the relevant sections of the SGMP, area, district or community plans, the SLDC, and state and federal law that apply to the application, and describe the legal or factual issues to be determined. The Administrator or County consultant or staff member shall have the opportunity to present a recommendation and respond to questions from the Board, Planning Commission or Hearing Officer concerning any statements or evidence, after the owner/applicant has had the opportunity to reply;

2. The owner/applicant may offer the testimony of experts, consultants or lay witnesses and documentary evidence that the owner/applicant deems appropriate, subject to cross examination by adverse parties with standing within reasonable time limits established by the Board, Planning Commission or Hearing Officer;

3. Testimony, including expert, consultant or lay witnesses, and relevant documentary evidence for or against the application, from the public, governmental agencies or entities and interested parties with standing, shall be received, subject to reasonable time limits established by the Board, Planning Commission or Hearing Officer, subject to cross examination by the owner/applicant, any adverse interested party with standing, or by the County;

4. The owner/applicant may reply to any testimony or evidence presented, subject to cross examination;

5. The Board, Planning Commission or Hearing Officer may pose questions to the owner/applicant, the County, any consultant or lay witness at any time during the hearing concerning any statements, evidence, or applicability of policies and regulations from the SGMP, the SLDC, other County ordinances and regulations, any applicable area, or community plan, or other governmental law or recommendations; and

6. The Board, Planning Commission or Hearing Officer conducting the hearing shall close the public portion of the hearing and conduct deliberations. The Board or Planning Commission may elect to deliberate in a closed meeting pursuant to the Open Meetings Act, NMSA 1978, §§10-15-1 et seq.

4.7.2.2. When Conducted. For an application for approval of a preliminary plat, the first public hearing shall take place within thirty (30) days from the receipt of all requested public agency opinions where all such opinions are favorable, or within thirty (30) days from the date that all public agencies complete their review of additional information submitted by the subdivider pursuant to NMSA 1978, § 47-6-11. If a requested opinion is not received within either thirty-day period, the public hearing shall be conducted notwithstanding.

4.7.2.3. Minutes. Written verbatim minutes shall be prepared and retained with the evidence submitted at the final hearing conducted on an application.

4.8. ADMINISTRATIVE DEVELOPMENT APPROVAL.

4.8.1. Generally. Ministerial development approval, often referred to as 'administrative approval,' involves the application of the standards of the SLDC to an application by the Administrator. A public hearing is not required. The types of applications eligible for ministerial development approval are described below.

4.8.2. Development Permits. A development permit is a written document that authorizes development in accordance with the SLDC. A development permit may require inspections and a certificate of completion, and may authorize multiple forms of development or may authorize a single development activity. A development permit may include conditions which shall apply to the development. Commencement of construction or work shall begin within one (1) year of the date of the issuance of the development permit. Construction or work set forth in the development permit shall be completed within two (2) years of the issuance of the development permit unless an extension of time has been obtained from the Administrator. A site development plan is required to be submitted with a development permit application for any non-residential use, mixed use or multi-family use requesting a development permit. For non-residential permitted uses, an applicant may request that staff review a site development plan prior to a complete application for a development permit being submitted. A Site Development Plan showing the site layout and conditions of approval shall be recorded at the expense of the applicant in the office of the County Clerk. A development permit shall be required for any of the following activities:

4.8.2.1. Construction. For construction or renovation of, or an addition to any structure;

4.8.2.2. Road/Driveway. For construction or reconstruction of a road or driveway pursuant to Chapter 7 (a separate permit is required to access a County road);

4.8.2.3. Grading. For grading of a site prior to issuance of another development permit pursuant to Chapter 7;

4.8.2.4. Floodplain Development. For development within a designated Special Flood Hazard Area (SFHA) pursuant to Chapter 7;

4.8.2.5. Utilities. For installation of utilities prior to issuance of other development permits pursuant to the SLDC pursuant to Chapter 7; and

4.8.2.6. Swimming pool. To authorize installation of a swimming pool pursuant to Chapter 7.

4.8.2.7. Fences and walls.

1. Residential walls and fences higher than six feet;

2. All walls and opaque fences for nonresidential or multi-family use;

3. All retaining walls higher than four feet;

4. Walls or opaque fences built atop a retaining wall where the total height of the wall and/or fence and retaining wall is greater than six feet;

5. Walls or opaque fences that cross a stream, existing trail, arroyo, acequia or drainage channel; and

6. Any walls or fences built within a safe sight triangle.

4.8.2.8. Signs. A development permit is required prior to the placement or relocation of any sign. The content of an existing sign may be changed without a permit. Nor is a development permit required for signs that do not require a permit under Section 7.9.

4.8.2.9. Change of Use. To authorize a change of use from residential to non-residential use as allowed in the Use Table of Appendix B or a Community Overlay Use Table in Chapter 9.

4.8.3. Minor Subdivisions. For creation of a minor subdivision pursuant to Chapter 5.

4.8.4. Exemptions, Divisions and Other Plat Reviews.

4.8.4.1. Exempt land divisions. To authorize an exempt land division listed in Section 5.4.

4.8.4.2. Plat Vacation. To authorize a vacation plat pursuant to Section 5.11.2.

4.8.4.3. Final Subdivision Plats. To obtain a final subdivision plat pursuant to Section 5.8.

4.8.4.4. Subdivision Amendment Plat. To authorize an amendment to an approved final subdivision plat pursuant to Section 5.11.3.

4.8.4.5. Lot Consolidation Plats. A development permit will be issued to authorize a lot consolidation that has been approved pursuant to the SLDC, together with any conditions.

4.8.5. Family Transfers. For approval of a property transfer to a family member in accordance with Section 5.4.3.2.

4.8.6. Temporary Use Permits. To permit certain temporary uses pursuant to Chapter 10.

4.9. DEVELOPMENT APPROVAL REQUIRING A HEARING.

4.9.1. Plans and Plan Amendments. For adoption or amendment of certain plans (see Chapter 2) in accordance with the procedures established in Chapter 1.

4.9.2. SLDC Text Amendments. For an amendment to the text of the SLDC pursuant to Chapter 1.

4.9.3. Map Amendments and Rezoning. For an amendment to the zoning map (rezoning) pursuant to Chapters 1, 4 and 8.

4.9.4. Developments of Countywide Impact. A separate development permit will be issued to authorize each development of county-wide impact (DCI) following the creation of any necessary floating zone (as applicable) pursuant to Chapter 11.

4.9.5. Subdivisions. For approval of major subdivision plans in accordance with Chapter 5.

4.9.6. Conditional Use Permits (CUP). For approval of certain conditional uses as set forth in the Use Matrix and elsewhere in the SLDC, pursuant to this Section.

4.9.6.1. Purpose and Findings. This Section provides for certain uses that, because of unique characteristics or potential impacts on adjacent land uses, are not permitted in zoning districts as a matter of right but which may, under appropriate standards and factors set forth herein, be approved. These uses shall be permitted through the issuance of a conditional use permit (CUP).

4.9.6.2. Applicability. The provisions of this Section apply to any application for approval of a CUP as required by the Use Matrix. Conditional uses are those uses that are generally compatible with the land uses permitted by right in a zoning district but that require individual review of their location, design and configuration, and the imposition of conditions or mitigations in order to ensure the appropriateness of the use at a particular location within a given zoning district. Only those uses that are enumerated as conditional uses in a zoning district, as set forth in the use matrix, may be authorized by the Planning Commission. No inherent right exists to receive a CUP. Concurrent with approval of a CUP, additional standards, conditions and mitigating requirements may be attached to the development order. Additionally, every CUP application shall be required to comply with all applicable requirements contained in the SLDC.

4.9.6.3. Application. An applicant may apply for a CUP by filing an application for discretionary development approval with the Administrator. A site development plan is required to be submitted with any CUP application and shall include any SRAs required pursuant to Table 6-1 in Chapter 6.

4.9.6.4. Review. The application shall be referred to the Hearing Officer and Planning Commission for the holding of a quasi-judicial public hearing.

4.9.6.5. Approval Criteria. CUPs may only be approved if it is determined that the use for which the permit is requested will not:

1. be detrimental to the health, safety and general welfare of the area;

2. tend to create congestion in roads;

3. create a potential hazard for fire, panic, or other danger;

4. tend to overcrowd land and cause undue concentration of population;

5. interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;

6. interfere with adequate light and air; and

7. be inconsistent with the purposes of the property's zoning classification or in any other way inconsistent with the spirit and intent of the SLDC or SGMP.

4.9.6.6. Conditions. In approving any CUP, the Planning Commission may:

1. Impose such reasonable standards, conditions, or mitigation requirements, in addition to any general standard specified in the SLDC or the SGMP, as the Planning Commission may deem necessary. Such additional standards, conditions, or mitigation requirements may include, but are not be limited to:

a. financing and availability of adequate public facilities or services;

b. reservations and dedications;

c. payment of development fees;

d. establishment of assessment and public improvement districts;

e. adoption of restrictive covenants or easements;

f. special buffers or setbacks, yard requirements, increased screening or landscaping requirements;

g. development phasing;

h. standards pertaining to traffic, circulation, noise, lighting, hours of operation, protection of environmentally sensitive areas, or preservation of archaeological, cultural and historic resources; and

i. provision of sustainable design and improvement features, solar, wind or other renewable energy source, rainwater capture, storage and treatment or other sustainability requirements.

2. Require that a payment and performance guaranty be delivered by the owner/applicant to the Administrator to ensure compliance with all conditions and mitigation measures as are set forth in the development order; and

3. Encourage that a voluntary development agreement be entered into between the owner/applicant and the County to carry out all requirements, conditions and mitigation measures.

4.9.6.7. Scope of Approval. The CUP approval applies only to the project as presented and approved at the hearing. If the project changes in any way it will be subject to the major/minor amendments provisions of Section 4.9.6.9.

4.9.6.8. Recording Procedures. The CUP showing the site layout and conditions of approval shall be recorded at the expense of the applicant in the office of the County Clerk.

4.9.6.9. Amendments. An amendment is a request for any enlargement, expansion, greater density or intensity, relocation, decrease in a project's size or density, or modification of any condition of a previously approved and currently valid CUP.

1. Minor Amendments. Shifts in on-site location and changes in size, shape, intensity, or configuration of less than five percent (5%), or a five percent (5%) or less increase in either impervious surface or floor area over what was originally approved, may be authorized by the Administrator, provided that such changes comply with the following criteria:

a. no previous minor amendment has been previously granted pursuant to this Section;

b. nothing in the currently valid CUP precludes or otherwise limits such expansion or enlargement; and

c. the proposal conforms to the SLDC and is consistent with the goals, policies and strategies of the SGMP.

2. Minor Amendments Causing Detrimental Impact. If the Administrator determines that there may be any detrimental impact on adjacent property caused by the minor amendment's change in the appearance or use of the property or other contributing factor, the owner/applicant shall be required to file a major amendment.

3. Major Amendments. Any proposed amendment, other than minor amendments provided for in Section 4.9.6.9.1, shall be approved in the same manner and under the same procedures as are applicable to the issuance of the original CUP development approval.

4.9.6.10. Expiration of CUP. Substantial construction or operation of the building, structure or use authorized by the CUP must commence within twenty-four (24) months of the development order granting the CUP or the CUP shall expire; provided, however, that the deadline may be extended by the Planning Commission for up to twelve (12) additional months. No further extension shall be granted under any circumstances, and any changes in the requirements of the SLDC, or federal or state law shall apply to any new CUP development approval application.

4.9.7. Variances.

4.9.7.1. Purpose. The purpose of this Section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements and standards of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

4.9.7.2. Process. All applications for variances will be processed in accordance with this chapter of the Code. A letter addressing Section 4.9.7.4. review criteria must accompany the application explaining the need for a variance.

4.9.7.3. Applicability. When consistent with the review criteria listed below, the planning commission may grant a zoning variance from any provision of the SLDC except that the planning commission shall not grant a variance that authorizes a use of land that is otherwise prohibited in the relevant zoning district.

4.9.7.4. Review criteria. A variance may be granted only by a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) based upon the following criteria:

1. where the request is not contrary to the public interest;

2. where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner; and

3. so that the spirit of the SLDC is observed and substantial justice is done.

Chapter 6 – Studies, Reports and Assessments (SRAs)

Section	Contents	Page

CHAPTER SIX – STUDIES, REPORTS AND ASSESSMENTS (SRAs)

6.1. GENERALLY.

6.1.1. Purpose. Studies, Reports, and Assessments (SRAs) facilitate the review of applications. The applicant shall prepare and submit the SRAs required by Table 4-1 in a form and format established in this chapter. SRAs shall be submitted at the time application is made. The pre-application TAC meeting required by Chapter 4 (see Section 4.4 and Table 4-1) provide an opportunity for the applicant and staff to discuss and clarify the details of the required SRAs.

6.1.2. Types. Although SRAs are referred to collectively, they are comprised of individual studies, reports and/or assessments that may or may not be required for a particular project as set forth in Table 6-1 below. The different SRAs are as follows, with reference to the applicable explanatory section of this Chapter:

6.1.2.1. Environmental Impact Report (EIR). This report analyzes adverse effects and impacts on natural habitats and wildlife corridors; flood plains, floodways, stream corridors and wetlands; steep slopes and hillsides; air and water pollution; archeological, historical and cultural resources. See Section 6.3.

6.1.2.2. Adequate Public Facilities and Services Assessment (APFA). This assessment indicates whether public facilities and services, taking into account the County's Capital Improvement and Service Program, are adequate to serve the proposed development project. See Section 6.4.

6.1.2.3. Water Service Availability Report (WSAR). This report determines the permanent availability of and impacts to groundwater and surface water resources. See Section 6.5.

6.1.2.4. Traffic Impact Assessment (TIA). This assessment determines the effects of traffic created by the development upon county, state and local roads and highways. See Section 6.6.

6.1.2.5. Fiscal Impact Assessment (FIA). This study describes the effects and impacts of the project upon County revenue and costs necessitated by additional public facilities and services generated by the development project and the feasibility for financing such facility and service costs. See Section 6.7.

6.1.3. Applicability. Table 4-1 states generally whether SRAs are required to be submitted with a particular application, but it does not delineate which specific studies, reports and/or assessments are required. This specificity is included in Table 6-1 below, where the various document submittals are set forth by application type.

Table 6-1: Required Studies, Reports and Assessments (SRAs).

	SRA Type				
Application Type	TIA	APFA	WSAR	FIA	EIR
Development Permit-non-residential (up to 10k sf)***	yes*	no	no	no	no
Development Permit-non-residential (between 10k sf and 25,000 sf)	yes*	yes	as needed**	no	no
Development Permit-non-residential (over 25k sf)	yes*	yes	yes	yes	yes
Minor subdivision	yes*	yes	no	no	no
Major subdivision 24 or fewer lots	yes*	yes	as needed	as needed	as needed
Major subdivision more than 24 lots	yes	yes	yes	yes	yes
Conditional Use Permit	yes*	as needed**	as needed**	as needed**	as needed**
Planned development	yes	yes	yes	yes	as needed**
Rezoning (zoning map amendment)	yes	no	yes	as needed**	as needed**
Development of Countywide Impact (DCI) Overlay or Conditional Use Permit	yes	yes	yes	yes	yes

* See NMDOT State Access Manual

** As part of the pre-application TAC meeting process (see Section 4.4), the Administrator will determine which SRAs are applicable based on the scope and impact of the proposed project.

6.1.4. Discretion of Administrator. The Administrator shall have the authority to exempt the applicant from a required SRA if the Administrator reasonably determines either that the information that would likely result from the study, report, or assessment is either (a) already known and can be supplied by other means, or (b) will have no reasonable bearing on the evaluation of the application.

6.1.5. Non-limitation. Nothing in the SLDC shall abrogate the County's authority to require the applicant to prepare necessary studies, analyses or reports required as a part of the development approval process.

6.2. PREPARATION AND FEES.

6.2.1. Applicant prepared. An applicant for development approval shall prepare their own SRAs as required in this Chapter. The applicant shall deposit, as determined in the Fee Schedule approved by the Board, cash, a certified check, bank check or letter of credit, to cover all of the County's expenses in reviewing the SRA, including engaging consultants.

6.2.2. Expert Review. The County may hire outside experts to review any of the submitted SRAs at the expense of the applicant in accordance with the approved Fee Schedule.

6.2.3. Project Overview Documentation. In addition to the technical reports required under Table 6-1 and detailed below, every SRA submittal shall include basic project information to facilitate in the evaluation of the application. At a minimum, the project overview documentation shall include the following:

6.2.3.1. an accurate map of the project site, depicting: existing topography; public or private buildings, structures and land uses; irrigation systems, including but not limited to acequias; public or private utility lines and easements, under, on or above ground; public or private roads; public or private water or oil and gas wells; known mines; parks, trails, open space and recreational facilities; fire, law enforcement, emergency response facilities; schools or other public buildings, structures, uses or facilities; nonconforming building, structures or uses; environmentally sensitive lands; archaeological, cultural or historic resources; scenic vistas and eco-tourist sites; agricultural and ranch lands; and all other requirements of the Administrator as established at the Administrator's pre-application meeting with the applicant;

6.2.3.2. a detailed description of the development uses, activities and character of the development proposed for the project site;

6.2.3.3. the approximate location of all neighboring development areas, subdivisions, residential dwellings, neighborhoods, traditional communities, public and private utility lines and facilities, public buildings, structures or facilities, community centers, and other non-residential facilities and structures within one (1) mile of the site perimeter;

6.2.3.4. the approximate location, arrangement, size, of any buildings and structures and parking facilities proposed for construction within the development project;

6.2.3.5. the proposed traffic circulation plan, including the number of daily and peak hour trips to and from the site and the proposed traffic routes to the nearest intersection with a state road or interstate;

6.2.3.6. the approximate location of all fire, law enforcement, and emergency response service facilities and all roads and public facilities and utilities shown on the capital improvement and services plan; floodways, floodplains, wetlands, or other environmentally sensitive lands and natural resources on the applicant's property; location of historic, cultural and archeological sites and artifacts; location of slopes greater than 15% and 30%; wildlife and vegetation habitats and habitat corridors within one (1) mile of the proposed project site perimeter;

6.2.3.7. a statement explaining how the proposed project complies with the goals, objectives, policies and strategies of the SGMP and any area or community plan covering, adjacent to, or within one (1) mile of the proposed project site perimeter;

6.2.3.8. a statement or visual presentation of how the project will relate to and be compatible with adjacent and neighboring areas, within a one (1) mile radius of the project site perimeter.

6.3. ENVIRONMENTAL IMPACT REPORT (EIR).

6.3.1. EIR as Informational Document. The EIR shall be prepared as a separate document apart from any other document required to be submitted by application of this Chapter. The EIR shall inform the County, the public and the applicant of the significant environmental effects and impacts of a project, identify possible ways to minimize the significant adverse effects or impacts, and describe reasonable alternatives to the project. The County shall consider the information in the EIR along with other information which may be presented to the County by the applicant or interested parties. While the information in the EIR does not control the County's ultimate discretion on the project, the EIR shall propose mitigation of each significant effect and impact identified in the EIR. No EIR or SRA prepared pursuant to this Chapter that is available for public examination shall require the disclosure of a trade secret, except where the preservation of

any trade secret involves a significant threat to health and safety. No specific location of archaeological, historical or cultural sites or sacred lands shall be released to the public to the extent that information is protected from release by law, but the EIR shall thoroughly discuss all environmental issues relating to a proposed project and affecting any such sites.

6.3.2. Contents of Report. The EIR shall consist of a series of elements which shall contain the information outlined in this Section. Each required element shall be covered, and when these elements are not separated into distinct sections, the document shall state where in the document each element is discussed.

6.3.3. Summary. The EIR shall contain a summary of the proposed actions and their consequences. The language of the summary should be as clear and simple as reasonably practical. The summary shall identify:

6.3.3.1. Each significant adverse effect and impact with proposed mitigation measures and alternatives that would reduce or avoid that effect or impact;

6.3.3.2. Areas of potential controversy identified in the pre-application TAC meeting; and

6.3.3.3. Issues to be resolved including the choice among alternatives and whether or how to mitigate the significant effects.

6.3.4. Project Description. The description of the project shall contain the following information but shall not supply extensive detail beyond that needed for evaluation and review of the environmental impact:

6.3.4.1. The precise location and boundaries of the proposed development project. Such location and boundaries shall be shown on a detailed topographical map. The location of the project shall also appear on a regional map;

6.3.4.2. A statement of the objectives sought by the proposed development project. The statement of objectives should include the underlying purpose of the project; and

6.3.4.3. A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.

6.3.5. Environmental Setting. The EIR shall include a description of the physical environmental conditions in the vicinity of the project as they exist at the time the environmental analysis is commenced, from the County, area, community, regional, and state perspectives. This environmental setting will constitute the baseline physical conditions by which the County determines whether an adverse effect or impact is significant. Knowledge of the County and the regional setting is critical to the assessment of environmental impacts, and shall analyze environmental, archaeological, cultural, historic, habitat and scenic resources that are rare or unique to the County and region and would be affected by the project. The EIR shall demonstrate that the significant environmental effects and impacts of the proposed project were adequately investigated and discussed and it shall permit the significant adverse effects or impacts of the project to be considered in the full environmental context. A geotechnical investigation and report shall be required.

6.3.6. Significant Environmental Effects. The EIR shall identify and focus on the significant environmental effects of the proposed development project. In assessing the impact of a proposed project on the environment, the EIR shall limit its examination to changes in the

existing physical conditions in the affected areas as they exist at the time environmental analysis is commenced. Direct and indirect significant effects and impacts of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects and impacts. The discussion shall include relevant specifics of the area, the resources involved, physical changes and alterations to soil conditions, water, environmentally sensitive lands and ecological systems, changes induced in the human use of the land, health and safety problems caused by physical changes, and other aspects of the resource base such as historical, cultural and archaeological resources, scenic vistas.

6.3.7. Significant Environmental Effects Which Cannot Be Avoided. The EIR shall describe significant adverse effects and impacts, including those which can be mitigated but not reduced to a level of insignificance. Where there are effects and impacts that cannot be alleviated without an alternative design, their implications and the reasons why the development project is being proposed shall be described.

6.3.8. Significant Irreversible Environmental Changes. Uses of nonrenewable resources during the initial and continued phases of the development project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely. Primary effects and impacts and, particularly, secondary effects and impacts (such as highway improvements required to provide access to a previously inaccessible area) generally commit future generations to similar uses. Irreversible damage can result from environmental and other accidents associated with the development project. Irretrievable commitments of resources should be evaluated to assure that such current consumption is justified. Applicant shall comply with all federal and New Mexico statutes and regulations regarding climate change.

6.3.9. Other Adverse Effects. The EIR shall discuss other characteristics of the project which may significantly affect the environment, either individually or cumulatively. The EIR shall discuss the characteristics of the project which may decrease the area's suitability for other uses, such as mixed use, industrial, residential, commercial, historical, cultural, archaeological, environmental, public and non-profit facilities, eco-tourism or scenic uses.

6.3.10. Mitigation Measures.

6.3.10.1. The EIR shall identify mitigation measures for each significant environmental effect identified in the EIR, which impacts include but are not limited to: inefficient and unnecessary consumption of water and energy; degradation of environmentally sensitive lands; sprawl; and noise, vibration, excessive lighting, odors or other impacts.

6.3.10.2. Where several measures are available to mitigate an effect or impact, each shall be discussed and the basis for selecting a particular measure shall be identified. Formulation of mitigation measures shall be identified at the first discretionary approval and under no circumstances deferred until the ministerial development process. Measures shall specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.

6.3.10.3. Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant.

6.3.10.4. If a mitigation measure would cause one or more significant effects and impacts in addition to those that would be caused by the project as proposed, the adverse effects and impacts of the mitigation measure shall be discussed.

6.3.10.5. Mitigation measures described shall be fully enforceable through conditions or a voluntary development agreement.

6.3.10.6. In some circumstances, documentation of a historical, cultural, or archaeological resource, by way of historic narrative, photographs or architectural drawings, as mitigation for any identified impacts will not serve to mitigate the effects and impacts to a point where clearly no significant effect or impact on the environment would occur. All of the following shall be considered and discussed in the draft EIR for a development project involving such a cultural, historic or archaeological site:

1. preservation in place is the preferred manner of mitigating impacts to historic, cultural or archaeological sites. Preservation in place maintains the relationship between artifacts and the historical, cultural, and archaeological context. Preservation shall also avoid conflict with religious or cultural values of Indian communities associated with the site;

2. preservation in place may be accomplished by, but is not limited to, planning construction to avoid all historical, cultural or archaeological sites; and incorporation of sites within parks, green-space, or other open space;

3. when data recovery through excavation is the only feasible mitigation, a data recovery plan which makes provision for adequately recovering the scientifically consequential information from and about the historical, cultural, or archaeological resource, shall be prepared and adopted prior to any excavation being undertaken. If an artifact must be removed during project excavation or testing, storage of such artifact, under proper supervision, may be an appropriate mitigation; and

4. data recovery shall not be required for an historical, cultural or archaeological resource if the appropriate entity determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archaeological or historical resource, provided that the determination is documented in the draft EIR.

6.3.11. Consideration and Discussion of Alternatives to the Proposed Project.

6.3.11.1. Alternatives to the Proposed Project. The EIR shall describe a range of reasonable alternatives to the project, or to the location, which would feasibly attain some of the basic objectives of the project but would avoid or substantially lessen the significant and adverse impacts or effects of the project, and evaluate the comparative merits of the alternatives, even if those alternatives would impede the attainment of the project objectives or would be more costly.

6.3.11.2. Evaluation of alternatives. The EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. A matrix displaying the major characteristics and significant or adverse environmental effects and impacts of each alternative may be used to summarize the comparison. If an alternative would cause one or more significant or adverse effects or impacts in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed.

6.3.11.3. Selection of a range of reasonable alternatives. The EIR shall briefly describe the rationale for selecting the alternatives to be discussed. The EIR shall also identify any alternatives that were considered but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the determination.

6.3.11.4. "No project" alternative. The specified alternative of "no project" shall be evaluated along with its effects and impacts. The purpose of describing and analyzing a "no project" alternative is to allow a comparison of any adverse effects and impacts of the proposed project with effects and impacts if the project were not accomplished. The "no project" alternative analysis is not the baseline for determining whether the proposed project's environmental effects or impacts may be significant or adverse, unless it is identical to the existing environmental setting analysis which does establish that baseline.

1. The "no project" analysis shall discuss the existing conditions at the time environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the development project were not approved, based on current plans and consistent with available infrastructure and community services. If the environmentally preferred alternative is the "no project" alternative, the draft EIR shall also identify an environmentally preferred alternative among the other alternatives.

2. A discussion of the "no project" alternative shall proceed as follows: (i) The "no project" alternative is the circumstance under which the development project does not proceed. Discussion shall compare the environmental effects of the property remaining in its existing state against the environmental and adverse effects which would occur if the project were to be approved; (ii) If disapproval of the project under consideration would result in predictable actions by others, such as the proposal of some other development project, this "no project" consequence should be discussed. In certain instances, the no project alternative means "no build" so the existing environmental setting is maintained. However, where failure to proceed with the project will not result in preservation of existing environmental conditions, the analysis should identify the practical result of the project's non-approval.

6.3.11.5. Feasibility. Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic use and value viability, availability of infrastructure, jurisdictional boundaries (projects with a significant effect or impact should consider the county wide context), and whether the applicant can reasonably acquire, control or otherwise have access to an alternative site in the common ownership. No one of these factors establishes a fixed limit on the scope of reasonable alternatives.

6.3.11.6. Alternative locations. The essential issue for analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project should be included in the EIR. The EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative.

6.3.12. Organizations and Persons Consulted. The EIR shall identify all federal, state, or local agencies, tribal governments, or other organizations or entities, and any interested persons consulted in preparing the draft.

6.3.13. Discussion of Cumulative Impacts. The EIR shall discuss cumulative effects of a project. A cumulative effect and impact is created as a result of the combination of the project evaluated in the EIR together with other development projects causing related effects and impacts. The discussion of cumulative effects and impacts shall reflect the severity of the effects and impacts and their likelihood of occurrence.

6.3.13.1. The discussion should focus on the cumulative effects and impacts to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative effect and impact. The following elements are necessary to an adequate discussion of significant cumulative impacts:

1. a list of past, present, and probable future development projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the County (when determining whether to include a related development project, factors to consider should include, but are not limited to, the nature of each environmental resource being examined, the location of the project and its type. Location may be important, for example, when water quality impacts are at issue or when an impact is specialized, such as a particular air pollutant or mode of traffic);

2. the EIR shall define the geographic scope of the area affected by the cumulative effect and impact and provide a reasonable explanation for the geographic scope utilized;

3. a summary of the expected environmental effects to be produced by those projects with the specific reference to additional information stating where that information is available;

4. a reasonable analysis of the cumulative impacts of the relevant projects. A draft EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects or impacts; and

6.3.13.2. Approved land use documents, including the SGMP and any applicable area, district or community plans, shall be used in cumulative impact analysis. A pertinent discussion of cumulative effects and impacts, contained in one or more previously certified final EIR development projects may be incorporated by reference.

6.4. ADEQUATE PUBLIC FACILITIES & SERVICES ASSESSMENT (APFA).

6.4.1. Purpose and Implementation. The Adequate Public Facilities and Services Assessment ("APFA") ties development approval of an application for a project to the present availability of infrastructure and public service capacity measured by levels of service ("LOS") adopted in Chapter 12. The provision of adequate public facilities in a timely manner is a necessary precondition to development in order to prevent sprawl, assure a positive fiscal impact for the County, provide a high quality of life through infrastructure and services, implement the goals, policies of the SGMP, and any applicable area or community plan, and protect the public health, safety and general welfare of the community.

6.4.2. Requirements. The review of adequacy of public facilities and services shall compare the capacity of public facilities and services to the maximum projected demand that may result from the proposed project based upon the maximum density in the project and relevant affected areas. The APFA shall study the impacts of the proposed development on all of the following:

6.4.2.1. Roads. The APFA shall calculate the LOS for roads consistent with Table 12-1. The impact of the proposed development shall be measured by average daily trips and peak-hour trips based upon the Transportation Research Board's "Highway Capacity Manual 2000." The APFA shall describe the means by which the transportation capacity of the system will be expanded without destroying historic and traditional built environment. For purposes of the APFA, average daily traffic assumes 10 trips per day per dwelling unit or building lot.

6.4.2.2. Fire, Law Enforcement, and Emergency Response Services. For Law Enforcement (including emergency dispatch), and Fire and Emergency Response, the APFA shall calculate the LOS consistent with Table 12-1. In determining the impact of the proposed development on fire, law enforcement, and emergency service LOS, the approving agency shall primarily take into consideration the number and location of available apparatus and fire, law enforcement, and emergency service stations.

6.4.2.3. Water. For water supply, if the County's water utility, a water and sanitation district or a public water system provides potable water to a proposed development and has issued a letter indicating it is ready, willing and able to serve, no APFA is required for water. For a proposed development that does not propose the use of a public water system, the APFA shall demonstrate that the project will provide the LOS consistent with Table 12-1. The APFA shall analyze the availability of adequate potable water, and shall analyze all of the following information, as appropriate in accordance with Section 7.13:

1. system capacity and availability of water rights;

2. capacity of the well field, or other source of raw water supply;

3. historical average flow of potable water;

4. historical peak flow of potable water;

5. number of hook-ups and the estimated potable water demand per hook-up;

6. number of hook-ups for which contractual commitments have been made; and

7. development approval applications shall be analyzed with respect to the availability of adequate potable water supply, and shall be evaluated according to the following factors using the information provided in a WSAR;

    a. whether a grey water reuse system will be provided and whether that system is tied to a public or community sewer treatment facility;

    b. whether rainwater capture and reuse system will be used;

    c. whether existing hook-ups and hook-ups for which contractual commitments have been made; and whether the estimated potable water demand per hook-up is excessive; and

    d. whether the WSAR provided substantial evidence that the project is within the service area of the County, or public or private water utility service area. If the ability of a provider to serve a proposed development is contingent upon planned facility expansion in accordance with a CIP, details regarding such planned improvements shall be submitted; and

8. analysis of water quality.

6.4.2.4. Sewer. The APFA shall demonstrate that the project will provide the LOS consistent with Table 12-1. The Applications shall be analyzed with respect to the availability of adequate sanitary sewer capacity, and shall be determined pursuant to the following information:

1. the public or private sewer system capacity;