

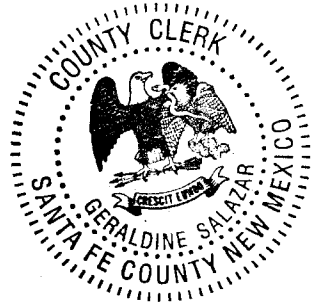
SFC CLERK RECORDED 11/14/2013

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
SPECIAL MEETING

October 15, 2013

Kathy Holian, Chair – District 4
Danny Mayfield, Vice Chair – District 1
Liz Stefanics – District 5

Robert Anaya – District 3, Excused
Miguel Chavez – District 2, Excused



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 38

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Geraldine Salazar)
County Clerk, Santa Fe, NM)

SANTA FE COUNTY

SPECIAL MEETING

BOARD OF COUNTY COMMISSIONERS

October 15, 2013

This study session of the Santa Fe Board of County Commissioners was called to order at approximately 9:25 a.m. by Chair Kathy Holian, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

Commissioner, Kathy Holian, Chair
Commissioner Danny Mayfield, Vice Chair
Commissioner Liz Stefanics

Members Excused:

Commissioner Robert Anaya
Commissioner Miguel Chavez

Staff Present:

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

III. Approval of the Agenda

Commissioner Stefanics moved to approve the agenda and Commissioner Mayfield seconded. The motion carried by 3-0 voice vote.

IV. Sustainable Land Development Code Adoption Draft Presentation

Chair Holian gave introductory remarks, stressing the 2,500 comments from the public that had been reviewed by staff and incorporated as necessary.

MS. ELLIS-GREEN: Thank you, Madam Chair, Commissioners. Today, as the Commissioners said, I will be grouping the SLDC into topics for discussion. When we go through each topic with the code in front of us the topics that we're going to be grouping is

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zoning, procedures, design standards, growth management and subdivisions. Steve was planning on taking the growth management, subdivision and also legal issues and overview of legal issues with the current code. Unfortunately, we don't have him here today, so I'm hoping that he will be available for our next study session, and Robert will go ahead and get the text up on the screen so any members of the public can see that. But we will have the books in front of us.

Just to give a really brief recap of where we've been and what we've done, we did start this process with the Sustainable Growth Management Plan. We held multiple workshops, study sessions and public hearings on the SGMP, and that was adopted in December 2010. And that is our guiding document that is going to guide this code. We then released the Sustainable Land Development Code public review draft and as the chair stated we had over 2,500 public comments. We established a review process. We held informational open houses, meetings in each of our Growth Management Areas and we also released a preliminary draft zoning map.

So here we are with the Sustainable Land Development Code adoption draft. We have been reviewing this; the old draft again was due in legal review, redrafting of the code in the growth management framework. We've looked at final changes related to public comments. We revised the draft the official map and the draft zoning map, and we released this document on October 1st of this year.

So if we can start by turning to Chapter 8, which is zoning, on page 189, and it is tabbed as well. As I go through this it's important to me to kind of address the zoning districts that we have created. Zoning is new for Santa Fe County. We haven't had this kind of zoning before, and what I will try to do is summarize some of the public comments that led to some changes as I go through each of these topics.

So we start with the zoning districts and so they are listed on page 191. There's Table 8.1 which is the base zoning districts, and that will list our residential, our non-residential, and our mixed use zoning districts.

If we then turn over to page 193 I'm going to start going through the actual districts and I'm going to start with the residential zoning districts, so everyone understands, the zoning districts we have and the way that this code is laid out for us to deal with the zoning districts. We can start with agriculture and ranching. Each of these districts that you're going to see is going to include the dimensional table, so when you look at this code you can see what the density is allowed, lot width and height. That allows us, unlike the current code, to actually have a different height, a different lot width requirement for every different zoning district that we have in the county, so that everyone doesn't have to fit within the same standards that we have right now.

So our ag-ranch district has a minimum lot size of 160 acres, so that is similar – a lot of the zoning districts have been based on the hydrologic districts because those are the lot sizes over the years that have been created. The lot width, as creating new lots, the minimum lot width would be 400 foot. Height would be 36 foot. One of the public comments that we actually has made a change in here. Heights for animal barn or silo. We got a lot of public comments or several public comments stating that for a grain silo or a hay barn the 36 foot really wasn't tall enough. So you are going to see in our rural districts, ag-ranch and rural districts that we have allowed those types of buildings to exceed the 36 foot and go up to 50

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foot in height.

Our next zoning district is the rural zoning district, and this is a 40-acre minimum. Again, 36 foot would be the standard height and 50 foot for hay or animal barns and the other thing we added on there was a lot coverage of three percent. Now, since this is a 40-acre minimum that's still quite a lot of building space that you can actually have. We had public comments stating that some of our smaller districts had a lot coverage and our larger ones did not, so we did add lot coverage.

The rural residential is a 10-acre minimum – Sorry, I skipped one, the rural fringe is the 20-acre minimum. That has a 36-foot height limit. Again, 50 foot for hay or animal barn or silo and a five percent lot coverage.

Rural residential is a ten-acre minimum. This is where height is reduced a little bit to 24 foot. That's consistent with the last draft that we had, and lot coverage is ten percent. I do want to point out one other thing as we're working through this, not only, by grouping it this way, not only can you have permitted uses, dimensional standards specific to individual districts, but you could decide to add design standards to the specific districts here. So if we had certain design standards it would only be specific to the rural residential. This is the section you could do it. At the moment we do not have that but we have the ability to add those if we need to.

So residential fringe is the next district, a five-acre minimum with a 20 percent lot coverage and a 24-foot height.

Residential estate is the next and for this one we have a 72 percent lot coverage and we have a 2.5-acre minimum, and that 72 percent lot coverage I believe is an amendment. That looks like it was an addition.

Residential community is a one-acre minimum. Now this was in the last draft of the code but again, this is slightly different. This is another district that we added. When we looked at what our existing hydrologic zoning was we realized that we had a lot of lots that were about one acre in size, so we realized that we had the need to have this residential community district, allowing us to have the one-acre minimum.

The next zoning district is traditional community, just like our current traditional community. Again, that has a $\frac{3}{4}$ -acre minimum. It goes down to a third of an acre if it is served by water and sewer.

We then have our non-residential zoning districts, and we actually have a slight issue that we found over the weekend on this section. Initially we had a commercial general section. We decided that we needed to have a commercial neighborhood section as well. We needed to add that section in for smaller-scale commercial uses, especially for being able to be used in community areas. But when we pasted that in it looks like we pasted right over the commercial section and we didn't leave our commercial general. So we will be making – so we will be adding that back in as an omission. Willie's going to just pass out the table so you can see that. [A copy was not made available for the record.] Again, commercial doesn't have a minimum lot size, and where the commercial general has a maximum building size of 25,000 square foot for an individual building, 75,000 square foot for aggregate, the neighborhood commercial has a much smaller area. So a total of 10,000 square foot for individual buildings and the aggregate is 50,000 square foot. So again, that could be more as a community-sized commercial building. So it can be fairly large but not as large as the

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commercial general.

COMMISSIONER STEFANICS: I have a question.

CHAIR HOLIAN: Commissioner Stefanics.

COMMISSIONER STEFANICS: The clarification is that on page 198 and on the table you handed out, the commercial general – they're both labeled, the tables are both labeled commercial general, the handout and the page, instead of one being commercial neighborhood.

MS. ELLIS-GREEN: Correct. On page 198, that should state, because the 8.7.1 is commercial neighborhood, that should state commercial neighborhood and this one would be added in.

COMMISSIONER STEFANICS: Okay. Then, if it's just semantics, I'm looking at the maximum building size for the commercial neighborhood is 50,000, compared to the commercial general, 25,000. Is that correct?

MS. ELLIS-GREEN: That is supposed to be the aggregate there.

COMMISSIONER MAYFIELD: Madam Chair, Penny, repeat that please.

MS. ELLIS-GREEN: That's supposed to correspond to the 75,000 square foot in the commercial general. So it would be 10,000 square foot for the individual buildings, 25,000 in commercial general for individual buildings, and then the aggregate in commercial neighborhood would be 50,000 square foot and the aggregate in commercial general would be 75,000 square foot.

COMMISSIONER STEFANICS: So it's just reversed.

MS. ELLIS-GREEN: Right. Yes.

COMMISSIONER STEFANICS: Okay. That's what I wanted to clarify.

Thank you, Madam Chair.

MS. ELLIS-GREEN: So as we've gone through preparing for this study session we've realized that there are – like this is an omission. I've also found a couple of cross references as I went through that are incorrect. So what we need to be doing and we'll bring to the next study session is an ongoing list of possible changes and the typos and omissions. So we will get that out and we will get that on the webpage as well with everything else.

So back to the commercial neighborhood. We did decide to add this so we could use this to allow smaller-scale commercial. We then have an industrial district. Again, we haven't had industrial before. One thing that you are going to see in all of these is the setbacks have been removed from all of the tables, and that is because we wanted to put all of the setbacks together and they're now going to be in the design standards, which we will discuss when we go through the design standard topic.

Another district that we added was public institutional zoning district. And that would be governmental, educational, parks, recreation, that kind of use. So we added that zoning district in, and again, you're going to see that added on the draft zoning map as well.

We then have our mixed-use zoning district, and the table on page 201 at the top of that page, Table 8-17, has two columns on it. Mixed use can be if there's only residential use and then there's at least ten percent commercial use. Our hope is that we get more of a mix and actually have a mix of commercial non-residential and residential. The first line of the 2 to 12 would be you have to have at least two dwellings per acre, but you can go up to 12

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dwellings per acre. So that's a minimum and a maximum, which is slightly different to the other zoning districts.

Again, when you look at the mixed-use district I had said earlier that we could have standards that relate just to a district. Mixed use and planned development actually have those, so 8.9.6 has design requirements that are specific to a mixed use district.

Really, this is the first time we've had comprehensive zoning in the county. It can be very flexible. It will cover the entire county. You're going to see on the zoning map that the zoning lines should follow past the lines of roads, railroads, so it would be easy to see which zone a property is in. Currently we have a situation sometimes where we have a small piece of property and there's maybe two or three zoning districts that it falls in, or hydros districts. So it can be very difficult for someone to understand exactly where they're located.

It interacts with the use table, which is your Appendix B. Every zoning district that we have will be in the use table and there's a list of uses and it will tell you whether or not you're allowed to have that use, whether it's a permitted use or a conditional use.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: Could you, based upon that comment, Penny, you're talking about a map that would be in Appendix B? Or not? When you said – maybe I heard you wrong. I thought I heard you say there will be a map that shows you what you can have.

MS. ELLIS-GREEN: Appendix B is the use matrix. The map I was talking about is actually over there. It's the preliminary draft zoning map and that will not be part of the code; it needs to be adopted in a different way than the code does. So I'm going to go over that. We do have that, but it will be adopted separately. So the zoning map we're handing separately to the Land Development Code.

COMMISSIONER STEFANICS: Okay. So I just want the public to understand that. Thank you, Madam Chair.

CHAIR HOLIAN: So Penny, were you going to go over Appendix B?

MS. ELLIS-GREEN: Yes. Let's skip now to Appendix B. So if you open up the first page of Appendix B, rather than going through every use, I want to address a few things. It is tabbed so everyone has that. So in Chapter 8 it lays down kind of how to read this. It gives you two pieces of information. The first is that a P on this is a permitted use, and an A is an accessory use so it can only be used as an accessory to a permitted use. A C is a conditional use. A C means I guess basically is a conditional use permit, and that means that it actually goes to a public hearing, whereas a permitted use is reviewed and approved administratively. And X means it's prohibited, so you can't make a submittal for that.

The other thing I wanted to point out is you can see function, structure and activity. That's something that's new to the County but not new to the country. It is the land-based classification system and pretty much it's consistent with what the rest of the country does as far as uses. So if you are talking about a use that is not listed in this table we have the ability to go to this land-based classification system to work out which function, structure, activity and which grouping that your use actually falls within. And that should cover virtually all uses. So it gives us that extra tool that if you're not listed we can find out where you really fit and therefore whether you're permitted, conditional or prohibited.

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So Willie just pointed out, just so everyone knows that in Chapter 8, Table 8-4 actually gives you the use matrix labels, so it tells you what a permitted – or what P, A, C, and X is on page 193, and it also then specifies the land-based classification system.

COMMISSIONER MAYFIELD: Madam Chair, where is that?

MS. ELLIS-GREEN: That's on page 193, so there's a Table 8-4.

CHAIR HOLIAN: In Chapter 8, correct?

MS. ELLIS-GREEN: In Chapter 8, yes. So another way that this code has been written is that like Chapter 12, like all of the numbers in there will start 12-1, 12-2. Chapter 7 will have 7-1, 7-2. So wherever you are in the code you know what chapter you're in, just by the first number. So you'll see on the use matrix that along the top you have all of our zoning districts and we do have commercial neighborhood in there. We do have commercial in there. We added public institutional in there. So all of our districts are in there as you follow down the uses you can see which uses you can have in which districts. So again, this is a tool that is really easy to use. Between this and the zoning map you would be able to work out which zone you're in and all the different uses that you can have and all the different uses that a neighbor could have.

I do want to point out as well that some non-residential uses are allowed within residential districts. So we have made suggestions of some non-residential uses being allowed in districts that at the moment in a residential area it's straight residential or home occupation.

CHAIR HOLIAN: Can you give an example, Penny?

MS. ELLIS-GREEN: I'm checking that to see where they are. I know they're here. For example on page 3 of 7, fitness or recreational sports are permitted or conditional uses in all districts. So you could have a gym in a residential zoning district. You can see some – and again, some may be permitted in the larger districts thinking that because your acreage is larger it will have less of an impact. They may then be conditional in the smaller districts and prohibited in other districts. One of those would be an athletic field would be permitted in a larger rural districts and conditional in the smaller districts.

A lot of our community facilities are actually allowed, and that's on page 4-7, are allowed throughout the county in residential and in non-residential districts.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Just on the examples, Penny. Madam Chair, Penny, a commercial gym or a home gym.

MS. ELLIS-GREEN: No, these would be non-residential uses, so it wouldn't be a home occupation. What we have right now in the county is you can either be a very, very small home occupation or you can be located in a commercial district. And we found that a lot of our community plans have said that we want to allow non-residential uses and they've called them home businesses and so there seems to be a lot of push to be able to have non-residential uses within residential areas. So yes, this would be non-residential like a gym that somebody could have a membership to, rather than driving into town to go to a gym.

COMMISSIONER MAYFIELD: Madam Chair, Ms. Ellis-Green, you could build like a Santa Fe Spa in a residential area?

MS. ELLIS-GREEN: Is that like a resort? I guess if you could prove that you have adequate public facilities then, yes. Yes, you would. So if you can prove you've got the

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available water, the parking, you can build it within the height, all of those things, then yes.

CHAIR HOLIAN: And Penny, there would be limitations on how big it could be too, because there are limitations on the size of buildings in the various zones, correct?

MS. ELLIS-GREEN: There are lot coverage requirements, yes, in the districts. But again, in the larger zoning districts, even three percent lot coverage still means it's a pretty big building.

So I wanted to go over those even though that really isn't – many of these have not been changed since the last round of this.

COMMISSIONER STEFANICS: I just noticed a spelling thing on animal hospitals, on the chart, so you might just want to fix that later.

CHAIR HOLIAN: What page?

COMMISSIONER STEFANICS: Page 4 of 7. I'm sure there's others, but –

MS. ELLIS-GREEN: One of the other things you're going to notice on the use matrix, is for example on page 6 of 7, they haven't all been filled in but for example you can see a reference to a Chapter 10. Chapter 10 is Supplement Use Standards. And rather than right now, the way that we have a code with all the design standards kind of grouped together, we have what's called Supplemental Use Standards in this code. That allows us to have design standards, specific design standards related to individual types of uses. So again, that's something different than we have right now. We have a lot of those built in. I am going to go through those alongside the whole zoning discussion because they are related to specific uses. But it allows us in the future if we realize that we need standards for a specific use that we can add them into that chapter.

So if we go back now to Chapter 8, I wanted to talk a little bit about planned development districts and overlay districts. Again, Chapter 8, planned development districts start from page 203. So a planned development district, again, really gives flexibility for a developer planning a construction project. An example that we may be familiar with may be the Commonwealth property. They had to request some variances in order to do narrower streets, like the Community College. It wasn't necessarily a cookie cutter subdivision in that area. It allowed them to do more clustering, more mixed use. So a planned development district could do that. You can establish your own districts in a planned development district, so you can say, okay, this is where I want these different districts. You would use our districts but you'd say where you wanted mixed use, where you wanted maybe a traditional feel, where you wanted the one-acre lots, the larger ranch lots, things like that.

This is one area you would need to do a master site plan that is similar to a master plan we have now. It's overall, it's conceptual, it allows us to see a layout, and you can use a planned development district for special types of development. We've listed them in here – like a regional center, a campus, transit oriented, conservation subdivision. It allows up to 12 dwellings per acre if you get a mix of residential and commercial. You designate your uses and you designate districts in the master site plan. There is a requirement in here for parks and open space. There's a five-acre minimum size. We would usually expect them to be much larger than that but the acreage we've put in here is five acres. We did not get many comments on changing that acreage, and you wouldn't really use this if you were going to do a traditional subdivision. So this would be something that we see in an area like the Community College, or, because that's covered by the Community College District you

wouldn't need to do a planned development district; that's really already covered, but this would be something that would do a similar type of development to that.

One thing I did want to point out there is there is a parks and open space requirement. There is a reduction as well as the applicant can ask to reduce the amount of parks and open space, and through public comment we did limit that reduction to 50 percent. So that was another change that we made specific to the public comments.

We then have listed overlay zones and they start on the bottom of page 205. The first one is the rural commercial overlay zone. You can do that in an ag-ranch, a rural, a rural fringe, a rural residential and a residential fringe zone where you can have up to 5,000 square foot of certain uses, 15,000 if you do a conditional use permit, and it lists what uses you can do. This is specifically designed to allow commercial uses or non-residential uses in our larger zoning districts, more so even than the table in Appendix B. So this would allow these types of uses to be out in the community. It would allow someone to do a feed store or a hay store down in the southern part of the county that is not allowed to happen at the moment.

CHAIR HOLIAN: Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair, Penny, so something like this, a rural commercial overlay into the zone, is that – would that show up in a community plan or would that come later by petition or something?

MS. ELLIS-GREEN: Madam Chair, Commissioner Stefanics, that would usually come by application later. Now, certainly if a community was – this hasn't been available to communities but if communities wanted to create an area to allow that I think they could but really there isn't like – this would just be through application usually.

COMMISSIONER STEFANICS: Okay. I'm going to put that on my list to talk about this and mixed use later on, just to kind of clarify it. Thanks.

CHAIR HOLIAN: Penny, I have a question on this too. Could the County make the decision to put an overlay zone somewhere? Like a resource protection zone, for example, in part of the county.

MS. ELLIS-GREEN: Yes, the County could decide to do an overlay zone somewhere. Usually though the rural commercial overlay would be specific to properties where somebody actually wanted to do it.

CHAIR HOLIAN: Well, I was thinking of the resource protection, for example, that the County might want to put in an overlay zone.

MS. ELLIS-GREEN: Yes. Yes, the County could decide to do that, and a community could. That may be more relevant to a community plan than the rural commercial overlay. The other thing, we're going to actually – I was moving onto our community overlay which we actually have a whole chapter – not completed right now – but this Chapter 9 would be where the community overlay districts would end up. But this Chapter 8, 8.11, starting on paging 207 is where we describe the community overlay district. And certainly when a community does their community planning and all the communities we've got as they amend their plans, this code gives them a lot more resources to work with. They would be able to look at where their zoning districts are and we would actually look to them to provide that to us.

If you look at the zoning map, the drafts that we've got, those districts that have community plans are all shaded that kind of brown-purple color. As the community goes

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back in and determines which of our districts they want where in that community, that's when those districts would be colored in. So we really look for the communities to provide that information, and then they would also look through the use table and see whether or not the uses proposed in that area are okay for their specific area or whether they recommend that there should be some changes, and then they would also have the ability of using any of these overlays or anything else that this code allows them to do, which is why communities are probably going to want to come back in and amend their plan, get them consistent with the SGMP as the SGMP requires and then utilize this code to be able to give them a lot of alternatives.

Okay. I do want to have discussion about the zoning map. Again, this is the first time we're going to have a zoning map. At the moment we're looking at a piece of paper and it's going to be difficult to decide exactly where properties are, but when this map becomes kind of live it will be on our website and you will be able to scroll down to parcel level data to be able to tell you exactly what zoning district you're in. It will cover the whole county. It is derived from some of the boundaries from the existing hydro map. You'll see, especially down in the south, where you can see the basin, basin-fringe lines and you see the color differences between those.

And that's mainly because that's where we see boundaries and different lot sizes. It's going to be way easier to use than we have right now. And again, community districts, we'll work with communities, with planning staff to designate where their locations of their base zoning districts, commercial districts, whatever they want to use, in their community district areas. We have updated our zoning map. Again, it's going to follow a different procedure. It's a quasi-judicial hearing, and a quasi-judicial hearing that it needs to go through and we have to do that after the code is adopted. So we have to say, well, here is our code, and now here is the zoning map.

There is a legal notice issue. Since we haven't had zoning throughout the county and now we're going to have zoning, and so what that means is that we're going to have to send legal notice to property owners. And there's 40,000? 50,000 parcels? So about 30,000 parcels will have to receive legal notice that we are actually having this zoning map approved. So that has to be done as a separate process than this code. We can have it all lined up. We can have it ready to go when this code – so as we learn our adoption procedure for this code we will start getting the zoning map lined up. We don't want to wait a year or two years because this code does say it comes into effect when we have the zoning map. So they do go hand in hand.

As I stated before, related to the zoning districts and related to the use table is our supplemental use standards, and they are in Chapter 10. So I wanted to briefly go through some of these standards. We've had a lot of discussion on some of these, I believe and –

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: You made a reference to Chapter 9, so I want to just ask, are you expecting it to just be a list of the different district ordinances or are you expecting to publish each one there?

MS. ELLIS-GREEN: Each one will end up in here. So Chapter 9 will be much larger when it finishes.

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COMMISSIONER STEFANICS: Okay. That's all I wanted to know.

MS. ELLIS-GREEN: Okay. So I wanted to tie the supplemental use standards with the zoning discussion as they directly relate to standards that are specific to uses in the use table. This is new, again, in this code. It allows us to have standards specific to a single use rather than putting them in the design standards, which makes the design standards lengthy and you've got a standard that's really only specific to one use. So as we start looking through this, we had some discussion during BCC meetings about a few of these and one of these is on 10-4, the accessory dwelling unit. So I just wanted to run through a few things. This allows people to have an accessory dwelling unit. The purpose of this is to assist a family member. So it is allowed for a family member to live in. So that's under occupancy. Only immediate family members may occupy.

You can only have one accessory dwelling unit. At the moment there are no accessory dwelling units allowed under our code. The size – 50 percent of the building footprint of the principal residence or up to 1,200 square feet. So it needs to be smaller than the main residence that you have. It needs to be a similar kind of building and site design as the main residence, and it needs to share utilities with the principal residence. So that's really tying it to your main use, which is your home on the property.

This was put in. It was in the last version of this code. It was put in to try to address the number of variances that come in front of the Board for a second dwelling unit. It will not address the variances that come in front of the Board to ask to divide their land. This means on the same tract of land. But it does give people an alternative if they want to help a family member, even if it's for a short period of time while they get on their feet before they move on somewhere else.

Home occupations is something we've talked an awful lot about and that is on 10-6, page 218. We only had a few changes to that section, but just to recap. We have no impact home occupations, which really is one employee, all activity in the home. We then have low impact, which is up to three employees, a limited number of appointments a day and one small sign identifying it, but really you shouldn't realize that there is any business activity going on. In a medium impact you can have up to five employees. You can have more appointments but it is done through a conditional use permit. So it opens up someone's ability again to have a non-residential use, but you do need this conditional use permit. Again, it will go in front of the CDRC for a hearing.

It is definitely going to increase the ability to have economic development within the county. We have a lot of home occupation businesses in the county. We've also had a lot of discussion about fees related to home occupation and again, the fee ordinance is something that comes after the code is in place. We will then be bringing our fees to you when we know exactly what the permitting is, but we do have direction from the Board to greatly reduce the fees for the low and no impact home occupations. The medium impact still goes to a public hearing so we do try to cover some of the costs of the staff time going to public hearing, but those other two, the small home occupations, which are the majority at the moment of our home occupations, we understand the need to drastically reduce the fees on that.

So really, our only real change on that is for the no impact to state on the table, Table 10-1 on page 219 and 220, was the parking and access to be residents and employee only and the accessory storage to be 100 square foot. So before it just said minimal, and we figured

that minimal, there was no amount on that. So we wanted to actually state that. So that was really one of the only changes we made in the home occupation section.

We then have, and I wanted to touch base on the temporary uses section on page 222.

COMMISSIONER STEFANICS: Penny, Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: On page 221, could you explain 10.8, no onsite borrow?

MS. ELLIS-GREEN: Borrow – we have this – we realized we didn't cover this in this code and we have this in our existing code under terrain management and it basically says you can't use onsite borrow. Onsite borrow is when you dig foundations and you've taken dirt out. So basically you can reuse that dirt onsite but you can't dig dirt out of your site and sell it on. If you do that, we've had a couple of instances where people have taken a lot of dirt from their site, basically taken down hills and they're not doing any kind of construction with it and really, it's close to being like a sand and gravel operation at that point. So if you're digging foundations, we expect everyone to do that, you use them onsite. If you're going to be taking dirt from your property and selling it, we would assume you've got a large amount, it's going to make a big impact on your property and therefore you need a conditional use permit in order to do that.

COMMISSIONER STEFANICS: Okay. Thank you.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

CHAIR HOLIAN: Madam Chair, Penny, why don't you put a reference then to sand and gravel permit on 10.8?

MS. ELLIS-GREEN: It may end up being a sand and gravel operation.

COMMISSIONER MAYFIELD: A reference on 10.8.

MS. ELLIS-GREEN: This is slightly different to sand and gravel, so we've actually defined borrow in Appendix A on page 345. Let me read you that definition. So that is the excavation of dirt at a project site that is removed to be used as fill onsite or in a different site or location. So it's more as fill dirt as opposed to sand and gravel.

COMMISSIONER MAYFIELD: Madam Chair, that fill dirt has to be used on location, or if I have a property somewhere else can I take that fill dirt to –

MS. ELLIS-GREEN: You can with a conditional use permit. Yes. We're assuming that most people wouldn't do that, wouldn't remove the dirt from site unless they've got large quantities and then that would make a big impact on their existing terrain.

COMMISSIONER MAYFIELD: Madam Chair, I don't want to get into the questions but the County does that all the time. We move dirt from one of our projects and take it somewhere else. Do we get our conditional use permits for our own projects?

MS. ELLIS-GREEN: If the County follows our code, yes. Okay, on page 222, the temporary uses. And I just wanted to point out we got a number of public comments and I believe this was in our last version as well, about agricultural stands and that we should allow those without permits. They're clearly listed in there as produce stands or farmers market stands and they state they do not need a permit. And so they're allowed in I think all of our residential zoning districts and they do not need a permit. So if someone grows some kind of fruit, some kind of produce, they are allowed to sell without a permit.

COMMISSIONER MAYFIELD: Where?

MS. ELLIS-GREEN: On their property. And so that had definitely been a comment that we got as we've gone out working with communities and also in our public comment list. We also added or we've included itinerant vendors. So we did a little bit of work on this. At the moment, itinerant vendors really are not addressed in our land development code. We had a specific issue where we had an itinerant vendor in a traditional community, made application as an itinerant vendor but really, when we looked at it he really wasn't an itinerant vendor. So two things we did was we relooked at this section and we also made sure that we had a definition of what an itinerant vendor is. An itinerant vendor picks up and leaves. They're not there all day every day. And that was the issue we had in the traditional community.

We also, I believe, stated that itinerant vendors in a traditional community need a conditional use permit because that's where we've seen that a lot of our community plans really haven't addressed these issues and that can have a lot more impact when you're in the middle of a traditional community, small lot sizes, and you have an itinerant vendor. So we made those two changes.

They do have standards as well as far as setbacks and where you can operate. It can't be near a school, the entrance to a business activity. We have had some issues with itinerant vendors where access isn't good. You've got people pulling off a fairly busy road, sometimes even jumping a curb to go to a food vendor. So we realized that we don't currently regulate itinerant vendors and we don't have a lot of standards that are really concrete, so we needed to add those standards in. So we have done that in the itinerant vendors section. We have required them to be a conditional use permit in a traditional community and we have defined them so it's clear that an itinerant vendor is not a business that stays there every single day of the year, 24 hours a day. They have to be removed. And I believe they've got to stand for a total of 60 day. So it can be 60 days in any one location.

The next section I'd like to talk about is section 10.16, which is wind facilities. So we did make some changes to that. We made it clear that a small-scale wind facility is a wind facility that's used for a single parcel and a large-scale wind facility is a wind facility that generates power for sale. So we made those changes. We also did a lot of cleanup language where we had some of the same requirements for small and large-scale. We put those into general requirements. We then put the specifics in small-scale and in large-scale, so we cleaned that up a little bit.

Small-scale can have up to 55 foot high wind facility on parcels that are smaller than ten acres, 90 foot tall on parcels that larger than ten acres. A large-scale can have taller than 90 foot. It will depend on the setback, and again, a lot of that will be done through their design standards as well.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: Do we have anything on solar in this section?

MS. ELLIS-GREEN: Not in this section, no. Wind facilities are usually very tall and solar facilities usually can sit within –

COMMISSIONER STEFANICS: Do we have it anywhere?

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MS. ELLIS-GREEN: Only to say that for a personal solar facility you can have them on a roof and you can exceed the height of your roof. I think that's in the height definition. It allows you that exception.

COMMISSIONER STEFANICS: Oh, like in Chapter 8.

MS. ELLIS-GREEN: It's actually in the definition I believe. Let me find out. Madam Chair, we'll find that section. Oh, at the bottom of page 355. Chimneys and solar panels may extend three feet beyond the height limitation. So they can – if they're building-mounted they can exceed the height. I spoke at length with Craig O'Hare about solar and his feeling was that we didn't need specific standards related to solar because solar, though we encourage it with the SGMP can really sit under the regular design standards that we have, where a wind facility couldn't because of the height and because of the setback issue. And that's why we've got a separate wind facility section. Again, the SGMP encourages the use of alternative energy but the solar can really fit within our existing design standards and didn't need their own section.

COMMISSIONER STEFANICS: So, Madam Chair, Penny, does a solar array fit this height standard?

MS. ELLIS-GREEN: Most solar arrays would fit the standard height –

COMMISSIONER STEFANICS: I'm talking about those new ones, not the panels.

CHAIR HOLIAN: Commissioner Stefanics, are you talking about the stand-alone solar panels when people have them on a tracker or something like that?

COMMISSIONER STEFANICS: No, I'm talking about the round cup array.

CHAIR HOLIAN: The solar concentrators?

COMMISSIONER STEFANICS: Yes, something like that. I'm not a technician here.

CHAIR HOLIAN: My guess is that they would be under 24 feet high.

MS. ELLIS-GREEN: My understanding from talking to our energy people here is that most of them are about 15 foot high.

COMMISSIONER STEFANICS: Okay. Well, my point here in asking these questions is that if it's buried people aren't going to know and they're just going to do whatever they want. So if that's fine, that's fine. But being buried in the definitions in the back really is not going to help people with the standard. Thank you.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair and Ms. Ellis-Green, Mr. Brown, do we have a section on renewable energy? There's a lot of other technologies out there. Bio-algae. So are we going to do – we've talked about economic development on this Commission, we have areas of – some pretty big land areas in the southern part. We have areas that produce a lot of wind in this county. We have different emerging technologies in the renewable energy field in the county. And Commissioner, you all took us here a second ago. And I think that's important for us to be boxed in, just for one certain energy time and I'm one of the bigger proponents of solar energy for this county. I know I am. And all three of us are.

CHAIR HOLIAN: Commissioner Mayfield, if I might add something, I think

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that that could fit under the overlay zoning part of the code, because that could be a kind of overlay zone.

COMMISSIONER MAYFIELD: Well, Madam Chair, I appreciate that but I still think we still have a big bite at this apple right here with this code in front of us. And this is a workshop and I would like to have this incorporated on a renewable energy section. I know we've talked about economic development for this county.

MS. ELLIS-GREEN: Okay. Again, the reason why wind was put in here is usually it cannot fit within the existing design standards. On page 6 of 7 in Appendix B we have commercial solar energy production facility, so this would be for actual energy production. It is in the use table. At the moment we didn't get any comments on it. It stayed how it was the last time around.

COMMISSIONER MAYFIELD: Madam Chair, Penny, you're getting one right now.

MS. ELLIS-GREEN: As far as this one in this appendix. It is a conditional use permit in ag-ranch, rural, rural fringe, traditional community, commercial neighborhood, mixed use, commercial, and it is permitted in industrial and in planned development districts. That is where we have the commercial solar energy production facility. So that's where it would be allowed. So that's what we're showing right now, that it would be allowed and it would meet our regular design standards. So if you've just got a solar panel on top of your house then it's just permitted through your house permit.

CHAIR HOLIAN: But you have a commercial solar facility. In a way, it's included in the code.

MS. ELLIS-GREEN: Right. Anything that's non-residential, whatever kind of renewable energy it is, it goes to the utility section of the use matrix. That's how we should regulate this, as far as where it can be located. And then it would meet the design standards in Chapter 7. My understanding from speaking to Craig and we should certainly have him here at next week's study session is that his belief is that a commercial solar facility would be able to meet the current standards that we have for height, for setbacks, and what we have currently in our code without having a separate section.

CHAIR HOLIAN: Okay. Thank you, Penny. Let's go on before we get into details like that.

MS. ELLIS-GREEN: The next section was wireless communication facilities, and actually Willie has done some work on that.

WILLIE BROWN (Assistant County Attorney): Thank you, Madam Chair, Commissioner Stefanics and Commissioner Mayfield. And my name for the purpose of the audience behind me, my name is Willie Brown. I'm the Assistant County Attorney, and I will be speaking briefly on wireless communication. And that starts on page 233 and goes to page 245. As you probably know this deals with cell phone towers and their facilities. In this section, very few changes were made to this section and the reason for that, as I was reading through this and looking at the changes that were made, if you go to page 234 and look at Section 10.17.1.11, again, page 234, Section 10.17.1.11, and that sets for the Federal Telecommunications Act of 1996 that was signed into law in 1996 of course by President Bush and what this act did, in a nutshell, is that it gave the Federal Communications Commission very broad powers to enact regulations in this area and the stated purpose of the

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act was to maximize competition and much of that is in the area of cable television, but of course it touches cell phone towers if they're wireless communication towers.

This prompted me to look at some of the litigation in this area and the fight in the area is almost always height, if you're talking about this section of our code here, the cell phone towers, and in almost every case I looked at the entities were shown that you have to go bend over backwards to show why you have certain height restrictions for these towers and the industry kind of dominates what is good in a certain area. You can regulate the stealth towers which communities do, but as far as – well, you can't outlaw them of course. You can limit I guess the numbers, but again, the height is the very difficult one where it's tough to overcome the standards that the FCC has set in its regulations.

We did make a change on page 235 and it's so minor. It's Table 10-3 and the change was – you'd probably hardly notice it from the last one. What we did, we changed the codes to comply with prior – previously Penny talked about the use table, the matrices, the codes on Table 8-4, and so now all these codes that are here that tell you the restrictions, they align with that table, Table 8-4.

And then we did some minor tweaking on the standards for stealth facilities. It was more wordsmithing. We didn't really change the language from the prior version. What we did do on Section 10.17.12, we added a brand new section on amateur radio antennas, sometimes referred to as ham radios, and that was missing in the prior code. And we may have received a comment to prompt that. I'm not sure why we did this. In a nutshell, we stated that the height of one of these ham radio antennas is 75 max when cranked and 45 feet when not cranked. Whether or not that would fly with FCC regulations remains to be seen because we do have a regulation that says – and this is the only one I could find in the FCC regulations that addressed this area – that antenna radio operators taller than 200 feet must go through the FAA, they must notify the FAA. So that would be a very tall antenna, 200 feet. So we went ahead and just set 75 feet when cranked and 45 feet when not cranked. Thank you.

MS. ELLIS-GREEN: Madam Chair, Commissioners, just to add, that is a change from our existing code and a change from the last version of this, is that our existing code actually does allow you to go up 45 foot maximum but only when you go in front of the CDRC. And so really any ham operator needs to go at least to that height. So this allows them to be at 45 feet. You can crank up to 75 and when you're not using it you crank back down to 45 feet, and it does require a setback of the height of the tower. So whatever the maximum height of the tower is, you'd have to have that set back from where your tower is to your property boundary.

I did want to point out something that Commissioner Mayfield and we've had a comment or two about with the satellite dish antennae. It starts on the bottom of page 245. We have just clarified that this section does not apply to dishes that are used for single-family residential purposes.

We then have 10.19, the sand and gravel extraction on page 246 and at the moment we have kept this as 20 acres or smaller and no blasting. It's similar to our existing codes. You'll notice in the DCI section, which is Chapter 11, we have a space in there for mining and resource extraction so the larger sand and gravel operations would come under a DCI. As we write that section of the DCI we can re-evaluate whether or not the 20 acres is correct, but

at the moment we went by the assumption that it is covered by the code, otherwise the current code has no limit on size. The most controversial have been larger ones or involved in blasting, and we want to have something that regulates in case we have an application that comes in.

Then I also wanted Willie to touch on the sexually oriented business chapter. We had a number of public comments kind of asking why we even have this, why it's so lengthy, and I wanted Willie to touch base on this a little bit so we all understand. It will be too late to regulate this business after an application comes in, and it will be very difficult to deny an application. It would be similar to a church facility. It's a First Amendment issue and you would have a difficult time denying an application or regulating it after it comes in. So Willie's done some research on case law and other ordinances and I just wanted him to touch base really quickly on that.

MR. BROWN: Thank you again, Madam Chair, members of the Commission. Penny is absolutely correct that this is a First Amendment area. It's artistic protection; it is heavily protected as I learned. I read through the original version which I think was maybe 14 pages or 13, whatever, and I went in and I edited it probably every section in some way or another. And it still came out to about 12 pages. It's a long section, and I found out why. If you look at page 249, at the bottom, that's Section 10.20.1.8, those are federal court cases that are cited. I've read every one of those cases and other cases and as I was reading those cases I realized why this area of regulation has to be so long. I guess copying is the most sincere form of flattery.

What I did was I looked at model ordinances from Littleton, Colorado, San Diego County, the City of Santa Fe, the City of Albuquerque, Dickinson County, Abilene, Kansas, Benton County, Minnesota, City of Roy, Utah, City of Erie, Pennsylvania. So I've read up all that, so I modeled this after the best I guess, forms that had succeeded generally in the court, because as Penny pointed out it's too late if we don't regulate this area because if they come in and they want to set up and you haven't regulated then they're going to say you're retaliating, you're impeding our free speech, and that will be the court challenge. And they will spend a lot of money to try to prevent you from preventing them from having their facilities.

This is an area where you do want to heavily regulate because it attracts for right or wrong people involved in alcohol, people involved in drugs and people involved with firearms and not in a good way. I do have a handout to kind of display what happened actually two years ago in Santa Fe at the place up the road called Cheeks. [A copy was not made available for the record.] You'll see in the upper left-hand corner, you'll see a brief little article called strip club shooter gets new charges. And what happened in that situation is that I guess a year ago there was a shootout in the parking lot of this club and one man was hit, shot by the weapon, by the bullet and he ended up losing his leg. Well, he got probation by the judge in the local court. He was prosecuted and he pled guilty. So he got six years of incarceration and I guess time served for the one year. So he got five years of probation. So while on probation, and that's what this article is about, he was arrested for violation of probation, whether he had a firearm or alcohol abuse or whatever it was. And the point only being whether or not the regulations that the City of Santa Fe would have had would have prevented that, the point is that the caliber of people – not all people of course – that service

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these areas, so you do want to regulate it.

You will see in reading through this section of the code it goes into every minute detail that you can think of from application, who is qualified to operate and in the industry they're referred to as SOBs, but it's sexually oriented business. But it's affectionately known as SOBs. Qualifications for management and employment in an SOB, where SOBs cannot be located. Of course you don't want them near a church or schools or most stores. There's a lot of places you don't want them near. Detailed performance standards including hours of operation and conduct of performers and patrons. No touching and in this version no alcohol and no full nudity. Licensure revocation – this is the hotbed where they will go to the Supreme Court and if you don't have proper procedures for due process it has to provide for speedy procedures. That was challenged in the Tenth Circuit up in Denver in a case that came out of Littleton, Colorado, and of course criminal penalties for violations.

So as you can see the section is very thorough. In a broad sense what you can regulation, and this is in there, and it says our express purpose – and that would be your express purpose – our express purpose in adopting this section is and must be to establish reasonable and uniform regulations to prevent the negative secondary effects of sexually oriented businesses within the county, which includes increased crime, neighborhood blight and reduced property values. Those are buzzwords in the industry that have been litigated and withheld challenge. So those are okay and those should be in there.

And of course, the purpose and reason for all of the citations to the law on page 249 that I mentioned is that this has been so studied that there is convincing documented evidence that sexually oriented business, because of their very nature, have a negative effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, potential for excessive noise, disorderly conduct and the downgrading of property values. I'm reading a quote from within the code, Section 10.20.1.4, so in essence, what you, members of the Commission, can regulate is time, place and manner of these businesses, but you cannot outlaw them. So this is the way to do it. Thanks.

CHAIR HOLIAN: Thank you, Willie. Penny, let me ask you this. Are we putting this in with the zoning part of the presentation?

MS. ELLIS-GREEN: I just had a couple more really brief points to make. One more on the same topic as Willie just stated is that in our use table the other thing that we did was we added the actual use of the sexually oriented businesses and we've allowed them as condition uses only in commercial and industrial zones.

The other thing I wanted just to touch on was the official map and that is in Chapter 12. It identifies locations of existing and proposed roads, water and sewer lines, storm drainage structures, parks, trails and open space. And so what that means is that as a developer comes in and maybe is doing a large subdivision, if we know that we want a trail and we need a trail and there's going to be a new road in that area we have that documented already and we can make sure that someone doesn't build over that area, that any roads proposed are aligned to the road that we're intending to build in the future.

The only other thing I wanted to do is a real quick summary of some of the other public comments.

CHAIR HOLIAN: Okay. I'm wondering if we could have a ten-minute break and then we'll come back for the summary. Unfortunately, there's only three of us here so if

one of us leaves we break the quorum and we have to stop the meeting anyway. So I am calling a ten-minute break or a seven-minute break.

[The Commission recessed from 10:37 to 10:50.]

CHAIR HOLIAN: I would like to call this study session back to order. Penny is going to have a few wrap-up comments on the zoning part of this presentation and then I will open it up to questions from the Commissioners for ten minutes. We have another presentation on procedures which I think is important for us to be exposed to that during this meeting and I also want to leave enough time for the public to be able to make comments and ask question. So, Penny.

MS. ELLIS-GREEN: Madam Chair, Commissioners, what I wanted to do is just a really quick summary of some of the public comments, both to do with zoning and then in general. So a lot of the things that related to public comments was terms being consistent, like we used the term official zoning map and zoning map; we've made those changes. There were comments that definitions, acronyms, abbreviations, we've either added or changed those. Additions to purpose and intent, we made those changes if the change was relevant. There were a lot of typos, cross-reference checks, that were found and again, we made those changes. Requests to add references to other code sections where it made sense we added that. The concern about plan amendments, the previous draft has said twice a year. There was a feeling that that was too often. We agreed with that; we've made it once a year.

Then specifically related to zoning, there was a lot of early public zoning about wanting a zoning map. We released that. We've now updated it. A question about what would happen if your existing lot is smaller than your zoning allows, so if you are in a district that was maybe a 10-acre minimum, that you already have a five-acre, would you be non-conforming? We've made that clear in the non-conforming section that they would not be considered non-conforming. You can still do all of the same uses and all of the same things that you would be able to do if you did have a lot that was ten acres.

COMMISSIONER STEFANICS: And what section is that?

MS. ELLIS-GREEN: That is 14.9.9.9. Currently, you need a master plan which is really a site plan, not a zoning tool. And that has been taken out and we now have the use list. So that's just something as a change. We had very, very few comments on the use list, the big use list in the back. The only public comment that we really had was specifically about DCI and so on the use list we do have some of those listed specifically as DCIs. There was a discussion about a wind farm becoming a DCI. A DCI is going to be fairly difficult to obtain. It's going to have extra steps. There's a lot of work to do with a DCI. The SGMP encourages all kinds and types of renewable energy so at the moment it has not been put on the use table as a DCI.

Also comments about sand and gravel being a DCI. I did touch on that. We have it in the use table. If it is under 20 acres in size and doesn't require blasting, at the moment we have it allowed in certain districts and it does not require a DCI. And that is probably a bigger probably policy decision.

They had a concern that concentrated animal operations like feedlots were not listed as DCIs. We made that change. Concern that asphalt plants were not in the use table. We reviewed the land-based classification documents and made it clearer, allowing them only in commercial and PDD districts, but we made that clear on the use table.

We had the agricultural building height. I think I spoke to that earlier and we allowed that to go to 50 foot. There was a request to delete renewable energy facilities from the rural agricultural overlay. Again, it was our determination that the SGMP encourage this and it should be encouraged in the rural areas as there's fewer neighbors, so we left that in that section. The width of traditional community lots, there was a concern that some traditional communities have very, very narrow lots, and so we did reduce that width of lots in traditional communities. I already touched base on planned development districts. You can reduce your open space requirement. We put a 50 percent limit on that reduction, so we did make that change.

There was a request for the overlay zones to be fully fleshed out and developed and again, that's something that needs to be worked on and that will take time, so that will come later. And then I think I touched base on the comments about why we even have a sexually oriented business section and Willie addressed those.

So the next group of – or actually you wanted to go to questions.

CHAIR HOLIAN: From the Commissioners. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thanks. I'll try and be quick. So Penny, I think you answered my first question. When somebody has already purchased acreage with or without a home, or they've inherited, then they're locked in. But you're saying that 14.9.9.9 allows them to operate as if they're non-conforming.

MS. ELLIS-GREEN: As though they're conforming. So if you purchased a five-acre tract in a ten-acre minimum. So 14.9.9.9.1, any lot that does not conform to a dimension established in Chapter 8 for the relevant zoning district that is shown on the initial zoning map as being within that zone should not be deemed non-conforming. So again, if you have a five-acre tract in a ten-acre minimum you're not considered non-conforming for purposes of this code.

COMMISSIONER STEFANICS: So does that mean, and this is hypothetical. Does that mean, if I had five acres in an area that was zoned for ten acres that I could split that five acres for family?

MS. ELLIS-GREEN: Madam Chair, Commissioner, no.

COMMISSIONER STEFANICS: I could have an accessory dwelling but I could not split.

MS. ELLIS-GREEN: That is correct.

COMMISSIONER STEFANICS: Okay. Next question. On page 202, under landscaping, I noticed that we hadn't mentioned xeriscaping. Do we have conservation measures in here anywhere?

MS. ELLIS-GREEN: Madam Chair, Commissioner Stefanics, water conservation is listed in Chapter 7, but you're on page 202, so this is in planned development districts? No, mixed use. Our actual landscaping section is in the design standards. It does require xeriscape and we haven't gone through this yet but it is in Section 7-6.

COMMISSIONER STEFANICS: Okay. Fine. Next question, it's about rural commercial overlay and mixed use. Is this something that has to come out of a community plan and a community ordinance?

MS. ELLIS-GREEN: Madam Chair, Commissioner Stefanics, no.

COMMISSIONER STEFANICS: We are determining that from our zoning

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map and a community does not get to decide.

MS. ELLIS-GREEN: Madam Chair, Commissioner Stefanics, we would determine mixed use areas on our zoning map but we have not determined within those communities that have their own community plan where those any of our base zoning districts are. So as communities update their plans and do their ordinance they will color in their areas on the zoning map.

COMMISSIONER STEFANICS: Okay. Right now in some of the semi-rural areas of the county and rural, we have commercial mixed in with residential. We've heard many land use cases about this and we've oftentimes looked to see what the neighborhood looks like in saying there's already five existing so let this one be put in as well. So what will this be in terms of those areas that are already mixed use without being planned mixed use?

MS. ELLIS-GREEN: Madam Chair, Commissioner Stefanics, if an area – if you already have your zoning approval, you already have your business license, you would continue to operate.

COMMISSIONER STEFANICS: Okay. There are many, I believe, there are many entities in the county that might not have a business license for that. First of all we've made it somewhat cumbersome for business licenses in our county and I'm hoping this will all smooth it out a little bit, but we have people operating businesses, mixed in with residential neighborhoods, so what will happen with those entities. They've been in existence for five, ten, twenty years.

MS. ELLIS-GREEN: So if they already have their business license they would continue operating. If they don't then I think there's enough tools within this document where people could come in and apply for a home occupation, apply for a rural commercial overlay, or just apply for what's called a site development plan for a permitted use in their district. With the use table the rural overlay and a home occupation section we probably have enough flexibility for people to be able to continue operating that way. Because at the moment, someone comes in and they say, well, I want to do this business on this piece of property. We say, oh, you're too big for a home occupation, so you have to go buy a piece of property in a commercial district. And then they're either asking for a variance to be able to locate where they are, or they basically say we're going to scale back our business so we can fit in a home occupation. So you're having to make them get a lot smaller, and then if they want to grow there's no way for them to go. This code allows them to do that. This code would allow more flexibility.

COMMISSIONER STEFANICS: Okay. I think you've answered that question. And then under sand and gravel, is there somewhere in that section, which I did not see, or in the next section that you were talking about, that addresses dust and proximity to residential areas? That was page 246 that you were referencing for sand and gravel, but I'm just wondering about – we have a couple sand and gravel operations and every now and then the communities are pretty upset.

MS. ELLIS-GREEN: Madam Chair, Commissioner Stefanics, air quality is actually regulated in the design standards, Section 7-21 on page 175. We've not made many changes from our existing code. What happens when a sand and gravel operation comes in they have to meet our design standards and the specific use standards in Chapter 10. So the air quality section, page 175 would kick in. So basically that is regulated through I believe the

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Environment Department, by NMED. And so it's really only a statement saying that you need your air quality permit from the Environment Department. So we don't have our own separate regulations.

COMMISSIONER STEFANICS: Well, I'm wondering, Madam Chair, Penny, since we have set some standards for things like commercial wind, why we would not want to address some of our community's concerns about this? And I think I should put that on the chopping block to talk about later. Thanks. That's all for right now.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, thank you. So Penny, under zoning, under agricultural and ranching, and I think I may have found some stuff, but under some of the smaller areas, let's just go to rural residential. Let me go back. Let me go to Table 8-4 under use tables, on page 193, and I'm going to go to the criteria and the conditional use table you referred us to in one of the appendix, I don't know which one it was. But when you guy have the label of the permitted use, accessory use, conditional use and the prohibited use, is there a staff criteria of what can be permitted or not permitted or is that subjective? Is that objective? How is that rating level done at staff? The applicant comes into staff and asks for this use permit?

MS. ELLIS-GREEN: Well, the first thing you want to do is go to the use matrix and you would look at the uses that are proposed. And then from that, the district that they're in and see what letter they have. So if they have a P it's a permitted use.

COMMISSIONER MAYFIELD: I guess that's not my question. So if I am an applicant, I walk through the door and I say this is what I'd like to do, and there's going to be a staff review, and staff's going to say I'm going to give you administrative approval on this. So how was that done? And then the next applicant comes in and they're going to get that denial. And then they're going to be able to run I guess the gamut, go through the CDRC and then come to the Commission. So how is administrative review done? Is that subjective review? Is that - what criteria is staff using for that review process?

MS. ELLIS-GREEN: If I understand your question right, if you've got a P on the use table you're allowed to do that use as a permitted use. You've met what's called the site development plan and we would have our own checklist that once this is adopted we would create checklists to tell you what was submitted for a site development plan. Whether it's conditional or permitted, you still need to meet the code requirements. So that would be the standard. You get your permit if you meet the code requirements. Am I not understanding your question?

CHAIR HOLIAN: Commissioner Mayfield, do you have an example?

COMMISSIONER MAYFIELD: Yes, because there's time and time again, at least under current code, that there will be an applicant that can come to us that will say, well, there was an applicant before me that got arguably the same thing done and it was approved administratively. And there's times that maybe we've talked about it. Under this code I just want to make sure that everybody's getting the same opportunity to go through staff review. Now, each case is a case by case scenario, but I think how I'm looking at your matrix, when you're going to be giving it a permitting of a P or a C, but there still could be a lot of subjectivity that's coming out through the staff review, and that could afford a lot more expense to an individual who is not getting that initial approval from staff. And then they're

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going to have to have that appellate process to the CDRC and then appellate process would have to come to the Commission, maybe for a variance or not. So I just want to know how that initial intake is going to be happening at a staff level, and if they are going to be following a certain matrix and it's going to be consistent all the time, arguably for every applicant that comes in that door.

CHAIR HOLIAN: Commissioner Mayfield, I might also suggest that the next topic that we're going to cover is procedures, so maybe that will be also addressed under that topic, your question.

MS. ELLIS-GREEN: And I think maybe the concern is that things haven't been done consistently under the existing code. We don't have a document that includes something like a use table. This has extensive uses in it and if you find a use, like a gasoline station. If you are in a rural fringe you can have that as a conditional use permit if you're in a rural residential it is not permitted. We actually have now a document that lists a lot of uses and has the ability through the land based classification system to find out if you come up with slightly different, where it should be housed. And we now have something that clearly tells us if it's a P or a C. If you're saying that if somebody came in to say I want to create a duplex structure in rural residential, that's allowed as a conditional use permit. If staff was permitting that administratively staff would be permitting that in error. That shouldn't happen.

COMMISSIONER MAYFIELD: And I'll give a quick example. I don't think the individual would have a problem if I gave this example. He said, look, I came in time and time again to try to get my permit. I was denied time and time again. I got fed up. My wife said let me try. She walked in, went and talked to somebody at the counter, she got the permit. So I just don't know how that happens. I'm just going to say that. So I don't know if there's subjectivity used, if there's objectivity used. If it's maybe the disposition of that person who walks in the counter at that time. So I just don't know how that works. So I just want to make sure that we're all on that same field. And if we're going to vet that when we come we can do that, but you're the one who showed me that table, Madam Chair. They brought that table to me and were talking about it. Mr. Brown brought that matrix label used to me right here on page 193 today, so that's why I thought it was fair game to talk about right now. So that's why I broached it right now. We can hash that out a little later. And those are complaints that I get from constituents continually to this day. So we can hopefully vet that out. This is a work session today to talk about this.

So Penny, where in our code are we talking about grandfathering? Because I know Commissioner Stefanics brought that up, that there might be some continued uses out there that could potentially be grandfathered in. I know at least in the district I represent there still are a lot of mom and pop shops out there that were old businesses and maybe they've missed a business permit that they haven't renewed every year continually. But how is grandfathering going to work or not work and what section are we addressing that in the code?

MS. ELLIS-GREEN: That's in Chapter 14 in the non-conforming section.

COMMISSIONER MAYFIELD: Okay. And how will that tie in? What do people need to understand about that?

MS. ELLIS-GREEN: That's on page 331, Non-conforming uses, and that should address non-conforming status, reuse and expansion, I believe this is similar to our

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existing code, expansion of non-residential use. Oh, we do allow expansion of up to 50 percent, which at the moment is not specified, I don't think, in our existing code, but you can't increase the intensity. So usually that means if you had something like a restaurant that was approved years ago and you want to expand the kitchen area to make a larger kitchen, that would be okay. If it was the seating area that would really be an increase in intensity. So if it's storage, kitchen area, waiting area, something like that we've usually allowed those. That's pretty consistent with our existing code. But that's the section. Was there are specific

COMMISSIONER MAYFIELD: Well, this just brings up a land use case that we dealt with in the past on this Commission. On US 84/285 I know there has been some reconfiguration to some of the businesses along that, and looking at this matrix table, and everybody in the audience can see on that brown table up in the northern part, that's all by sovereign lands, and you can see that little dark, I guess purplish-brown little swath of land in there. So going along that matrix area, it's a lot of checkerboard area. So if anybody does any type of configuration change to an existing commercial – and one of these cases that just comes to my mind, they're told along that commercial corridor that have setbacks, huge setbacks from that highway, now you have to now reconfigure your parking and put it behind a building. To me, and I just want to know if we've addressed that in this code or if we haven't addressed that in this code. Because there was a case that came to us on that and they came and had to ask for a variance from us on something like that. So anybody driving along that commercial corridor now has to come and reconfigure a whole building to try to put parking behind the building on a US highway. And I don't know if that's indicative of all Santa Fe County, if that's more in a mixed-use area. But are we doing that along every US highway? Are we doing that – am I asking right, Penny? Were you understanding it?

MS. ELLIS-GREEN: I think I know the property in question. If you're not – if you're just operating a business and you're not doing anything you don't to amend. What they were doing was knocking down the building and they were coming up with a new building and they were asked to put their parking in the rear, and in this instance it didn't really make sense to put the parking in the rear. So I'm actually trying to get to a design standard for parking and seeing what we have in there.

COMMISSIONER MAYFIELD: But Madam Chair, Ms. Ellis-Green, even if somebody did a remodel on a building. Let's say they had to redo their kitchen and it had to come up to fire code and they had to resprinkler their building, they would also now be required then to reconfigure that parking structure and put it in the back, as I would understand it.

MS. ELLIS-GREEN: I think if someone was doing an internal remodel it wouldn't necessarily make sense to take up your parking area and put it in the back.

COMMISSIONER MAYFIELD: Why does it make sense if every other commercial building along that highway, including all the puebloan buildings along that highway have every single parking along the highway, but now there's one or two buildings being built that has to have all parking in the back and you would have the building set in front.

I know one thing that I've brought up is that this can't be a cookie – I don't believe this can be a cookie cutter approach for all Santa Fe County. Some areas are unique to Santa

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Fe County. And especially along the 84/285 corridor, once you get over Santa Fe hill and you're driving down that hill, knowing that you're driving through a lot of different type of communities. And that is a big commercial corridor. And then when you're breaking up 502 and 503, going one way you have a two-lane community going all the way into Chimayo and to Truchas, going the other way you have a four-lane highway with huge shoulders going toward Los Alamos. And that's why I've asked that we consider that.

And you have some small mom and pop businesses going up towards Los Alamos that are in between two Native American pueblos, in between a land grant. We also have – Santa Fe County also has facilities there. We have a solid waste station there that's kind of set back. We share a wastewater facility with the Pueblo of Pojoaque back in there. That's kind of set back a little more in the foothills than some of those small mom and pop stations, but I can name two mom and pop stations that are right off of that highway. One was called El Ponce's. The second was called the Red Rooster, but there's numerous mom and pop stations right off of that highway. And if they did a remodel then they would now have to have their parking reconfigured in the back where everybody else has it just right off the highway.

MS. ELLIS-GREEN: Madam Chair, Commissioner Mayfield, I'm looking in the parking and loading section. I'm not actually seeing that we're requiring it to be in the back. So that could have been a change. As we do the design standards I'll make sure I address that.

COMMISSIONER MAYFIELD: Just let me know on that one. I appreciate that. And then the other thing I did ask, Madam Chair, Penny, what about signage? Because I guess going back into that corridor, and I know that we don't want to – and I'm probably one that thinks there's very much sign pollution in the county, knowing that we put so many signs. But I've sat through a lot of economic development forums and trying appreciate more GRT for our county also in the competition factor. But again, traveling along that corridor, there is a bit of a competition factor. And I respect everybody's opportunity to make money, but you could be driving and could see huge signage arguing for one commercial development that's not in Santa Fe County, that might be a pueblo-owned business, but then you have other commercial that's privately owned commercial, and they're boxed in to the size of a sign. It has to have a setback requirement too of so much square footage. And it can be just totally blocked out by a sign could be pretty much of any size. And I know I've asked that to be addressed. Did you all address that?

MS. ELLIS-GREEN: Signs are again in the design standards in 7-9. It's very difficult for us to address the differences between County-regulated areas –

COMMISSIONER MAYFIELD: Fair enough. I won't bring all those up. So let me just get to my notices. [inaudible] So going back to – I just want to get those – So Penny, you said you were going to bring up fees. When are we going to see the fee schedule? I know you said that you indicated we were going to have the fees after the fact?

MS. ELLIS-GREEN: No, the fees would be adopted by a separate ordinance or resolution after the code is adopted but before the zoning map is adopted. So we'll do them in that order.

COMMISSIONER MAYFIELD: Okay.

MS. ELLIS-GREEN: The code becomes effective when the zoning map

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becomes effective.

COMMISSIONER MAYFIELD: Okay. And then I think Commissioner Stefanics brought up the renewable energy issue. Are we looking at any type of algae development within the county at all? Permissible for algae development?

MS. ELLIS-GREEN: Again, that would be in our use matrix, and I don't know exactly where it would fall.

COMMISSIONER MAYFIELD: We can talk to Mr. Griscom and Erik and Craig about that a little later. And sand and gravel on 10.19. You mentioned the blasting. Just repeat what you mentioned on the blasting.

MS. ELLIS-GREEN: Just that if you're going to blast for sand and gravel it would kick you into a DCI.

COMMISSIONER MAYFIELD: And help me with that acronym please.

MS. ELLIS-GREEN: Development of countywide impact.

COMMISSIONER MAYFIELD: So you need different type of permitting for that?

MS. ELLIS-GREEN: Right. The DCI section in Chapter 11 hasn't actually been written yet, so one of the DCIs would be, an example would be oil and gas.

COMMISSIONER MAYFIELD: Okay. So is SWMA exempt from that? Do they fall under that regulation? I know I've had a lot of discussions with our Solid Waste Management out there on 599. They seem like they have a carte blanche exemption from our code or else they always get a variance from that every time I bring it up. Would they be having to fall under those ordinances?

MS. ELLIS-GREEN: I don't actually know where SWMA fits under here. I'd want Steve to address that. I can definitely ask him to address it next time.

COMMISSIONER MAYFIELD: I've already asked him to address it. Just leave that alone I guess. Itinerant vendors, Penny, so when you brought up itinerant vendors, they still need permission from I guess whoever's land they're setting up shop on, right?

MS. ELLIS-GREEN: Yes. Let me get to that section. Any applicant needs to either prove that they own the land or they have the right to make application on that land. That's going to be standard whatever it is you're applying for. So yes, for an itinerant vendor they would have to have the authorization to be able to set up on that location.

COMMISSIONER MAYFIELD: But if they're kind of moving around, day to day and I don't know. Because I've had complaints in the Chimayo area with itinerant vendors. I know I brought them I think to you. Maybe that was before you were the Land Use Director.

MS. ELLIS-GREEN: I don't remember having anything specific in the Chimayo area. I remember there being a question in Chimayo about someone who wanted to sell chile on that property but again, that would fall under an agricultural stand now.

COMMISSIONER MAYFIELD: No, no. This is more like during the pilgrimage with all the itinerant vendors that sell on right-of-ways and everything else. Just how they set up and can shop.

MS. ELLIS-GREEN: I'm not aware as to whether or not we actually issue itinerant vendor's licenses during the pilgrimage, but it probably is something that we should do to make sure they're located in the right place. I think a lot of those could even be on the

road and would need to work with the Fire Department for that.

COMMISSIONER MAYFIELD: Penny, on 197, when residential communities for a single-family home, and I know the definition of a single-family home, and we've had this discussion, but just again, single family, what's your definition of a single family.

MS. ELLIS-GREEN: What we mean by a single-family dwelling is a dwelling that is like one dwelling unit. So it would have like kitchen, sanitation and sleeping areas.

COMMISSIONER MAYFIELD: Okay. But there's no issues with, say, multiple families living in that home, correct?

MS. ELLIS-GREEN: No. I think if grandkids live with their grandparents. We're not regulating anything inside.

COMMISSIONER MAYFIELD: Brother and sister, mother, two brothers and sisters, father, parents, if they have different master quarters within that home.

MS. ELLIS-GREEN: Right. That's still considered one dwelling unit.

COMMISSIONER MAYFIELD: And then on industrial use, Penny, so industrial use – and let's just go back to home-based business. Let's say, because I do have this and it's traditional in the community I represent, where somebody does have maybe a mom and pop body shop set up. It's historical, I'll say this, for the Chimayo community. And hopefully they're all permitted. But let's say somebody does have a body garage up in the Chimayo community. I wouldn't know if the vehicle sitting in the Smithsonian was one that was done in one of those mom and pop body shops out of the garage. But how would a home-based body shop/garage that might be in a residential area fall under? Or would it be permissible under a home occupation license?

MS. ELLIS-GREEN: If it would be it would be under medium impact but I'm trying to look at what the restrictions are. You can't create noise, vibration, glare, fumes detectable on the boundaries of the property. So again, a body shop, that may be difficult because there could be pounding. It would need to be inside.

COMMISSIONER MAYFIELD: And if they could establish – well, let you, Madam Chair, answer that.

MS. ELLIS-GREEN: Okay. An auto paint and body shop is not allowed as a home occupation. It says so on page 218. So the alternative would be either to look at the rural overlay, but again that's in a rural district. It's not necessarily in traditional communities. The community when they do their plan I know Chimayo is doing their plan, could decide that they wanted to allow those types of uses, and the other thing to look at would be the use matrix. So those would be the areas you'd want to look at to see whether or not they're allowed. So it couldn't be a home occupation if it's an auto paint and body shop, but it could be a rural commercial overlay that specifically allows that, and I will go through this matrix –

COMMISSIONER MAYFIELD: And Madam Chair, Penny, let's say that that predates our code, would that be a grandfathered exception, if somebody could prove they were doing that since 1972 in their garage?

MS. ELLIS-GREEN: Madam Chair, Commissioner Mayfield, absolutely. That would be a non-conforming use. It would be a grandfathered in use. Actually on page 1 of 7 on the use table, automobile repair and service is allowed as a conditional use in traditional

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communities.

COMMISSIONER MAYFIELD: Okay. All right. I still want to address that a little more with you again. I can't speak for all of Santa Fe County but I think a lot of folks, at least up north, they've done this traditionally and historically. They've worked in individuals' cars. I'm sure they have to properly dispose of the materials and that's something they need to do but this has been a way of life, a cultural way of life for many generations, and I would just hope that we would not put this out to pasture.

MS. ELLIS-GREEN: Commissioner, they are allowed as a conditional use in a traditional community. So even a new one coming in, like one that's been there for years would just continue as a non-conforming use, but if they wanted to expand they would just come in under a conditional use permit, or if a new one wanted to be established. So that I think has been addressed.

COMMISSIONER MAYFIELD: Okay, let's go to just Section 14. This is going to be – I'm sorry. Not Section 14. I apologize. This is Chapter 10. 10.4.2.4, a building site design.

COMMISSIONER STEFANICS: What page?

COMMISSIONER MAYFIELD: I'm sorry, Commissioner. 217.

COMMISSIONER STEFANICS: Thank you.

COMMISSIONER MAYFIELD: So under building and site design, and I just haven't read every bullet. But under 4, a manufactured home shall not be considered an accessory dwelling. So help me out with that. So is this just a way for – all just say it, the wealthy to just have a guesthouse and we're not going to allow somebody to –

CHAIR HOLIAN: Could we go through the next section in, say, 15 minutes or less?

MS. ELLIS-GREEN: Madam Chair, unless you'd like us to start that at the next study session. We do have public comments on this agenda and also discussion about our future study sessions so I can save that until next time.

CHAIR HOLIAN: Commissioner Stefanics, is that –

COMMISSIONER STEFANICS: Madam Chair, let's take public comment because there might not be very much.

CHAIR HOLIAN: Yes, I agree.

VI. Public Comments

COMMISSIONER STEFANICS: And that way we can see what time we have.

CHAIR HOLIAN: Yes. I would like to give the public a chance to comment. So please come forward and maybe you can use the microphone at the podium.

ORALYNN GUERRERORTIZ: Hi. I'm Oralynn Guerrerortiz. Thank you. A question. If somebody was going to put a feed store in a rural district and do it through presumably the commercial overlay process. Would they have to do it on a 160-acre lot? I don't see anywhere that you could have a reduced lot size for daycare or anything else in those districts.

CHAIR HOLIAN: Penny.

MS. ELLIS-GREEN: Madam Chair, Commissioners, I believe that the rural commercial overlay would be on your existing residential lot so it would be another use on your existing residential lot. I don't know if we've addressed being able to divide off a smaller parcel. I don't believe we've addressed that. I don't see that in here.

MS. GUERRERORTIZ: I just have a concern about why a feed store or a daycare would be on a 160-acre lot, or whatever district it's in. I think it should be size appropriate and we may want to consider that, allowing commercial overlays or to have those other overlay districts to have different sizes. And then also, if somebody was again going to go ahead and put a new feed store in, if I'm reading this code correctly I think they need to go through six public hearings. I think they need to go through three to create the commercial overlay to do a rezoning. I hope I'm incorrect.

MS. ELLIS-GREEN: I believe you're incorrect.

MS. GUERRERORTIZ: Good. So I think that needs to be clarified because from my reading of it it's really unclear. I think also we need to go through the process of telling people about their rezoning of the property. I'd be concerned if you also let them – inform them if they have something else that's going to greatly affect their property, for example a community trail, because you do have trails laid out and if it is going to go through somebody's property I think you should be able to tell them that so they'll know and it will affect their ability to do it.

I was here when the MSRDR was adopted, the MSRDR isn't currently in this code. I suggest you might want to add it as an overlay. I think that that is something that is going to be concerning many people in this community. There's little details I have on some of your residential zoning. I think because of the minimum lot sizes you're going to exclude development such as townhomes and patio homes. When you look at something like an Oshara development, those are very narrow lots traditionally, and you have a 50-foot wide lot, which doesn't seem like that much, but frankly those townhomes and patio homes traditionally have been smaller, and so you may want to consider changing that.

I think – oh, one other comment. With regards to the issue that was raised with borrow pits – to give you an example. In Rancho Encantado we built a ceremonial garden. I hope you all get to see it someday soon. It's absolutely beautiful. As part of the process we graded the site, built a building pad for what was going to be the restroom. Then we moved out. Then later, the restrooms were actually constructed on that building pad. The pad wasn't lowered or raised but there was material removed for putting the footings in, about 50 cubic yards. So we carried out, I don't, know, maybe ten or five truckloads of dirt. That's a borrow situation. According to how the code is currently written I would need a public hearing to do that.

So there needs to be some practicality put into I think this code and that issue in particular. Thank you.

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

DEVIN BENT: Hi, I'm Dr. Devin Bent and I got my first government job 58 years ago. I probably have more government experience than all of you combined. It doesn't make me as smart or as competent as any of you. But I attended this public meeting and I have experience in this sort of thing. If you don't mind my saying so I felt like I was eavesdropping. Okay? I really think that if there's speakers here who can address the

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Commissioners, they should be seated in a way that they could address all of us and that would be ideal I think with the hearing problems. Okay? It would also just be, I think, respectful of the public.

Secondly, I have a lot of concerns. I won't talk about them all, I'll try for later meetings. I'm from the north and share many of Danny's concerns. Danny has seen my neighborhood; some of you have not. I think Danny knows very well how we would be disturbed to have a gym located in it and I think many people out there would be. So thanks.

So let me say about the schedule. I detect an attitude here like we've already had the public hearings and we don't really have to do much this time. I'd like to point out that zoning, single section of this, will require two staff members 2 ½ hours to explain it to three Commissioners and I think you still have questions. So if 40 of us go to two-hour meeting how are we going to possibly deal with that. Let me point out in addition to this that if you look at the particular schedule – let me speak briefly about my own interest here, but let me speak – well, look at the map over there between the County Manager and Commissioner Mayfield. Imagine you're in Rio Rancho and you're asked – if your only public meeting – El Rancho. Rio Rancho – that's where the employees area. But El Rancho, and you're asked to either drive into Santa Fe City and park here to attend a public hearing or you're asked to drive up to Chimayo.

Now let me just – I think Chimayo, that whole area, may in some ways be similar to other places except there's a lot of open land. I'm one of the people in the Pojoaque Valley is the absolute closest to Chimayo, because I live so far north in the Pojoaque Valley. But my house, and Commissioner Mayfield would know this also, once I leave Nambe there is not a house, there is not a building, there's not a light. It's a 20-minute drive and by the time that hearing will occur in Edgewood – I believe we're off daylight savings time – it's already dark some days as earlier as 7:00 pm. That meeting is held from 6:00 to 8:00 pm. That road is dark, twisting, okay? Narrow. When you make the turn you then have three – on 98, you're on the 503, you make the turn on 98, you have three miles of construction, again, narrow, twisting, dark road, and as far as the construction, they have removed the shoulder on one side. And if your car breaks down, all too frequently your cell phone is going to say it's searching for service. Like I say, I'm one of the closest.

I don't think that's a reasonable drive to ask people to make to participate in the only public meeting scheduled in El Norte. I just don't think that's reasonable. I also – as you may know, I've become concerned with the Americans with Disabilities Act and I've examined all three of the centers up there in the Pojoaque Valley in El Norte, and they all have serious problems with the Americans with Disabilities Act compliance. Now, I've been raising this question and I'd like to say – I'd like to commend the County Manager because I think she's finally responded to it and I'm very happy to see that, and I'll commend her staff for the way they've responded. I commend her choice. I believe Mark Lujan is the ADA Coordinator. So it's a step to bring us into compliance.

Still, I would suggest that the Pojoaque Valley schools are much better, have much better locations for meetings. They're more central, there's more parking, they're more ADA compliant than the alternative locations and that we consider meetings at the Pojoaque Valley schools and that some, at least one should be during the daylight hours. Okay? I have a number of other things but I'll save them for another meeting. Thank you for your attention,

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Commissioners, Madam Chair.

CHAIR HOLIAN: Thank you, Mr. Bent. Next, please.

CHRIS FURLANETTO: Madam Chair, Commissioners, my name's Chris Furlanetto. I'm currently vice president in action and advocacy care for the League of Women Voters of Santa Fe County. As you know well, the League has long advocated for timely approval of a strong, sustainable land development code that truly reflects the Sustainable Growth Management Plan that was adopted in 2010. We're very pleased that this adoption draft have been released and that both these study sessions and public information have been scheduled over the next few weeks. We sincerely thank the County staff involved in this project for their hard work and dedication in preparing the original draft, in reviewing all the comments submitted by the public and in producing the current adoption draft. And we continue to ask that you approve the code in this calendar year so that the Sustainable Growth Management Plan can begin to be fully implemented in Santa Fe County. Thank you.

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

NANCY BURTON: Hello, I'm Nancy Burton, president of the South Mountain Neighborhood Association, and I'm here to question the zoning of the property in Cedar Grove for public institutional. I just want to say that in a previous review and comment timeframe there were a dozen to two dozen comments submitted regarding that zoning and we haven't gotten any kind of response to our comments in opposition to that rezoning.

I guess the question is under what authority did that agricultural zoned land be changed to public institutional, and I ask that question. I understand or I assume that it was a result of the Boys and Girls Ranch request for approval of the master plan, however, the citizenry of that area, we collected some \$20,000 to go to court to appeal the decision of the BCC on that and in specific it had to do with rezoning of that property. As a result of our appeal, the County Attorney in their brief to the court stated over four times that that property was not rezoned and therefore the citizens of that area had no case in opposing the rezoning. So again I ask under what authority did you come up with changing the zoning of that property?

CHAIR HOLIAN: Penny, do you have a comment on that or an answer?

MS. ELLIS-GREEN: Madam Chair, Commissioners, I think Steve should address this, but the Boys and Girls Ranch did request a master plan zoning amendment and it did get approved by the Board of County Commissioners.

CHAIR HOLIAN: So in essence that zoned that piece of property.

MS. ELLIS-GREEN: Correct. The master plan under our current code, it states to zone or rezone a piece of property you need to have a master plan, and they do.

CHAIR HOLIAN: Thank you. Yes, Commissioner.

COMMISSIONER STEFANICS: For how long? From the time we made that decision, how long is that in effect?

MS. ELLIS-GREEN: The actual master plan – that's the problem with the current code. The actual master plan states it's good for a five-year period but it's questionable as to whether or not the zoning ever expires, because a zoning, you would have to then rezone to change the zoning. And that's why we use the term master plan in a different way than anyone else uses the term master plan. Under this code we're going to rezoning. So we will zone properties and if they want to change the zoning will have to go

through a rezoning process. But at the moment we call it master plan which is more like a conceptual site plan to rezone the property.

MS. BURTON: So that really, again, conflicts for the County. In one meeting it says that the BCC approved the rezoning, so after the residents, the citizens, collected over \$20,000 to go to court on this and the court – the County Attorney came in – I have the brief right here, with highlighted where four to five times – I think five times, but at least four times, the County Attorney said the property was not rezoned. And therefore our case as the citizens was not applicable when we appealed the rezoning decision. So the First District Court, the First Judicial Court again ruled that the appellant had no case because the subject property was not rezoned. So how do you – that's a conflict. There's – someone's not telling the true story.

CHAIR HOLIAN: I admit that does sound like a conflict in logic, but anyway, I think that our Attorney will need to address that.

MS. BURTON: Okay. And we would – of course the Attorney addressed it already in saying that it was not rezoned, but they can address it again and hopefully they'll be more consistent. However, so then again, given that the Attorney comes up and says, no, we did rezone it even though before we said we didn't rezone it, given that that might happen, then I'd like to go back to what happened at the BCC meeting when this master plan was approved, and that was that the statement that should the Ranches not turn in a preliminary development plan or do any construction in five years, that the property would be – revert to its original zoning, and that was at the BCC minutes. So what I see in this code now is that that, what the citizenry was told at that time, this code now conflicts with that in that it says that any zoning that was approved prior to the code is going to remain. And so the five-year limit apparently would not exist anymore. So that's something that needs to be worked out, hopefully in favor of the citizenry of that area in which we had a couple hundred signatures on a petition that opposed that rezoning or non-rezoning, however the County Attorney wants to interpret it.

There's another thing, another subject and it has to do with the use map, the use matrix in that it shows that the correctional facility isn't a permitted use in a public institutional zoning and should this remaining public institutional I would say that a correctional facility is not something that you'd want to put in a neighborhood there. So I'm not sure what to do with that correctional facility use in the table but we don't want it there.

Another thing is that under public institutional it shows that there's a height allowance of 48 feet whereas during the time of that public institutional controversy the citizenry challenged their application for a height limitation and I believe that it was – came down to that they couldn't do more than 36 feet. So that again would be a conflict for that particular zoned area. And again, I guess I'd like to know when and how the Attorney is going to resolve this.

CHAIR HOLIAN: Thank you. He's on jury duty today, but he will be at our next meeting, I hope.

MS. BURTON: Thank you.

CHAIR HOLIAN: Thank you, Nancy. Next.

ARTHUR FIELDS: Madam Chair, Commissioners, I'm Arthur Fields and I have two areas of concern I'd like to address with you. I was and am the managing partner of

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Aldea, LLC, which was the entity that developed Aldea de Santa Fe and my concerns relate to that development and to the code. So on page 214, Chapter 9, it references the community district plans. 9.3.9 proposes to ratify and incorporate the community plan for the TAP district, and it references Ordinance 2006-11. That's great. No problem. My problem and my concern is that it does not state that the TAP community plan, which was adopted by the Extraterritorial Zoning Authority is also incorporated and ratified. So the issue is that Aldea was inside of the Extraterritorial Zone.

In addition to Aldea there's other acreage out there that is also in the TAP community district but was within the Extraterritorial Zone. So there were two ordinances that were adopted, one in 2006 by the BCC and one in 2007 by the EZA, because there were different zoning authorities at the time. Of course the EZ's been abrogated so now we have the situation where the Extraterritorial Zoning Ordinance, 2007-1 is not being incorporated here. I personally spent years with the neighbors in that whole northwest quadrant out there working on these plans. Within Aldea there are some large tracts of land that are still not developed. They have community water, community sewage, wonderful road system. I think it's a model community in many ways and these large tracts may, at some point in the future, need to come back in for approval. But the EZ/TAP Ordinance contains some very critical land use tables that are not incorporated here.

So it is 2007-1 is shown on the zoning map but it is not shown in the code, and I – I don't know what would need to be done to remedy that. I think it's 100 percent consistent with the plan that you adopted in 2010.

CHAIR HOLIAN: Thank you, Mr. Fields. Penny, do you have a comment on that?

MS. ELLIS-GREEN: Madam Chair, Commissioners, other than I'll look into that. So basically TAP was I think split between two different areas, the EZ and the county, so the county one was referenced and we need to look at what's missing in the EZ one. The other thing to address is that all of these communities eventually will go through the procedure to update their community plans and make sure they're consistent. So then it would end up just being one area that we would have. But they'd need to go through that process and if something happens in the meantime we need to work out how we address the EZ portion.

CHAIR HOLIAN: Thank you, Penny.

MR. FIELDS: Thank you. I have another quickie.

CHAIR HOLIAN: Yes.

MR. FIELDS: And that is that in the iteration of the code that came out a year ago in the planning district zone, there was no requirement for a setback from adjoining properties. I think in many situations, if somebody comes in for a planned district, having significant setbacks would be very appropriate. I think if the land uses are completely compatible with the adjoining district and the proposed planning district that 100-foot setback is not necessarily in the public interest or required. So somewhere between the iteration a year ago and the new one there's a 100-foot setback that was popped in the new code and what I would request is that there be discretion in the zoning authority to apply the 100-foot setback or maybe not to apply it, depending upon whether the new proposal is consistent with the adjoining land uses.

CHAIR HOLIAN: Okay. Thank you. Good point.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, on Mr. Fields' question that he brought up, have we looked at all the community plans just to make sure we haven't maybe missed one? Can you guys look at that with the old 2001 zoning map? With the EZ? Just to make sure there's nothing that we may have overlooked?

MS. ELLIS-GREEN: Madam Chair, Commissioners, we will look at the EZ ones. I believe that was the one that was in question. And just to answer Mr. Fields' second question, the reason why the setbacks were added was due to public comment requesting that a planned development district – because it can have a lot higher density – that they have setbacks. So setbacks are actually, if you've got an existing residential use on your adjoining property is 100 foot, if you don't, it's just 50 foot.

CHAIR HOLIAN: Next.

SALLY DOUGLAS: I'm Sally Douglas from San Pedro Neighborhood, which is a community district in the southwest section of the county. This is regarding page 246, Section 10.19.1. Sand and gravel operations fewer 20 acres should be included in the developments of countywide impact, under Chapter 11. Operations fewer than 20 acres could greatly impact rural, rural residential, and community districts. Sometimes our five-acre mining business generates greater than 20 gravel trucks per hour and they travel greater than 40 miles to Santa Fe and the travel in all other locations and directions. So this section should be reconsidered.

CHAIR HOLIAN: I think this will be a future discussion. Thank you. Next, please.

GLEN SMERAGE: Glen Smerage, a resident of Rancho Viejo. First I would like to support an early concern of Commissioner Mayfield. I think there should be a distinct, explicit section of this code dealing with renewable energy, that it should have in part a statement of support of renewable energy because that's an important issue currently and even more so in the future. It should distinguish between commercial production of energy from renewable means as opposed to small facilities such as on a house or small business or whatever. And it should address probably some aesthetic considerations. I expect soon to put solar energy onto my lot. I could put it on my house and the parapet could largely hide it from view from the street. If I put it on the ground, which has some positive features, I really ought to hide it to the degree possible by plantings. And I think there should be some sort of consideration like this in the code. Our world should be a little bit more aesthetic than a lot of it is.

Section 1.1.3 of this code is about review. It is too minimal a statement and it leaves the BCC off the hook from doing much of anything. There should be at least a statement of timeframe for these reviews, formal public reviews of the code in its entirety to find out if there are sections, if there are provisions that are faulty. I would like to suggest it should be reviewed at least every five years. If we think about the Community College District Code, which was established way back in 2000, to my knowledge as best as I've been able to determine, there has been no formal public review of that code in its entirety over the intervening 13 years. That is a big bone of contention with residents of Rancho Viejo,

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because there are problems in that code for the residents there and we have not reconciled how that community has developed and with the path that it may go forward in the future.

One of the bones of contention for Ranch Viejo is this matter of employment centers. I find nothing so far in this new code about employment centers. Penny Ellis-Green, are there no longer formal considerations of employment centers, or what is the status of that entity?

MS. ELLIS-GREEN: Madam Chair, in regards to that question, the existing CCD Ordinance is referenced in Chapter 9, so that still is in effect.

MR. SMERAGE: Okay. It's typical for upzoning of land to be brought forward by a landowner. What are the possibilities of the BCC, the County overall, being the moving force on upzoning of land?

CHAIR HOLIAN: Penny?

MS. ELLIS-GREEN: Madam Chair, Commissioners, I'm not sure that I understand that question.

COMMISSIONER STEFANICS: Madam Chair, I think that that's something that would occur when we've been petitioned by a group or if we have a specific project that we, the County, is wanting to pursue, such as an economic development project.

MR. SMERAGE: Okay, so that's – upzoning of land is in the prerogative of activity by the BCC?

COMMISSIONER STEFANICS: That's my perception.

CHAIR HOLIAN: That's how I view it.

MR. SMERAGE: Should there be an explicit statement to that effect in this new code?

CHAIR HOLIAN: I cannot answer that question at this point. We will have to have that as a discussion.

MR. SMERAGE: Okay. That in part is a bone of contention again for people in Rancho Viejo, because in the CCD in 2000 imposed on the committee were the employment centers, not only as an idea but the explicit physical location, which is part of the problem that residents of Rancho Viejo have with where this overall development goes in the future. So I think there should be some kind of an explicit statement in this code as to this prerogative of the BCC and County staff.

CHAIR HOLIAN: Thank you.

MR. SMERAGE: Finally, I assume that comments that now on this code should go to Penny Ellis-Green. Is that correct?

CHAIR HOLIAN: Penny?

MS. ELLIS-GREEN: Madam Chair, Commissioners, I believe the Planning Department has taken over. Let me just check with Robert.

CHAIR HOLIAN: Robert, where would people email or direct their comments?

MS. ELLIS-GREEN: We send them over to the Planning Department. Do we still have the SLDC at Santa Fe County.org? So it will be at sldc@Santa Fe County.org.

CHAIR HOLIAN: Okay. Just to repeat, sldc@Santa Fe County.org for comments.

MR. SMERAGE: Okay.

COMMISSIONER MAYFIELD: Madam Chair.

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CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Smerage, on Mr. Smerage's comments, and I'm just going to ask this out loud. I ask questions out loud all the time. Why wouldn't we want something in our code, just to give every citizen the opportunity, maybe, to approach the County through the code on a potential economic development project through our code? Maybe they don't have to broker it through somebody else to want to approach our County Manager or somebody else. There might be an opportunity for J.Q. Citizen to say, hey, I have a tract of land somewhere and I maybe want to do something with the County, and this might be a vehicle for them to look at the code and say, huh, this is who I approach at the County to do this. And they don't have to go through some broker or somebody else who just happens to know somebody to get this done. Why wouldn't we want to have a section so everybody has that same equal opportunity to read it in writing of how to do it?

MS. ELLIS-GREEN: Madam Chair, Commissioner, I'm not sure that I actually understand the question. If somebody had a piece of property and they wanted – are you talking about rezoning?

COMMISSIONER MAYFIELD: Rezoning it, just saying, hey, and we always talk about economic development but really the way you do economic development in Santa Fe County is basically you have to kind of know somebody how to try to broker something with the County to get it done. But this way everybody has the same book to look at. Everybody who has it. And we always talk about RFPs or RFIs and this would be, I know no downzone, upzone. I'm just talking too about economic development for the county. And I don't know, Katherine, would that be an opportunity for us to put something in the code on this?

MS. ELLIS-GREEN: Commissioner, there is a procedure in here for how anyone rezones a property and that's the –

COMMISSIONER MAYFIELD: But even to talk to the County about it.

CHAIR HOLIAN: Well, we will talk about this in much more detail under procedures.

COMMISSIONER MAYFIELD: Okay. So I would like to just note that we have another meeting starting at noon and officially noticed for noon, but anyway, please make your comment and then I'm afraid we will have to adjourn this meeting.

KRISTIN KOLHER: Hi. I live down Route 285 past Eldorado and I live in a community with a covenant but that community is surrounded by rural residential plots. Any, all of which could have – well, let's see – well, perhaps not livestock watering, whatever that is, can't have livestock pens or hog houses, thank goodness. I'm not sure what livestock pens is. Does that include stables? How is a pen different from a stable, and I am concerned about stables and other equine-related facilities. Several of these lots do not have residential homes. Would somebody be required to live there? Like the owner, in order to rent out the property to house animals for the movies? Would they be limited to hours of operation from 8:00 am to 8:00 pm even though people in the movies like to film at night, at dawn, at dusk?

Would the transport, which is very loud and goes right by the edge of the development be considered in that 8:00 am to 8:00 pm? And would this actually be livestock feeding and not boarding? We don't mind ten horses. We don't even mind 18-wheelers

coming in with lots of horses and people for illegal riding lessons with loudspeakers that we can hear all the way across, but the notion of movie companies. And no onsite or in-town management. No oversight. And we know that there's no County oversight after promises are made. So thank you.

CHAIR HOLIAN: Thank you, Ms. Kohler. You bring up a good point.
Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair, Penny, you might just want – she reminded me of something. We want to make sure that it coincides with some of our other ordinances, like our noise ordinance that we passed. And we have a time on that one. So we probably just need to make sure they're all connected. That's all.

CHAIR HOLIAN: Okay. Thank you. I think – well, first of all, I want to really thank Penny and Willie and our staff for all the research into this and thank you for your presentation. We are going to have to adjourn now. Our next meeting was due to start minutes ago.

VII. Hearing Schedule for Future Public Meetings, Study Sessions and Public Hearings

CHAIR HOLIAN: Our next meeting for this will be in a week. Correct, Penny?

MS. ELLIS-GREEN: Madam Chair, Commissioners, we did have one last agenda item and I'm trying to find that, but just as a rundown of the meetings that we've requested –

CHAIR HOLIAN: Yes. In fact I think we should take some time for a summary of the meetings that we currently have scheduled.

MS. ELLIS-GREEN: Okay. So our next study session we have scheduled for Tuesday, October 22nd, 9:00 here. We also have tentatively scheduled one for November 6th if it's needed and it sounds, since we ran over today we probably will need that. We have four public meetings in the evening out in our four Growth Management Areas. The first one is tonight in Estancia at the Edgewood Senior Center. The next one is next Tuesday evening, El Centro, at the Nancy Rodriguez Center. Again, these start at 6:00, and that's Tuesday, October 22nd. The one after that is Galisteo on Wednesday, October 30th at the Galisteo Community Center, and the last one is El Norte, Thursday, November 7th at the Bennie J. Chavez Community Center.

So at the moment those are the things we've got scheduled. I was asked to tentatively schedule public hearings and they have been placed on your calendars. We do need to do noticing at least ten days in advance and by the time you get that to that paper it's more like 20 days in advance, so we're going to need to know. So maybe at the next study session we can work out whether we want to keep those dates or whether we're not ready.

CHAIR HOLIAN: Okay. Thank you. But we still have time to make that decision at the next study session. Correct?

MS. ELLIS-GREEN: Madam Chair, we do.

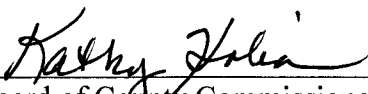
CHAIR HOLIAN: Okay. Well, thank you all for coming.

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VII. ADJOURNMENT

Having completed the agenda and with no further business to come before this body,
Chair Holian declared this meeting adjourned at 12:10 p.m.

Approved by:


Board of County Commissioners
Kathy Holian, Chair




GERALDINE SALAZAR
SANTA FE COUNTY CLERK

11/12/2013

Respectfully submitted:

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

RECEIVED 11/14/2013