

**D R A F T**

**- subject to approval -**

**MINUTES OF THE**  
**SANTA FE COUNTY**  
**PLANNING COMMISSION**

**Santa Fe, New Mexico**

**January 21, 2016**

**I.** This introductory meeting of the Santa Fe County Planning Commission was called to order by Chair Frank Katz on the above-cited date at approximately 4:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

**II. & III.** Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

**Members Present:**

Frank Katz, Chair  
Phil Anaya  
Louie Gonzales  
Rena Gray  
Leroy Lopez  
Susan Martin

**Member(s) Excused:**

Bette Booth

**Santa Fe County Commissioners Present:**

Miguel Chavez  
Kathy Holian  
Henry Roybal

**Staff Present:**

Penny Ellis-Green, Land Use Administrator  
Robert Griego, Planning Manager  
Wayne Dalton, Building & Development Services Supervisor  
Vicki Lucero, Building & Development Services Manager  
Mathew Martinez, Development Review Specialist  
Jose Larrañaga, Development Review Team Leader  
John Salazar, Development Review Specialist  
Andrea Salazar, Assistant County Attorney  
Rachel Brown, Deputy County Attorney

**IV. APPROVAL OF AGENDA**

**A. Amendments**

**B. Tabled or Withdrawn Items**

Commissioner Martin moved approval and Commissioner Lopez seconded. The motion carried by 6-0 voice vote.

**V. APPROVAL OF MINUTES: December 17, 2015**

Upon motion by Commissioner Lopez and second by Commissioner Martin the minutes were unanimously approved.

**VI. PRESENTATION AND DISCUSSION: The Sustainable Land Development Code (SLDC)**

FRANK KATZ (Chair): We have a whole new world, and someone is going to explain it to us. Thank you.

PENNY ELLIS-GREEN (Growth Management Director): Thank you, Mr. Chair, Commission members. Four of us are going to do the explanation, so I'm going to start off with a brief overview. We will be going through your new SLDC. Vicki is going to do a portion of this. Robert Griego and Andrea will also do a portion of the presentation.

So if we just start with a broad overview. The new SLDC, the Sustainable Land Development Code, was approved by the Board on December 8<sup>th</sup>. It came into effect on January 15<sup>th</sup>, the same date that the zoning map also came into effect and our new fee ordinance came into effect. A major change is that the County has now designated a base zoning district for every property within the county, which we had no comprehensive zoning before, so this is a very different situation. Vicki just handed out small copies of the zoning map. If you notice on the legend, kind of on the top right you'll see all the different colors listed. Those are the different base zoning districts. The residential ones in parentheses have what their allowable density is. So for example, ag ranch is listed as AR. That's the darker green, allowed one dwelling unit per 160 acres as a base density.

So that really is our major change. What we do, when somebody comes in and wants to know whether or not they can have a certain use on a piece of property we use two documents. First is the zoning map to see what their base zoning is, and the second we'll go through later on in my presentation is Appendix B which is the use table. And that lists every base zoning district and seven pages of use. And it tells you whether you're allowed to do that use as a permitted use, which is an administrative approval, a conditional use, which comes in front of the Planning Commission for approval, or an X means it's prohibited in that district.

So what I'm going to do is I'm going to start going through some of the chapters, just give you a really brief overview and we'll highlight some of the procedures and some of the things that will affect the Planning Commission.

So if we start on Chapter 1, Chapter 1 is our general provisions, effective date, how it's applicable, which properties it's applicable to, and the one thing I'd like to point

out is under Transitional Provisions – that’s on page 1-7. You’ll notice on this document as well, the bottom right has the page numbers and the first number, it will you which chapter you’re in, and then you’ve got the page number for each chapter. So on 1-7 you’ve got Transitional Provisions and the end of that section, the following page, is regarding final orders for approved applications. We added that in because the Planning Commission and the Board had both had approvals that were done under the old code that have not yet had their findings of fact approved.

So you will be seeing findings of fact for anything you have final authority on and you haven’t approved the final order. They will come back and they will still be approved under the old code and under the standards and the section numbers from the old code.

Chapter 2 of the SLDC is Planning, and this goes through how a community can do a community plan and go through that process. Robert a little later is going to briefly go through that process and that led to Chapter 9 of the code which is our community districts, but what I wanted to point out to you is the community participation. This is a whole new procedure. It’s on 2-7 is where it starts, and these are known as community organizations and registered organizations. And this is where homeowners associations, different interest groups, like maybe the Sierra Club, different – like the Agua Fria Village Association – groups like that can register and by registering, when there’s a development in their geographical area they would get specific notice. So often you know that you will hear a case and people will have been given legal notice for surrounding properties. If you are a CO or an RO, a community organization or a registered organization, that organization will also get notice of certain applications in a certain geographical area. So it’s just another way that we’re trying to get more information out to communities.

Chapter 3 is our decision making bodies, and you will see on page 3-3 is the Planning Commission. So you are no longer the CDRC; you are the Planning Commission and your terms, your appointments and your duties are all listed here. The other thing to note in this section is on Section 3-5, page 3-5 is that there is now a hearing officer. And Vicki is next going to go through our procedure section and you’ll see how the hearing officer plays into the whole approval process. A lot of applications that will come in front of you will first be heard by a hearing officer now. So you will already have a recommendation not only from staff but by a hearing officer and you will also – Vicki will explain – you will also have some more final authority that you haven’t had before. So I’m actually going to pass the mic over to Vicki and let her go through the procedural section.

VICKI LUCERO (Building & Development Services Manager): Okay, so Chapter 4 lists the procedures for the various types of development, so if you turn to page 4-4, Table 4.1 actually lists the procedural requirements by application type. So if you look at the first column it lists all the possible applications that we would be reviewing and processing. If you follow the chart to the last three columns, that actually lists who would be hearing each type of an application. So the ones that are going to be of most concern to the Planning Commission is going to be the middle column there, where you see it says Planning Commission. If you follow that down to where there’s a YES under that column that means that you will be hearing these application types.

So the first one is conceptual plans, planned development districts and the CCD. That would be heard by the hearing officer, Planning Commission and the Board. The

next one would be a conditional use permit which Penny briefly described during her presentation and that would actually be heard by the hearing officer and the Planning Commission would have final authority over those types of applications.

DCI conditional use permits, that would be another application type where the Planning Commission would have final authority. Variances is the next one and under the old procedures of the old code the CDRC was the recommending body for variances and now the Planning Commission will have final authority over those types of applications. Planned development district will also be heard by the Planning Commission in addition to the hearing officer and will be going on to the Board of County Commissioners for final approval. The same goes for overlay zones as well as development of countywide impact overlay zones.

Zoning map amendments will also be heard by hearing officer, Planning Commission and the County Commission. Text amendments will be heard by Planning Commission and the BCC. Area district, community plan or plan amendments will also be heard by the Planning Commission and the County Commission, and in certain circumstances the Planning Commission may also hear appeals.

One of the major differences is the CDRC under the old code heard subdivision applications for major subdivisions, was a recommending authority on those and under the SLDC those applications will be going directly to the County Commission.

CHAIR KATZ: When do you want us to ask questions?

MS. LUCERO: Any time you have a question, if you want to stop us.

CHAIR KATZ: I have one that's sort of at this end and it deals with – I guess it's the area, district and community plan amendments. And it seems to me to be a bit confusing. Because where they talk about the plan amendments on page 2-7 it says the applicant or any person, in 2-1-5-7, the applicant or any person who could have proposed a plan amendment under this chapter may appeal the decision of the Planning Commission to the Board. That seems inconsistent with our recommending to the Board, which is what it says elsewhere. And it would be helpful to have that clarification.

Likewise with the review and the adoption of the community plan. It sort of – this is on the very top of 2-6 there. The administrator shall review all comments and make recommendations for amendment to the Planning Commission and the Board of County Commissioners. The Board may approve or deny. It doesn't say what the Planning Commission is supposed to do. And so that seems to be a little bit of a glitch in that area that might be helpful to have clarified. It's not something that has to happen now. Thank you.

MS. LUCERO: Okay, so prior to the submittal of the applications that will be heard by the Planning Commission the applicant will be required to have a pre-application meeting with the Technical Advisory Committee, and that Technical Advisory Committee is comprised of all County departments and divisions that will be reviewing those applications, including the Growth Management staff, the Fire Marshal's Office, Public Works and Utilities Department. At the Technical Advisory Committee meeting we will discuss the application and the requirements of the SLDC that are applicable. We will discuss the procedures that will need to be followed, the noticing requirements, schedule for review and hearing, and any studies, reports and assessments that will be required of that application.

At the Technical Advisory Committee and prior to submittal of an application some projects may be required to conduct a pre-application neighborhood meeting. In general, if a project is within a community district we will require a pre-application neighborhood meeting, or if we anticipate that the project will be controversial in any way we would require a neighborhood meeting as well.

We also have the ability to require a land use facilitation for controversial projects in which a professional facilitator would assist the applicant and residents to discuss issues related to the proposed development and identify and achieve goals and complete tasks in a mutually satisfactory manner.

Noticing requirements for the public hearings are similar to what they were under the old code. We would require the applicant to publish notice in a newspaper 15 days before the public hearing. The difference there with the old code was that we would require a noticing 21 days before the hearing. Now they would only be required to publish 15 days before. The applicant would also be required to send letters by first class mail to property owners within 500 feet of the subject property, and that would have to occur also 15 days prior to the public hearing.

The applicant would also be required to post notice of the public hearing on the parcel at least 15 days before the hearing. Notice shall be visible from a public roadway. If the parcel is not visible from a public roadway then a second notice would have to be posted on the public roadway nearest the property. We would also have the applicants notify the community organizations and registered organizations as Penny discussed previously. And with that, if there are no further questions I will turn it back over to Penny.

MS. ELLIS-GREEN: Thank you. So our next chapter is Chapter 5. This is Subdivisions and Land Divisions. As Vicki stated, subdivisions, major subdivisions will go straight to the Board for approval now and won't come to the Planning Commission, and most of the land divisions are administratively approved. So I'm not going to go into a lot of detail here, but this is just where it lays out final plat and preliminary plat approval process and the approval process for our administrative plats.

Chapter 6, Studies, Reports and Assessments. An important table to look at is on page 6-3. These are the studies, reports and assessments. Some of these you've been used to seeing because they've come in front of you, such as the traffic impact analysis. There's also water studies, water service availability report, which you're used to seeing something like that. In addition, we've got some projects requiring a fiscal impact assessment, an environmental impact assessment, and something that's new is an adequate public facilities assessment, as to whether or not there are the services in the area to support the development.

In general the applicant will submit these studies if they're required and we have the ability as the County to hire an outside consultant to review those specific reports and assessments. And again, that would be at the expense of the applicant. So if a large application came in front of us and we didn't have the expertise to maybe review the environmental impact report, we would have the ability to go out and get a third party to review that, to give us a comment and a recommendation on that.

Chapter 7 is our Sustainable Design Standards. A lot of these standards you've seen in the existing code. For example, terrain management, parking, signs, lighting – so we have all of those in there. Some of the new things is the flood prevention is in this; it

had been a stand-alone ordinance. So flood prevention is now included in the SLDC. Residential performance standards, like lots, blocks, setbacks. We didn't have those before, so they're now included. Access and easements, for example we had it in that you can't build and obstruct an access easement.

Let's see: energy efficiency. A HERS rating on new homes that are built, that has been added in, and operations and maintenance and improvements. So when an applicant comes in and they state that they are going to build a new roadway, a parking lot, retention ponding, we've got operation and maintenance included in that.

Next session we're going to spend a little time on is the Chapter 8, Zoning. And if you could turn to page 8-3, this table, Table 8-1, lays out all of our base zoning districts. And again, if you look at this alongside your zoning map, you'll see that the same base zoning districts are shown on your zoning map legend. One thing actually I do want to point out because this zoning map is obviously really small and even looking at the large one over there it's difficult to find parcel by parcel data. We have what's called an interactive zoning map up on our website. We had it throughout the entire zoning map process where you can actually go into that. You can look it up by your property location ID, by an address and by a name. It can then zoom into the property. You can click on that property. It will tell you acreage. It will tell you what your base zoning district is, and it will tell you if you're in an overlay district as well. So it will give you all of that information and you can – it's up on our website on the first page, our home page, I think under hot topics. You'll see SLDC or Sustainable Land Development Code. When you go into there you can find the interactive zoning map.

So you can bring it up, you can scroll around the county and find parcel by parcel what the zoning map is. Under the owner name, so if you owned a piece of property you'd put in your name and it would identify –

COMMISSIONER GONZALES: [inaudible]

MS. ELLIS-GREEN: It should shoot to your property. It will give you – maybe if there's four properties that you own you might have to click on each one, and then it will zoom to your property and once you see your property on the screen you can click on it and a box will come up – it's actually two different boxes with a lot of information. Your property parcel number, the name, the acreage, the address, the zoning district and whether or not it's in an overlay. All of that comes up.

So as I said, these are the base zoning districts and if we turned to a couple of pages further on on page 8-6 we can see – we use ag ranch as an example. So each base zoning district has a purpose. It refers you to Appendix B for the permitted uses, and it has a dimensional standards table. It will tell you what your density is. If you're creating new lots what the minimum lot width is, whether or not there's a maximum lot width and what your building height will be. And a lot of larger area zoning districts we realized that a lot of hay barns, animal related uses, farming related uses actually had a problem meeting the 24-foot height requirement which we've had currently in the code.

So you'll see a few of these have a higher height allowance for some of the agricultural buildings. You'll also see that in ag ranch we've gone up to a 36-foot height requirement. Again, these are lots that would be about 160 acres or larger. When you get to the smaller lots you can flip through a couple of pages and find, for example, on page 8-9 under residential community, these are all one-acre lots, but that height is back to 24-foot.

So let's see. Continuing on on that you can see that there are non-residential zoning districts as well. That starts on page 8-10. And if I just go through really quickly commercial general. So commercial general has a density, in case there are dwellings associated with it of 2.5 acres per dwelling unit, but the two asterisks there will tell you that if you're surrounded by a one-acre zoning or a traditional community, three-quarter acre zoning then that can be your base density.

We do allow you'll multi-family density with TDRs. TDR is a transfer of development rights where you purchase development rights from another property where someone is not going to develop and then you can bump up the density that you can do on your property. I'll go through that a little bit more on the table. I believe that's Chapter 12.

You'll also see frontage lot width, height and our non-residential has lot coverage maximum. So going on we have commercial neighborhood, industrial general, industrial light and public institutional.

Then on page 8-14 we have mixed use. And again, with mixed use we've added some additional standards such as open space standards, design standards and parking standards that would be specific for a mixed-use area. The code is set up so that you can have general design standards in Chapter 7 but under Chapter 8, if we have design standards that were specific to a zoning district we could add them in here as we have with the mixed-use zoning district.

Again you'll see in mixed use you had two columns for what your base density is and what your density is again with TDRs. So we would expect to see transfer of development rights in some of our mixed-use areas and our planned development areas.

So planned development starts on page 8-18. And again you'll see there are design standards specific to the planned development districts similar to the standards of mixed use. The other thing that this planned development district now does is that on page 8-21 has the Community College District Ordinance written into it. So previously you would look at a different ordinance for the Community College District. This is now written into the SLDC. The standards for the Community College District have been pulled over so you will see that whole chapter with all the road designs and things like that in there.

The one change that we did make to that is the use table. Under the old code we really didn't have a use table and we had no base zoning districts. So under this code we've got about a seven-page use table, and so where we've got different districts they've got their own use table. So that starts on page 8-58 and it will list all of the possible uses on the left-hand side. And you can see all of the zoning districts of the CCD along the top. So again, if you were to find out can I have a bed and breakfast inn, you would go along that – that's just after the second gray row you'll see bed and breakfast inn and it will tell you it's P, means a permitted use. It is X in one of the districts, then P, and then X. X means you can't do it; it's a prohibited use. P means it's a permitted use. Again, that is done administratively. If you see a C in there it means it's a conditional use permit and it would go to the hearing officer for review and recommendation and to the Planning Commission for final approval.

The next thing on planned development districts that I wanted to point out is on page 8-66 and this is what's called existing approvals identified as planned developments. When we did the zoning map we realized we have a lot of properties in



the county that has master plans and previous approvals. So what we've tried to look at is that whether we would put them in a zoning district that would allow them to continue that use. But there were some uses or some approvals that had a lot of mixed uses and things that just didn't meet the density but the remainder of the property to be developed really didn't fit in a good base zoning district.

So what we did is we identified them as kind of the pink areas on the new zoning map. So we identified two different kinds of pink areas. One is the Community College District that Robert will point out, which is already – all the standards are written in under the planned development district. And then Robert, if you could point out a couple more of the pink areas. Maybe Las Campanas as a whole. So we listed them on the top right of the zoning map, and then they include the Galisteo Basin Preserve, also known as Trenza, Aldea, which still has some non-residential use to still be developed, Tessera – again, I think they got a density bonus and some other approvals through their master plan.

So what this section is really doing is trying to honor the existing approvals and the existing master plans that have been approved by the Board.

So on the following page, 8-67, we have what we call our overlay zones. And the first one is the rural commercial overlay. One of the things over the years we found is that maybe somewhere kind of in a very remote rural area decides they want to do hay sales, or a feed store, but they're not in a commercial district. The old code had these commercial districts. And what this allows is communities or areas to become rural commercial overlays. And we do have one along the south that's along State Road 41, either side of State Road 41, and it allows non-residential uses to be developed. Permitted uses will be limited to 5,000 square foot. A conditional use could come in front of you in a rural commercial overlay and that would be limited to 15,000 square foot.

Now, we've identified one in the area but communities themselves, when they go through the planning process, Robert may be able to address some that have identified their own rural commercial overlay. And then an individual property could come in and request a rural commercial overlay in order to be able to do a small-scale non-residential use.

The next overlay district is the overlay community districts, on page 8-69 and Robert is going to go through Chapter 9. And this is the basis for what can be written in Chapter 9. Between Chapter 2, which is the planning process to create a community plan and then this section and the overlays allow the communities to then write their own overlay. So their own standards for their own district. You've seen different projects come in front of you in La Cienega, Agua Fria, and they've already had their own approval of an ordinance, but this is now written into the code and is consistent with our code. So, Robert, do you want to take Chapter 9 now or – actually I've got one more to talk about, or we can come back to Chapter 9 if you prefer.

The next thing I do want to touch base on in the density bonus section and that's on page 8-75. And actually the following page on 76 is the density table. So for example, in the ag ranch district we're going to look at the first full column, the ag ranch district has a base zoning district of one dwelling unit per 160 acres. However, you can go down to one dwelling unit per 80 acres, so double the density, if you have certain things. So for that area you would need three-quarters of the total site area to be in a platted easement

for open space. So if you're going to dedicate 75 percent as open space your lot can be smaller.

As you read down that, the first three areas – ag ranch, rural and rural fringe, all require the three-quarters of the total area, so 75 percent, to be open space. As you get further down you're going to see that there's a requirement for community water and then a requirement for community water and sewer. So if you're in a residential estate, RESE, that's usually one dwelling unit per 2.5 acres. If you're going to go smaller than that, not only do you have to dedicate open space but you're going to need to have water and sewer at that point.

PHIL ANAYA: [inaudible]

MS. ELLIS-GREEN: That's correct. So what this would say is this is how you could get an administrative approval of this lot size, by having community water, by having community sewer. You'll also see in TC, traditional community, that's been in our current code, that you have one dwelling per three-quarters of an acre, but if you have community water and community sewer, you get three dwelling units per acre. So again, that's written in here as being a density bonus. So that's how you would get that, through an administrative approval. So, Robert, do you want to do Chapter 9 now or come back to that? Okay. So Robert's going to do Chapter 9 in a little bit, the community districts.

I'm going to move on then to Chapter 10. So as you can see the community districts is a pretty large section; there are 13 of them so far. So Chapter 10, we talked a little bit earlier about Chapter 7 being our design standards, kind of for general design standards. Chapter 8 could have additional design standards depending on your base zoning district. Chapter 10 is the addition standards relating to a specific use. And so I wanted to touch base – there's one big thing that we added, and this was the result of a lot of variances being asked for for additional dwelling units. So we have added in the ability to get an accessory dwelling unit.

So properties throughout the county can now apply for an accessory dwelling unit. You're only allowed one, and you're limited on the size. So either 50 percent of the footprint of the principal residence up to 1400 square foot. So for a lot of those variances that have come in front of you that they say, well, we want to put a small guesthouse for a family member to help, they may well be able to fall under an administrative approval of an accessory dwelling unit.

On the next page we've got home occupations. One thing that the Board realized is that our home occupation standards under the old code were very, very limiting. And you're either a home occupation, which was tiny, or you needed to be in a commercial district. So what was proposed is three levels of home occupation. A no-impact, a low-impact, and a medium impact. And if you turn to the table on page 10-6, your no-impact would be something like a consultant that works from home, in a spare room, with a computer. If they go and meet clients they go out to the client's property. Really nobody comes, there's no business traffic. They don't need a sign. And those will be done through a very quick administrative process.

The low-impact is a little bit more like our existing home occupation where you can have some appointments, you can have a few employees, you can have a small sign, and again, it's done administratively. The medium-impact is a larger business. So you can have up to 1,500 square foot and an accessory building plus 50 percent of your heated square footage of your house. But that has to be approved by a conditional use permit.

Again, a conditional use permit will go to the hearing officer for a recommendation and come to the Planning Commission for final approval. So again, those kinds of home occupations, you may well be seeing those coming in and again, it's because they are a larger, non-residential use within a home occupation.

A couple of the other sections that we've added in that are kind of new sections are we now have a wind energy facilities and there's a large-scale, which is for commercial generation of electricity, and then a small-scale, so somebody that just wants to have a wind generator for their home. So we have standards, height, setbacks, full radius – things like that for those approvals.

And the wireless communication facility used to be a separate ordinance and now it is written into here in Section 10-17, and we did update it in the SLDC to be in accordance with the Spectrum Act, which is a new act that regulates wireless communications.

So if I move on to Chapter 11, Chapter 11 is our Developments of Countywide Impact. Under the Growth Management Plan we identified in 2010 that we would have some developments of countywide impact and last August the Board approved the first three developments of countywide impact and their regulations, and those were landfills, junkyards, and large-scale sand and gravel extraction. Sand and gravel extraction includes any property larger than ten acres or ten acres or larger in size that extracts 20,000 tons or more of sand and gravel, or requires blasting. So if you meet any of those three requirements you are considered a DCI, a development of countywide impact for sand and gravel.

When we were writing this section – so we did a stand-alone ordinance in August. And then we wrote it into Chapter 11. And the way that we based that ordinance was we based the procedure and the findings and the criteria on what we had done for our oil and gas ordinance. So you will see under the procedure and submittals, two procedures for a DCI. The first procedure – and you can't do them together – so the first procedure will be a DCI overlay request. And so you will go through the process to get that approved and if that is approved you can then come back and get your DCI conditional use permit approved. So it allows for plenty of opportunity for community input, public review and review in front of the hearing officer, the Planning Commission and the Board.

Again, it follows the same kind of procedure; the overlay followed by the conditional use permit is the same as the oil and gas ordinance. The review criteria, the findings, are all based on the oil and gas ordinance.

So so far we've got landfills, junkyards and sand and gravel extraction. We have three others listed. One is large-scale feedlots and factory farms. That at the moment is a reserved section. We will be working on completing that section. The next one is oil and gas and at the moment it just references the oil and gas ordinance, but eventually those standards will be written into Section 11-12, and the last one is mining and resource extraction, known as hard-rock mining, and we're starting to go through that process now to identify the standards that we would want to put in there. At the moment it references existing code. So the only portion of the existing code that's still in effect is Article III, Section 5, which is the hard-rock mining section.

The Board, when they approved the SLDC requested that after implementation we come back for a six-month review, so what we're hoping to do is take our hard-rock mining and feedlots back at the six-month review to write those into this code. Also, you

brought up a couple of points earlier on cross-references and how two sections work together, and those things we'll all look at and take back as necessary for our six-month review. Because we rewrote the whole code we are expecting that there are some kind of missed cross references or something we missed that we would want to regulate. And so the Board did ask us to come back in six months.

Chapter 12 addresses what's called growth management. So there's requirements in here, again, for adequate public facilities and it adopts levels of service. You can see that on page 12-5. So a level of service for roads, emergency response, water supply and liquid waste, parks, trails and open space. So when a large development comes in and is required under the studies, reports and assessments to do an adequate public facilities assessment, they're looking at whether or not they can meet these levels of service. Chapter 12 also includes financial and bonding options. It has a placeholder for impact fees, which is something that we'll work on in the future. And on page 12-41 we have the transfer of development rights. I mentioned that a little earlier when we were talking about the Chapter 8, the base zoning and the density allowed with development rights.

The following page, 12-42, halfway down the page, says development rights may be sent. So a community overlay district could designate an area that they want to protect, and again, a TDR sending area is where you send the development away. It's where you're going to protect a piece of property. We're looking at possibly open space that has scenic vistas, we're looking at agricultural land. A lot of communities were very interested in being able to protect their acequia-irrigated agricultural land. It could be archeological sites, open space of natural features, and sensitive environmental land like where you've got endangered or threatened species.

So what happens when you're sending the property away is that you may be selling one, two transfer of development rights. So one, two, a couple of development rights. And that means that you put a conservation easement on your property. You don't sell the property. You can still farm your property. You can still keep the property in your possession but there's a conservation easement on the property saying that you couldn't build a house on there. So you can't do development there.

Further on you're going to see – turn over to page 12-44 is receiving sites. So this is the area – these are the sites that are then going to buy those development rights. So for example, Robert may farm in Chimayo and have acequia-irrigated agricultural land and he may want to sell two TDRs. He may have 1.5 acres, he's in the traditional community. He has no house on it; it farms it. He would have two TDRs to be able to sell. I may be a developer who wants to do a mixed-use development and do some multi-family use or a higher density subdivision. And if I am in mixed use, planned development, industrial, commercial general, or a designated receiving area that the County could designate, or if I'm asking for a rezoning to a higher density, I may have to purchase development rights to get the density that I want.

So the base density is allowed – that's what you can do without TDRs. But you can go up to – I think mixed use had up to 20 dwelling units per acre. So for allowing – like an apartment complex, I would have to purchase TDRs to do that. And on top of page 12-45, it will tell you if I purchase one TDR – no, a motel would be considered, on the use table a non-residential use. So these are dwelling units, so they have to be individual dwelling units, like an apartment.

COMMISSIONER GONZALES: TDRs only apply to residential properties?

MS. ELLIS-GREEN: No. On the top of page 12-45 you're going to see that for each TDR you could build three residential units, or an additional 5,000 square foot of non-residential. So you'll see in some of the non-residential districts is you may have a lot coverage that's a base lot coverage, but if you wanted to more, or you have a base height, if you wanted to add on 10,000 square foot you could do that with two TDRs. So you have a base and then a with-TDRs. So you can either increase the amount of non-residential or increase the amount of residential.

COMMISSIONER GONZALES: Then the value established would be whatever that person that owns the transfer rights that he's going to be selling is whatever he sells it for. Right?

MS. ELLIS-GREEN: The value would be based on fair market value. What we're trying to do within our six-month window of going back to the Board it will also take the implementation of the TDR section back. So we have to implement a TDR bank where we have certificates that are given to the person sending and the person buying then buys those certificates. So we're working through the exact process that you do that with. Yes.

COMMISSIONER MARTIN: Is the establishment of the County development rights bank, is that on a future agenda for the County Commission?

MS. ELLIS-GREEN: It will be. We're hoping to get that done within the six-month timeframe that they asked us to come back with with a review. So if there's no questions on that I just wanted to really quickly say that Chapter 13 is based on the current Affordable Housing Ordinance. We really didn't make any changes to that, but it's just now instead of being a stand-alone ordinance it's now written into the SLDC.

Chapter 14, there are a few areas that I wanted to address here and generally it's about our inspections, our penalties, enforcements, the types of permits, and then on page 14-8 we have criteria, but actually what starts on page 14-7 is conditional use permits. So these permits are going to be something that the Planning Commission does have final authority over, and I wanted to highlight the approval criteria on page 14-8. So when you're looking at a CUP, a conditional use permit you'll be looking at whether or not these approval criteria have been met. And again, staff will give a recommendation to that. The hearing officer will give a recommendation. This section also states that the Planning Commission can impose reasonable standards and conditions.

So these are uses that maybe we want to make sure had a public hearing. There may be additional setbacks, screening, things like that that would be appropriate for the area that they're proposing to develop in.

If we turn over the page to 14-10, the next section is Variances. Again, a variance, as Vicki said, will go to the hearing officer and then to the Planning Commission for final approval. Under applicability it does state the only thing you can't ask for a variance in the code from is for a use that is not allowed in that zoning district. So if somebody is in a zoning district and the use they want to do, it says X, that means you can't do that. The appropriate thing to do then is not – you can't apply for a variance. What you would need to do is apply for a rezoning, and at that point prove that there was either a change – so maybe services have come to the area over the last few years, so there has been a change and your use is now something that should be considered a conditional use or a permitted

use, or that we made a mistake in the zoning map. But that's the one thing you can't ask for a variance from.

A little further down that page is administrative minor deviations. So this allows the administrator to waive up to 10 percent of the requirement of Chapter 7, a dimensional standard. So for example, if there was a requirement for x-number of parking spaces based on square footage, and they needed 25 parking spaces but due to topography and the whole site layout they were missing one parking space. Instead of coming through for a variance there could be an administrative deviation of up to ten percent. So hopefully that will prevent the very, very small, the minor variances coming forward. Again, we would have criteria for that, that it really is due to – that it needs to be consistent with the intended purpose of the SLDC and not detrimental to the surrounding properties.

The last area I wanted to show you is on page 14-13. This is called a conceptual plan. This is similar to what we call a master plan right now. Master plans under our statute are generally known as a general plan so it has caused some confusion. So we decided that now we're going to call them conceptual plans. Again, right now under our old code there were two ways you would need either a master plan for a large-scale subdivision or you would need a master plan for rezoning and for certain other uses. So we have our own procedure now for rezoning, because we've designated zoning. So conceptual plans will now be used for, again, large-scale subdivisions, but what you would see as the Planning Commission is a conceptual plan for maybe a mixed use or a non-residential development that's developed in multiple phases. And the reason for that is that if they just came in with Phase 1 you wouldn't really know how that related to the rest of the site.

So it would require a conceptual plan for the entire site with the phasing, and then they could also be requesting a conditional use for Phase 1, for example.

The following page again has approval criteria and really for a conceptual plan Does it conform with the growth management plan? Is each phase viable? And does it comply with County ordinances including the SLDC?

The next thing I want to turn to is really an important table. It's in Appendix B. Appendix A is our definitions. So we have all of our definitions together. Under the old code we had definitions scattered throughout. So now we have them all in Appendix A. Appendix B is the use table and on that first page, A-46, it's going to tell you that P means permitted, C means conditional, DCI means a development of countywide impact, and I'm going to walk you through a couple of the uses.

So if you turn to page A-47, under the second gray row – again, we're going to use bed and breakfast inns as an example. And you can see under bed and breakfast inn, the first row that's colored dark green is your ag ranch, so you can see what it is along the top, and it's color-coded. It's color-coded the same way as the zoning map, so the colors on this and they zoning map should match up and you can that a bed and breakfast inn is a permitted use in the first three zoning districts – ag ranch, rural, rural fringe. It is a conditional use in rural residential, residential fringe, residential estate, residential community. It is a permitted use in traditional community and in commercial neighborhood. It's conditional in a mixed-use area and a commercial general area. You can't do a bed and breakfast in an industrial general zone or in industrial light, or public institutional, but you can do it as a permitted use in a planned development district.

So that would be the way that you would read this. So again, if you were looking at the interactive zoning map, and you found that you are in residential estate, kind of the orangey-yellow color at the top, you could read this down and see what is allowed as a permitted, accessory, conditional or a prohibited use for all of these different uses. I'll give another example on the next page, A-48, about halfway down that page, is department store. Again, you can see that department stores are not allowed in our residential areas but they are allowed in mixed use, commercial general, industrial light and planned development.

And then if we turn to one of our later pages, I wanted to show you where the DCI is. On page A-62, the last page of the use table, at the very bottom you've got mining and extraction establishments and it lists oil and gas, hard-rock mining, sand and gravel mining and sand and gravel that is a DCI. And you'll see that those three – oil and gas, hard-rock mining, and the sand and gravel mining with blasting are all listed as DCIs. That means yes, you can do it but it's a development of countywide impact and it has its own special procedure.

The rest of the maps in here are map series showing roads, open space, affordable housing area, again, taken from our affordable housing plan, and the Community College District, existing maps from the ordinance. So I am going to turn it over to Robert who is going to talk to you a little bit about the community planning process and the process that we went through, and then also the Chapter 9, what you would expect to see in Chapter 9.

ROBERT GRIEGO: Mr. Chair, members of the Planning Commission, I'm Robert Griego. I'm the Planning Manager for the County. I'm going to go over a brief overview of Chapter 2. I know Penny covered it but specifically related to community planning. So if you turn back to page 2-2 under Planning, Section 2-1-1 talks about the Sustainable Growth Management Plan, and this identifies that the Sustainable Growth Management Plan serves as the constitution to the SLDC. So within the SGMP there are 13 community plans identified in that document. Those community plans are part of the SGMP and those are one plan type. Additional plan types are area plans, district plans and community plans.

Chapter 2 identifies the area, community and district planning process, including the review and adoption process for each community, identifies how you initiate a plan, how a plan is approved, and then the implementation of the plan is established through the community overlay districts which are in Chapter 9.

Chapter 9, if you flip over to Chapter 9, the Community Districts, we have 13 community districts identified in Chapter 9. Within each of these community district overlays there is a purpose and intent statement for each community. Again, these are adopted community plans that the Board adopted. Each of these community plans, the implementation of the plans are identified through both the zoning map. So on the zoning map there is an identification of boundaries for each community district. So those community districts have zoning – the zoning that's identified within each of those community district. There are standards specific to each community district.

So each, if we begin with the first community plan, which is the Los Cerrillos Community District Overlay, there are design standards specifically that relate only – the differences to the design standards in the code are identified here in Chapter 9, so all of the changes specifically for this area are identified in Chapter 9. So otherwise all the other standards of the code would apply. So within each of these plans the differences

that are identified specifically for, for instance lighting, or riparian areas, each of the areas identifies the zoning districts within their community district overlay, so we have the same zoning districts as applied to the county, but within those zoning districts some of the standards are adjusted specifically tailored to the community based on their adopted community plans.

So if we are going through the Los Cerrillos plan, for instance, if an application came in for the Los Cerrillos Community District, the density would be the same as the county but their other standards might be slightly altered for their community, for whatever zoning district they're in. So each of the zoning districts for each community district are identified.

In addition, as was discussed earlier, there are rural commercial overlays identified in some of these community plans. For instance, the Los Cerrillos Community Plan has a rural commercial overlay and that is identified in 9-8. Within that overlay it identifies specifically an area that is identified on the zoning map but it also identifies what kinds of uses are allowed within that overlay and what the standards for those uses are.

So each of these communities have developed a plan and have developed the overlay to implement the plan are identified in this chapter. Each community district has a use table. Those use tables then specifically identify for that zoning district which uses are permitted or conditional. So if a specific use came in and it was a conditional use then it would go through the process for review by the Planning Commission for that. So each of the 13 communities are identified in this section. In addition, there's also a mechanism for additional communities to go through a process to create a community plan. Once that plan is adopted and an overlay district is created it would be added to Chapter 9.

MS. ELLIS-GREEN: Mr. Chair, the only thing I would add is that there was extensive public involvement to create this whole Chapter 9. I think Robert and his staff over a four-month period did about 160 community meetings and they met with all 13 community planning organizations or community planning groups. Anything from about six to about ten times in order to look at their existing community plan, make any changes, bring that forward to the Board and at the same time look at their area of the zoning map and their overlay, create this whole use table which at seven, eight pages long, it's quite a task just in itself.

You would see – one other thing to point out is, again, we've color-coded these tables so again it would be the same as on the zoning map. Again, if you're in the interactive zoning map and it tells you you're in the Los Cerrillos Community Overlay District, that would flag immediately that we've got this extra section for you to look at and you don't look at the Appendix B, use table; you look at their own use table.

Last, what we're going to do is have Andrea talk about the hearing officer procedures for your hearings and things like that.

ANDREA SALAZAR (Assistant County Attorney): Okay. So looking back at Chapter 4, you're getting familiar with the table, there are ten types of applications that you will be hearing in front of you. Out of those ten types there are eight that go through the hearing officer before they come to you. The only types that don't are text amendments and amendments to the area, district, community and plan amendments. The hearing officer will be an attorney who is not a staff attorney. Rather, they're an



independent contract attorney who is retained specifically for public hearings that will be held here.

Currently we believe they will be the fourth Thursday of the month, so right after your hearings, the next week. They will listen to testimony, go through the normal rules and procedures, and then they will be drafting a recommendation which includes findings of fact and conclusions of law. So it will come to you at your hearings, after they've been heard by the hearing officer as conclusions of law and findings of fact, along with the minutes from that hearing.

So you will be able to narrow your testimony in some ways by looking at the scope of what they're talking about in their findings and conclusions. It will also kind of direct you to what criteria you will be looking at. Under the rules of order, Resolution No. 2009-2, the Chair may impose reasonable restrictions to limit testimony as to eliminate extraneous, redundant, irrelevant or harassing testimony. And under both the rules of order in the resolution and the rules of order that are memorialized in the SLDC, which is on page 4-14, it begins and it explains the quasi-judicial public hearings. The Chair may set restrictions on the testimony as necessary.

Now on page 4-15 it has the sixth step detailing how hearings should be conducted with the last step being the Planning Commission closing the public hearing and conducting deliberations. Now, if you seek to deliberate – to make your deliberations in a closed session you are allowed to do so under the Open Meetings Act, for you to make deliberations in private; that can happen. The next thing to kind of take of is because we are having a hearing officer evaluate and write conclusions of law and findings of fact, during your deliberations you can look at those and say we are agreeing with finding #1, we're agreeing with finding #2. That will be then memorialized in your findings. So you can either adopt the findings and conclusions in their totality, or you can augment the findings and conclusions, saying this one should be taken out or this one should be put in, or you can ask to change the entire findings and conclusions.

Now, Penny did go through in the variance and conditional standards section, the criteria. An example is page 14-8. It does have approval criteria. So the hearing officer will be making their findings and conclusions based on these types of criteria. So these criteria I'm talking about has seven criteria. They will be deciding, is this detrimental to health and safety and general welfare? They will be making a finding and conclusion on each one, which you can adopt or change. And I believe that is the remainder.

CHAIR KATZ: So I gather that our hearings will be de novo.

MS. SALAZAR: Yes.

CHAIR KATZ: I think it's really good that there's a hearing officer. I'm not quite clear how it works out so that we don't simply – that that makes our life easier and everything more efficient rather than: now you have three hoops to jump through instead of just two. Do you have any sense of that?

MS. SALAZAR: I think the main idea behind the hearing officer is that they are going to – they have qualifications. They're an attorney who has administrative procedure and land use skills behind them, and so because they will be looking at the case first hand and looking at memorializing their conclusions of law and findings of fact that when it comes to you it will narrow the process in terms of you looking at possibly newer evidence. So instead of hearing the entire thing over you can say, okay, we're looking at the criterion of public safety, and that's the criterion that looks like it was

important at the hearing officer meeting, so let's discuss that. So it can be a narrowing function to help you with the scope of the hearing and you do have the ability to constrict the timeframe and only talk about stuff that is relevant. So that might be the helpful part of it.

CHAIR KATZ: It occurs to me that a case comes before the hearing officer and the hearing officer does a perfectly fine job hearing all of it. There may be one little part that we're concerned about. In the best of all possible worlds we would have an opportunity to review the minutes and the hearing officer's order and decide, hey, this is fine. Move to approve. Adopt, perhaps, the hearing officer's findings and conclusions. Or there may be an area that we feel wasn't developed enough or is problematic. From the perspective of an applicant, how are they going to know where we might focus? It seems to me in a way a shame if they brought the entire dog and pony show when there's only one little Chihuahua that we really want to talk about. And they may not bring the Chihuahua because they were thinking it was going to be something else. Is this something that we're just going to have to work through?

MS. SALAZAR: One of the things that we have talked about is in letters basically requesting that they touch each criterion so that they know what criteria they're looking at or what they need to present before you. So that might help.

COMMISSIONER GONZALES: Don't you think from the legal – from the judicial part, when you give basically your opinion to us, don't you think that's going to help us a great deal and take a lot of emotion that some of us may have on whatever case we're looking at?

MS. SALAZAR: We're hoping so.

COMMISSIONER GONZALES: I would want that. Because I think there's more parity, more fairness, in our decisions because some of our decisions really affect how these people – they spend a lot of money coming before us and they've dotted all the i's and crossed all the t's and then they get nothing. I think that's going to help us a great deal. I hope.

MS. ELLIS-GREEN: I do just want to add at the moment, someone doing something that's non-residential at the moment comes in front of the CDRC, the old CDRC, and then the Board, so there were already two hearings. And so we now have the hearing officer and the Planning Commission for our conditional use permits. There are some big applications, like a DCI or a planned development district where you're looking at a large area, possibly changing zoning, that would go through all three, but in general the Board has some authority and has final authority on some things – like they will do all of the subdivisions, but they won't see the conditional use permits, so you will be the second hearing and right now there really are two hearings anyway.

CHAIR KATZ: Okay, I have another confusion, and that's sort of the interplay between the subdivision approvals that we have nothing to do with and development approvals. You talked a lot about standards and whatever and whatever, I'm a little unclear where we come in on development. Maybe you can help me with that, and how – what kind of development applications will we be hearing? Is it only DCI and conditional use permits and variances? Are those the only development things we hear or what?

MS. ELLIS-GREEN: You will be looking – if there's a planned development district or in the Community College District, say for example, Rancho

Viejo comes in with a new phase. You will be looking at conceptual plan for the entire thing. But then the actual platting will be approved by the Board, but then if they create some non-residential uses that then have a use that they want to propose that's a conditional use permit that would come back to you. So all of those are kind of treated as separate applications.

The other things – conditional use permits definitely come to you. A DCI conditional use permit and a DCI overlay. So a planned development district, for example the Galisteo Basin Preserve or Trenza, a large development, talking about a mixed-use area, they want to do their own – someone coming forward now for something like that would have to submit a new planned development request. And they would show where their non-residential, where their residential is. So in order to create that planned development that could have its own standards, conditions, things like that, you would be seeing that.

The actual platting, once that has happened and that has been established, then if they're just platting residential lots, then those would go on to the Board. But again, if they were creating residential lots and they had non-residential uses or a use that was a conditional use permit, that would come back to you. So I think what you're going to be seeing is you're not going to be seeing the residential subdivisions but you're going to be seeing a lot of the big developments and also non-residential uses that would come forward as part of a conditional use permit.

CHAIR KATZ: But if a non-residential – I don't know whether this is true or not. Let's say a riding establishment is part of a planned community. It's within the zoning possibility. If it's a permitted use we would not see that.

MS. ELLIS-GREEN: That's correct. So if it says permitted use, that means that you still have to meet the code requirements. You still do the equivalent of a development plan but it is reviewed and processed administratively. So, yes. If you're looking at something in a community planning area or in the general use table and it says P that means that we will be doing the review administratively. Now if a neighbor – if we approve it and a neighbor appeals that, then an appeal would come on to the Planning Commission. So anyone not liking the process for a permitted use or not liking the permitted use approval could appeal to you.

And then also note that any final decision that you as a Planning Commission can be appealed onto the Board of County Commissioners just like it is now.

CHAIR KATZ: Okay. One other question on the transfer of development rights, the conservation easement. What process – is that just up to the owner to arrange conservation easement with any organization that does that? Or do they do it through the County?

MS. ELLIS-GREEN: They do have to plat it and it does have to go through, like a conservation trust could take it; the County could take it. So someone that's going to conserve needs to take that. And that's slightly different than the density bonus section where you plat open space, because you're not selling that. Whereas, a transfer of development rights you're actually selling the development right and getting money for that. So that does need a conservation easement platted. So you will do a plat as a sending site. We have sent development away from here so you can't build a house here and you do have a conservation easement. I think the County could hold the

conservation easement. A conservation trust could hold the conservation easement. But somebody does have to hold it.

COMMISSIONER GONZALES: When you say that it's an easement, you're not really creating a lot; you're just creating an area, and that's what it is. So you're not creating any lot; it's just an easement of a certain size lot.

MS. ELLIS-GREEN: Right. So for example, if you had a four-acre tract in a traditional community and you had a few homes but you said, okay, this 1.5 acres, which would allow two dwelling units, this 1.5 acres is an area that is irrigated and I farm it. You could create what's called a sending area plat to identify that 1.5 acres and identify the fact that there are two TDRs associated with it and put a conservation easement on it. That's what that sending area plat would be.

In our fee ordinance, we realized we want you to plat it because it needs to be a conservation easement, but we made the fee rather than hundreds of dollars, I think it's \$25. We made it very, very cheap. We have our approval process that we have to do but it's not going to be cost prohibitive to do a plat to actually show that conservation easement.

COMMISSIONER GONZALES: But it would have some type of legal description, correct?

MS. ELLIS-GREEN: That's correct. It would have to have a boundary on it.

COMMISSIONER GONZALES: The amount of area it is, the distances – it's not a legal lot of record; it's just a conservation easement.

MS. ELLIS-GREEN: Right. Somebody could choose to create a legal lot of record to carve off their other tracts and create this ¾-acre or 1.5-acre tract for one or two TDRs, and then identify all as a conservation easement. So if somebody wanted to do that they could, but there wouldn't be a requirement to do that.

CHAIR KATZ: Other questions?

COMMISSIONER MARTIN: I have a general question about procedure. I wanted to commend staff as well. This is the product of a great deal of public participation, public input. It's really masterful so I wanted to thank you for all the effort, and I do know that this is the subject of that. But I had an opportunity to watch the December 8<sup>th</sup> meeting and there was a last minute amendment by the Chair that did not go through any public input or approval process, and so I have – it had to do with ag ranch family transfers. And so I have concerns about that. It didn't have any public scrutiny to it. There was no public input. The meeting was closed and then the Chair offered an amendment. Can you describe that for the members who were not there?

MS. ELLIS-GREEN: Yes. It is on page 8-77 at the top. What was added in was a density bonus in ag ranch district for a family transfer allowing a density bonus instead of on the density bonus table allowing 80-acre tracts, allowing a minimum size of 40 acres, so half again of what the minimum would be with a standard density bonus. But again, you would need ¾ of the acreage to be open space, and there's two other conditions. You have to have held the land for five years, and then after you've done the division and the family transfer, the person that receives the lot has to hold it for ten years. That would be noted on the plat.

So we've heard sometimes family transfers kind of being sold really quickly, so what will happen is the plat will say this is being given to this person and this person

must hold for ten years. So somebody then walks in and they sell and somebody walks in, we really don't have the ability to regulate all sales. We couldn't stop a sale from happening but if somebody came in and they had a plat that said that, that clearly says that on the plat and they've purchased the property and they want a building permit, we wouldn't be able to issue a building permit for that because that condition wasn't complied with.

And then I guess we'd have to go through whatever action is needed in order to make sure that this section has been complied with. But what the Board did ask us to do is make sure it's very, very clearly noted on the plat. So it will definitely be on the plat. So anyone purchasing will be able to read Tract 2 is being given to this person by family transfer under this section and cannot be sold for a period of ten years. So it can't be sold until – and then it would state the date that it could be sold.

COMMISSIONER MARTIN: I do understand that, but when I look at the map, it looks to me like 30 percent of the county is ag ranch, when I'm looking at the colors and how much this one little supposedly benign amendment affected without any public input. So I wanted to put that on the record because I think it's a significant part to the new plan that got absolutely no public input. The public asked the Chairman what the amendment was and he refused to until he closed the public meeting.

CHAIR KATZ: Any other questions, comments? I too would like to commend staff and the Commission for the number of needles the eyes of which a huge number of camels seem to have gotten through. It's a huge, huge task and we will try to do a good job on it.

## **VII. PETITION FROM THE FLOOR**

None were offered.

## **VIII. COMMUNICATIONS FROM THE COMMISSION MEMBERS**

None were presented.

## **IX. COMMUNICATIONS FROM THE ATTORNEY**

Ms. Salazar asked about election of a Chair and Vice Chair and Ms. Lucero said that will be put on the next agenda.

## **X. MATTERS FROM LAND USE STAFF**

A list of meetings for the year was distributed. It was unclear whether there would be a meeting in February.

## **XI. NEXT MEETING**

The next meeting was tentatively scheduled for February 18, 2016.

**XII. ADJOURNMENT**

Having completed the agenda and with no further business to come before this Committee, Chair Katz declared this meeting adjourned at approximately 5:25 p.m.

Approved by:

\_\_\_\_\_  
Frank Katz, Chair  
Planning Commission

ATTEST TO:

COUNTY CLERK

Before me, this \_\_\_\_ day of \_\_\_\_\_, 2016.

My Commission Expires:

\_\_\_\_\_  
Notary Public

Submitted by:

Debbie Doyle, Wordswork