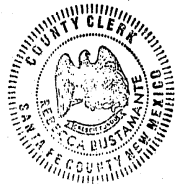


2700642

SANTA FE
BOARD OF COUNTY COMMISSIONERS
SPECIAL MEETING

July 22, 2003



Jack Sullivan, Chairman
Paul Campos, Vice Chairman
Paul D. Duran
Michael D. Anaya
Harry B. Montoya

1299. 466
COUNTY OF SANTA FE } ss
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SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS COUNTY ADMINISTRATION BUILDING

SPECIAL MEETING

**Study Session on Procedures of the Land Development Code Rewrite -
COUNTY COMMISSION CHAMBERS**

July 22, 2003

1 pm

2700643

Agenda

- I Call to Order**
- II Roll Call**
- III Approval of Agenda**
- IV Study Session on Procedures of the Land Development Code Rewrite
(Module 1) – Jim Duncan and Richard Grice**
- V Commission Direction to Staff Moderated by Chairman Jack Sullivan**
- VI Adjournment**

PUBLIC NOTICE

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SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

STUDY SESSION

July 22, 2003

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This special meeting of the Santa Fe Board of County Commissioners was called to order at approximately 9:00 a.m. by Chairman Jack Sullivan, in the Santa Fe County Legal Conference Room, County Courthouse Santa Fe, New Mexico.

Members Present:

Commissioner Jack Sullivan, Chairman
Commissioner Paul Campos
Commissioner Paul Duran
Commissioner Mike Anaya
Commissioner Harry Montoya

Members Absent:

[None]

Matters from the County Attorney

1. Executive session
 - a. Discussion of pending or threatened litigation
 - b. Discussion of possible purchase, acquisition or disposal of real property or water rights

The Commission met in executive session from 9:00 to 1:20.

CHAIRMAN SULLIVAN: Before we get to the approval of the agenda, I'd like to make a motion to come out of executive session, where we discussed threatened and pending litigation and water rights acquisition and policy.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Okay, there's a motion from the Chair with a second from Commissioner Anaya.

The motion to come out of executive session passed by unanimous [4-0] voice vote.
[Commissioner Duran was not present for this motion.]

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III. Approval of the Agenda

CHAIRMAN SULLIVAN: Okay, you have the agenda in front of you for the study session. Are there any changes or corrections or additions, Roman? Any thing from the Commission?

COMMISSIONER MONTOYA: Move to approve.

CHAIRMAN SULLIVAN: Okay, motion for approval from Commissioner Montoya.

COMMISSIONER CAMPOS: Second.

CHAIRMAN SULLIVAN: Second from Commissioner Campos.

The motion to approve the agenda as published passed by unanimous [4-0] voice vote. [Commissioner Duran was not present for this action.]

IV. Study Session on Procedures of the Land Development Code Rewrite (Module 1)

CHAIRMAN SULLIVAN: Are you starting, Roman, or is Mr. Duncan?

ROMAN ABEYTA (Land Use Administrator): Thank you, Mr. Chair. This is the first of three modules to be produced and includes the review and decision making bodies, which would be Article 9, and Administration and Procedures of the new Code. The remaining articles will be completed as modules 2 and 3. These will include the district use and development standards. The purpose of this study session is to get direction on the two articles in order to move forward with drafting the remaining articles. Once study sessions have been conducted on all three modules, the entire document will then be brought forward by adoption by the BCC. Staff is requesting direction on the issues raised by the consultants in the presentation. And Mr. Chair, with that, I will turn it over to Richard Grice with Duncan Associates.

RICHARD GRICE: Mr. Chair, Mr. Duncan is not here today. He had a schedule conflict and so we decided that I would handle the meeting if that's okay with you.

CHAIRMAN SULLIVAN: All right. Proceed.

MR. GRICE: First of all, I want to thank you, Mr. Chair, for letting us review this module with you in a casual work session. I think you'll find this is the best format for reviewing the document. It is admittedly a bit complex. With your permission, what I'd like to do is sort of run the meeting in a consensus fashion. In other words, I'd like to work with the Commissioners and try to reach consensus with you on several issues along the way and when there is consensus we'll accept that as the direction and when there's a disagreement among you or a minority opinion we'll try to note that disagreement and try to resolve it perhaps at a later time.

There's three things I'd like to do at the beginning, if it's okay with you. I'd like to review the organizational structure of the overall Code so you sort of have a picture of where the Code's going. And then I'd like to briefly summarize a few things that are new in the Code.

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And then I think it would be most productive if I went through the Code section by section and gave you the comments that I've received since the public draft was released, the first draft was released, from the staff. In response to the staff comments we have drafted the changes and we have copies of those changes and I have another copy here for you which I can hand out at this time if you like. The changes relative to the ones you have in your hand are shown in underlined strike-out and they represent a response to the staff comments. If you have extensive comments in your existing drafts that could be confusing to you and I don't want to do that.

To introduce to you the organization structure of the Code I'd ask you to turn to the Table of Contents.

CHAIRMAN SULLIVAN: Let me just make a comment on procedure. As we get into these in the future, if there are staff comments, I'd like to have them ahead of time, because we need to digest both yours, and there's obviously substantive comments. We've got a lot of strike-outs and everything and I think it's pretty difficult for us to respond to those comments just having these thrust upon us at the meeting.

MR. GRICE: I understand. We and staff have talked about that and we've agreed that rather than set a date -- what happened was we set a date for this meeting prior to beginning the draft and as time ran short, we gave a copy to the staff. The staff then gave us some comments back and we made those changes and submitted the draft, and that's the draft that you have. Then we got additional comments from the staff because the staff had not had sufficient time to go through the document completely. So what we propose in the next module is that we would work with the staff until the consultant and the staff are basically in agreement and then we would bring the document, schedule a meeting time at that point, which would be some three weeks out and that way everyone would be exactly on the same page.

And I apologize. If you want to just set the new one you were handed out aside, if you find that confusing. That's fine. I'm going to discuss the changes that the staff has pointed out.

CHAIRMAN SULLIVAN: I don't mind seeing, personally, and I don't know about the rest of the Commission, but personally, I think it's useful to see your work-up and the staff's comments in that format because that helps me understand what your recommendations are versus what their input is. I think that's useful. I like that format. I just like to see it more than five minutes before the meeting, that's all.

MR. GRICE: I appreciate that. First of all, to talk about the organizational structure of the Code, if you turn to the Table of Contents, which has not changed, you'll notice that the Table of Contents is organized into some 15 articles. The first step of the process as you will recall was the consultants completed a diagnosis, ordinance diagnosis where we reviewed all you existing documents and we tried to identify the things that we thought were working well, and the things that we thought were broken and needed to be fixed, and made some recommendations to you about some ways that some of the broken things might be fixed.

CHAIRMAN SULLIVAN: Excuse me. I'm sorry to interrupt again. Are there copies of this available for the public? In the back?

PENNY ELLIS-GREEN (Planner): Mr. Chair, additional copies are being made. There are some in the back of the room.

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CHAIRMAN SULLIVAN: They're being made now? Okay, so if there's anyone in the public who hasn't gotten a copy of these staff comments there'll be some more in the back of the room in a couple minutes. Excuse me. Go ahead.

[Commissioner Duran joins the proceedings at this point.]

MR. GRICE: There's actually some here. Anybody that doesn't have one --
CHAIRMAN SULLIVAN: Is there anyone who would like a copy?

MR. GRICE: Okay, so the conclusion of the process of ordinance diagnosis results in a detailed outline that is an outline of the entire Code taken to three levels. And what we do next is we go through your ordinances paragraph by paragraph and section by section and move them into this, just in a wholesale fashion, into the new outline. We are careful to divide, we're careful to treat three things in different ways. Submission requirements, review standards, and procedures. And so what we have done is we have taken all of your documents and we have put them into this outline and then we're breaking this outline into three modules as Roman explained, and editing those sections into the new Code.

This first module consists of Articles 9 and Article 10. Article 9, Review and decision making bodies, essentially, I can summarize it by saying it is a description of the roles and responsibilities of the various decision making bodies. All that section does is it explains what the duties are, how the groups operate and what the responsibilities are. The administrative section, the administration and procedures section includes a common procedure which is the place we put all of the procedures that are common to all applications -- so things like public notice requirements -- in a unified development Code like this we try to say each think that needs to be said only once and put it in exactly the right place, and thereafter reference that section. So, for example, public notice requirements. You'll find public notice requirements consolidated in that section. They don't need to be repeated over and over through the Code.

We intentionally make Module 1, the roles and responsibilities and the administration and procedures for the reason that with agreement established on how, what the procedures are going to be for reviewing land use applications, we can then move logically to the zoned districts into the various units. If you've got to decide how particular uses are going to be handled, once you have the procedures established you can take those uses and plug them in.

So the next module will be the zoned districts. Next module will be articles 2, 3, 4, 5, and 6, all of the zoned districts, all of the use regulations. And the last module will be the rest of the document, most significant of which are the standards, the standards, which are Article 7 and Article 8. Article 7 has the development standards that are applicable to all development countywide. Article 8 are the development standards that are applicable to subdivisions.

So just keep in mind that one of the things that we've done in writing the procedures section is carefully consider what is a procedure and what is a standard and the standards are not in the procedures. So we haven't drafted the standards as of yet. Okay.

The next thing is what's new.

CHAIRMAN SULLIVAN: Excuse me. The bottom line is that we're reviewing

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articles 9 and 10 today, right?

MR. GRICE: That's right.

CHAIRMAN SULLIVAN: Those in the audience, we're looking at 9 and 10.

MR. GRICE: And I gave you all that preface so you'll know that you're not going to see the standards. You're not going to here me talk about the standards. We're only going to talk about procedures and roles and responsibilities today.

One of the things that's new that's really important to point out is the fact that we're making some changes in the way the CDRC and the LDRCs operate. We're giving additional decision making, final decision making authority to the CDRC. We've proposed letting them make final decisions with respect to conditional use permits and waivers of subdivision standards and final plats. The CDRC, by giving the CDRC more final decision making authority, the LDRCs continue to be one step away from the decision maker as they were in the past. It also increases the power and authority, if you will, of the CDRC. The CDRC, one of the things we heard in the interviews that we conducted with the citizens and yourselves was that the CDRC is much better at making decisions, that is in reviewing standards, reviewing development applications against the standards. And secondly we heard that there's a desire on the part of many more communities in the county that have community or traditional, or community plans, to have LDRCs. This change will make it possible for there to be more LDRCs and to better address, be more responsive to the needs of the local communities.

The second change we're making is in the area of reducing the workload or the agenda load of the Board of County Commissioners and making the process more user-friendly and responsive to public needs. This encompasses a great deal. There's the creation of a new Board of Adjustment. The Board of Adjustment will be given authority in a very limited area. Their authority is limited to variances that are based on physical hardships, that is where by reason of exceptional narrowness or steepness or there's a big boulder on the property and someone cannot comply with the adopted standards, the Board of Adjustment will be able to decide those situations. We are seeking to institutionalize many of the density variances that have been approved in the past as a result of appeals to the Board of County Commissioners. By institutionalize I mean create a way within the zoning to accommodate them, so that you can grant them, subject to some specific standards and we're going to talk about a density bonus procedure.

We're creating a set of use standards, standards that are applicable to specific uses to address things like family compounds, home occupations, home businesses, which will be a broader category of home occupation. There's a rezoning procedure if someone wants to have a use that is not allowed in their zoned district, they will be able to apply for a rezoning. There's a new temporary use procedure that allows the Administrator to approve land uses subject to specific criteria. So all of that together is an effort to reduce the Board of County Commissioners' workload.

At any point feel free to interrupt me and ask a question or clarification of anything along the way. Yes.

COMMISSIONER DURAN: Have you given any thought to the fact that some

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of the existing zoning is kind of antiquated? We have 2.5-acre zoning in most of the EZ and in your review of the Code, was there any thought given to the possibility of possibly reconsidering or considering a more appropriate zoning for a particular area, based on some growth that has occurred?

MR. GRICE: Commissioner, that's actually beyond the scope of our project. Our project is to write -- what we need to do is include, we need a draft, including your land use code, land development code. A zoning description, a zoning category or a zoning district for all the various types of application that the County needs. In other words, it's a menu of land use, mixed land uses, for a particular area and standards for those land uses.

COMMISSIONER DURAN: And you are doing that?

MR. GRICE: We're drafting all these various zoned districts and deciding where they apply, that's a separate mapping that the staff has already begun. They've already begun preparing a new zoning map. But it will take at least a year to produce.

COMMISSIONER DURAN: Well, maybe the RPA is involved in that process too.

MR. GRICE: Penny thinks it could be done in less. It's beyond the scope of our task to decide what zoning applies to a particular area.

COMMISSIONER DURAN: Okay. Thank you.

MR. GRICE: Also, today's component, today's module is only procedures as opposed to rezoning districts.

Okay, another new thing that's in the Code is a new technical review committee. The technical review committee is an attempt to facilitate and improve the coordination between various departments. And it's an informal staff meeting where the staff comes together and reviews applications together and that happens early in the process and it will just help to convey different ideas between staff members.

CHAIRMAN SULLIVAN: Commissioner Anaya has a question.

COMMISSIONER ANAYA: Could you tell us exactly where you're at when you're going through this?

MR. GRICE: I'm in the cover memo. I'm just going to talk to you briefly about some of the key changes in the Code and then I'm going to go through it section by section and talk to you about, describe to you what those sections are and what changes the staff suggested. These are just introductory comments.

MS. ELLIS-GREEN: That's your Exhibit A.

MR. GRICE: The cover memo. There's also contained in the document a common procedure. The common procedure consolidates all the procedures, all the specific procedures that are common among the various land use applications. There's a new zoning map amendment procedure. There's a couple new zoning procedures in the Code that are new. Conditional use permits and special use permits. Conditional use permits would be approval of particular land use by the County Development Review Committee. Special use permit would need the approval of the permit by the Board of County Commissioners, after a recommendation by the County Development Review Committee.

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There are some changes to the subdivision section. There is a new familia subdivision that will address the problems that the County has with small lot subdivisions and inheritances and a sub-part of that will be a bonus density provision. The conceptual plan phase is replaced with a master plan phase that must include plans for all of the entire property. It will include a requirement that there be water, as the Commissioners have indicated they have a preference for proof that there's an adequate water supply for the first phase.

And the transferable development rights section, I'll conclude the introduction with this. The transferable development rights section is contained in this module, is much reduced from the text that you've seen in the past, and that's because we have carefully looked at it and identified what part is submission requirements, what part is procedures and what part is standards. And we found that only a small portion of it is procedures and that's all that's contained in this document. So with that, I think I'll just do what I sense that you want to do, which is to move right into the document.

As I go through this, I'll just mention areas where the staff has suggested some change. In Article 9, beginning with Article 9 on page 9-1, Review and decision making bodies. Board of County Commissioners, here the task here was to define your responsibilities, the powers and duties and to list those decisions over which the Board of County Commissioners has final authority. And you'll notice in this list currently, we don't have final plat, although we're going to talk about it. I'm making a note now. We think, based on the advice of the legal department that we need to add final plat back to this section.

The County Development Review Committee, again, all that's here is the creation of it, its membership and terms, and its rules of operation, its powers and duties.

CHAIRMAN SULLIVAN: I had a question on that. In adding more duties or more responsibilities to the CDRC, I was trying to think, in a lot of the minutes that I've read from the CDRC meetings, frequently the question is asked, how has the County Commission ruled on this and there has been various interpretations and theories and things of that nature. They've approved all of these, they've disapproved all of these, none of which is ever correct in terms of generalizations. And then they make the determination and it comes to the BCC. I was thinking in the City, the County of course works on all voluntary, appointed boards. And the BCC itself makes the decisions. The City has a Public Works Committee, a Water Resources Committee and so forth, all of which are made up of City Councilors who make the recommendations that go to the City Council. So you have City Councilor input earlier on, rather than seeing it the first time when it arrives at your desk.

Now, there's more City Councilors than there are County Commissioners, nine versus five, so there's more people to share the load. Is it statutorily possible or it even reasonable to include on the CDRC, and perhaps on the EZC, I don't know if we could do that, an appointment of a County Commissioner to be a member of that committee, to add some connection, some coordination, some context as these plans move forward?

MR. GRICE: Of course your question is actually a legal one, but I can tell you this. Even if you don't have enabling legislation, even if there was not a specific enabling opportunity for the appointment of a Board of County Commissioner to the County

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Development Review Committee, you have the authority to appoint a liaison. Many jurisdictions in many states that don't have that specific enabling legislation will at least appoint a liaison, one of you, to go and sit on that development review committee and report back to you on the time frame basis that is to your pleasure.

CHAIRMAN SULLIVAN: I see a lot of disconnect between the work the CDRC does in keeping up with the policies that the Commission is setting.

MR. GRICE: Many -- you have a lot of work sessions. I know you had a long one this morning and I really appreciate your attention this afternoon given the work you put in this morning. But there are opportunities that you have if you have a liaison, one of you that attended the CDRC meeting, you could have that person sit down. What's happening with the County Development Review Committee? What's coming forward that we should know about? And they could provide that perspective for you. We could add that to the document.

CHAIRMAN SULLIVAN: Well, it's something for thought. I don't know how the other Commissioners feel about it. We have other duties on the Regional Planning Authority and on the EZA, Extraterritorial Zoning Authority so it's not like we're looking for extra work and more pay, but I am concerned, particularly, I've been concerned for quite some time that we have this disconnect with the CDRC and I'm even more concerned if we're going to be giving them more approval authority.

MR. GRICE: Well, their approval authority, per this draft is that they would make a recommendation on conceptual plans, preliminary plats, resubdivision replats, special use permits, zoning amendments, text amendments, PUDs and community plans.

CHAIRMAN SULLIVAN: You're on page 9-2 now, right?

MR. GRICE: Page 9-2.

CHAIRMAN SULLIVAN: Give it some thought.

MR. GRICE: Would you like us to consider that?

CHAIRMAN SULLIVAN: I'd like to put something in there to put it as a discussion item to see what the staff thinks. Does anyone else have a thought on that?

COMMISSIONER CAMPOS: My initial reaction, Mr. Chair, is I don't like the idea.

CHAIRMAN SULLIVAN: You don't want any more work.

COMMISSIONER CAMPOS: I don't think it's a good idea.

COMMISSIONER DURAN: Tell me what your idea is.

CHAIRMAN SULLIVAN: I already know. That's two votes against.

COMMISSIONER ANAYA: Mr. Chair.

COMMISSIONER DURAN: Okay. You might have a yes there.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I don't think it's a good idea either. That's just another meeting we'd have to attend and I'm meeting out. That's why we wanted to give the decision making power to the CDRC. That way it will reduce our meeting time. And I'm not complaining, it's just that we do have a lot of meetings.

CHAIRMAN SULLIVAN: Commissioner Montoya.

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COMMISSIONER MONTOYA: Mr. Chair, I would concur with my fellow Commissioners regarding that specific point and I had a question under the terms, C.

CHAIRMAN SULLIVAN: Go ahead.

COMMISSIONER MONTOYA: Currently, we don't appoint the chairman for the CDRC. Is that something that will become our responsibility? And should it be our responsibility?

MR. GRICE: Roman, do you want to speak to that?

MR. ABEYTA: Mr. Chair, Commissioner Montoya, that was something that staff discussed also and staff had recommended that as a change. We felt that the CDRC could just continue to appoint their own chairperson. Same with the EZC and the different LDRCs.

COMMISSIONER MONTOYA: So the BCC will not --- because as it states it here, A chairperson shall be appointed annually by the BCC.

MR. ABEYTA: Again, and Penny, you could correct me if I'm wrong but I thought that staff had recommended that we leave it the same way and allow the CDRC to appoint their own chairman.

COMMISSIONER MONTOYA: Oh, so this doesn't reflect the staff changes.

MR. ABEYTA: No. But unless we're given a different direction from the Board then we would yield to what the Board wants.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: In your recommendation to us, I think it's important that if we're going to bestow some of these powers on the CDRC that those that are appointed to that board have some knowledge on the issues that they're going to be dealing with. And I'm wondering if this Commission might consider developing -- I don't know if it's a job description but something that would allow us to appoint those people that have some idea of the Code. Maybe there's a test that they take. I'm not sure how we do it but I don't think it's fair to, if we're going to pass this on to a committee that they need to have some knowledge on land use issues and the Code. Does anyone share in that thought?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Yes, I agree with the Commissioner. I think that they need to be familiarized with the Code and most of the people up there do. What if you reduced the amount of membership on the CDRC and each one of the Commissioners appointed one particular person to represent them on the CDRC?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos

COMMISSIONER CAMPOS: A direct comment to Commissioner Anaya's recommendation. I don't think we could do that. The appointment has to be by the Board of County Commissioners. We have certain situations where we allow a Commissioner to make a nomination and there may be deference but that doesn't mean the Commissioner has a right to appoint. Only the BCC has the right to appoint by state law and just ordinarily. We share the

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power as a group. We can't make appointments separately, I don't believe.

CHAIRMAN SULLIVAN: Commissioner Anaya, what do you think? You still have the floor. Were you finished?

COMMISSIONER ANAYA: I'm finished.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I think it's been a matter of courtesy on all of these committees that a Commissioner and his philosophy and his point of view are represented on these boards. I know that I have approved individuals who are these boards that have been recommended by Commissioner Sullivan and by Commissioner Campos and the other Commissioners with the main, my main reason for voting for them was because that particular Commissioner felt that this individual could represent their point of view and their philosophy. That's what we've done in the past. I don't see that that would change and I don't see how Commissioner Anaya's suggestion would be any different. As a matter of fact, the CDRC very seldom has seven people there anyway. Thank you, Mr. Chair.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Just a point of procedure. Maybe we can comment on 9.2 and go down and go on to the next section. We're getting stuck here.

MR. GRICE: We are getting stuck. What I'd like to point out to you is that the differences between the CDRC and the LDRC relative to today's existing ordinances is that the CDRC has been given, I think, just one additional responsibility, conditional use permits, on which they'd finally decide those issues. We have yet to designate which uses are conditional use permits but we will in the next module.

The other big thing is the LDRC, instead of being a replacement for the CDRC, the LDRC is advisory now to the CDRC and you'll find that change on page 9-4, the top of the page, Section 9.3.4, Powers and duties, and you'll see that the LDRCs are making a recommendation to the CDRC with respect to development within their particular geographic jurisdictions on each of these things. This means that every time there's a land use application that includes one of these elements, it will be referred to the LDRC for their opinion and that will be then forwarded to the CDRC, toward either a decision, if it's their final authority of for further recommendation.

CHAIRMAN SULLIVAN: I thought that's the way it was now. We're getting stuff in from Agua Fria that's gone through that process. Isn't that the way it is now?

MR. ABEYTA: Mr. Chair, it is except what goes to AFDRC does not stop at CDRC. It goes directly to the Board. And so if you have an application that comes in in the traditional historic community of Agua Fria it goes to Agua Fria, then the Board of County Commissioners, and the CDRC doesn't hear the application. Now, our thinking --

CHAIRMAN SULLIVAN: That's just for Agua Fria. That's just for traditional communities.

MR. ABEYTA: Well, anyone that has an LDRC. Same with the Community College District, and our thinking behind this was there was a lot of discussion regarding the

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number of communities that may be coming in in the future that would have the ability to create an LDRC. We run into problems with staffing. There was discussion about doing away with LDRCs all together. We decided no, as a compromise, we should leave the LDRC but not require such a formal process for an applicant or staff to follow when dealing with the LDRC. The formal process would be at the CDRC level.

One thing that that does is that it gives the LDRC more flexibility and because it's not so official, they could maybe attach or make recommendations to the developer that they may not have the ability to do now. Because right now, they're pretty limited in what they can do. They're subject to complying with the ordinance that's adopted for their area and that's it. So what we thought is that if we make it a little less formal, then we could go to the LDRC first, have more of an open discussion on the specific project, then go to the CDRC where it becomes an official recommendation and then the Board of County Commissioners. So it accomplishes that but it also will eliminate staff's concern and some of the Board of County Commissioners' concern about the funding and staffing of positions for these LDRCs.

For example, Pojoaque may want an LDRC. We don't have the staff to provide for that right now. There are other communities that may want one and so what we did is we tried to come up with a compromise. Rather than get rid of them, like there was discussion in the past, we would make them a little less formal and then go directly to the CDRC. Right now, they replace the CDRC.

CHAIRMAN SULLIVAN: Thank you.

COMMISSIONER CAMPOS: Mr. Chair, can we proceed in certain order to get comment on 9.2 very briefly? Is that how we should do it? I'm just asking so that we have some --

CHAIRMAN SULLIVAN: I thought we were finished with 9.2. He was moving on to 9.3.

COMMISSIONER CAMPOS: He finished his presentation. I think he wants some feedback.

MR. GRICE: They're not significant changes to 9.2.

COMMISSIONER CAMPOS: Do you want feedback?

MR. GRICE: Yes, if you have some comments. You wanted to give us some comment on 9.2?

COMMISSIONER CAMPOS: How do you want to do that, Mr. Chair?

CHAIRMAN SULLIVAN: I think the way he asked was that we get comment by section as we go along.

COMMISSIONER DURAN: I think we're doing fine.

COMMISSIONER CAMPOS: So is it time?

CHAIRMAN SULLIVAN: You're too late. No, go ahead. 9.2.

MR. GRICE: I'll make sure I stop so you can comment.

COMMISSIONER CAMPOS: As far as appointment at the pleasure of the BCC, and then you talk about the statutory provisions, the statutory provisions may require that they be dismissed only for cause, so I'm not sure how that works out. Next comment, the

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chairperson shall be appointed by the County Commission, by the BCC, I think it's a good idea, because it does provide the BCC with some oversight and some connection to the CDRC. As far as 9.2.3, Rules of operation, C. Rules of procedure. They shall adopt their own rules. I think that's not such a good idea. I think we should have the BCC rules applied generally to all these subcommittees so there's some regularity and clarity and we don't have to reinvent the wheel three or four times. Those are my comments on 9.2.2. Thank you.

Carolyn Sigstedt, from the audience asked if the Commission would be taking comments.

CHAIRMAN SULLIVAN: No, this is a work session so we don't have it scheduled as a public hearing. There will be a public hearing once we get this into a consolidated format that the public can comment on, but after the meeting, by all means twist our arms or throats, whichever you prefer and we'll be glad to take your input. And of course the staff's available too. There's been -- the consultant has had public input.

MR. GRICE: Those seem like constructive comments. Is there any disagreement?

CHAIRMAN SULLIVAN: Well, I think it's definitely in disagreement with the staff. Staff, I think, thinks the chair should be appointed by the CDRC. I like the idea of the chair being appointed by the BCC because again, as I indicated earlier I think we have this disconnect that we're not communicating as effectively as we could with the CDRC. Anymore comments on the chair of the CDRC issue? Commissioner Duran.

COMMISSIONER DURAN: I think that the board should -- not the Board of County Commissioners but the CDRC or the LDRC should appoint the chair.

CHAIRMAN SULLIVAN: Let me go down the line. Commissioner Anaya?

COMMISSIONER ANAYA: Yes, I believe the CDRC should appoint that chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: As do I, Mr. Chair, that's why I asked the question to begin with. I didn't agree with what was on there.

CHAIRMAN SULLIVAN: Okay, so we got a 3-2 on that on. So I guess we'll keep it with the CDRC.

MR. GRICE: The next question was I think, the rules of proceeding was one question Commissioner Campos raised. Should the rules be set by the Board of County Commissioners or set by the various boards.

CHAIRMAN SULLIVAN: We don't have uniform rules for these boards now, Roman?

MR. ABEYTA: Mr. Chair, we generally follow the rules that the Board follows and staff would agree that it probably should be BCC rules. They should follow the same rules.

CHAIRMAN SULLIVAN: We don't want them making up their own rules.

MR. ABEYTA: Right.

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CHAIRMAN SULLIVAN: That would conflict then when they come up to the BCC on appeal. And Mr. Ross wants to add to that. Usually when we pass those resolutions it says all boards and Commissions.

STEVE ROSS (County Attorney): Your own resolutions on parliamentary rules apply to all the various Commissions.

COMMISSIONER ANAYA: Mr. Chair, I didn't hear what he said.

CHAIRMAN SULLIVAN: He said that the resolutions that we have now, Commissioner Anaya, indicate that they apply not only to the BCC but to our boards. So those rules and procedures that we currently have already apply to those boards. But I don't want them adding to those either. We don't want them to be creative with those. Commissioner Duran.

COMMISSIONER DURAN: This process is similar to the way we adopted the General Plan and I'm wondering, are we going to go through each paragraph item by item today and take a vote as to whether or not there's consensus on each paragraph? Or are we going to do that on another day?

CHAIRMAN SULLIVAN: No, I think what he's looking for here and you may have missed it when you were out at the beginning. He's summarizing the things that are different or are things that the staff has brought up that's different. And if everybody is kind of nodding their head then he's fine with consensus. If there's something that looks to be a significant change then I think we need to give him direction.

COMMISSIONER DURAN: Okay. Thank you.

CHAIRMAN SULLIVAN: So we're kind of looking at the underlying things.

MR. GRICE: I'm going to try to focus on the things that are just significant changes so that we can get through the document in the time allotted.

CHAIRMAN SULLIVAN: Well, this is important.

COMMISSIONER DURAN: So the term limits, Mr. Chair, are they the same as they are now? Term limits for the members of the CDRC? Okay.

CHAIRMAN SULLIVAN: Okay, anything more on 9.2? Then we'll go on to 9.3, which we've already gotten into. The CDRC being advisory.

MR. GRICE: I think we've explained to you the biggest changes to the LDRC is not replacing. Under this Code it's proposed that the LDRC not become a substitute for the CDRC, but rather they be an advisory board in each local community that has a community plan, advisory to the CDRC. Is there any comment about that.

CHAIRMAN SULLIVAN: I'm hearing rain. Hallelujah.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: I think the first question I have is what is the value and purpose of the LDRC? We've had extensive discussion in the past as far as staff resources, as far as quorums, as far as being too close to the place of the development permit. You know your neighbors. That's good and bad. You may want to say yes or you want to say no or whatever. That there was a need for distance. That we didn't have the money and the

staff to man all these. A lot of these people are going to be wanting to come up. A lot of these communities are going to want to create more LDRCs. I'm not sure that's a good idea. I'd like to hear from Mr. Abeyta because we have had this discussion before. And I'm not sure what the value is and what the cost is and do we have the resources?

MR. ABEYTA: Mr. Chair, Commissioner Campos, we don't have the resources. But we think there is a value to having an LDRC or a value in requiring a developer or an applicant go before the community and present their proposal. And so in order to address our concern with the lack of funding, the change that we're proposing is that the local development review committee, they would have a meeting but the meeting would not be as formal as it is now. It wouldn't be at the County Courthouse. There wouldn't be a need to publish an agenda and go through all the -- create a packet, go through all that formality. We wouldn't have as much staff there. We'd have one staff member that would go and observe and assist when called on to assist. And then that review would be incorporated into our larger staff review that goes before the CDRC. So we don't think we should eliminate them all together but we can't continue to support them and staff them the way we have been in the past, especially given that there are other communities that are coming forward with their own plans.

COMMISSIONER CAMPOS: I just wanted to raise that issue because it's been something we've talked about many times. Thank you.

CHAIRMAN SULLIVAN: So basically what you're saying, Roman, is that this LDRC becomes kind of our early notification program.

MR. ABEYTA: Exactly.

CHAIRMAN SULLIVAN: Where we move into that. Is there any way to appropriately get the LDRC discussion, other than by minutes, which someone's going to have to take, obviously, to the CDRC? Again, I'm thinking how do we get an LDRC member at the CDRC meeting? Do we recommend that they be there? Do we mandate that they be there? That the applicant have an LDRC member with them or is there some way we can get that informal, living room conversation and discussion to the CDRC, other than what will be summary minutes, I guess.

MR. GRICE: Section 9.3.5 explains staffing. And it says that the Administrator will provide staff to the LDRC for the purpose of taking notes and providing reports of such meetings and recommendations made to the CDRC. That would be the limit of the staff's role and responsibility.

CHAIRMAN SULLIVAN: I guess maybe I'd suggest a sentence, I don't think we could require that they be there but something to say that LDRC members are encouraged to attend CDRC meetings where the CDRC agenda includes an item discussed by the LDRC.

MS. ELLIS-GREEN: Mr. Chair, we could certainly add something like that. At the moment it isn't in here. But you would be appointing the LDRC members and requiring maybe the chairperson to come to the CDRC. It could be added.

CHAIRMAN SULLIVAN: I don't know if we can require it. I'm only thinking if then, if that person doesn't show up, what does that do to the applicant? Does the applicant get tabled when it's not his or her fault?

MR. ABEYTA: Mr. Chair, I think your original suggestion we should put in, that the Board encourages or allow some kind of language in there that --

CHAIRMAN SULLIVAN: Then if they're not showing up, if they're not providing that communication, we can point to this and say, You're supposed to be and then appoint somebody new.

MR. ABEYTA: Right.

CHAIRMAN SULLIVAN: It would be difficult to say You have to do it, but if we can encourage it as a part of the Code, then if they're consistently not doing it --

MR. ABEYTA: Staff supports that.

CHAIRMAN SULLIVAN: Then we can replace them with someone that has the time to do it. Okay, anything else on 9.3?

MR. GRICE: No, Mr. Chair. Section 9.4 is entirely new. It is the creation of a new Board of Adjustment. The Board of Adjustment, we will make the changes to this draft as we've talked about. In other words, that the Board of County Commissioners will appoint the chair and that the rules of operation will be those established by the Board of County Commissioners. But the big thing for the Board of County Commissioners today to think about is the fact that we're creating this new Board of Adjustment. It has very limited authority. It's authority is limited on page 9-5, Section 9.4.4. It's powers and duties are limited to the granting of variances. And variances are to be defined very narrowly, unlike the way they have been in the past. They'll be defined narrowly to really amount to physical hardships created by zoning.

There will be an appeal process. This section again, all we're doing is defining the roles and responsibilities. But when you get to -- later on you'll see that an applicant who's dissatisfied with the results of a variance request from the Board of Adjustment will be able to appeal directly to the Board of County Commissioners. So you're still in the loop as you requested at the last meeting. Any question or comment?

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner.

COMMISSIONER DURAN: Who gets to make the determination whether or not the request for a variance or adjustment can be heard by the Board of Adjustment?

MR. GRICE: Well, the Administrator would make that determination, and there's a process for an appeal of the Administrator's decision to the Board of County Commissioners.

COMMISSIONER DURAN: So if there was a denial, for instance the Land Use Administrator denied the request for somebody to be heard as a variance, they could appeal that decision to the Board?

MR. GRICE: For example, if someone wanted to build a shopping center on a piece of property that was only zoned for a single family dwelling, the Administrator would decide that was not a variance request and deny it and the applicant could appeal to the Board of County Commissioners. But it wouldn't take very long for the public to figure out that isn't going to work.

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COMMISSIONER DURAN: You think so? No, I understand.

MR. GRICE: Other questions.

COMMISSIONER CAMPOS: Where are we, Mr. Chair?

MR. GRICE: The Board of Adjustment and its narrow scope of responsibility is limited to variances, physical hardships. I think the other thing that's new -- there's nothing else new in the ensuing sections until you get to 9.8. Is there anything that any of the Commissioners would like to talk about in 9.5, 9.6, 9.7?

CHAIRMAN SULLIVAN: Let me just, on 9.4. On your A, under variances, where you list the things that are variances, I think that's very important and I think they should be numbered out, like 1, 2, 3, 4. 9.4.4.A is the section that tells you what things are variances. Setbacks, parking number or dimensions, landscape island -- all of those.

COMMISSIONER DURAN: Oh, okay.

CHAIRMAN SULLIVAN: That's the list. I think that list is important. I think that list should be expanded out in an outline format. 1, 2, 3, 4. Because we may want to add or delete things to the list.

MR. GRICE: Okay.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: I have a comment on 9.5.2.B, written interpretations. The Administrator shall make written interpretations of the Code when requested, setting forth reasons and explanations. To me, that raises policy implications. I think the Administrator has the power currently. Is that right, Mr. Abeyta?

MR. ABEYTA: Mr. Chair, Commissioner Campos, yes.

COMMISSIONER CAMPOS: Now, if you're going to issue an opinion that has huge policy implication, I just don't know if that's appropriate. So that's just a comment. It's something to think about anyway.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: On 9.4.4.A, Variances. The last sentence says Variances may not be granted for the permitted use of property or the density of housing permitted. Would an applicant then, for instance if there was a density that some developer wanted to achieve on a piece of property, it wouldn't be a variance that he would apply for first then. He would have to go and try to get a zone change.

MR. GRICE: There would be several possibilities. We're going to build in a density bonus provision.

COMMISSIONER DURAN: I don't know how that applies.

MR. GRICE: I know you don't, but it will be in a subsequent phase. It will be in the next module. A density bonus program is one option. Another option is the rezoning --

COMMISSIONER DURAN: So rezoning is an option.

MR. GRICE: Rezoning is an option.

CHAIRMAN SULLIVAN: Who hears rezoning?

MR. GRICE: The Board of County Commissioners does. The CDRC advises,

and if it's in a local community, the LDRC makes a recommendation first up the channel.
COMMISSIONER DURAN: Okay. So the option is still there, providing that it's appropriate and --

MR. GRICE: Yes. And also, there are other things that we're doing, including the creation of a new land use category that would be listed as permitted, conditional or special use permit, whatever zoned districts you think are appropriate, of a family compound. We're also drafting the home occupation standards as well as home business standards that are a little more intensive. And those will be allowed in certain districts as you deem appropriate. So we're creating various ways to handle the need for use variances, things that in the past have been handled as a use variance, in other ways. Temporary use permits. There's rezoning. There's use standards for the new uses that we're going to create.

COMMISSIONER DURAN: The only reason I bring it up is the problem with the Santa Fe Code, the County Code is that we really have no zoning in place. There is no zoning. So this Commission or Commissions in the past have been criticized for granting variances when the fact of the matter is that there is no zoning to allow someone to move forward on a project unless it's a request for a variance. So I'm glad to see that you're going to be providing some specific zoning uses and designations that can be used in actually trying to develop a use plan for the EZ specifically. Is it going to apply to the EZ?

MS. ELLIS-GREEN: No, it's not.

COMMISSIONER DURAN: No, it's not.

MS. ELLIS-GREEN: It's not in the development code. So zoning outside of the Two-mile subdivision, outside of the Five-mile.

COMMISSIONER DURAN: It would serve as a good model for that right?

Okay. Thank you.

CHAIRMAN SULLIVAN: One comment on Commissioner Campos' possible minor change, under the written interpretations, 9.5.2.B, where it says Administrator shall make written interpretations. You might want to say the Administrator as County Attorney as appropriate.

MR. GRICE: Well, this is a list of powers and duties. The written interpretation section, Mr. Chair, is actually in section 10.15 and I think it already says -- we could make a note back there at 10.15 that it is required that he consult with other staff as necessary. Section 10.15. This is a procedure for when an applicant finds some section of the Code that's not clear to them. They're asking, well, what does that mean? It allows for the Administrator to write them a response, interpreting it for them. If they don't agree with that response or that response isn't satisfactory to them, they can appeal it directly to the Board of County Commissioners.

CHAIRMAN SULLIVAN: Okay. So there's a lot more about how he does it.

MR. GRICE: There's a great deal more. All we're doing, all you're looking at here is a list of the things that are in the purview of the Administrator.

CHAIRMAN SULLIVAN: And is it currently required that Roman, that be issued within 15 days?

MR. ABEYTA: Mr. Chair, no. There's no requirement now.

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CHAIRMAN SULLIVAN: So that's new?

MR. ABEYTA: It's new.

CHAIRMAN SULLIVAN: Okay, we'll get there when we get to section 10.

Anything else on 9.5? And you say 9.6 is --

MR. GRICE: 9.6 is unchanged. 9.7 is unchanged. 9.8 is a new section. 9.8 is an informal review committee composed of staff members, County staff members. It specifically establishes -- staff directed me to make it specifically to include the Fire Marshal and the Public Works Director. Other than that, it's really simply an opportunity for the staff to get together and discuss and review applications together around a table and share ideas and information.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: Roman, don't you already have this kind of process in place?

MR. ABEYTA: Mr. Chair, Commissioner Duran, we do, but there's nothing in the Code that talks about it or allows it, so you're right. We do practice this now but now it will actually be in the Code.

COMMISSIONER DURAN: So in the practices, the policies and practices that you've been following informally, is there anything in here than what you've done in the past?

MR. ABEYTA: Mr. Chair, no. Again, it formalizes that. It puts it into the Code.

COMMISSIONER DURAN: And there will be someone taking minutes?

MR. ABEYTA: What it is is the case manager takes notes at that meeting and then incorporates that into his or her review when they review the application.

COMMISSIONER DURAN: Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Anything else on 9.8?

MR. GRICE: I have nothing else to point out in this entire article. The rest of it is taken from your existing Code.

CHAIRMAN SULLIVAN: Do we have a mining plans review board at this time, Roman?

MR. ABEYTA: Mr. Chair, yes we do but it's not for the sand and gravel operations, for that type of mining. It's for actual hard-rock mining, which we haven't had an application for in the county for the last ten, fifteen years.

CHAIRMAN SULLIVAN: So would this only apply to hard-rock mining?

MR. ABEYTA: Yes.

CHAIRMAN SULLIVAN: And do we want a sand and gravel --

MR. ABEYTA: Mr. Chair, that's something that we may want to think about.

CHAIRMAN SULLIVAN: I mean, this looks like a pretty difficult board to get together. We've got someone with experience in geo-hydrology. One is a graduate engineer. One's a member from the faculty of the New Mexico Institute of Mining and Technology and on and on and on.

MR. GRICE: Sand and gravel would probably just be an accessory use, a use

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that's listed in a particular zoned district as allowed by a special use permit and would come before the Board of County Commissioners. This group would simply be someone who's qualified to review mining operations, not sand and gravel. We would treat sand and gravel differently.

CHAIRMAN SULLIVAN: But do we have such a board now? The 15 members of it?

MR. ABEYTA: Mr. Chair, we do not. If we were to get an application for a mining operation then we would have to come to the Board and establish it with these rules.

COMMISSIONER DURAN: What's hard rock?

CHAIRMAN SULLIVAN: It's music that we can't dance to. How about section 9.10, TDRs. You mentioned that that refers to the existing Code.

MR. GRICE: So, we're ready to move into Section 10. It starts with Section 10.1. Again, these are the procedures that are common to all of the land use applications. So this is the place we put things that don't need to be said again later in the process. Notice that there's a list of things in 10.1.2. A, Mandatory preapplication conference. This is intended to make sure that applicants don't deal things like spend a great deal of money preparing subdivision applications before the talk to the staff and understand what the submission requirements are and the standards and procedures. It's an effort to have better projects by requiring coordination with the staff in advance.

Here we have Submission requirements. Common submission requirements. And this is important. There's some basic submission requirements that are common to all applications. Property owner endorsement. Obviously, you can't process applications unless the property owner endorses the application. Applicants are required to prove they own the property. C, on the top of page 10-2, form and content. This is a significant decision. Form and content here, we propose that -- and we have removed, you'll notice later, all of the submission requirements or most of the submission requirements from the Code. And instead have replaced it with a reference back to this section. So what this section says is that applications required under this Code will be submitted on forms and then the number of copies required by the staff and the staff has the ability to ask for additional information.

Now, if the Board of County Commissioners -- the reason we do this, the reason we've recommended this is because the advantage of taking the submission requirements out of the Code and treating them separately as an administrative document is that they can be changed periodically. As you find that they frequently do need to be adjusted, and rather than having to go through a Code amendment process that involves review by the CDRC and a public hearing and the Board of County Commissioners and a public hearing, we recommend that all our clients remove the submission requirements from the Code and handle that as an administrative document. Once you make that decision, your choices are, one, you can leave it up to staff to come up with that submission requirements list, or you as the Board of County Commissioners could require that that list be established in the form of a resolution and you could act upon it. You could actually still review it.

But either way, we do recommend that specific submission requirements not be included

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in the Code, except where there are some really unique circumstances, something the Board of County Commissioners is really intent on seeing. Like for example, when you get to conceptual subdivision's master plan, you'll find that we did include a notation that the requirement, at a minimum, a water supply for the first phase of every development has to be included. We felt that was so important it needs to be said right up front.

When we were re-editing, shuffling all this material, every time we found a submission requirement, and there were submission requirements intermingled with standards and the procedures throughout the Code. It was a very complex thing. But every time we found a submission requirement we isolated it into a separate computer file and we have them all. We have all of your submission requirements for every application in one place, consolidated and we could produce a list of those submission requirements as they stand in short order. If you want to just add them back in, we could do that. They're there and handy for us to access. But again, it's our recommendation that submission requirements not be included in the Code. Not only do you periodically need to sort of globally change the submission requirements for particular types of applications, but for particular applications there will be situations where there are things you don't need. There are things you need extra. There's places where there's a large boulder sitting in the middle of the property. Perhaps you need a geologic report to demonstrate that it's not going to fall down on the house. On the other hand, if it's a perfectly flat meadow, you don't need that geologic report. Do you see what I mean?

The submission requirement needs vary drastically from application to application.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: If they're not going to be in the Code, then where will these submission requirements be?

MR. GRICE: They'll be in the County Community Development Department. And before I did this, I contacted the staff and I asked the question, Is it your custom and your habit to give out packets of information to applicants when they come to the counter and ask, Well, how do I apply for a subdivision? And the answer is yes. It is your custom and habit to give out a packet. Well, that packet is what needs to have the submission requirements in it.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: My understanding of the way it works right now is that an applicant would go in with an application for whatever they are planning to do and staff sits down with them and goes through that checklist and checks off the items that need to be provided based on what they're doing. If they're doing a 50-lot subdivision, geo-hydro -- so the list is checked off. It's in the preapplication meeting already. So what you're saying is that we don't provide them with that checklist?

MR. GRICE: No, we do. We do provide them with the list. We provide them with specific submission requirements. We just don't include them in the Code. We just say that the staff will establish the submission requirements. Which as you say, that's what happens now. It really is what happens now. The difference is, now, if you wanted to change it, you

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have to do a Code amendment. It's an administrative document. That's all we're saying.

COMMISSIONER DURAN: Oh, okay. And before we get too far into 10.1, on 10.1.3.B, Proof of ownership and legal lot of record, there are a lot of projects that come before us that the people don't own, but they are under contract and they have equitable title to the property but they don't have legal title to it. Is this adequate to allow those people who have equitable title to make an application for a specific use and not be able to show that they a deed, that they're entitled to the property?

MR. GRICE: Yes. A requires that the application have the name and signature of the owner. In other words, the owner has to approve the application.

COMMISSIONER DURAN: Right.

MR. GRICE: I could submit an application for your property only if you signed it.

COMMISSIONER DURAN: Exactly. So that still would remain the same.

MR. GRICE: You would have to prove that you own the property and give me permission to apply for you.

COMMISSIONER CAMPOS: Mr. Chair, quick question.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Page 10-2, Section 10.1.5, review by the TRC. Language that says Administrator shall refer as necessary to the TRC for review and recommendation. I see a lot of the TRC and being shall and shall and shall. It seems to me that some of these applications are not so complicated, are pretty simple, and may not need referral. You said the Administrator could exercise discretion as to when and when not to, and I think that would more appropriate than saying "shall" for every application.

MR. GRICE: I agree with you and that's why I said shall as necessary.

COMMISSIONER CAMPOS: Yes, but if you say the Administrator may, that would be clearer language. Shall as necessary.

MR. GRICE: Well, to me, if you say may as necessary. If it's necessary h may not.

COMMISSIONER CAMPOS: That's right. And that's his discretion. That's the whole idea.

MR. GRICE: But if he finds it necessary, he shall.

COMMISSIONER CAMPOS: [inaudible] You go down the Code in different areas. You see the same thing. The Administrator shall do this, shall do this. Two or three times. Instead of saying the Administrator may, if he deems it necessary.

MR. GRICE: If you prefer I can say may as deemed necessary.

COMMISSIONER CAMPOS: I think it should be discretionary, clearly discretionary.

MR. GRICE: That was our intent.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Just for my clarification. The Administrator,

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that refers to Roman right now? Okay.

MR. GRICE: The Administrator is appointed by the Board of County Commissioners. If you go back several sections.

CHAIRMAN SULLIVAN: I have a question, getting back to the top of page at 10.1.3.C, it seems kind of repetitive on the third line there that says any requested information and attachments and in such numbers, copies of the complete application as required by the County, including any community development checklist for submittals. It might include something from the Treasurer's office or any other County office. Wouldn't it be adequate enough to simply say as required by the County?

MR. GRICE: Sure.

CHAIRMAN SULLIVAN: That's the packet that we're talking about.

MR. GRICE: Yes, Mr. Chair. It would be sufficient to say that.

CHAIRMAN SULLIVAN: And then the other question I had, I didn't know if you were going to bring it up or not, but in the section that was added by staff called Review by LDRC, I'm a little confused because, the application shall be referred to the LDRC which shall provide written comments to the Administrator identifying Code compliance issues. First of all, I think the ten days is too short a time. We probably shouldn't put anything at all in there, but sometimes we have trouble getting them to meet. But don't they report to the CDRC? Isn't that what you just told us?

MR. GRICE: What I need to do is I need to change that. You're right. Staff did not recommend that. I realized in writing this that just a formalized review by the CDRC, I need to formalize review by the LDRC. What I propose doing there is saying that upon receipt of such referral, the LDRC shall review it and reference back to the previous section, so we don't have to repeat that language.

CHAIRMAN SULLIVAN: Reference back to Section 9.

MR. GRICE: Their roles and responsibilities.

CHAIRMAN SULLIVAN: Yes. Okay. Because it wouldn't go back to the staff; it would move on to --

MR. GRICE: Yes. It doesn't need to repeat that and say it in different way. It just needs to reference back that they're going to review it in accordance with their role back there. Good catch.

CHAIRMAN SULLIVAN: Do you have anything else on --

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: I think it's good that we actually have some time lines on these things, my experience being you may not hear something back for a number of days, and I think this gives the public an understanding as to how they should be expecting a response within a certain number of days.

CHAIRMAN SULLIVAN: I think so too, I'm just concerned that the LDRCs typically don't meet more than once a month. So if you said something had to be done within ten days you might not get a normal meeting of the LDRC.

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COMMISSIONER MONTOYA: I guess the way I read that is that after the LDRC has met they shall provide the written comments to Roman or the Administrator within ten working days.

CHAIRMAN SULLIVAN: Oh, okay. You're reading it after they have met.

COMMISSIONER MONTOYA: After they have met.

CHAIRMAN SULLIVAN: Okay, then maybe we should make that clarification.

MR. GRICE: I wasn't sure -- just reference it back to 9. After they receive the application staff is going to take the notes and their chair can come to the CDRC.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: A comment on page 10-4.

CHAIRMAN SULLIVAN: Wait a minute. Are we that far yet? Is there anything you want to comment on?

MR. GRICE: No.

COMMISSIONER CAMPOS: Still within 10.2, 10.1.8, under Contents of Notice. One of the issues that's come is size of notice. Sometimes they were very small and very difficult to read. Sometimes the issue is placement. Sometimes they'll put it on the property but nobody ever passes by the property so no one is really getting noticed. Do you have any ideas of how we can deal with that? Maybe make some of the signs a required size. Maybe give the Administrator discretion as to special posting requirements where there is a unique issue to a particular piece of property, not fronting a public right-of-way or a place where there is not going to be a lot of public contact.

MR. GRICE: You could specify the size of the notice, or you could simply say on a sign, prepared by the County. There are companies that you can order signs from, pre-printed, at various sizes, printed in red. You fill in the blanks. That's what most jurisdictions do. The sign is posted is the sign that is prepared and provided by the County.

COMMISSIONER CAMPOS: It just seems that the Administrator should have the discretion to order special sizes if you need them, and then order location at special places when there's a difficulty. We don't want to have people complain that they never saw the signs.

MR. GRICE: It actually says that. As prepared by the Administrator. The sign, the posted notice, Commissioner Campos, is Section 10.1.9.B.3, Posted sign. The applicant shall post a notice of public hearing prepared by the Administrator on rights-of-way adjoining the property. So it specifies where and that the sign is provided by the --

COMMISSIONER CAMPOS: But that is the problem. Sometimes you're going to put it on a right-of-way and no one every uses that right-of-way so no one ever gets notice in that neighborhood.

MR. GRICE: There is also mailed notice. There are three different kinds of notices.

COMMISSIONER CAMPOS: I understand. I read it.

MS. ELLIS-GREEN: In addition, staff quite often, for example if the property

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is at the end of a dead-end road, instead of just posting right back there where no one is going to drive by it, you can give the applicant a second sign that they post at the nearest intersection so additional people might see it. So maybe we can add in some language allowing the Land Use Administrator to do that.

COMMISSIONER DURAN: How about just approved by the Land Use Administrator? Then if there are circumstances that warrant a larger sign or a different location

MR. GRICE: Or otherwise as specified by the Land Use Administrator.

COMMISSIONER DURAN: And approved.

CHAIRMAN SULLIVAN: I think at a minimum, what you want to say at a minimum is that there's at least one on a public right-of-way. Did you say rights-of-way here?

MR. GRICE: Correct.

CHAIRMAN SULLIVAN: Very often, as Penny says, they're private. The rights-of-way aren't necessarily public. There's private rights-of-way. There's lots of private rights-of-way that are long driveways.

COMMISSIONER CAMPOS: It says all rights-of-way which you think would include both private and public.

COMMISSIONER DURAN: We may not have the right to put a sign on a private right-of-way.

CHAIRMAN SULLIVAN: I'm just saying that as a minimum, one should be at some point where it's a public right-of-way. That may be the key intersection to the road that goes to the side road. What you normally do. Commissioner.

COMMISSIONER DURAN: Do you think we could say something like posting shall be approved or specified by the Land Use Administrator. And that would cover it all, wouldn't it? All posting.

CHAIRMAN SULLIVAN: We can let you guys work on that. You can wordsmith that so you get -- I had a question about public notices. As I read it, none of these public notices apply to the LDRC. Is that correct? 10-3, Required public notices.

MR. GRICE: These public notices apply when there is a required public hearing.

CHAIRMAN SULLIVAN: None of which is the LDRC.

MR. GRICE: No, none of which is the LDRC. But whenever there is a public hearing required it reference back to this section.

CHAIRMAN SULLIVAN: Okay, but how do the LDRCs' meetings get noticed? There's no provision under Section 9 for noticing the LDRC meetings. It just says that they meet monthly at the call of the chair. How do we tell people that this developer is going to be there? Is it part of his early notification program or how do we do that?

MR. GRICE: I suppose we could put a notice of public meeting requirement. We could somewhat duplicate this section and require a notice of public meeting, the LDRC public meetings.

CHAIRMAN SULLIVAN: I know Roman wants to make it informal, but none

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the less, we still have to notify the public that there's going to be a meeting.

MR. ABEYTA: Mr. Chair, we can go back to our Planning Division and we can talk to them because they have language or some kind of requirement that they do for their meetings they have. So we could come up with requirements on how to notice the LDRC.

CHAIRMAN SULLIVAN: I guess since they're not taking formal action any more; all they're doing is recommending to the CDRC, it looks like the notice provisions have been taken out.

MR. ABEYTA: We probably have to put some in.

CHAIRMAN SULLIVAN: I think between 9.3.3, is where you're going to have to do it when you get to it.

Mr. Gonzalez said the meetings are probably still covered by the Open Meetings Act even if they are advisory.

CHAIRMAN SULLIVAN: So what you simply want to say is all meetings of the CDRC, wait a minute. Members of each LDRC shall meet regularly at least once in each month and the chairman shall designate the time and place of such meetings, which shall be posted in accordance with law. I just don't want to give the impression that it's the chair that can set the meeting date and no one else needs to know about it.

MR. GRICE: We will add a section.

CHAIRMAN SULLIVAN: Just something.

MR. GRICE: We'll look into that. We'll make notes.

CHAIRMAN SULLIVAN: Because there's no public hearings now. The LDRC is not holding any public hearings.

MR. GRICE: No, but I hope you can see it is our goal that a summary of notice requirements and public hearings and who reviews them can be found in one place where everyone sees. So when the staff or applicants look for it they can find it in one spot, what the public notice and public hearing requirements are.

CHAIRMAN SULLIVAN: The tables are good. Anytime you can do a table like 10.1.7, that's always handy.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Regarding the posted notice, Roman, how many public hearing notices do we average per month or per day, on page 10-4, item 3?

MR. ABEYTA: Mr. Chair, Commissioner Montoya, you're asking how many notices we prepare on a daily basis?

COMMISSIONER MONTOYA: Yes.

MR. ABEYTA: I don't know. Penny, do you have an estimate?

MS. ELLIS-GREEN: Mr. Chair, Commissioners, we probably do 30 to 40 a month.

MR. ABEYTA: Thirty to forty a month.

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COMMISSIONER MONTOYA: So about one a day then. Well, I guess the reason I ask that is maybe part of the problem may not be the sign or the way it is but where the applicant actually puts the sign. That's a common thing that I've heard, that they put it on top of another sign where you'll never see it and put it on a roadway. And I guess what I'm getting at is, and it doesn't sound like it's going to be feasible to actually have staff that would go out and post that sign in a place where it's going to be visible. But that was the reason I asked the question. Is it feasible, I guess, to have staff actually do that?

MS. ELLIS-GREEN: Mr. Chair, Commissioners, probably not to have staff actually do that but we do require a photograph of the sign, and in addition to that, for anything that's going to the CDRC or any kind of public hearing, staff actually goes and visits the site and does a site visit. And if we saw -- we have been out to a site before and seen the poster set back 100 foot from the property boundary so there is no way anyone can actually read it and we've tabled cases for doing that, given them a new sign, asked them to move it forward and put it on the property boundary. I think this actually says on rights-of-way adjoining subject property so that would allude to it actually being on a property boundary.

And again, if they're really not -- where it says such notice should be legible and posted in clear view from adjacent right-of-way, I think if it's set back 100 foot or as Commissioner Campos was saying earlier, at the end of a dead-end right-of-way that nobody else would drive along, that isn't really legal notice. It's not giving notice to the neighbor. And in that case, I know the CDRC on a lot of occasions have actually tabled a case for that.

COMMISSIONER MONTOYA: So we do then go actually visit and look for that sign then? Okay.

CHAIRMAN SULLIVAN: Other questions on 10.1? I guess we go to 10.2 then.

MR. GRICE: 10.2 is substantially unchanged from the procedures that the County currently follows. In addition to what's here the staff wanted me to add between 10.2.3.A and B, a referral to the Fire Marshal and Public Works, County Hydrologist and other new agencies.

CHAIRMAN SULLIVAN: Which one was that again? Between 10.2.3.A and B, prior to the review and final action by the Administrator, they wanted to formalize a referral to the Fire Marshal, Public Works --

CHAIRMAN SULLIVAN: That's not in our handout, right? That's something they've given you?

MR. GRICE: That's something they've given me. I got that today. This document is not going to be done until it's done. It's very much a work in progress.

CHAIRMAN SULLIVAN: Just clue us in to what it's going to be, okay?

MR. GRICE: Okay.

CHAIRMAN SULLIVAN: Unveil it.

MR. GRICE: Another change to this section that the staff requested that's not shown in your draft is a revocation provision, a provision that would permit revocation of development permit applications when the conditions of approval are not met, when there have

been misrepresentations made or other permit requirements have not been complied with. Any other comments on that section?

If not, I'll move on, Road construction permits. I don't think they're called exactly that but these are permits for the construction of any road or driveway serving more than one dwelling and there's a process and permit created for that. And that tracks with your existing -- notice each one of these things that you're giving to the Administrator, each of them ends with an appeal opportunity to the CDRC. Later on you'll notice that the CDRC decisions can be appealed to the Board of County Commissioners. So we're keeping you in the loop all the way around.

Site development plan review. What to you call that now?

MS. ELLIS-GREEN: It's just a development plan review. Preliminary and final development plan.

MR. GRICE: We just wanted to clarify that it's a site development plan review. This is an administrative process under applicability, 10.6.2, it's a detailed site plan is what it is that shows how the applicant has complied with all of the site development standards of the Code. It's applicable to any non-residential or multi-family development. And it is used in reference, incorporated by reference in a variety of other sections, like when you get the preliminary plat you'll see it's the standard requirement of the preliminary plat. It's also a standard requirement of all conditional use permits and special use permits. It's essentially a detailed site development plan that demonstrates how they've complied with the development standards. I don't have anything else to point out to you about that. Do you have any question or comment on that?

COMMISSIONER DURAN: I do. If the site development plan is approved and in the remainder of the process it gets changed, so 10.6.3.A, All improvements reflected on approved site development plan must be met at the time of development -- except as amended?

MR. GRICE: Well, it's an administrative process. If someone wants to amend it the process would be the same as the process that resulted in its approval to start with. They could submit an amended site development plan and the staff could review it and approve it, or not.

COMMISSIONER DURAN: So what is the purpose of the site development plan review and how would it apply?

MR. GRICE: Its applicability is described in 10.6.2 and it applied to all non-residential and multi-family development. So any time -- we might have a zoned district that allows non-residential development as a use permitted by right. For example, it might allow a mixture of retail shops. It might allow multi-family structures. Those are the type of uses that generally are potentially impacted on residential neighborhoods and therefore they need a detailed look.

COMMISSIONER DURAN: I understand that. I guess my question -- so this is prior to BCC review or public hearings. Is that correct?

MR. GRICE: This -- it would apply -- it is incorporated by reference in all preliminary plats, which is as you say, prior to the BCC review, incorporated by reference in

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all conditional use permits, which is prior to CDRC review and special use permits, which is prior to both reviews. And beyond that, Commissioner Duran, where there happens to be a lot vacant and zoned for multi-family, it is required prior to the issuance of that building permit.

COMMISSIONER DURAN: Who is going to review and approve this site development plan?

MR. GRICE: The Administrator. Unless that site development plan is incorporated by reference in another process, like a conditional use permit, then the CDRC approves it.

COMMISSIONER DURAN: So this, the Administrator will approve the site development plan and then it would begin its process through the public hearing? It would go through the public hearing process?

MR. GRICE: If a public hearing process is required, the site development plan would merged in the process simultaneously. Say for example, you have a special use permit application. Something that requires a special use that you have identified as the Board of County Commissioners that requires a special use permit. Say for example, you decide a family compound required a special use permit. Well, that would mean a family compound, part of the application at a minimum would include a complete site development plan to demonstrate how the applicant has complied with all of the general development standards that are applicable on that site.

So that application, if it has a public review process, it's just a detailed site development plan that applies when it applies. In some cases it might be administrative. In other cases, if it's incorporated by reference in another process then it involves a public review.

COMMISSIONER DURAN: Roman, in your opinion, the Board of County Commissioners or the CDRC could, if they decided to, amend the site development plan, they could do so.

MR. ABEYTA: Mr. Chair, yes. It would be -- it's a development plan but we're calling it site development plan now. So you see development plans now and you require changes and so you would still be allowed to do that. It's something that requires your final approval.

COMMISSIONER DURAN: Thank you, Roman.

MR. GRICE: He said that better than I.

CHAIRMAN SULLIVAN: Okay, anything else on that section?

MR. GRICE: A very important section. What follows is a text amendment section. Other than just being organized real well, I don't think I've got anything here that's particularly new. There are issues, perhaps the issues for consideration is a new aspect. I've given you some guidance there. Issues for consideration, 10.7.4, page 10-10. So anytime you amend this document, you amend this Code you need to consider is the proposed amendment consistent with the Growth Management Plan and the purposes and intent of the Code. And you have purposes and intent in your existing Code so you're probably familiar with those. They include broad goals like protect the public health, safety and welfare, implement the Growth Management Plan.

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CHAIRMAN SULLIVAN: It occurs to me on the number of hearings, we talked about hearings a little while back on 10.1.7. We've always had two hearings for land use. No, for ordinance amendments, right, and one hearing for land use. Is that correct, Roman?

MR. ABEYTA: Mr. Chair, that's correct.

CHAIRMAN SULLIVAN: And we've just kind of done that administratively. Do we have that memorialized anywhere?

MR. ABEYTA: Mr. Chair, I believe there's a resolution that requires --

CHAIRMAN SULLIVAN: Shouldn't that be in the Code somewhere?

MR. ABEYTA: For text amendments, we wanted to continue to require two public hearings. So we would need to make that change.

CHAIRMAN SULLIVAN: Do we say that here?

MR. GRICE: We don't yet, Mr. Chair, but Penny has just pointed out to me that's in the -- there's an additional set of notes I've gotten from the staff that --

CHAIRMAN SULLIVAN: That's the green notes and the red notes.

MR. GRICE: We've got red notes and we've got green notes. We have new notes. That's covered in the notes.

CHAIRMAN SULLIVAN: So we're going to indicate --

MR. GRICE: Two things I see in Penny's notes. One is that notification has a unique statutory requirement you need to adapt into here. Secondly, do we need to have two public hearings?

CHAIRMAN SULLIVAN: For text amendments?

MR. GRICE: For text amendments.

CHAIRMAN SULLIVAN: And one public hearing for land use decisions.

MR. ABEYTA: Yes. Because right now, the Code doesn't refer to it as text amendment, it refers to it just as an amendment to the ordinance. And so rather than calling it amendment to the ordinance, we're calling it a text amendment. But it's the same thing as amendments you hear now, but we just refer to them as an ordinance amending ordinance -- whatever. Instead of calling it ordinance amendment, the new Code will refer to it as a text amendment, but it will still follow all the same procedures.

CHAIRMAN SULLIVAN: Maybe getting back to that table, 10.1.7 on page 10-5, some of those things only require one hearing. We have required public hearing. You say the review body responsible for conducting the hearing, but under text amendments there will be two hearings. Code text amendments. So you might want to put a little column there that says number of hearings required and everybody would -- I assume all of those would be one. Variances, rezonings, special use permits. Text amendments would be two. I don't know if that's the proper place for it but it looks convenient anyway.

MR. GRICE: We'll consider that. It accomplishes the goal.

CHAIRMAN SULLIVAN: Yes, one way or another. Commissioner Duran.

COMMISSIONER DURAN: Just going back to the table on 10.1.7, so the preliminary subdivision plats would go to CDRC and the BCC?

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MR. ABEYTA: Yes.

COMMISSIONER DURAN: And then the final subdivision plat would go to just the CDRC?

MR. ABEYTA: Mr. Chair, Commissioner Duran, we're looking at that. We may find, because of state statute requirements that it's got to go to the Board of County Commissioners also.

COMMISSIONER DURAN: So it would be both of them.

MR. ABEYTA: If required.

MR. GRICE: We were thinking that it's probably just the Board.

MR. ABEYTA: Maybe we'd eliminate the CDRC.

COMMISSIONER DURAN: Yes. Okay. I like that too.

MR. ABEYTA: And the Board would just --

MR. GRICE: It's strictly technical review. We found authority in the state statutes for summary subdivisions to be delegated to others besides the Board of County Commissioners. We haven't found authority for the major subdivisions, things that are not summary. So our thought is that rather than have another process, we would just eliminate it from the CDRC and let the Board of County Commissioners hear those in one hearing. That's a correction we haven't told you about.

Zoning map amendments. Anything else in 10.7 before we go on?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: The purpose stated in 10.7.1 says the text shall not be amended except to correct errors, etc. What's the policy thinking behind that? What we've done here in the County is we have a new plan that's very comprehensive and calls out for a new ordinance. What if ten years down the road we have other major changes in thinking and want to make these changes. I would just like to have some thought on that.

MR. GRICE: There are three phrases. The first is to correct errors in text. The second is changed conditions in a particular area or the county in general, and the third is to change the regulations and restrictions of this Code. That's very broad.

COMMISSIONER CAMPOS: It's so broad, are there any exceptions to that broad statement?

MR. GRICE: Well, the issues for consideration are the guidance, 10.7.4, and I think this last phrase. I would suggest we replace that last phrase with implement the General Plan which would probably be --

COMMISSIONER CAMPOS: It's so broad it doesn't mean that much, does it? You can change it for three big reasons.

MR. GRICE: Well, that's the purpose statement and the consideration. We don't want to tie your hands too much.

COMMISSIONER CAMPOS: I'm just curious. It doesn't make sense to me, the sentence as written. Because you've made the broad statement then you basically say you have all these exceptions to it.

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MR. GRICE: Okay, let's take them one at a time. To correct errors in the text. I think you'd agree that's legitimate grounds for a Code amendment. Secondly, change or changed conditions, because of change or changing conditions in the country. That is the traditional reason for changing zoning nationwide. And the third would be to implement the General Plan. I think that last phrase is errant.

COMMISSIONER CAMPOS: To change the restrictions and regulations of this Code is what I have.

MR. GRICE: And I think that phrase is errant. I think that should say to implement, as necessary, to implement the General Plan.

COMMISSIONER CAMPOS: I think that sentence needs to be clarified. It's not clear to me.

MR. GRICE: Well, that's why I was going to change the last phrase.

COMMISSIONER CAMPOS: the next, 10.7.2, Initiation of amendments --

CHAIRMAN SULLIVAN: Commissioner Campos, one question while you're on that one. And what happens if this is something that's not addressed in the General Plan? Under that same Purpose, it says all amendments shall be in accordance with the General Plan. What does that have to do with the price of eggs in Russia?

MR. GRICE: The General Plan is the foundational policy document on which all County land use regulatory rests.

CHAIRMAN SULLIVAN: But in many cases it's very general and broad and vague.

MR. GRICE: That's the problem with the general plan, not the problem of the Code. The zoning -- for example, if you don't have a General Plan -- a General Plan needs to be broad and general. It needs to say things like It's the goal of the County to provide affordable housing. Well, there's a whole lot of detail behind how to implement that. But unless you have the broad goal stated in the policy, then to adopt an amendment that implements that, you look like you're being arbitrary and capricious. So the General Plan is supposed to be general and that's good. It needs to cover a lot of things, generally, but it's good that it's general.

CHAIRMAN SULLIVAN: I just am trying to see if we're opening ourselves up for legal challenges when we do a text amendment and someone doesn't like it so they say, Well, it's not in accordance with the General Plan. Well, obviously, if it's not addressed in the General Plan, it's not in accordance with the General Plan.

MR. GRICE: I think that if you can't rationally find that if something is supported by the General Plan and it's a regulation, if it's not an attempt to protect the public health, safety and welfare under the broad police powers, and it's not to implement the General Plan, I'd say you probably on thin ice.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I thought that we had already agreed that all text amendments would go through a public hearing.

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MR. GRICE: Actually three. There's recommendation of the Board of County Commissioners, or rather CDRC. Then there are the two hearings that will occur before the Board of County Commissioner.

CHAIRMAN SULLIVAN: I don't disagree with your general description of what you just said, but the "text shall be in accordance" is to me, very restrictive. You could say, "shall embody the policies of the General Plan" or something like that. But I'm just concerned with saying it shall be in accordance. That's all.

MR. GRICE: You'd rather say embody the policies.

CHAIRMAN SULLIVAN: Yes, or words like that. However you like.

Commissioner Duran, you had --

COMMISSIONER DURAN: You hit it.

CHAIRMAN SULLIVAN: Okay, fine. And then Commissioner Campos, you were on to another item on 10.7.

COMMISSIONER CAMPOS: 10.7.2.E, the application filed by an individual or group. How do you initiate a Code amendment? One of them is by any citizen can come and say I want to change the Code. This is my idea. Gives it to the Code Administrator. Bingo, it has to go through the process. What if the Code Administrator doesn't want to do it? Because of the way it's written it's almost automatic. There's no discretion. So in other words, you're engaging a lot of resources without reflection or authority by the Administrator to say no or the BCC to say yes. The BCC may not be interested at all in the proposed change. But you're making it automatic. So I would say we need to look at this a little more carefully.

MR. GRICE: In the introductory provisions -- I have a couple of responses. One is, if you look at the Table of Contents -- and I'm not seeing what I'm looking for there, but anyway. The Board of County Commissioners establishes fees, application fees for all applications. Typically those fees are established on the basis that they should be commensurate with the level of service provided or the costs incurred. The purpose of the fees is to cover the costs to the County. So in one respect, the fee structure that the Board of County Commissioners established should be sufficient to cover the costs of taxing County resources.

The other broader question I think is a legal question and I would defer to the County Attorney. If an applicant, my understanding is that private citizens should have the right to apply for Code amendments as well and I defer to his discretion. I'd be happy to take that out if you think that's inappropriate.

COMMISSIONER CAMPOS: I disagree with that. I would think they have the right to make a suggestion, and it's going to be up to someone to exercise some discretion. You're not allowing any discretion. Everything has to happen automatically, all the way up to the BCC, no matter how anybody in the County feels about it, to me it's a waste of resources and time. You can't compensate -- you can just imagine all these hearings. It takes a lot of time to sit here for a Code amendment that no one is interested in. So there has to be a way to cut it off early before we engage a lot of our resources.

MR. ABEYTA: Mr. Chair, staff discussed this also and I don't know if Penny had relayed anything to you yet, but we would like to follow the procedure that's currently in

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place, which is whether an amendment is initiated by staff or by a member of the Commission or the public, the Board of County Commissioners needs to grant authorization to publish title and general summary, and that needs to be included in here. And I don't know, like I said, if Penny communicated that to you or not. But we need to follow that same procedure for text amendment. Staff would agree.

COMMISSIONER CAMPOS: Absolutely.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: Although I understand the point you're trying to make, I believe that every individual or group has the right to come before the Board of County Commissioners and request a change in the General Plan or an ordinance, and if a majority of the County Commission believes that this request is valid, that's when it can be granted. So that's when they can be granted. So that's when staff would be given direction to publish title and general summary. But I think everybody has a right to come up and express their ideas and I think we have that already in place through the Matters from the Floor.

CHAIRMAN SULLIVAN: I think you're both saying the same thing.

COMMISSIONER CAMPOS: Yes, we're saying the same thing.

CHAIRMAN SULLIVAN: Commissioner Campos is saying, the way he reads it would automatically go through all the processes without the Board making a ruling on publishing title and general summary. But he's saying he wants that stop gap early on through publishing title and general summary that says, Is the Commission interested in this or are they not. That avoids going through all the --

COMMISSIONER DURAN: So we're talking about the same thing?

MR. GRICE: My apologies. I understand --

CHAIRMAN SULLIVAN: We better move off this one quickly. Oh, is it a different one?

COMMISSIONER CAMPOS: Review and Recommendation by the CDRC, real quickly. What is the product that we want from the CDRC in the legislative process? I think it's more of an assessment, a report, the pros and the cons, as opposed to just an up or down vote. We want to use their knowledge, their wisdom, to understand the legislation, not just get an up or down vote. I would say let's fashion this in a way that requires the CDRC to give us the report, pros and cons, what's good, what's bad. Something like that.

CHAIRMAN SULLIVAN: Okay. Other comments on 10.7? If not -- we do that in the County by preparation of the -- what do you call it? After something's been approved?

MR. ABEYTA: The findings of fact.

CHAIRMAN SULLIVAN: The findings of fact. But I don't think we need to get quite that formal with the CDRC to require findings of fact. I think what we're saying is to gather a report together with the salient points of consideration or some words to that effect. It's more than just yea or nay, it's some deliberation points. 10.8, Zoning map. Here's the fun one.

MR. GRICE: Here we have given you an extensive list of issues for consideration for specific map amendments that are proposed. Again, they're allowed to be

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proposed by applicants, individuals or groups. I presume that we need to duplicate the previous procedure about the Board of County Commissioners approval. Is that right?

MR. ABEYTA: No.

MR. GRICE: You've not had that in the past.

MR. ABEYTA: Right. This is going to be a new process where an applicant wants to request a rezoning of a piece of property.

MS. ELLIS-GREEN: This is a new process. They would make a submittal.

MR. ABEYTA: Right. So it's not an amendment to the ordinance. It's an application for rezoning.

COMMISSIONER CAMPOS: For their property.

MR. ABEYTA: For their property. Right.

CHAIRMAN SULLIVAN: Do we have a zoning map?

MR. GRICE: It's in process.

MR. ABEYTA: No. That's something that we're working on now.

MR. GRICE: So, issues for consideration, should I go through those? Consistency with the Growth Management Plan or Extraterritorial Plan. B is the issue of compatibility with adjacent land uses.

CHAIRMAN SULLIVAN: What's the Extraterritorial Plan? What is that? We're on page 10-11, 10.8.4.

COMMISSIONER CAMPOS: That's a new one?

CHAIRMAN SULLIVAN: And we're on A. The question was, my question was, what is the Extraterritorial Plan?

MR. GRICE: Staff tells me that they're notes directed me to change that to "and other applicable plans" if the Extraterritorial Plan should not be there.

CHAIRMAN SULLIVAN: I haven't seen it. I'd be interested in looking at it.

MR. ABEYTA: Mr. Chair, there is an Extraterritorial Plan for the Two-mile, which this doesn't have any authority over. We need to change it to just any other applicable plan.

CHAIRMAN SULLIVAN: Okay.

MR. GRICE: We'll do a search and replace for every reference to the Extraterritorial Plan to other applicable plans.

C is consideration of -- notice the key here, I think is the fact that is this one isn't called criteria. These aren't, one doesn't have to satisfy all the criteria. The question is the use suitable, is the site suitable for rezoning based on a consideration of the environmental and scenic quality impacts or permitted uses in the zoning district? Once you apply a zoning district, it is then eligible for all the permitted and conditional uses and special uses through procedures that are allowed in that zoned district. So you need to consider, when you grant a rezoning to a particular district is it suitable for all the uses allowed in that district? Are there adequate public facilities and services for the type of development and scope of development and if they are not available, in other words if there's not adequate roads or water or sewer or utilities, is the applicant willing to pay for the cost of that extension.

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And G, the last one, is does the proposed change constitute spot zoning. Spot zoning is a term of art that will be defined in your Code. It's a nationally recognized concept. It is widely supported in case law. Spot zoning is the granting of rights to one individual that are not available to other individuals in like circumstances. And the reverse is the withholding of rights from one individual that are available to other applicants in like circumstances. So the issue of spot zoning speaks to equal protection, treating people in like circumstances alike.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: On spot zoning, isn't that a term thought that is used mainly in the city limits and not so much in the county? Because spot zoning -- I mean there's no zoning out in the county.

MR. GRICE: Well, there's going to be zoning. There's going to be specific zoning. Each zoning district begins with a statement of purpose that explains where it's appropriate. For example, the regional center zoning. Let me look at the title so I can give it to you correctly. Your current system includes regional and major centers and your system recognizes that they are appropriate at certain intersections. So the purpose statement is going to say that the purpose of this zoned district, this classification, land use classification is to apply to existing major and regional centers that were approved in the past.

Secondly, it's appropriate for application at intersections that meet the historic circumstances. I can't cite what they are.

COMMISSIONER DURAN: But we're trying to get away from the node concept.

MR. GRICE: This gets away from -- well, it gets away from the node concept by creating a zoned district that implements regional and major centers in places where they're appropriate based upon, they typically are going to be where arterials intersect or arterials and collectors intersect.

COMMISSIONER DURAN: For me, I think it's going to be hard for us to do away entirely with spot zoning when we don't really have any zoning out there right now. When someone comes in with an application for a specific use, we go through the process of determining whether or not it's appropriate, and we approve or disapprove it. You could call that spot zoning. I don't know how we get around that.

MR. GRICE: Once you have a zoning map, once you have zoned the entire county, one of these zoning districts, you need to apply these zoning districts based upon their purpose statements. Then you'll have a zoning map. Then, when someone applies for rezoning, you will look at the zoning map and see how you have treated other property owners in like circumstances and that will be a substantial guide to you.

COMMISSIONER DURAN: I agree. Okay.

CHAIRMAN SULLIVAN: I think we need to be careful though about putting the pre-Code, putting some pre-Code references in here or dates because, Roman, what we're going to get into is people coming in from the Route 14 subdivisions and saying I want to be rezoned to a quarter-acre lot and that area is hydrologically zoned for five-acre lots and the reason for it is that everyone around me has half-acre lots or whatever it is. And in those, so

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many of those were split up before there was a County Code that had any hydrological requirements, land use requirements on those lots. So I don't know how you want to address that but maybe you put the Code cut-off date in there, because we are constantly hearing the pre-Code and post-Code.

MR. GRICE: Roman may have an answer but I would say the issue of consideration that you reference is F. Are adequate public facilities and services available? If there's not adequate water available, that's adequate grounds, adequate and sufficient grounds for denial of the rezoning.

COMMISSIONER DURAN: Public facilities.

COMMISSIONER ANAYA: If you have a domestic well.

MR. GRICE: Maybe that's "plannerese." Maybe I'm guilty of -- public facilities and services is a broad term of art that includes roads, water, sewers, utilities, drainage. It includes everything necessary for development.

CHAIRMAN SULLIVAN: Well, just make a note to give some thought to that. We can't craft an answer today but we do have that problem of the reverse spot zoning and if we're going to allow that, we're going to go into several subdivisions and allow lot splits from here to eternity.

MR. GRICE: I'm sure staff's making a note.

CHAIRMAN SULLIVAN: We'll work on that one.

MR. GRICE: We'll put our heads together and work on that. Conditions for approval, we've given you the authority in this language to establish conditions of approval relative to the dedication of streets and roads, installation of paving, landscaping improvements, provisions for adequate arrangement for ingress and egress, location of utilities, drainage facilities, environmental conditions, walls, barriers, landscaping, routing and rerouting of traffic. We've given you lots of authority here to establish conditions associated with the rezoning. The ability to propose time limits on the installation of improvements that comply with the conditions.

Then the staff asked that we include --I didn't underline this but I think this was actually a staff idea. Maybe we at least edited it. This conditional zoning change, time limits. This paragraph, I think this should be underlined. This is actually a staff suggestion, requires that when there is a rezoning map application that's accompanied by a proposal for a specific development plan and it's to be accomplished in one phase, that the Board has the authority to require that that development be accomplished within a five-year period or that rezoning would automatically revert to its previous zoning.

Paragraph B says that, and I notice that there's an additional phrase that needs to be in here and I've made a note, but this paragraph is intended to say that when there is an application for a zoning map amendment it is to be accomplished by the implementation of a site plan that's to be done in phases. That's the phrase that's missing there. The County may make that conditional approval subject to commencement of the first phase within five years and subsequent phases within three years each. And the last phrase says that if those time limits are not accomplished, the County, that the zoning approval would revert automatically to a

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previous zoning.

That is a provision that is commonly referred to as reversionary zoning. And I have researched state law on that. I don't know if the County Attorney is prepared to comment on that or not. Some states, let me tell you would require that you could have a provision like that but it would trigger an automatic rezoning procedure, which the rezoning procedure is accomplished by the County. The circumstances of that failure to comply with the conditions would be referred to the Planning Commission and they would vote to rezone the property and send you a recommendation and you would take action on it.

This is drafted so that the reversion is automatic unless the County Attorney objects I guess we'll go with that.

CHAIRMAN SULLIVAN: We do that now with our master plans, don't we?
There's a five-year limit on the master plans. Now, we do allow an extension. Anything else on 10.8?

MR. GRICE: I have nothing else on 10.8. 10.9 is a good one. 10.9 is the whole subdivision section. There are several different kinds of subdivisions. You'll notice in the underlined, the version that has underlines and strike-outs, you'll notice that we added back in the subdivision classification system from state law and existing code relative to types I, II, III through V of subdivisions, and we have given you a table that summarizes those subdivision types and procedures with a cross reference to the subsection that describes how that process works. We've added back in the succeeding subdivision language and have utilized that in some subsequent sections which refer back to this.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: Roman, is the classification of these types of subdivisions, are they different from what is in place right now?

MR. ABEYTA: Mr. Chair, no. They will be the same.

COMMISSIONER DURAN: They'll be the same?

MR. ABEYTA: Yes.

COMMISSIONER DURAN: Is there any -- what are the major changes in this?

MR. GRICE: I'll go through them.

COMMISSIONER ANAYA: There's nothing here.

MR. ABEYTA: Right. In the original draft we got back, they didn't include the types of subdivision so we went back and we told them put in the different types that are in the Code now so that's what he did. He added them back in.

COMMISSIONER DURAN: Okay. Because we've made some considerable changes to those types and required water. I just wanted to make sure that --

MR. ABEYTA: Well, that's why we told them no. They need to be in there because there's specific ordinances that deal with the different types.

COMMISSIONER DURAN: Okay. Thank you.

MR. GRICE: I think the bottom of the page, the underlined words are as a section that I added back in, in which there's an administrative -- any time there's a delegation

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of authority for subdivision approval to the Administrator, this section allows the Administrator to decide not to do that, instead to refer it to the CDRC or the Board of County Commissioners.

COMMISSIONER DURAN: Where are you referring to?

MR. GRICE: The bottom of page 10-14. That's all that does. It gives him the option, if he finds it's not something he wants to approve or thinks there are public issues that should be considered, he has a right -- he probably has that right anyway, but it helps him sometimes to have, when the applicant says, well, you were supposed to approve this. If he sees there are public issues he can defer it on.

Okay, the next --

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: On 10.9, you talk about purpose and you have A through H, but one of the biggest issues we have in the county is sprawl. Sprawl is a major issue in subdivisions. And is that something that we should address here? Or do you think it's already addressed?

MR. GRICE: No, I don't. This is a procedure, this is simply a procedure for reviewing subdivision applications. These are the purpose statements that currently come from your existing statute. As you apply zoning you will dictate what densities can occur and that's where you're going to deal with the sprawl question. The sprawl question is dealt with in your growth management plan and it will be dealt with wherever you apply these individual zonings. But here, do you consider it, Roman?

MR. ABEYTA: I understand Commissioner Campos' concern. If we wanted to -- and I'm asking Penny, if we wanted to require somebody to cluster their subdivision, where in the Code would we be given the authority to do that? Is it this section that would give us the authority? If it is, then we would need to change this section.

MR. GRICE: I would say it's the purpose and intent of the zoned district. You create the zoned district. In some cases you may make them mandatory PUD districts, mandatory cluster zoned districts.

MR. ABEYTA: Okay. So that would be another section we deal with.

MR. GRICE: One thing that comes to mind that I have seen in some subdivision ordinances with respect to sprawl is the issue of, you could establish a subdivision standard that required a finding of a compact development pattern. In other words, leap-frog development would require that in order to do a subdivision you have to be adjacent to something else that's already been subdivided as opposed to going farther out into the county. I have seen that in some subdivision ordinances.

COMMISSIONER CAMPOS: Just a thought. I think that's one of the biggest issues in subdivisions. I think it's really detrimental to the public health and welfare. Just a thought, just something to think about it.

MR. GRICE: Well, you think about it some more. We'll consider it.

COMMISSIONER DURAN: We're a little limited in that leap-frog theory

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because there aren't many places to leap to. We have BLM land, national forest, Indian land.

MR. GRICE: You're very much dictated by where the water is and that's what's always driven your process in the past.

COMMISSIONER DURAN: And also bounded by the property owners that I just mentioned.

MR. GRICE: Okay, a couple things, in 10.9.5, Subdivision Exemptions, you'll notice we've expanded subdivision exemptions, this particular procedure to be subdivision exemptions and other plat reviews. I learned that in Santa Fe County, in addition to subdivision exemptions, these are the 13 subdivision exemptions that come right out of your existing Code. You also do, on page 10-16, other plat reviews. Boundary plats, consolidation plats, easement plats and lot line adjustments and staff asked that those be incorporated here. It seems to work well. They are, as drafted here, could be approved by the Administrator. They don't create new lots. They're a variety of unusual plats. So they're really beyond the intent and purpose of subdivisions.

CHAIRMAN SULLIVAN: On the other plat reviews, under the lot line adjustments, this applies to plats which aren't subdivisions. Does a subdivision start with five lots?

MR. GRICE: Subdivision starts with two.

MR. ABEYTA: Mr. Chair, that's correct. Subdivisions start with two lots unless you're doing a division under one of the exemptions that are listed.

COMMISSIONER DURAN: Where are the exemptions?

MR. ABEYTA: 10.9.5.A.1 under A through M. And that's exactly as it's written in the Code right now.

COMMISSIONER DURAN: 10.9.5.A.

MR. ABEYTA: One, Subdivision Exemptions and then it lists the different types of exemptions.

COMMISSIONER DURAN: Is family transfer in here?

MR. ABEYTA: Yes.

COMMISSIONER DURAN: Oh, okay. Thank you.

CHAIRMAN SULLIVAN: Back to my question on lot line adjustments. So a lot line adjustment, is there an upper limit to it? Is it two lots?

MS. ELLIS-GREEN: Mr. Chair, a lot line adjustment doesn't create any more lots. You start off with two lots and you change the boundary line between them but you end up with two lots. So it's not actually creating any new lots. You could have a ten-acre parcel and a 12-acre parcel and what to make them both 11 acres. You could do that through a lot line adjustment. You start with and end up with the same number of lots.

CHAIRMAN SULLIVAN: Okay. Let me think about that. I'm thinking of cases where that wasn't done. So any questions on 10.9.5?

MR. GRICE: Okay, Summary Subdivisions, the big change that staff noted was that I replaced the language for summary subdivision from the municipal act as opposed to the county. So I've replaced that in 10.9.6, page 10-17 with the language that the two types of

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subdivisions that are currently reviewed and approved as summary subdivision plats.

More interesting, if I could move on, is 10.9.7. 10.9.7, we propose this as a new section and this is an update and consolidation of a small lot inheritance transfer and a small lot family transfer procedure that you currently follow. I have changed the purpose so that it tracks exactly with your existing ordinance. The definitions come from your existing ordinance, except under small lot family transfer, where we've added brother or sister within the options of both giver and receiver of lots. Actually, not to put the words brother and sister under family proper because as I look at that definition of family proper, it really is describing a linear relation as opposed to a brother and sister. So I put brother and sister under family transfer and then it concluded with "and within a family proper." So I believe that accomplishes what you have directed the staff that you want to do.

Then on the next page it gets somewhat more interesting. The criteria, again, this is criteria, not issues for consideration. The criteria for approval, page 10-19. We've inserted the language that you currently use for small lot inheritance transfers as well as small lot family transfers. I want to point out that the minimum lot area standards is also exactly the same as language that comes from your existing Code. However, the next three sections, I, J, and K, need to be demoted. In other words they need to be indented one segment over to the right. These all fall under the category of criteria for approval. So the criteria for approval would be one through five, as opposed to a one and two, followed by I, J, and K.

So the new criteria I want to point out to you is the density bonus. One of the things that the County routinely deals with is requests for variances from the density requirements or the minimum lot requirements of the Code. So what we've done with what you see here as I, minimum lot area standards, these are the minimum lot area standards that you currently have. So we're preserving the minimum lot area standards that people can currently use for these small lot inheritances, small lot family transfers. We really like the term "familia" subdivision plat review because it really says it all. It consolidates, a good excuse for consolidating it. People will understand that.

The new provision, density bonus, you'll notice it incorporates by reference another section. When you get -- just look at what that section is. Turn to the Table of Contents if you will so I can show you what that section is and why it goes there. Under Article II, Use regulations, Article II is going to have a -- first of all, we're going to establish all of the zoned districts. Second of all, we're going to incorporate it by reference to the zoning map, 2.2. Thirdly, we're going to establish a use table, a consolidated use table that lists all the zoned districts and all the uses allowed and designates them as either P for permitted, as approvable administratively, C, conditional, or S approvable by the Board of County Commissioners.

Use standards will be standards that follow the use table that are specific standards that apply to that particular use wherever it occurs in the County. For example, in a home business, it will have standards that apply to home businesses wherever they occur. Accessory uses, and then temporary uses. Again, if there are standards that apply to temporary uses, that's where you'll put those. Use categories, I won't go into what that is just yet but it's vital. And lastly, density and dimensional standards. This section will be a consolidated table that summarizes the

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density and dimensional standards. Those being things like setbacks, height limits, minimum lot areas, lot coverage requirements relative to non-residential, generally. And within that we're going to build in provisions for density bonus, right into the zoning. So the zoning, instead of granting a variance to density, which in the mind of a planner, I think we've found that a very inappropriate way of doing it. A variance, that really is a rezoning unless you build in provisions for density bonus.

So we're going to build in some provisions for density bonus that we have not written yet. I don't know exactly what they're going to say. One of the things we're thinking that they should say is that if you get a good density bonus over and above those things that are otherwise allowed, that the resulting density should be deed restricted according to the County's standard of affordable housing deed restriction. Then it won't really matter. In a way, it won't really matter who ends up with the house. The unit will be restricted in perpetuity or subject to your deed restriction for as long as the community is established as appropriate for such units.

A variety of other issues need to be addressed in a density bonus program as well which we don't need to go into today. You'll get another shot at that. We haven't drafted it. There's issues for consideration about density bonus such as compatibility with the surrounding land uses and there's even issues about homeowners associations if density bonuses are granted to affordable housing people and the units are smaller than the larger, luxury units, they shouldn't pay a proportionate share -- I mean they shouldn't pay an equal share of the association dues. They should pay a proportionate share. Those kind of considerations that go into a density bonus program.

But our proposal to you, to replace what has gone on in the past with the density variances, is a density bonus program. And at this point, in the procedure section, all that is required is an incorporation by reference to a section that hasn't yet been written. Do you have any response to that idea?

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: We have somewhat of an ordinance that deals with density bonus. The affordable housing that we have.

MR. ABEYTA: Mr. Chair, Commissioner Duran, you're correct as it relates to large developments. What this is going to allow is if there is somebody that only owns, let's say, three acres and they want to do a family transfer but they don't have enough property to do that, then rather than coming before the Board and requesting a variance, they may qualify for a density bonus. But we need to still write what the requirements will be to qualify for that density bonus.

COMMISSIONER DURAN: So it could be the same thing, it's just that it's going to be substantiated and supported by Code.

MR. ABEYTA: Right.

COMMISSIONER DURAN: A novel idea.

CHAIRMAN SULLIVAN: I have a question on 2.B. You're having the lot sizes go down to 14,000 square feet where community water and community sewer are utilized

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or where a local land use and utility plan is. What is a local land use and utility plan?

MR. GRICE: You know, I don't know exactly, but I found that in your Code.

MR. ABEYTA: Mr. Chair, that's language that's been in the County Code and what it is, or what I think it is, as it's been explained to me in the past is that when you do your own community plan and it includes a utility plan where you bring in a water system or sewer system, you may be able to get smaller lot sizes as part of that process.

CHAIRMAN SULLIVAN: That seems awful vague to me.

MR. ABEYTA: Well, we haven't used it. What we do instead is we do a contemporary plan or a community plan instead.

CHAIRMAN SULLIVAN: I think it's pretty clear where it says community water and community sewer. I'd just strike that.

MR. GRICE: Okay.

CHAIRMAN SULLIVAN: If we don't use it --

MR. ABEYTA: Yes, maybe we should strike it because we haven't used it. We could talk to the planning staff and make sure that we're not taking something out that should be there, but we haven't used -- well, a local land use plan is the community plan, but a utility plan, we've never approved a development under that.

CHAIRMAN SULLIVAN: So in a traditional community, we don't have the restriction of one half the minimum lot area that we have outside a traditional community. Is that the idea?

MR. ABEYTA: That's right. It's 3/4 of an acre or half of that on community water and community sewer. And that a traditional community would be Agua Fria, for example, that may have access to City water and sewer. Then they can go to half --

CHAIRMAN SULLIVAN: It's even less than half of that, 14,000, less than 32,000 square feet.

MR. ABEYTA: It's supposed to be a third of an acre.

CHAIRMAN SULLIVAN: Oh, it's a third of an acre.

MR. ABEYTA: Yes, you can go to a third of an acre.

CHAIRMAN SULLIVAN: In the traditional community.

MR. ABEYTA: Right.

CHAIRMAN SULLIVAN: Okay. Commissioner Duran.

COMMISSIONER DURAN: 10.9.7, page 10-19, letter H and I, where it says Small lot inheritance transfers. The deeds transferring the parcels to or among the heirs of beneficiaries shall be recorded at the time the plat is filed. And then it further states that deeds transferring the parcels to family members shall be recorded. Those two items, I know that we talked about a family recently, Roman, that was doing a family transfer and we allowed them to -- wasn't it a revocable trust allowed and that trust designated that the property that they were subdividing actually went to one of the grandchildren.

MR. ABEYTA: I'm glad you remembered that because that's something we need to build in here that we didn't communicate through the Code rewrite. We should allow trust property to be put in a trust as part of the family transfer. Either one.

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MS. ELLIS-GREEN: At the moment I think the Code allows it for a family transfer but not a small lot family transfer.

MR. ABEYTA: That's fine. It should still be allowed as far as staff is concerned. It's still meeting the same intent.

COMMISSIONER DURAN: Right. And then, doesn't the Code right now require that the property has to be held for at least five years? It has to be in title for at least five years?

MR. ABEYTA: Mr. Chair, Commissioner Duran, before you can go to half the minimum, you have to own it five years, but after you transfer it, that child or recipient can turn around and sell it or do whatever they want with it after that.

COMMISSIONER DURAN: So if I bought a piece of property and I wanted to split it up and give it my children under this small lot family transfer, I'd have to wait five years to do it.

MR. ABEYTA: Yes, which is the current requirement.

COMMISSIONER DURAN: But if I owned it for five years, the next month they could sell it.

MR. ABEYTA: Yes.

COMMISSIONER DURAN: What would be wrong then, with allowing someone, if they bought it today, to go through this process and agree to hold it five years?

MR. ABEYTA: Mr. Chair, that's something that --

COMMISSIONER DURAN: Wouldn't that be the same thing?

MS. ELLIS-GREEN: We may have an enforcement problem.

MR. ABEYTA: There could be an enforcement issue, but --

CHAIRMAN SULLIVAN: I think the neighbors will let you know.

MR. ABEYTA: We'd be able to find out.

CHAIRMAN SULLIVAN: But that's a loop-hole with that all along is that as soon as the first family transfer occurs, it's open season on lot splits. Each recipient of a small lot or family transfer should then be considered a new owner under the Code and under that same five-year provision. From the testimony we get, everybody says, oh, this is for my family. I'm not going to give it to anybody else. I want it for my daughter so she can go to college and this, that and the other thing and those are all valid issues but we want to be sure that that is in fact what happens.

COMMISSIONER DURAN: I don't know. Maybe that could be a special exception or something that they'd have to come in and request -- be permitted if it met certain criteria. I'm not sure. It just always seemed unfair to me that if I moved to New Mexico I'd have to wait five years to do any estate planning. You don't agree.

MR. ABEYTA: I think we could work --

MR. GRICE: We already did. We put in a waiver provision for the CDRC, granted the CDRC built in waivers to subdivision standards and there are some criteria for that. And again, that was another idea that will probably reduce the need for variances.

CHAIRMAN SULLIVAN: All right. I think once it's been transferred as a

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family transfer that it should be restricted for five years until it's on the open market. Or a subsequent family transfer.

COMMISSIONER DURAN: Most of the ones that we've approved agree to that. Oh, well. It's just a thought. Thank you.

CHAIRMAN SULLIVAN: Okay, anything more on 10.9.7?

MR. GRICE: I don't have anything else to point out to you? Vacation plats? 9.10.8, Vacation Plats. We've included three circumstances for vacation plats. One is the vacation of a road or right-of-way and that's really important to retain for the Board of County Commissioners. Those are properties that you own and that provide important public access. The Board needs to be the one that looks at those issues. Secondly, where a landowner wants to vacate a subdivision, and the third is when the Board finds the plat was approved based on misrepresentation of facts. Otherwise, I think it's consistent with your existing procedure. Any comment about that section?

COMMISSIONER DURAN: That takes us to --

MR. GRICE: Section 10.9.9, Resubdivision. We have some further edits on 10.9.9.B, review procedure. What we want to do here is we want to say that when there is a resubdivision or replat, that it will require application as if for a new subdivision proposal and processing in accordance with the requirements of and reference back that Section 10.9.2, which was the basic applicability section. Remember the table, the applicability table that explains how various types of applications, sort of the an application process. So basically, if someone wants to change a plat and it doesn't fit within one of the subdivision exemptions which are pretty broad and include lot line adjustments, then the process is they go back to the process they went through to start with, subject to the succeeding subdivision section. That if their subdivisions are accumulating or increasing in numbers then you might be at a different type procedure.

CHAIRMAN SULLIVAN: And that only applies for seven years, though.

MR. GRICE: It's statutory.

CHAIRMAN SULLIVAN: Is that statutory? Seven years? Serial subdivisions?

MR. GRICE: So we're going to build that in. Moving on to major subdivisions. Okay, these are ones that don't qualify for summary, familia, vacation, subdivision exemption. They have to go through this. There's that community notification requirement. I've been remembering, I built that in somewhere and I couldn't think of where. Community notification. This is where we put the requirement that there be, prior to the submission of a major subdivision application, the applicant is obligated to hold a neighborhood meeting for the purpose of informing the community and identifying community concerns to be addressed. The applicant shall provide reasonable notice of the meeting to any formally established community LDRC, neighborhood or village association. Following the meeting the applicant prepares a community notification meeting summary report to document attendance, issues discussed and consensus agreements reached.

And this is incorporated, if you look down below, in the conceptual D.1, Submittal requirements. That's one of the requirements we're not delegating off to administrative staff,

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the submittal requirements. Community notification is a requirement. Secondly, and this is key too. This is so key we decided we better put it in here. The conceptual plan for the entire parcels and well as contiguous parcels in the same ownership. So if someone wants to do a subdivision and it's a major subdivision, they need to give us a conceptual plan. Remember we're going to reduce the submittal requirements for a conceptual plan. If you look at D it describes what it is. The plan should in simple -- for the purpose of determining a relationship of the area proposed for subdivision with the Growth Management Plan and other applicable plans, thoroughfare plan and any public improvement plans that might affect the property.

If you look at the utility plans, the street plans, those issues. Then they're going to give them some simple form, a layout of streets and lots and other features in relationship to existing conditions. So this -- they do need to give us a plan for the entire ownership so that you know where this is going. Actually, I'll tell you in advance, the preliminary section that I've drafted also requires a plan for the entire property. Staff asked that that be changed so that preliminary plats can be submitted in phases and we've drafted that change. But I think staff agrees that the conceptual plan should be for the entire property so you have sense of where the entire development is going up front. And then the preliminary has to be consistent with that conceptual. If it changes substantially it's got to go back to conceptual. In order to do a preliminary, it has to be -- one of the submittal requirements is that it be consistent with the conceptual.

CHAIRMAN SULLIVAN: I'd just add one word in there in D.1.c. The word we use in our ordinance is "first sustainable phase of the development."

MR. GRICE: Okay.

CHAIRMAN SULLIVAN: That means they can't define the first phase as being two lots and then the rest of it is 600 lots.

MR. GRICE: Good point. I think that's the -- let me look and see if there's anything else. Oh, staff has asked me to add this morning, the criteria for approval. One additional criterion for approval that's going to get put right in here is Is the subdivision layout appropriate to topography? Because in your Growth Management Plan it anticipates that someone would take a piece of property and look at it in total and decide how to use the property. The property is subdivided, essentially you're making a statement that it is time for it to be integrated into the larger community. You need to look at everything. You look at how it's going to fit when it's totally developed in relationship to the entire community. Is there an arroyo through it that would be great for continuation of a park? Are there street connections that need to be made? So I don't know of another jurisdiction in the country that doesn't require at least a conceptual plan to include plans for the entire property as well -- the entire ownership. Not all of them go so far as everything in contiguous ownership but at least the entire property.

Moving on to preliminary unless you have some objections. On E, the bottom of page 10-23, E.2, we're striking the second sentence that says all preliminary plat applications should include plat or plan for the entire property. Unless you object to the staff's recommendation. They can include a phasing plan, it says that. Also at the top of page 10-24, staff wants that site plan to be obligatory. So it's a mandatory requirement as a part of a preliminary plat

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application. So there's a detailed site plan that shows how they're complying with all of the site development standards.

I don't think there's anything else in this section that's new to your process. Any comments about the preliminary?

CHAIRMAN SULLIVAN: I have a comment on F.4. In the 30 days, we don't always have -- we only have one land use meeting a month and things get tabled or we run out of time and there's certainly an occasion where we may go beyond 30 days.

MR. GRICE: I didn't put it in there to start with. I think that's language I found in your existing ordinance.

CHAIRMAN SULLIVAN: Well, we're not doing it all the time. We're doing it wherever we can, but --

MR. GRICE: I generally don't like time limits on Boards making decisions. That was in your existing ordinance.

CHAIRMAN SULLIVAN: But then the issue is, what if you don't meet the time limit?

MR. GRICE: Sure.

CHAIRMAN SULLIVAN: So what does that mean? Does that constitute approval or does it constitute disapproval, as some would argue? Or does it --

MR. GRICE: I think it forces you into premature denial.

CHAIRMAN SULLIVAN: Yes. Yes.

MR. GRICE: That's what it does. I wouldn't put that in. Do you want me to delete that?

CHAIRMAN SULLIVAN: I think so.

MR. GRICE: Good.

CHAIRMAN SULLIVAN: I'm not comfortable.

MR. GRICE: Otherwise you're forced into denying an application which you might work with the guy.

CHAIRMAN SULLIVAN: There's usually lots of conditions and negotiating that goes on with the staff, goes back and says, we can work with that or we can work with the community and the community is coming in and they're arguing over the density or some issues and we don't have time to work with them. We've just got to bang the gavel and wrap it up.

MR. GRICE: The last, this final plat section, the change we need to make, I think I mentioned this earlier, on page 10-26, top of page, Section 10.9.10.G, Final plat review, we want to make this review and final action by the Board of County Commissioners instead of the CDRC, as it again seems to require the Board of Commissioners final approval and we can't seem to find authority to delegate that. So legal staff agrees.

Failure to act, top of page 10-27. I think I put that in based on some language I found in your Code. If the CDRC does not act -- that would be the BCC, does not act within the required time frame, the subdivider should give the Board written notice. I would take that out, myself.

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CHAIRMAN SULLIVAN: I would too. That brings in the same issue there.

MR. GRICE: It's the same issue.

MS. ELLIS-GREEN: It may be in the Subdivision Act.

CHAIRMAN SULLIVAN: You can check it. If it is, obviously --

MR. GRICE: We'll check that and leave it in if it's required. Otherwise we'll take it out.

CHAIRMAN SULLIVAN: Just because it's in the state, we don't have to recite the whole state Subdivision Act either. Just because something's in the state Subdivision Act doesn't mean we have to put it in.

MR. GRICE: We could still take it out.

CHAIRMAN SULLIVAN: You guys work on that.

MR. GRICE: The thing is -- well, whatever. We'll work on that, as you say. We're at the end of the subdivision section and now I have something --

CHAIRMAN SULLIVAN: Conditional use permit?

MR. GRICE: No, I want to go back to one thing about subdivisions. I want to point out one thing that I should have mentioned earlier. It's very key and right up front and I want you to see it's there, make sure that you notice this thing. It's Section 10.9.4.A, General requirements. General requirements and review and approval of all subdivisions. There are two little lines there that are rather sweeping. 10.9.4.A. 1 and 2. The first, that the development is consistent with the development standards -- that's a wrong reference, Article VII. Let's look at the --

CHAIRMAN SULLIVAN: It says Article I in mine.

MR. GRICE: It's Article 7 is what it needs to say.

CHAIRMAN SULLIVAN: Article 7?

MR. GRICE: I had that one memorized. I'm not sure if it's a broken link or what. What I'm trying to point out is a requirement of all subdivisions is compliance with this Section 10.9.4.A which incorporates by reference the development standards of Article 7 and the subdivision standards of Article 8. If you turn to the Table of Contents and look at what that is, you'll see what I mean. It says a lot. It says that, number seven -- remember all these standards are the standards that apply to all development countywide and they include lots of things, among them being water and sewer. The subdivision standards Article 9, we've moved so many things up into development standards that they're almost as down to design standards.

But what we're not building into this Code anywhere is a provision for variance of basic consumer protection issues -- water, sewer, access, utilities, and to approve a subdivision there's nothing in this Code that would allow anybody to approve a subdivision that didn't address the basic consumer protection issues of road, water, sewer, access, utilities, in fact all these things. I need to point that out to you. There's no variance for water.

COMMISSIONER DURAN: There's no variance for it. They just have to do it.

MR. GRICE: They have to have water.

COMMISSIONER DURAN: Right.

MR. GRICE: It's just irresponsible.

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COMMISSIONER DURAN: Right.

MR. GRICE: To approve a subdivision without basic utilities. If you do it negatively affects others.

COMMISSIONER DURAN: Where in this does it define -- what do you mean, they have to have water?

MR. GRICE: We haven't written that yet. I'm just pointing out to you that the standard for subdivisions require that one comply with development standards that are applicable to everything countywide and the subdivision standards that are applicable to all subdivisions. In this, we're going to build in, and at this point I don't intend to change what you do currently, we're going to build in 7.2, water supply, your hydraulic resource areas. We're going to call them hydraulic resource areas rather than zones because zones is confusing with zoning. But it's resource mapping is what you have. They're really not zoning. We're going to build in your award-winning water standards and all subdivisions are going to have to comply. There's not going to be a variance anywhere in the Code for that. I don't know why I keep looking at Paul. It's not that you've been approving.

COMMISSIONER DURAN: Well, the thing is, I don't think that we have approved anything based on water. Any variances. Maybe it's because I'm a realtor. But I don't think we've approved subdivisions and varied their water, their requirement for water.

MR. GRICE: I think there have been some variances that certainly involve that issue in perhaps a peripheral matter. So anyway, I just needed to make sure that I pointed that out so that I wasn't remiss down the road and somebody saying, You didn't tell us that.

Okay, we are making progress. I think we'll be out of here -- we could be out of here quickly. Conditional use permits. This is a new procedure. It's on Section 10.10, page 10-29. I've said this several times. It requires review and the key is 10.10.3.F, which is review and final action by the CDRC. This should expedite your procedures. When you look at the list of uses. I have a guy in Austin, Texas right now taking every use that's listed in you Code and putting it in a table. And then we're going to fill in, as best we can guess, how you want to do it, with respect for P, permitted, C, conditional, and S, special use procedure. Then we're going to run it by Penny and the staff.

We will go through go through each of the zoned districts of what we think is appropriate. We'll make our first cut at it. The staff will then edit it and some of them will be conditional. Conditional are the uses you deem, they're probably appropriate to this district. You might think of things like home business might be one. That would be my thought. Home business would be something a little bit more intense than a home occupation. We define home occupation very narrowly for people that work in the home. That will be P, permitted by right. Home business would be a little more intense. You might have five employees who don't work onsite and they'll have to have parking spaces for them in addition to the otherwise required parking. Just throwing out some ideas. Signage, they might be permitted to have a sign but it has to be a certain small size.

CHAIRMAN SULLIVAN: Do these run with the land, or not?

MR. GRICE: All land uses run with the land. No land use should be --

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CHAIRMAN SULLIVAN: Well, if your approval of condition means a permit, that's for an individual who wants to grow violets where it's not permissible to grow violets in their house and then once they sell the house --

MR. GRICE: It's still permissible to grow violets. The zoning should not be in respect for a person.

CHAIRMAN SULLIVAN: So it's not a conditional use permit; it's a rezoning.

R: No, it's not a rezoning because it's the application of an entire other zoned district. All it is is the application of one particular use, subject to conditions that you establish. You look at this site and you say, Growing violets in this particular house, this particular location is fine, as long as it's only done in the third bedroom. Whatever conditions. There's a fence installed over here because there was a public notice and the neighbor didn't want to see violets. So these are things that you think are generally appropriate, provided someone looks at it and establishes conditions to mitigate the impact.

And then the criteria, 10.4 --

COMMISSIONER CAMPOS: Could I ask a quick question. What's the contemplated appeal to the BCC from the CDRC? Is it going to be a full hearing or is it going to be a hearing just on the record, just review the record of the CDRC? Are we going to have witnesses all over again, repeating what they said before?

MR. GRICE: I thought it was just going to be the appeal of the record. We can look. It's hear. I just haven't gotten to it yet. We'll get there. One suggestion, in preparation for this meeting, I got up this morning and went through the document to refresh my memory and see if something jumped out at me and one thing that jumped out at me, I would delete criteria E, which is the proposed use shall be consistent with the purposes of the Code, Growth Management Plan, statutes and will support rather than interfere with the uses permitted outright in the district and if the use is permitted outright in another district there must be a substantial reason for locating it.

I think that language is better applied to deciding where we put the use or the use table under a use determination procedure that I'm going to write. So I would take that one out. Secondly, I would take F, Parcel size, and I would copy it over to the special use criteria in Section 10.11.4, so that they have the same criteria. They have the same criteria. The difference is the process. The difference is the statement of purpose. The statement of purpose is conditional uses are uses that are deemed appropriate subject to conditions, and special uses that may or may not be appropriate, that the Board can deny based on its circumstances. But the criteria are still basically the same criteria. Issues that affect the environment, compatibility, external impacts, infrastructure impacts, parcel size, is it a big enough parcel?

Let me give you an example of parcel size. In some cases, for example you might have a minimum lot area of five acres in the Basin District, or 2.5. You might have a parcel size of 2.5 acres, but some conditional uses or special uses might not be appropriate ever on a 2.5-acre parcel. Like for example, horse racing. You might want to have a minimum lot area of at least 20 acres, maybe more. Outdoor recreational use, like those places they rent go-carts. You see what I mean? There are uses -- arena. There's some uses that might need a parcel size. That's

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what that's about.

I think I've handled these two together. Do you have any comments on either one of those? They're both appealable. The conditional uses are appealable through the Board of County Commissioners. The Board of County Commissioners' decisions are appealable through the courts. And that's what it says at 10.11.7, under Special Use Permits. That one ends with a little different conclusion. Their decisions are not appealable to anybody but the courts. Any comments about those?

CHAIRMAN SULLIVAN: What's the difference between special use permit?

MR. GRICE: It's in the purpose statement. The special use says it allows the Board of County Commissioners discretionary approval of uses with a unique or widely varying operating characteristics, neighborhood compatibility issues, or unusual site development features. The conditional use says these are uses that allow for CDRC conditional approval of unique and widely varying operating characteristics or unusual site features.

CHAIRMAN SULLIVAN: It says the same thing.

MR. GRICE: It says the same thing. I need to add to that language that allows - I'm going to change that. That needs to say that are generally -- correct me if you think I'm wrong, but generally deemed appropriate, subject to establishment of an appropriate set of conditions.

CHAIRMAN SULLIVAN: Because here's the one we get most often. Where would this come? Most often request we get is to put a second trailer or a third trailer or a fourth trailer on the lot that doesn't meet any of the criteria in terms of family transfers or whatever, lot size or solid waste or liquid waste disposal or anything. And so frequently they're granted because of hardship cases. Someone in the family is ill. They want to move the in-law or someone into the area. So we give them a condition for a certain number of years. With the condition that it's only for x-years, and that might be two or three or whatever the number is, and it's only while that individual is ill. So documented, they must reapply to the Land Use Administrator to continue what we have called a variance. So that's the one we get most often. Where would that come? Would that come under conditional? Or would that come under the special use.

MR. GRICE: I would say it comes under the one we haven't talked about yet -- temporary. It's a temporary use provision. A temporary use provision -- it either comes under temporary, Mr. Chair, or it comes under family compound. Family compound would be a classification of use that we'll specify which zoned districts will allow it and we'll define it and it will be multiple dwellings on a single lot without a time limit. Most of the dwellings on a single lot with time limit can be approved with a temporary use permit by the Administrator subject to some criteria which includes specific time frames.

CHAIRMAN SULLIVAN: Okay. So that could be, temporary use permit could be approved by the Administrator. A special or a conditional permit has to be approved by the CDRC.

MR. GRICE: Conditional is approved by the CDRC, special is approved by the BCC after approval or recommendation by the CDRC.

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CHAIRMAN SULLIVAN: Okay, so the special is a more complex one.

MR. GRICE: It's one that we're going to look at. I think that's one that the Board of County Commissioners, like mining.

CHAIRMAN SULLIVAN: Obviously.

MR. GRICE: I think mining is a use that we -- instead of having a whole general procedure, I think there's a mining -- well, rather than a special procedure just for mining, what we want to do is we want to take all your potential land uses and put them in one of these procedures and not have special procedures just for one thing. I think you have a home occupation procedure right now.

CHAIRMAN SULLIVAN: And are these limited to one lot or can these conditional and special use permits be requested for an entire subdivision?

MR. GRICE: There's nothing that says that multiple property owners couldn't come together and apply for --

CHAIRMAN SULLIVAN: I was thinking of a developer who has been approved --

MR. GRICE: A developer could apply for a subdivision and a conditional use permit simultaneously. There is, back in that common procedure, there's language that authorizes the consolidation of applications, so that you, the Board of County Commissioners have a public hearing and it would be on a major subdivision, preliminary plat, special use permit. With a special use permit.

CHAIRMAN SULLIVAN: Well, we don't have to worry about Section 10.12, we don't have any floods.

MR. GRICE: You might today. I think I've just taken your existing language and incorporated that. Here's the temporary use permit, 10.13. Notice that it requires, 10.13.3 a time limit. There has to be an absolute time limit established. But it's approved administratively. It won't have to be a variance. Any comment about that?

Written interpretations. In response to a comment that staff made to me about the appeals, over in the appeals section, the staff wanted me to add some language that said that an appeal, and someone has to specify the section they are appealing. I added language here about this written interpretation. The request shall consist of specific statements of fact. I think it should say statement of facts and questions, specifying the sections of the Code that is the subject for the request and the cause for the interpretation. Commissioner Campos, if I could just anticipate your comment. I think the person you appoint as Administrator, you wouldn't appoint that person as Administrator unless you thought they were going to try to administer the Code as written and as intended. That is the nature, that is the way the Administrator administers the Code. But there are times when something we have written isn't crystal clear and there should be a process where the applicant who asks a question -- when I was a planning director I used to have applicants come and say, Well, they'd ask me a question and then they'd say, Well, put that in writing. Well, I didn't want to put it in writing until they put their question in writing. Because sometimes your answer is directly a response to the question. If you just have the answer without the question, there's not a connection. So this requires that,

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there's a procedure for them to ask the question and for you to give a written response. And then appeal to you.

COMMISSIONER CAMPOS: I understand what you're saying, but there's two different problems here. There's minor interpretations and major interpretations. I am only concerned about major policy interpretation. That's legislative. You're getting into the legislative realm and I think there's some problems delegating that authority. So I would ask legal to maybe think about this a little bit, and Land Use staff. Because if there's a major interpretation, it's legislative. Minor, yes. I understand that. A lot of things aren't really crystal clear and they do need to be interpreted administratively. I think the Administrator should do that, but if it's a major interpretation, policy implications, legislation, that's a whole different thing.

MR. GRICE: May I suggest a solution? As under authority, it would be simplest to just add the word minor. But I do want to add the word minor. What I want to do is in addition, add a commentary box and later on we'll define commentaries as non-regulatory and we're going to say this commentary box is essentially advice to the Administrator. If this appears to be a major policy decision, this is not within your purview and should be referred -- if it's a major policy decision it should really probably be a Code amendment.

COMMISSIONER CAMPOS: Probably.

MR. GRICE: And I think it would be appropriate to say major policy decisions should be processed as Code amendment applications pursuant and incorporate the reference.

COMMISSIONER CAMPOS: I would agree.

MR. GRICE: Would that satisfy your concern?

COMMISSIONER CAMPOS: Well, I'd like to have these thoughts at our next meeting. I'm concerned about it. It seems like that's a good idea, but I'm not sure. I'd like to see some more thinking on it.

MR. GRICE: We'll draft something.

CHAIRMAN SULLIVAN: A question on the appeals at the end of that page. Why would the appeals only be made to the CDRC? There may be some place in the process where you're already beyond CDRC decision making.

MR. GRICE: Mr. Chair, the answer is the only reason that it is is because they all are. All appeals, in fact in your existing Code, administrative appeal all go to the CDRC. So I just did the same as that.

COMMISSIONER CAMPOS: Is that a final decision by the CDRC?

MR. GRICE: No, the CDRC's decisions can be appealed to the Board of County Commissioners.

CHAIRMAN SULLIVAN: But it may be, just going to get an example here.

MR. GRICE: Commissioner Campos, I may have misspoken. Yes, all appeals are based on final decisions. Any appeal has to be based on a final decision of whoever it was delegated to.

CHAIRMAN SULLIVAN: Suppose we have an appeal on, suppose we have a decision, an interpretation of the Code by the Administrator or by whomever regarding

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rezoning. Rezoning don't even go to the CDRC. Or suppose you have a written interpretation requested in the final plat stage. The final plats don't go back to the CDRC. So the appropriate place there would be that the appeal would go to the BCC. Suppose you had a written interpretation regarding a variance. Variances don't go to the CDRC. They go to the Board of Adjustment. Maybe you need to say the appropriate approving body or something like that.

MR. GRICE: I guess I -- these are written interpretations of the text of the Code. These aren't interpretations relative to rezoning or a variance.

CHAIRMAN SULLIVAN: They might be. We might get into an issue of interpretation of a part of the Code. Someone's got to give us a written opinion on that. We usually get it from the Land Use Administrator. He consults with the attorney if necessary. He presents it to us and we make a decision based on it. Maybe it's something that's not even in the CDRC's chain of command.

MR. GRICE: You routinely, as the Board of County Commissioners review applications for compliance with standards. You look at an application that's submitted a landscaping plan and decide that it complies or does not comply. That's not the same as a written interpretation. That's your determination of compliance with the standards. I think there's always some level of discretion in determining whether an application complies with the standards. This is a different thing. Every Administrator that I know of has people come and ask him to put that in writing. Why do you think that? You have an outdoor lighting standard that says that the lighting has to be directed downwards toward a surface and this person wants to aim towards a surface, towards a roof soffit. That's not what it's about. It's not its intent. It's inconsistent with the language. It's not toward a surface. He says no. That's an appealable item to you but things that come to you routinely, I wouldn't expect that a written interpretation would be combined, consolidated with a subdivision or a special use or a conditional use. Those are just things you're going to look at decide whether it complies with standards or not. So you do make an interpretation in a way.

CHAIRMAN SULLIVAN: Well, let me give you another example. I don't want to prolong this but let's suppose that the applicant thinks it's a summary subdivision and the Land Use Administrator says it's not a summary subdivision, it's a major subdivision. Okay, the Land Use Administrator has to give him a written interpretation of the Code. And he disagrees with that. Where does he go? According to this, he goes to the CDRC, but major subdivisions go to the BCC.

MR. GRICE: Maybe I'm missing something.

CHAIRMAN SULLIVAN: He has to decide. When someone comes in, whether a subdivision or a summary subdivision or a major subdivision.

MR. GRICE: That's not a good example because that's a black and white issue.

CHAIRMAN SULLIVAN: It is not a black and white issue. You'd be surprised what they contend with.

MR. ABEYTA: Mr. Chair, I understand what you're saying. The procedure now is every decision gets appealed to the CDRC whether or not the CDRC has final authority on that type of application. But their decision, and I assume it will be the same in the new

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Code, if the Administrator didn't agree with the CDRC's decision still, the Administrator can appeal up to the Board of County Commissioners to take the position that, well, the CDRC, the decision is in their purview or since they don't have final approval, we should be allowed to appeal to the Board of County Commissioners. So if we don't agree with the CDRC decision, we can appeal it up to the Board of County Commissioners.

CHAIRMAN SULLIVAN: Well, the way it's written here is that's the end of the line.

MR. ABEYTA: The CDRC is never the end of the line on appeals.

CHAIRMAN SULLIVAN: That's what it is here.

MR. ABEYTA: Because their decision can always be appealed to the Board of County Commissioners. Maybe it should say appeal to BCC if they choose to do so.

CHAIRMAN SULLIVAN: Okay, well --

MS. ELLIS-GREEN: I think what this does is this talks about where your first line of appeal is. So here it says your first line of appeal is to go to the CDRC. But when you move forward to 10.19, you've got an appeal to the CDRC's decision, so any decision then that the CDRC makes, then the appeal goes to the Board of County Commissioners.

CHAIRMAN SULLIVAN: By the staff as well as the --

MS. ELLIS-GREEN: By the applicant, by the staff, by neighbors.

CHAIRMAN SULLIVAN: Okay. Let's move on.

MR. GRICE: Okay. Variances. I think we should look at variances, which is 10.16 and 10.17, Administrative adjustments, in the same light. We're suggesting that they can have the same criteria. If you look at 10.16, variances, remember are physical -- somewhere back earlier we talked about, there was a list of things, that what is a variance? Actually, I had written a note to delete all of that and incorporate by reference to here because this describes in much more detail what the variance is about. It's purpose is described here and the review criteria, the variance criteria requires a specific set of findings, page 10-40. These criteria are very good. They come from the EZA Board of Adjustments. And they're very, very good. These are the same criteria for both. The only difference between the two is there's some debate between the staff and the consultant about whether the administrative adjustment should be five percent or ten percent. So these are, again, these are physical hardships and the administrative adjustment is a minor adjustment that can be approved by the staff.

Today you have situations where, some situations, occasionally, where someone wants a six-inch variance of a height limit because of some topographic restraint. They need a piece of their building to be six inches higher. This would allow that to be approved administratively. It wouldn't have to go before the Board of Adjustments. So now we're taking the load off the Board of Adjustment with that special administrative adjustment criteria. But you see, Mr. Chair, the criteria is quite extensive for findings, for granting a variance.

Shall we review those findings?

CHAIRMAN SULLIVAN: That's what we have now. Those are the same ten we have now, aren't they?

MR. ABEYTA: In the EZO, but County Code is silent when it comes to -- it

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doesn't have criteria.

CHAIRMAN SULLIVAN: Okay. They're EZO. Okay. They always just gloss over them anyway.

MR. GRICE: So we're still negotiating about whether the variance criteria should be five, ten or twenty percent. My thought, I was trying to be with the administrative adjustment, should be five, ten, or twenty percent. My thought is that the criteria is exactly the same, and Roman went on to say in his commentary, which says administrative adjustment should not be approved in every case. Rather the Administrator should strictly limit approvals to those situations that clearly satisfy all the criteria for a variance.

So the legitimate concern of the staff was that they would result in changing to the standard from one height limit to another, automatically ten or twenty percent higher and they would be just helpless to say no to anybody. Well, by giving it a better set of criteria, which I did by incorporating the variance criteria, perhaps we can go higher. But staff's position is that it should be five percent, for the record.

CHAIRMAN SULLIVAN: We'll let you arm-wrestle that out with --

MR. GRICE: We'll leave that. That's fine. You might start with five percent and when you find it's working, you might increase it. If you find it's not working you might eliminate it. That's a decision that will come later.

CHAIRMAN SULLIVAN: The difference being that a variance is granted by the Board of Adjustment, and an administrative adjustment is granted by the Land Use Administrator.

MR. GRICE: That's right. It's a small one. Okay, then appeals of administrative decisions. This is, the way it is now, appeals of administrative decisions are appealed to the CDRC. 10.18.4, does that sound right? Appeals of administrative decisions go to the CDRC -- oh, I see. So it is right. It's getting late. I'm losing it. So any appeal to the Administrator's decision currently go to the CDRC and they can appeal the CDRC's decision to the Board of County Commissioners. Maybe I put it in the wrong place. There was something Penny asked for which is, I'll show you. It's on the next page or the next -- what she's asking about is 10.19.3.B, Appeals of CDRC and BCC decisions. And it says under submittal requirements, the application shall include a written petition stating grounds. Such petition shall consist of specific statements of fact specifying sections of Code upon which the appeal is based and the cause for appeal. No, it's actually a submittal requirement.

CHAIRMAN SULLIVAN: It looks to me like it's in the other one in B. It's similar language.

MR. GRICE: Oh, it is in both of them. Sometimes it works. Okay, any comments about that?

CHAIRMAN SULLIVAN: Questions on appeals? 10.19.

MR. GRICE: 10.18 and --

COMMISSIONER CAMPOS: What about, I had asked you earlier about the nature of the appeal. Is it going to be heard all over again, etc., by the BCC?

MR. GRICE: No. Let's see. Record. Look at, immediately following the

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receipt of an appeal, the Administrator shall transmit, and the review and the action, public hearing. The public hearing. The consideration of the appeal shall be limited to the specific interpretive language of the Administrator. That's in 10.18.

Let's look at the next one. 10.19 is what you're asking about. 10.19.3.E.1. It says the consideration of the appeal shall be limited to specific interpretive language. Oh, it says the Administrator. That should say the CDRC and or BOA.

COMMISSIONER CAMPOS: Okay. That's a new one.

MR. GRICE: So it's limited to specific interpretive language. We may want to reconsider that phrase. But we'll look at that. I see what you mean.

COMMISSIONER CAMPOS: The other question, the Supreme Court, for example, decides whether it wants to hear a court of appeals decision or not. It may want to, it may not. Maybe look at the file, say this is pretty clear to me. I don't want to consider it. Or they may say, I do want to consider it and then clearly it considers it on the record. Traditionally, here at the BCC, we've heard cases all over again. We have witnesses, we have arguments, we have everything all over again. It takes a lot of time. And I'm just not sure. I think it merits some discussion.

MR. GRICE: Maybe this should -- what you're suggesting is that perhaps this should say, should be limited to consideration of the record.

COMMISSIONER CAMPOS: Limited to review of the record and to discussion of the BCC, or the BCC may decide whether it wants to even consider these.

MR. GRICE: We would preface that under E. We would start out by saying, the Board shall first make a determination of whether it wants to consider the appeal, if they think they appeal has any merit and wants to consider the appeal.

COMMISSIONER CAMPOS: If not, it's the end? The final decision? If it does, does it do it on the record? Do we have live testimony? All of these things.

CHAIRMAN SULLIVAN: It seems kind of hard if you consider an appeal but you don't allow the appellant to speak, and then if you allow the appellant to speak then you have to allow somebody else to speak who has the opposite opinion.

COMMISSIONER CAMPOS: I'm talking about testimony.

CHAIRMAN SULLIVAN: It says during the public hearing, any party may appear in person or by agent or by attorney. This is under the appeal. Consideration of the appeal shall be limited to specific interpretive language. Because this appeal is assuming a public hearing. Gerald, do you have some thoughts on this?

Mr. Gonzalez explained the difference between an appeal on the record, where the evidence is review and there is argument on the legal issues, which is more efficient than an appeal de novo where all the parties appeal and "have at it."

CHAIRMAN SULLIVAN: When you say on the basis of the legal arguments that are made, does that mean in a record appeal, some attorneys or somebody --

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Mr. Gonzalez stated the attorneys could indicate the reasons they think the record supports their point of view, while the other side would say, No, we think the record supports the opposite.

CHAIRMAN SULLIVAN: So each side gets a representative, but it's not a public hearing where the public is able to come up and rediscuss the matter. That's what you consider a record appeal. And what's -- what if one of the Commissioners were to say, well, I have a question for Mr. So and So, the Hydrologist or the expert that they had.

MR. GONZALEZ: In a record appeal, you would not be able to do that.

CHAIRMAN SULLIVAN: Okay, so only -- no one else could speak other than one representative from each party.

MR. GONZALEZ: That's correct.

CHAIRMAN SULLIVAN: So we could decide if that's what we want or not. And staff could make a recommendation also to us whether this should be a record appeal or a de novo appeal. Well, it's something to consider. I don't know if we have to decide today but I see where you're going. The way it reads right now is that we're going to have another public hearing.

MR. GRICE: All right. The last section, I hope this is right with the staff. Legal staff wanted 10.20. Any person aggrieved by a decision of the Board of County Commissioners pursuant to this article may appeal to District Court -- should I put District Court in there? -- in accordance with the requirements of statute, because there are some varieties.

The last two sections, I think they're the last two, Community planning and TDRs. Well, I tell you, they were very hard to write, because both of them had procedures and standards and sufficient requirements all intertwined. We just tried to separate out the submission requirements from the standards and leave just the procedures in both of these sections. And I don't believe that I've changed anything of substance. But I don't think the staff has actually reviewed that as adequately as perhaps they want.

COMMISSIONER MONTOYA: Mr. Chair, on 10.21.3, that should say traditional, right?

MR. GRICE: 10.21.3 should say traditional. Do you have any comments on 10.21? Any of you look at it?

COMMISSIONER MONTOYA: Mr. Chair, Roman, have you looked on this piece yet on the traditional community?

MR. ABEYTA: Mr. Chair, Commissioner Montoya, yes, and the language tracks exactly like the traditional or like the Community Planning Ordinance that the Board adopted that we follow now. So we didn't make any changes to what's in the existing ordinance right now. All we did is we pulled out the procedures portion of that ordinance and put it in here because this is where it would be applicable as far as the Code is concerned. And we did the same thing with the TDR. We didn't change anything about the TDR Ordinance. We just pulled the procedure section and put it in here.

MR. GRICE: The TDR is even more complicated. It has procedures, I found

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procedures, standards and submission requirements sometimes in the same sentence. But it's quite lean if you look at it now. It's just procedure. But that stuff isn't going to be lost. Those standards are going to be over here in the development standards. Oh, I see. They're actually sending and receiving overlay zone districts. That's where those standards go. And what I mean, these standards for your receiving areas are actually, we studied them and concluded that they were essentially rezoning. They were overlay zone districts. And overlays -- there's two different kinds of districts. There's base districts that prescribe all these uses, the base uses that are allowed in the district. Overlays simply modify the zoning that's underneath. These would be applied over existing districts.

That will be our next task. I learned a lot. I learned how to work with you better today. Next time, I'll give you a cover memo that will summarize the changes, but I won't go through it until I get here. I'll let you read the cover memo.

COMMISSIONER CAMPOS: We want to go through it.

MR. GRICE: You guys were champing at the bit to look at the sections.

CHAIRMAN SULLIVAN: Where do we address corridor plans? Is that called an overlay district? IT doesn't come under community planning. We're calling these corridor districts that we're doing, like 285, Tesuque, I mean Arroyo Seco, 285, Eldorado, we're calling those community plans and they have community groups. But we seem to be giving them some definition that they're a little different as a result of being a corridor plan than they are as a community plan.

COMMISSIONER DURAN: The 285 Corridor Plan was --

CHAIRMAN SULLIVAN: Arroyo Seco is the same way.

COMMISSIONER DURAN: For the corridor. Same way?

CHAIRMAN SULLIVAN: My question is --

MR. ABEYTA: The plans themselves in that process doesn't come under the County Code. What comes under the County Code is the ordinance that follows that plan. Because the plan doesn't set out standards or regulations.

CHAIRMAN SULLIVAN: I think that's what we need. That's what I'm saying is that I think a corridor plan --

MR. ABEYTA: Once the corridor plan is adopted, then when we draft the ordinance, the ordinance would go into one of these sections and it would be Article, like Penny said, it would become an overlay district, once you have an ordinance.

CHAIRMAN SULLIVAN: Right. But we don't have any procedures. I haven't been able to find procedures for a corridor plan in our Code that tell the staff or the public what to expect when we say we're going to have a corridor plan. We do a traditional community plan or a contemporary community plan and we don't have anything for a corridor plan. I think if we're going to spend all that time and effort and community expectation, we need to define what a corridor plan is, who initiates it, who participated in it, what the rules are. Because, you know, I've had questions like, under community plan we require a survey of the people as to what the issues are. Under a corridor plan we don't require a survey. Why is that? I don't know. It's a part of Section 10.21, it's a part of community planning. How do you do a

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corridor plan?

MS. ELLIS-GREEN: Once you've complied with all the community planning you then go into Article IV, if you look on the Table of Contents. That's where you get La Cienega, Tesuque, Madrid, all of those listed. So maybe we're looking at highway corridor plans like 285 and Arroyo Seco coming under Article IV instead of Article VI. But we'll look at that. If it changes the basics, then it does come under Article IV.

CHAIRMAN SULLIVAN: But in some cases we're doing a corridor plan before there is a base district.

MR. ABEYTA: We need to go back and we need to look at the Growth Management Plan itself and see what that -- I hear what you're saying. What gives us authority to do a corridor plan?

CHAIRMAN SULLIVAN: Who does a corridor plan? Is it BCC? Or is it staff? What's the criteria?

MR. ABEYTA: And maybe that's a discussion that we have when we bring forward a plan. That's obviously a question the Board would ask.

CHAIRMAN SULLIVAN: I think the public needs to know, when we undertake a corridor plan -- and this came up on 285 also because they said a corridor plan is different. Okay. I understand that. How is it different? What are the differences? Do we have fewer public hearings or more public hearings? It seems to me that they're very similar in nature but if they are different, what are the differences? Commissioner Duran.

COMMISSIONER DURAN: I think the 285 corridor plan was a result of the communities surrounding 285 wanting to plan how development would occur along that corridor. So they called it a corridor plan. They weren't in the middle of -- they didn't want to do a community plan. They wanted to protect the corridor. But it was a result of the communities around the corridor -- it was the communities around the corridor that wanted this plan. The Arroyo Seco people, basically the same. It was a community within the corridor that were upset because of the cell tower, number one. But then there was a lot of spot zoning that took place along there and they needed a corridor plan.

CHAIRMAN SULLIVAN: That's legitimate. That's fine.

COMMISSIONER DURAN: But now, isn't Arroyo Seco doing some kind of contemporary planning?

MR. ABEYTA: They're doing the ordinance now. That's what's before you is the actual ordinance.

COMMISSIONER DURAN: It seems clear to me how all that stuff came about.

CHAIRMAN SULLIVAN: I think it's clear as to how it's maybe historically may have come about. Then the question is once it comes about for other areas --

MR. ABEYTA: What kind of criteria --

CHAIRMAN SULLIVAN: What kind of criteria do we apply?

MR. ABEYTA: I think that's something that we need to discuss because I don't have the answer.

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CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: How, at what point are we going to involve the public comment in this process or have we been? I got a call from Representative King in my district and there are some people that want to comment on Code rewrites and she'd like to comment on it. What is our schedule?

MR. GRICE: You know what would work well, I would think, would be if some of the public wanted to submit written comments in the interim, that would be constructive.

CHAIRMAN SULLIVAN: Didn't you have a website that was part of it?

MR. GRICE: It's on there.

CHAIRMAN SULLIVAN: This is on the web now, right?

MS. ELLIS-GREEN: Mr. Chair, this is on our County website. We've got a mailing list. The initial document first was on and then this was on as well and as we get new documents we put it on the website. I have an e-mail list of I think about 30 or 40 people on my e-mail list and I'm going to do a mailing list of flyers that tell them how they can get this document to about 140 people.

CHAIRMAN SULLIVAN: Then at what point, to answer Commissioner Anaya's question, at what point are public hearings going to be scheduled?

MR. GRICE: There is a text amendment procedure. Your current ordinance procedure on the adoption process -- what I would suggest you do is after you get the document to the point where the decision makers are ready to hold a work session with the public and are ready to take public comment, it's really difficult for the County Commissioners I think to hold such a meeting until you get through what you think about it. Pretty big complicated document.

CHAIRMAN SULLIVAN: But in the interim --

MR. GRICE: They can go ahead and submit written comments. We've already gotten some.

CHAIRMAN SULLIVAN: They're going to get written comments.
Commissioner Duran.

COMMISSIONER DURAN: When we went through the General Plan, it almost got approved without any input from the southern part of the county. So then it went through the process for another 12, 18 months. And it seems to me that --what's wrong with having public comment now on the two sections that we just went through, and get comments from them, rather than go through the whole thing and then have one or two meetings, if that's what we end up doing, getting public input from all of them. What's wrong with now that we've had time to digest this, open it up to the community for them to participate? I don't think this is going to be an overnight process here. I think it's going to take us six to nine more months to get through all this. If we're truly going to allow the community to participate. Which they have the right to.

Speaking from the audience, Ms. Sigstedt noted that it is difficult for the public to absorb and digest the information as presented on the website. Few people are willing to come

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to the meetings without offering comment and the prospect it opened for people on both sides of the issues to appear at the end.

COMMISSIONER DURAN: Maybe what we could do, Mr. Chair, is, honestly, the General Plan took so many hours. We had so many community meetings and we went out to the communities. I think we needed to do that. I think a solution to the problem is maybe an hour of each Commission meeting, the first part of the public hearing portion of the meeting, we start tackling what we have right now. When's the next meeting we have with you?

MR. GRICE: Well, we're not going to set that date yet. We're going to --

COMMISSIONER DURAN: A month? Two months?

MR. GRICE: Probably, my guess is probably 2 1/2.

COMMISSIONER DURAN: So maybe in the next 2 1/2 months we could set an hour aside for each meeting to go over certain sections of this thing because if we had planned it -- I mean I'm tired. We've been here all day. And I couldn't take another two hours of this.

CHAIRMAN SULLIVAN: I think that's a good idea but I think the problem is that if we don't have the consultant here to respond and interact, that makes it difficult for the public.

COMMISSIONER DURAN: Roman could take notes and relay.

CHAIRMAN SULLIVAN: Another possibility is that at the beginning of the next meeting, prior to going in to the next group, we could have a public hearing on the first, on 8 and 9. We could have comments on 8 and 9.

COMMISSIONER DURAN: Before the next meeting we have with the consultant?

CHAIRMAN SULLIVAN: No, as a part -- before we get into the next group of chapters, but as a part of that same meeting. In other words, at our next work session --

COMMISSIONER DURAN: In 2 1/2 months or so.

CHAIRMAN SULLIVAN: Yes. In 2 1/2 months. Set aside the first hour or whatever it takes, to let the public comment on 8 and 9. They'll have had a chance to see the new mark-up. It will be on the website and so forth. Go through comments, make responses. I think that will happen fairly quickly and any additional comments will then roll into -- how many sections are you going into next time?

MR. GRICE: There are three modules. The next module consists of all of the zoning districts, Article II through VI.

CHAIRMAN SULLIVAN: I think the alternative is that if anyone can at any time, when the consultant is not here, during Matters from the Public in a Commission meeting can come in and I think if Representative King wants to come in and not sit through the whole meeting like some of our faithful do here, and just make a point. She can certainly come in and Roman can respond to it and she can say whatever her concerns are during the public hearing. Commissioner Anaya.

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COMMISSIONER ANAYA: So how are we getting out to the public that we are doing a Code rewrite other than the Internet?

MS. ELLIS-GREEN: Through mailing lists, e-mail, we had some initial interviews where we contacted, I think we interviewed 48 people, and that was a pretty wide variety of people. Through homeowners associations. Whenever I think of additional people I'm adding them on to our mailing list.

COMMISSIONER ANAYA: It's not through newspaper?

MS. ELLIS-GREEN: We did. Initially we did newspapers. This meeting was advertised in the Journal, the New Mexican, the Rio Grande Sun, the Independent News ??? and Telegraph. So it's been advertised.

COMMISSIONER ANAYA: I guess what I don't want is when we get ready to adopt this we get 100 people here who are going to scream down our throats.

COMMISSIONER DURAN: That's what they're going to do.

COMMISSIONER ANAYA: That's why I want to get out to the public and then notify them and tell them. That way we cover ourselves.

Ms. Sigstedt pointed out that during the adoption of the General Plan there were chaotic attempts at the last minute to push through changes. Earlier opportunities for input could educate the public.

CHAIRMAN SULLIVAN: Commissioner Anaya, is there a venue that might be a good one to set up in Edgewood or wherever with some staff there to have a work session?

COMMISSIONER ANAYA: I think so. First of all, I haven't spoken with the representative. She left me a message but that's one of the first starts. And maybe not just contact that representative but other representatives in the area of Santa Fe County and senators and let them know, just in case they have any questions or concerns. And maybe we need to set up a meeting down in the southern part of Santa Fe County and just open it up. And that way we can say we were down there and we were there to listen to your concerns.

CHAIRMAN SULLIVAN: Again, it would still be only on those first two sections with some general information about here's what the contents would be. But there's plenty to digest just in those two sections. I suspect that the comments are going to be more on the specific issues of the requirements, the acreage requirements and the requirements to exempt rural and this, that and the other thing. I suspect the make-up of the CDRC and some of these things that are pretty important to us because we deal with them every day are probably not of quite so much concern. But nonetheless, if we can organize something.

COMMISSIONER CAMPOS: Mr. Chair, my comment is that I think it would be premature at this point to do that. We're still trying to get some orientation and direction from staff, from our consultant, from a lot of people we've already talked to. From the Commission. Once we have a general notion and write it down, then we go out and get some feedback on it and some discussion. I don't think it's time to do it now. I think we'd be -- staff has plenty to do without having to go down all over the community and have meetings. Right

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now, let's have our discussion. Let's find out where we want to go and just have a preliminary direction and then take it out to the community but let's not waste staff resources too early.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I don't think this is about where we think we want to go; this is about where the community wants us to take them. And we can't do it without them. You can't eat an elephant in one bite and I think this is a reasonable bite right here. We should start talking to them and listening to what they have to say.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: How can we decide on certain things when we don't have all of the input? And I know there's going to be a lot of good input out there and then that just makes it easier for us to come up with, or staff to come up with a plan and then bring it to us and it makes it easier. So I think it would work both ways. We have to include the public at those meetings. To me that's not a waste of time. That is something that staff needs to do.

MR. ABEYTA: Mr. Chair, did you maybe -- because I know it's been a long day, maybe staff can go back, meet with the County Manager and come up with some kind of game plan, some kind of plan to present to you and then get consensus from you. I think we understand your concerns, all of your concerns and we could probably work something out.

CHAIRMAN SULLIVAN: We certainly aren't eliminating public input but we also want that public input to be about the plan that we're considering, I think what Mr. Grice is saying. So the question is at what point do we start opening up that process.

MR. ABEYTA: Well, for example, I think we got good direction on these two sections and I don't know if the Board would be wanting any other changes. I think this is something that we could take out somehow. How we do that, I don't know. That's what we still need to explore, but I couldn't imagine us coming back to you and you guys wanting to make major changes to these two sections that we heard. Maybe it's something that we take out to the public after each module is done, then we establish a process where staff then takes it out and says, Based on the meeting we had with the Commission, these were some of the changes they recommended and what do you recommend. That type of thing. Because I am concerned too, and we saw it with the Arroyo Seco Ordinance and we see it with every ordinance. And I shared this with staff, we don't want to get in a situation where we come with the document to you guys and this room is filled with 100, 150 people and we're sent back to the drawing board on things. So staff is willing to put in the time also to get this done right and to avoid a situation like that from happening if we can.

CHAIRMAN SULLIVAN: Okay, so come on back with a plan and let us know. And obviously, if Representative King has got some ideas for a venue, a 4-H meeting of the council -- I don't think they'd want us to barge into that, but we could certainly find a --

COMMISSIONER MONTOYA: Mr. Chair, what about the LDRCs?

CHAIRMAN SULLIVAN: We don't have one in the southern part of the county.

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COMMISSIONER MONTOYA: I'm just thinking generally.

CHAIRMAN SULLIVAN: In the northern part, yes. Sure, that's good.

MR. ABEYTA: That's a good suggestion. We can start there too and we have maybe one of the planning sessions that we're having at Pojoaque we can provide them updates as we go. Because you're right. There's things that have already been established that we can take advantage of. But again, that's all things that we'll consider if you allow us to go back and talk about it.

COMMISSIONER ANAYA: I think if you contact the key people, the LDRCs, the Road Advisory Committee people. There's Rita Horton down in the southern part of Santa Fe County. If you get them involved, they'll give us their input. Then it makes it a whole lot easier. That's just one example.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: This is the last thing that I'll say today. I promise. Roman, do you think that your staff could kind of go through this document and make the determination as to what parts of it would be applicable to the EZ? So that we might be able to make some recommendation to the EZ to amend the EZO.

MR. ABEYTA: Yes, we can do that.

COMMISSIONER DURAN: It doesn't have to be right away.

MR. ABEYTA: No, but we need to keep that in mind.


COMMISSIONER DURAN: We could have a kind of parallel track. The same kind of concept, rather than trying to get them to approve this humongous document, they have sections that they would consider.

MR. ABEYTA: Yes, we can look at that.

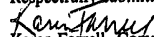
ADJOURNMENT

Chairman Sullivan declared this meeting adjourned at approximately 5:00 p.m.

Approved by:


Board of County Commissioners
Jack Sullivan, Chairman

Respectfully submitted:


Karen Farrell, Commission Reporter

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ATTEST TO:

Rebecca Bustamante

REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK

