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SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

SPECIAL MEETING

October 20, 2004

Paul Campos, Chairman
Michael Anaya
Jack Sullivan
Harry Montoya

Paul Duran - excused

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBER COUNTY ADMINISTRATION BUILDING

SPECIAL MEETING

October 20, 2004 – 1:30 pm

Notice of Special Meeting

Notice is hereby given that the Board of County Commissioners will hold a Study Session to review Module 3 (Development Standards) of the Land Development Code Rewrite on Wednesday October 20, 2004 at 1:30 pm in the Legal Conference Room, Second Floor, 102 Grant Ave., Santa Fe County, Santa Fe, New Mexico.

The Agenda is as Follows:

- I. Call to Order
- II. Roll Call
- III. Approval of Agenda
- IV. Study Session on Module 3 (Development Standards) of the Land Development Code Rewrite - Jim Duncan and Richard Grice
- V. Public Comment on Module 3 of the Land Development Code Rewrite
- VI. Commission Direction to Staff Moderated by Chairman Paul Campos
- VII. Adjournment

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SFC Clerk 12/17/2004

SANTA FE COUNTY
SPECIAL MEETING
BOARD OF COUNTY COMMISSIONERS

October 20, 2004

SFC Clerk 12/17/2004

This special meeting of the Santa Fe Board of County Commissioners was called to order at approximately 1:50 p.m. by Chairman Paul Campos, in the Santa Fe County Legal Conference Room, Santa Fe, New Mexico.

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

Members Present:

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

Members Absent:

Commissioner Paul Duran

III. Approval of the Agenda

Upon motion by Commissioner Montoya and second by Commissioner Sullivan, the motion was unanimously approved. Commissioner Anaya was not present for this action.

IV. Study Session on Module 3 (Development Standards) of the Land Development Code Rewrite - Jim Duncan and Richard Grice

RICHARD GRICE: I will summarize for you and say that Module 3 consists of Article 7, which are the General Development Standards. The important thing to know about general development standards is that these are standards that apply to all developments all over the county except as otherwise specified in the document. The subdivision standards are the standards that apply to subdivisions. That is the part in Article 8. The other parts of this module are Article 11, 12 and 13. Eleven is Non-conformities, 12 is Violations, Penalties and Enforcement, and 13 is Definitions.

In view of the time, I would suggest we go back to where we were at the last meeting.

We went all the way through water supply. However we did lose a quorum as I recall in the midst of water supply and I'm not sure exactly where we lost that quorum.

PENNY ELLIS-GREEN (Planner): Subsequent to that we've had a meeting with some hydrologists and Steve Wust and I have actually made some changes to the water supply section. So that may be the best place to start today. [Exhibit 1]

Other than on the table we were missing some sections so we added fire protection and water quality on the first page here. The next change is really under the water rights permits, and that's where we're trying to clarify when you need a valid water right, when you need what we were terming a water permit. Page 207, B.3. What it's stating here, again, trying to clarify is that you need proof of a valid water right sufficient in quantity to meet the maximum annual water requirements of the proposed subdivision and the Board shall not approve the final plat or final site development plan unless the State Engineer has issued a water permit. I now think that there's going to be different language than a water permit. It sounds like what we're trying to get at there is we have to get the water rights transferred for your division and approved by the State Engineer's Office by the time you come in for final plat. You get your water rights transferred to the point where you can actually use it from for your subdivision at final plat, before you submit for final plat.

COMMISSIONER SULLIVAN: First of all, this says, 7.7, Water Supply. What was handed out to us, my 7.7 says Liquid Waste Disposal.

MR. GRICE: That's because we added a new article somewhere. We added something.

COMMISSIONER SULLIVAN: What comes after Section 7.6? Mine says Water Supply. His says Section 7.7 is water supply.

MR. GRICE: May I suggest, it could be -

COMMISSIONER MONTROYA: The corrections are already made in here.

COMMISSIONER SULLIVAN: So this is not 7.7, it's 7.6?

MS. ELLIS-GREEN: Yes, unless a section was moved around, but I don't think it has been. So we'll just assume that this will amend the 7.6 in here.

MR. GRICE: Just worry about the text as opposed to the numbering. What might have happened - we'd have to do some research to figure it out, but what might have happened is there might be a 7.6 now with nothing in it. This will renumber automatically.

COMMISSIONER SULLIVAN: All I wanted to clarify is what was handed out for this meeting, Section 7.6 is what we're now talking about.

MR. GRICE: Correct.

COMMISSIONER SULLIVAN: Even though it says 7.7. Okay. Then just another quick comment, and the comment you made, Penny, about water rights being transferred prior to plat approval, I think you need some further clarification there because our requirement is that if the applicant demonstrates water availability at the master plan stage, and while it's not necessary they transfer the water right per se, because they might change their mind and maybe they won't get approved. They do need to go through the State Engineer process of public hearings to determine if there's impairment and to determine if they have

sufficient water rights. Because the water rights may be from the Galisteo Basin or they be from Socorro or they may be from T or C.

So we need to have at the master plan stage, not necessarily the physical movement of the water rights and the final application, but we need to have the public process that goes with the State Engineer's approval or modeling or whatever technical review they deem necessary to say, Okay, this 100 acre-feet of water rights you have can transfer to 50 acre-feet of water rights, or whatever it is. So we have the confidence that a) they own enough water rights, and b) there's no impairment. That's the key point about saying what is available water. Available water in my assessment means available to drink.

CHAIRMAN CAMPOS: Are you talking about B. 3?

COMMISSIONER SULLIVAN: I'm talking about, yes, B.3. The section where she said that they have valid water prior to final plat approval. And I think we have to know more than that they have water rights. We need to know they have sufficient amount of water rights, a), and b) that according to the State Engineer's Office those water rights don't impair other prior users in the area. That's their determination.

COMMISSIONER MONTOYA: That's something that they would determine.

COMMISSIONER SULLIVAN: And we should have that determination before we move forward with the project.

MR. GRICE: I think what you described is the basics for the first step of the subdivision process. Because conceptual plan review -

MS. ELLIS-GREEN: This is in a different article. It's in module 1, which had the same wording as the ordinance change that we have, that you have to provide sufficient water for your first sustainable phase. The problem has been that the State Engineer won't tell us that information until you've actually made the application to transfer the water rights and you've gone through the whole process. And then when they have been transferred, that's when the State Engineer will tell us that, yes, they can be transferred. They have been transferred -

COMMISSIONER SULLIVAN: Well, assuming they're going to go forward with the process and they can complete the process - if the project for some reason doesn't go forward they can always transfer them back to somewhere else if they want to build a new project. I think the bottom line is that somehow, we have to be able to be responsible enough to the public to say that a) this project has adequate water rights and those water rights do not impair someone else.

MS. ELLIS-GREEN: What we have been doing because of this and when we looked at the minutes for when that ordinance was approved is that we've been sent a conceptual plan that shows the water rights where they are now and that we get a determination that they're in good standing with the State Engineer and that they have the ability to be transferred, so they're not coming from a critical basin or somewhere else where you can't transfer water rights. But then you also do your water availability, your pump tests, at the master plan level.

COMMISSIONER SULLIVAN: And that sounds good, Mr. Chair, but how do you resolve the problem where you have a room full of people at the master plan who are

saying, They're going to drain my well dry. And we still haven't - it was the intent of that ordinance all along to satisfy that at the master plan level. And unless we have a clean bill of health from the State Engineer I'm not sure how we can do that.

STEPHEN WUST (County Hydrologist): Mr. Chair, Commissioner Sullivan, part of it is looking at this, trying to balance the ability of the developer to move forward on planning and design but not construction without having to wait for the two-year process for water rights. The question had come up in public comment about transferring some multiple number of water rights and then having the County in permit process say at the master plan level you only get half of that anyway and they've transferred a lot more than they needed, or less than they needed, depending on the situation. So if my understanding is correct that water rights are required for basically the design phase. Nothing's actually been constructed, therefore no water has been used and it's only at that stage, preliminary design, final development plat, that they're actually going to build something and start using that water that this very issue comes into play. Will they impair people? And if the State Engineer denies it at that point then they can't move ahead on anything. The first stage of master plan and moving ahead is basically design, not building

COMMISSIONER SULLIVAN: But see, then it's too late. At final plat, they've been through all of the approval phases. There's no ability on the part of the County Commission to reject the plan. And also at that stage, then you get into legal arguments of Gee, you've approved us all the way through here. We've spent a great deal of money. Now you're stopping our project, and Bam, we're in court.

MS. ELLIS-GREEN: I would recommend actually we change that to preliminary and that they have to do it before they make application for preliminary. Preliminary plat or preliminary development plan is when we get all of the bulk of the information.

MR. GRICE: I would do that because the Code requires, the new Code requires submittal of plans for an entire property, an entire contiguous ownership. It's conceptual and preliminary. Then they file plat in phases.

COMMISSIONER SULLIVAN: The ordinance only requires that they have adequate water rights for the first phase.

MS. ELLIS-GREEN: Preliminary of the phase.

COMMISSIONER SULLIVAN: We only require that they have adequate water for -

MR. GRICE: No, there would just be one. It would just be one phase. One preliminary of the entire ownership that is filed, platted in phases. I can go back to what you're asking, Commissioner Sullivan, is under - if it's conceptual phase, the submittal requirement, the very first step - what you're asking for is how do you answer the public when they're here, the room is packed and they're saying this is going to adversely affect my water. And the very first submittal has the following words: The water supply that is sufficient in terms of quality, quantity and dependability to serve the development or the first sustainable phase.

To answer the question in terms of quality, quantity and dependability, they'd have to

have water rights, they'd have to prove wet water, but it doesn't get transferred.

COMMISSIONER SULLIVAN: That omits a critical criterion which is impairment of existing uses. That's what people crowd the room about. Not that you're going to drill a well and it's 1500 feet deep but if it's going to dry up my well.

MR. GRICE: If they have the water rights to do that.

COMMISSIONER SULLIVAN: They don't have the water rights until they transfer and until the State Engineer has determined that that transfer doesn't impair an existing user, a prior user, because a prior user has a prior right. That's what we rely on the State Engineer's Office to do. So, it's got to be at some point in the process that the public can be assured early on before everyone spends a lot of money, including by the way, the staff. Our own staff, we spend hundreds and hundreds of man-hours reviewing these projects and if they're not viable and they don't have good wet water, we shouldn't waste the time with them, quite frankly. We're limited in staff.

DR. WUST: Mr. Chair, Commissioner Sullivan, County water availability requirements, you look at that somewhat in that part of the testing includes computer modeling of draw-down due to the effects of wells. But you're correct. We don't translate that to impairment because there's a whole other set of criteria the State Engineer uses that contemplates impairment. In fact if there's any draw-down, it's not necessarily impairment. It's got to do with - we don't address the impairment issue. We do look at draw-down due to the effects of that well.

COMMISSIONER SULLIVAN: So, Penny's suggestion is that we go ahead and approve a master plan and wait until the preliminary. Now, the problem with that is, and hopefully we'll correct it, is that 99 percent of the time, depending on the size of the development, preliminary and final comes in at the same time to get around what a preliminary should really be which is the first broad brush sketch of this without spending a lot of money and so forth and looking and focusing on the preliminary, then go through preliminary and final. And I don't think we have it but we really ought to have criteria that says preliminary for so many lots and above or whatever the cut-off criteria is, you must have a preliminary and then you must have a final. For smaller projects you can compress and combine preliminary and final. We have it all the time for small commercial developments and things so you don't have to go through the process twice.

But large, substantial projects that have a lot of community impact, they should be separate. So they go through all the final drawings and come in at preliminary and final together -

[Commissioner Anaya joined the proceedings.]

MS. ELLIS-GREEN: The latest iteration of the first module, Article 10, actually states the final plat won't be considered unless the preliminary plat has been approved. So you can't make application together. Now, there has been a debate about taking that out and a question about taking that out. Maybe we could take out the smaller subdivision and leave in the larger subdivisions. If you're doing a large subdivision there will be questions brought up about taking that out so we could use it together.

MR. CATANACH: I would want to clarify that preliminary and final is done through the recommending committees, the EZC or CDRC, the applicant makes a request for a preliminary plat development plan and then they come back and request final. So preliminary and final is done through the recommending committees. Otherwise you're looking at four public hearings. You're looking at a preliminary by CDRC and you're looking at a preliminary by the Board and then it goes back to the EZC and the CDRC for final, then it goes back to the Board, that would take a four-step process. I did want to clarify though and the point I'm making is preliminary and final is done separately through the recommending committees.

By the time they come to the Board, all the issues of water rights and access permits and things like that should be in place.

COMMISSIONER SULLIVAN: But the applicant makes the submittal as preliminary and final. The only time it gets separated is if one of the recommending boards separates them.

MR. CATANACH: Or staff.

COMMISSIONER SULLIVAN: And staff. But in my years of experience, I've seen that happen twice, maybe three times at the most. They almost always sail through. And how we deal with that is we put voluminous conditions on them - 20, 30, 40 conditions on them, because the final isn't done. The final's not right. It's not finished. We all will do that at the end. We'll do that then and I think we put a lot of policy issues onto the staff which should be resolved at the elected officials' point. That's my point on preliminary and final. How do we get something that answers the questions that they do have water rights and they have water availability and it won't impair. When we get into the master plan, when the majority of the people attend the meetings and they're all riled up about the project, rightfully or wrongfully, what do we have to answer that question?

DR. WUST: Mr. Chair, Commissioner Sullivan, that's one of availability, that's done through the County. The methodology, and that's already required by the master plan. But you're correct. There's nothing at the master plan level that requires a demonstration that the State Engineer is going to let them go ahead with the number of water rights that they want to transfer, nor has the impairment question been answered because again, that's a State Engineer issue. We address the question of draw-down but at the master plan level you're correct. Those are separated.

COMMISSIONER SULLIVAN: You can determine, you can answer the question, like for example, one that came up the other night, the question was physically, they don't have water. Physically, they only had, whatever it was, five gallons a minute or something and that's not enough for the subdivision. So we answered that question through the water availability. We didn't answer the question would that impair others who are nearby who have permitted wells and were there in the first place. Can you do that? Is it reasonable to do that at the master plan phase?

MR. GRICE: Well, we changed the master plan to be a little less significant than it used to be. It's now called a conceptual plan. We changed the name and changed the meaning of it so that we could diminish the submittal requirement, the level of detail that's

required for the submittal of a conceptual plan.

COMMISSIONER SULLIVAN: The preliminary plan kind of becomes the master plan? Is that the way we're doing it?

MR. GRICE: Right, in a way, yes. The preliminary plan -- Penny reminds me of when property rights vest, but I don't think it's reasonable for an applicant to finally approve his water supply at the first phase of his development, first phase of subdivision for the entire subdivision. Penny, I think she's persuaded me --

COMMISSIONER SULLIVAN: Those hundred residents, we've got to have some answer for them. They say, My well's going dry. You have no response. You have no studies. You have no tests. You have no modeling. You have nothing to respond to the constituents who say, They're going to ruin my well. How come you're approving this? It seems to me we ought to have something that says more than just, Yes, there is water there. I know there's water there because I've got a well. But it's my water; it's not their water.

MR. GRICE: The situation you describe is a very serious one when people's wells all around are going down. Maybe it isn't unreasonable to require a demonstration up front.

JUDY MCGOWAN (Senior Planner): I think you have a point there because making them prove all that at the master plan, or what's now known as the concept plan, what if you change their concept plan for them? You don't have to approve what they propose. In fact, you can tell them, No, go back and do six other things. And they will have gone through the process. Does that mean they have to go back through the process? At what point, what level of information will [inaudible] What do you have to submit to the State Engineer?

COMMISSIONER SULLIVAN: What it is it's a combination of residential and commercial and they switch around the residential and commercial like Thornburg did. Thornburg came back and said We're going to halve the commercial and double the residential, almost, and it uses the same amount of water. So they made a massive, substantive change in their submittal and it didn't change the water one acre-foot, according to them. And I believe the staff agrees with that. So I don't see -- I think they get x-amount of water rights approved, they're going to keep their development focused around x-amount of water whether they tinker with it one way or the other. Again, bear in mind that we're only saying that it's required for the first phase. Only the first phase. So the entire concept of the plan can change. The Commission can make changes to it, which they rarely do. But the first phase, they've got to settle down on their first phase and move forward.

MR. GRICE: One thing I'd recommend, just to try to respond, putting it into very simplistic terms, in terms of other jurisdictions that I've worked with, a very small subdivision where someone's going to rely upon groundwater. They're going to drill a well. Typically, what happens in other places is the decision makers have exactly the same -- there's no water. There's no well. There's no water at all. They start with exactly the same situation. They have no reason to believe there's any water. They'll approve the conceptual step in the process just simply based on the applicant's representing that I'm going to drill a well, I'm going to acquire water rights, and I'm going to demonstrate that it's not going to adversely

affect properties around.

At the second phase, you might require proof of wet water. You actually drill a wet well and come up with a well pump test that shows what the water is, hydrologic studies that show what the effect would be on the surrounding areas. At final plat he actually has to finalize not just that test well but he has to put in his pump equipment and his storage tank and purchase the water rights to execute that plan. I really doubt what you describe is going to answer your constituents' situation.

CHAIRMAN CAMPOS: But it sounds like a logical way of doing business. Let me ask – Mr. Lazarus, you had a comment.

JAY LAZARUS: I'm Jay Lazarus of Glorieta GeoScience. I was the first County Hydrologist, 1981 to 1986. I even predated Commissioner Campos here. The water rights section had been done many times has never really been fleshed out in a way that I think satisfies the County or satisfies the development community. In terms of trying to address Commissioner Sullivan's talking about how do we know if they're going to impair somebody up front, before they go to the State Engineer, if we have to prove water availability for the County Hydrologist at master plan approval then we're going through this modeling exercise that he alluded to previously.

There's a very good chance that the model that we prepare for the County is not going to be the same model that we prepare for the State Engineer. The State Engineer is going to look at more basin-wide impacts the way that the hydrology portions of the County Code is set up, we're looking at more local impacts, which is what I believe Commissioner Sullivan is trying to get to. What's happening locally around those wells. The modeling that we would do for the County would cover a much smaller area than the basin-wide model that we would do for the State Engineer application. That model that covers a smaller area is going to most likely show you the worst case draw-down effect or worse draw-down and depletion than the basin-wide model because it's using a smaller square, rectangle, whatever the geometry of our model is. No recharge allowed into our model. So you're going to see a greater draw-down effect from the response that we have to give to the County than perhaps what we'd be doing for the State Engineer.

And there's the phrase about developers requesting whatever he or she wants. That's my cynical way of viewing it. But if you've got good water levels in the neighborhood. Let's say your water level is dropping a foot a year in some areas. Well, we have to prove a 100-year water availability. So if you're looking at what's going on in your individual well the way the Code is set up, you've already lost 100 feet of available draw-down or 100 feet of water availability by subtracting out that one foot a year of draw-down.

So your situation as a developer doesn't look that good. If it looks like your pumping is going to cause groundwater – right now I'm only talking about groundwater, not surface water – groundwater levels to decline in neighboring wells such that it's going to dewater the springs, that's a reason for the County Hydrologist to say, I don't think so, folks. Because this could be causing some very bad well hydraulics, the pump won't function efficiently, things along those lines. [inaudible] a way of looking at the impairment issue at the master plan level.

It doesn't have to look at the State Engineer and I think you already have the tools to do this.

In terms of this Code rewrite my company's probably got \$2500, \$3000 worth of man-hours working with Steve on rewriting this Code. And that's just time we've put in as part of the community. We agree with everything that he's put in there, however, the one caveat we have is I believe that the whole water rights section, any place the Code, the EZ regs refer to water rights, I think all of that should be revisited separately from the nuts and bolts water availability and I think that might try and be able to clear up a lot of either missing sections that are out there in the community or clear up maybe potential conflict. Everything Steve's proposing in the Code, we've put in plenty on this stuff and we came to mutual ground. But we agreed, we believe the water rights section really needs to be revisited in a much more comprehensive, holistic way than the Code rewrite.

But I think what you've got in the Code now, Commissioner Sullivan, can address your concern about the local impairment.

COMMISSIONER SULLIVAN: Mr. Chair, there's no requirement that the developer do any modeling at the master plan phase unless it's under this catch-all phrase that the hydrologist requires.

MR. LAZARUS: If I have to do a water availability report for a subdivision, I have to model.

COMMISSIONER SULLIVAN: You have to model within the acreage of that development. In the acreage of the development that's used to compute the water availability. You don't have to model five miles away.

MR. LAZARUS: I have to model beyond the boundaries of the subdivision. We have to look at all of the wells in the area that we think might be affected and look at their pumping. So certainly if we assume a third of an acre-foot in some areas, a quarter acre-foot, in some other areas it might be half an acre-foot. And you have 50 wells in the sections around you. So you run your model first with all of that existing pumping going on in the neighborhood. Then you add your well and see what that additional cumulative impact is going to be. So that mechanism is there.

VIRGINIA VIGIL: This is a topic that I really need to address before I can really conceptualize it based on my lack of knowledge. Water rights, when they're transferred, does that not start ticking the clock and isn't there a time frame for when they expire and what that time frame is. And ultimately is it possible to transfer water rights and park them and what does that actually do to the rest of the holders.

MR. LAZARUS: I'll try to answer your questions if I can remember the order in which they came.

MS. V. VIGIL: Is that a lot of questions?

MR. LAZARUS: It's what we call multiple questions being answered one at a time. In terms of moving water rights in and expiring, the State Engineer in the past probably ten years hasn't granted expiring water rights permits like they used to. There was a theory of water rights, we call the 7767 water rights down in La Cienega that a lot of people rose up three acre-feet in La Cienega, for three acre-feet in La Cienega, and turned it into 15 acre-feet

for 40 years at a location some distance from the springs. And then at the end of those 40 years that right would then be reduced back to its original three acre-feet. The State Engineer doesn't do that anymore. They realized the folly of their ways on that one.

In terms of "parking" water in a well, based on the conditions of approval of your permit, you have to put the water rights to beneficial use, drill your additional wells and/or put your water rights to beneficial use within a certain period of time. If you don't put those water rights to beneficial use within that specified period of time, then you go to the State Engineer and you file for an extension of time for beneficial use. The State Engineer routinely grants those applications, except now in basins where they believe they need to have more critical management areas designated and if you don't use them by that time you have a better chance of the State Engineer not granting your extension of time. I hope I answered your questions.

CHAIRMAN CAMPOS: Ms. Ellis, how much time do you think we're going to need today? It's already 2:20 and we haven't gotten past the first phase. Not even to the first phase.

COMMISSIONER SULLIVAN: It's the one big issue that everyone talks about. Might as well figure out how to answer it.

CHAIRMAN CAMPOS: We'll be here to five at least? Is that your expectation?

MS. ELLIS-GREEN: And if we don't get it finished today, we have scheduled to be back tomorrow afternoon.

COMMISSIONER SULLIVAN: Mr. Chair, I propose we let this sit for a minute. Let people cogitate about this, but we've got to have something and the problem with the developer's hydrogeologist doing it is that it's the developer's hydrogeologist doing it. That's the problem. And we do have staff review, and most people, myself included, are considerably more comfortable when we have the final write-off of the State Engineer saying, Yes, he's modeled it. We've met the County requirements, which are smaller areas. We've also met the State Engineer's requirement. Now we know we've got a viable water situation that we as a Board can support, and then we can move on to the other issues, affordable housing and all the other gobs of issues that we have to deal with.

CHAIRMAN CAMPOS: I have a question for Steve. Commissioner Sullivan says, I have problems because we have the developers' hydrologists doing the studies. As the County Hydrologist, do you have a problem with that? Does that bother you?

DR. WUST: It's the only way we can do it because we don't have the resources to do it ourselves.

CHAIRMAN CAMPOS: Have you had problems in the past where you haven't gotten good information? Or is that a pattern or a problem?

DR. WUST: It is a problem in terms of increasing - it's not a problem, it's just a lot of work. What we do at all times, Mr. Chair, is send a copy of development permit applications to the State Engineer's Office and they comment on them, typically, outside the water rights issues, and they have come back to us on a number of development applications and that's been very valuable for us. So it is - it's not easy making it a yes or no question saying is it a problem. It's a lot of work but I feel comfortable that we can review them

adequately and be able to evaluate whether or not what's been given to us seems to be valid or not.

CHAIRMAN CAMPOS: I'm comfortable with what staff's proposing. I think Commissioner Sullivan is wanting to put the burden too far up front and I think you can explain [inaudible] I think that's what needs to be done.

COMMISSIONER SULLIVAN: Mr. Chair, that was precisely the argument that we went on for several Commission meetings before. That was exactly the way the Code was before and I think a developer would come in and say, Oh, don't worry. We're going to take care of the water later. But the public was there when the master plan was there. And the public didn't understand about that. Plus, the developers then came back and changed the water plan later. Suddenly the wells became not community wells and not part of the County system but became private 72-12-1 wells. And that changed when there was no public left to review it.

The public was left out of the process, and that's precisely why we said bring it up at the front. Now, if master plan has been de-master-planned somewhat, then maybe preliminary is the place required, as long as preliminary truly means preliminary and not preliminary and final together. But it's got to be at a point early on when we can make changes and when we can say that it's not a done deal.

CHAIRMAN CAMPOS: Okay, let's move on. We've been here for about 45 minutes. Ms. McGowan.

MS. MCGOWAN: I need some clarification. Commissioner Sullivan raised, I thought a really good issue and I guess I'm not understanding it. I'm getting mixed messages here. On the whole conceptual, preliminary and final plat, are we clearly changing that so your preliminary is not really your broad brush. The preliminary is where you do the nitty gritty in solving all your problems, right? And doing all your submittals.

MR. GRICE: Final plat is technical review.

MS. MCGOWAN: So it should be very rare that a final plat would come through with conditions on it.

COMMISSIONER SULLIVAN: Exactly. That's the way it should be. Now, the final plat may have one condition and that is you forgot to cross your t.

MS. MCGOWAN: That occasionally is going to happen, but it should be -

COMMISSIONER SULLIVAN: You didn't sign the thing right on the right page.

MS. MCGOWAN: Is that where we're going?

MR. GRICE: That's where we're going.

MS. MCGOWAN: Okay.

COMMISSIONER SULLIVAN: And that's exactly the way it should be. We should not have final plat with 25 conditions.

MR. GRICE: The significance of the master plans in the past have been moved back to the preliminary.

COMMISSIONER SULLIVAN: If that's the case I'm fine with it being at preliminary. But we've got to have it at some point where we can say, early on in the process,

this works. The earlier the better.

MR. CATANACH: I'd just like to go ahead and make a point again and come forward on a final plat development plan to BCC. There's a list of conditions and certainly the understanding is though that we're simply bringing these conditions over to make people aware of what the conditions were at the subdivision but the understanding is that these conditions have been addressed or should have been addressed and certainly there might be one or two that can't be addressed until you're ready to record the plat. But the understanding would certainly be, by the time you come to the Board this is the list of conditions but these submittals should have addressed these conditions.

MS. ELLIS-GREEN: On page 209, under E. Standard Values for Minimum Lot Size, what we have done here is actually do what's been used in practice. So our standard lot size really is 2.5, 12.5, 20, 40, based upon a quarter acre-foot of water availability. The other way is we have added #3 further down, minimum lot size is increased, the water restrictions may be proportionally increased. So if you have ten acres in the basin, you have one acre-foot of water. But just for clarification, so people understand this, our minimum lot size will be the 2.5, 12.5, 20, 40.

DR. WUST: Mr. Chair, that's basically, I guess a way of phrasing it, saying it in the current Code. But currently it says for example, in the basin, minimum lot size is ten acres. However, if you agree to a water restriction of a half an acre, that's based on the assumption of one acre-foot per lot. If you agree to half an acre-foot per lot then you can go down to five acres. If you agree to a quarter acre-foot per lot you can go to 2.5 acres. So this is just sort of pointing in the other direction because the standard policy now in Land Use is to restrict people to a quarter acre-foot unless they can demonstrate otherwise. So the idea was to simplify that language and just say since we're assuming a quarter acre-foot per lot already, this is our list of minimum lot sizes. If you want to increase that lot size you can get some proportions of water. It's the same thing but we're going in another direction from the current policy by starting with the restriction of a quarter acre-foot per lot.

COMMISSIONER MONTOYA: Mr. Chair, does this apply to the traditional communities as well?

MS. ELLIS-GREEN: No, the traditional communities would still be one acre-foot with 3/4 of an acre. So that would stay the same.

COMMISSIONER MONTOYA: So this if more for new -

MS. ELLIS-GREEN: Right. Now if we could move on to page 214, the 100-year water supply. And since this is technical I pass this over to Stephen. This came out of a meeting we had with a number of hydrologists.

DR. WUST: Mr. Chair, it was at the request of the Commission last time, actually we tried to get a roomful of hydrology consultants and related consultants who do the permits and see if we could get some consensus on a lot of this language. Again, what we were trying to do is take the hydrology appendix to the Code, which is currently in place, but which is fairly general in a lot of ways in terms of the methodology and things, and put it into the Code and put it in in such a way that it is very definitive on how you do the process and it's

part of the Code and we'll address some of those vagaries.

A lot of the remainder in this addresses that and so a lot of these changes came about first off as I wrote a draft of the wording to address all the concerns. Then we had written comments and meetings with a couple of hydrology consultants. We had meetings with a number of people; there were quite a few folks that were sitting there. Then we had some other comments and there were some follow-up written comments from some of those people. So a lot of what you see here is a result of a lot of that process.

The first thing, and I don't think there was much issue on a lot of these is that you'll see that we removed Cretaceous Formation from well test requirements. I'll point out that we actually haven't drilled a lot of that in this area. So basically, it's just on Santa Fe Formation or anything else. That's really what we need as a simplification in terms of reality.

COMMISSIONER MONTOYA: What's the Cretaceous Formation?

DR. WUST: It's a rock unit that's Cretaceous in age and that could be a number of things in this area. I'm trying to name the formations, but there's several that actually - there's limestone, sandstone, shale, all part of the Cretaceous.

COMMISSIONER MONTOYA: It has to do with rocks.

DR. WUST: Yes. The age of the rocks. Cretaceous is an age, a lithologic age. The Santa Fe Formation is actually the name of a formation.

COMMISSIONER MONTOYA: Okay. Thank you.

DR. WUST: Down at the bottom of the page, we tried to put language in at the end to allow the ability of hydrologists to do some well testing and tests to demonstrate that the standard assumptions may be different in that particular location. In other words, trying to make this site-specific in our understanding of the water availability, but with the full knowledge because it does say, May be revised. It doesn't say May be lowered. May be raised. It says May be revised. Because it does say currently in the hydrology appendix in the Code that people should be aware that a well test may show you have less water, not more, which is quite clearly the case in one of the recent developments in front of the Board. So we just put some general language in there, revised, based on tests to allow site-specific examination.

CHAIRMAN CAMPOS: Steve, just tell us generally the policy behind a 100-year water supply. What is the thinking? What is the rationale for it?

DR. WUST: Mr. Chair, the policy is that in general the County would like to say that if you're going to use water for your development you should have that water ready for yourself. The 100-year time frame is generally what is considered in a lot of areas for development except the community water system like the City. So 100 is a pretty standard time frame. A lot of states and counties and municipalities look to say Do you have enough water to last yourself that long? We're assuming in 100 years we'll have the technology for something else.

The way the County looks at it is actually different from the way the State Engineer looks at it, which is why we sometimes get a difference of opinion between the State Engineer and the County in terms of water availability. The State Engineer tends to look at it and say, Within that 100-year time frame if you use water out of this well at the rate you're using it, will

you have enough water column left after 100 years that you could still use that well? It's sort of a draw-down over 100 years. The County approach is to say We want you to have that 100-year worth of storage in volume underneath your property. In storage, not recharge. We know in reality that everybody's drawing water from a large area, but the context is that everybody has enough for themselves for 100 years under their own property, then as a whole, there will be enough for everybody.

So that's where the whole calculation comes from that basically says the water that's available is what can get to your well, which means it has to be given up by the rock units and the rock units have to be saturated and there's only a certain amount of those rock units that have water in them and it's under your property which is your acreage. So it's the saturated thickness, the acreage and the amount of water those rocks will yield to that well. That's the specific yield and that's what goes in the categorization. And when you do that, that volume of water should equal or exceed 100 years times your yearly use. And if it does, then you've shown enough water availability. Is that clear?

MR. CATANACH: So 100-year availability for the County is more stringent than the State Engineer?

DR. WUST: It's different. It could be more stringent, Mr. Chair, because the State Engineer by looking at draw-down primarily, recharge could be a factor. In the County's approach, it's not. Currently under the Code you can try to use recharge in the Homestead. It's extremely difficult to do. It's never been successfully done in the tenure I've been here and rarely been done prior to that. And so in the Code rewrite we eliminated it even from use in the Homestead Zone just because it's so difficult and so unknown. It just didn't make sense. We're just going to use storage for everywhere.

CHAIRMAN CAMPOS: One argument I heard about the 100-year test was the assumption used was that in the 100 years we would have a water system to them. Was that what the thinking, the rationale, was? Or does it matter?

DR. WUST: Mr. Chair, in the current Code we talk about the metro zone. That rule applies. You only have to show a 40-year time frame. That was taken out of this Code, however, there have been a couple of applicants who have come before, I believe it's the EZC or the CDRC, and they essentially came for a variance with the understanding that they were right next to a line. Can we go ahead and do a 40-year instead of a 100-year demonstration of water. And we've left it up to the decision makers to say, Okay, in your case, 40 years is okay. Or in your case, it's not.

And it's a tough variable because even our plans for the County water system are changing over time, so we're not really sure today who we can say really is in our 40-year time frame for service. Because people further out, they may be or they may not be and it's a very difficult call at the moment. That was one of the reasons we felt to be conservative that people can show they have 100 years and then they get hooked up to a municipal or regional system and in other communities that's the standard for everybody because we preserve water resources.

COMMISSIONER MONTOYA: Mr. Chair, 100 years from when?

CHAIRMAN CAMPOS: From the date of approval.

COMMISSIONER MONTOYA: From the date of approval?

DR. WUST: Yes.

COMMISSIONER SULLIVAN: How do you calculate the amount of water underneath the lot that you use?

DR. WUST: Commissioner Sullivan, if you want, that's going to be in here. Or if you want to skip to that -

COMMISSIONER SULLIVAN: No, just going back to 7.7.5.C, the Calculation of the Minimum Lot Size, page 208, it just seems - I didn't understand how you could calculate the minimum lot size when your factor A is the amount of water beneath the lot, and you don't know what the size of the lot is until you calculate the minimum lot size. You've got two variables in that equation.

DR. WUST: Commissioner Sullivan, if you look just below the end of that page, on page 209, it says definitions.

COMMISSIONER SULLIVAN: I see that.

DR. WUST: Number 3, "A" is the amount of water available in the aquifer beneath the lot, using the method described in Section 7.7.5.C. That's not correct. That should be referencing the calculations.

COMMISSIONER SULLIVAN: Your equation has two variables. You can't compute the minimum lot size unless you know the minimum lot size.

DR. WUST: That's correct, Commissioner Sullivan. It should be A is calculated in Section 7.9.A, which on this page 216. So it was an incorrect reference. Just one quick thing, Mr. Chair, page 216, you can see the additions are just a couple of technical clarifications that were brought up by the hydrology group. Those are technical definitions. Someone had noticed we hadn't talked about total water availability. Other than that, this follows what is currently in the hydrology appendix to the Code. I do want to say, one technical suggestion down below, I just want to make sure you notice clay and shale are going to get zero specific yield. That was actually a suggestion of several commenters, hydrology commenters. Clay and shale are considered the same as to the amount of water they yield, which is nothing.

COMMISSIONER SULLIVAN: Mr. Chair, while he is on that page, what does acreage for the development property mean? Does that mean the first phase? Does that mean the lot size? Does that mean the entire proposed development?

DR. WUST: Commissioner Sullivan, it means what they're proposing - the acreage they're proposing to use that water on. Although the Code currently allows, and we haven't had to deal with it much, but you can actually have two disjointed pieces of property that you want to count together. One of them you have to set aside for no development ever if you want to count it in. So basically, we just look at the acreage in the development.

COMMISSIONER SULLIVAN: Let's say they're proposing three wells on a 100-acre piece of property. Then in fact the AC is 33.3?

DR. WUST: Yes, Commissioner Sullivan, but what happens is you cannot attribute that much water - you have to divide it up among three wells. It's the total amount of

water available if you have one well or 100 wells; it doesn't matter. That's the total amount of water you have available. So the number of wells is not a factor within this.

COMMISSIONER SULLIVAN: So I have a 100-acre subdivision. I'm going to divide it up into two-acre lots. That's 50 lots. What's the factor, AC, acreage for the development property?

DR. WUST: It would be, if you're trying to see how much water you have available per lot, it would be 50. If you're trying to see how much water you have available for the entire property it would be times 100 but it still comes out to be the same number of acre-feet per lot or per area. It all gets calculated out. Because in the end A can actually be calculated to acre-feet per year per acre. You can actually calculate it out and put in per acre, and then you can start calculating the amount of water available for anything you want - one lot, two lots, the whole thing. So using this type of formula, you can actually come up with the acre-feet per acre per year.

COMMISSIONER SULLIVAN: I guess I'm still not understanding. The only reason I think we need to clarify that is because I recall in one project out in Eldorado there was a lawsuit over that very thing, over what was the acreage that was used in the formula and I think it dealt with the contiguous properties and whether you - and my understanding was it was the acreage that you essentially agreed that there would be no more development on other than that one unit or that specific unit. It didn't seem to be very clear, at least not to me.

DR. WUST: Commissioner Sullivan, that's correct. In the current Code it does say you can use other acreage as long as you have set it aside to never be developed.

COMMISSIONER SULLIVAN: Like a park or open space.

DR. WUST: Yes. So that currently can be used. In fact, open space is used in the determination of acreage. Because what we're trying to figure out the amount of water you have available under your property. If that's part of your property, that's water available to you but if you're not using it for development then it gets to be a plus. I will add, however, there is, because of language in here, and this did get done in the discussion of one of the developments in that area, that the aquifer characteristics were applicable to a fracture zone they'd drilled into. That fracture zone was narrower than their property. And because we have language in here that says, as I mentioned before, additional information may revise these factors, I reduced the acreage. It's not the acreage of their property; it's the acreage of that fracture zone because that's the only place the aquifer characteristics were applied to. Could be applied to. And therefor we do have a chance to revise these again, based on other information that may more realistically portray the amount of water available.

COMMISSIONER SULLIVAN: Okay. My comment would be that I think that needs some explanation as to what that means.

MR. GRICE: I'll make that more specific.

DR. WUST: On page 217, the technical terminology, the one word, geophysical. Under C, this underwent quite a bit of discussion and in the end we had a consensus among the hydrologists who were in the room, except for one person who still disagrees. We had a consensus among all the others about this language. In essence it was

saying what water-bearing unit you get to say truly represents water available to your well. And it was a discussion that was both technical and legal in a sense, in terms of terminology and how to phrase things. And basically, the first part of it basically says you don't have anything below the bottom of well – it's drawn directly from the currently way we do things. It's in the hydrology appendix to the Code today.

The other part of it was, well, what about upper sands? And this has hardly been an issue in the past because in the basin everything's connected. So it doesn't matter if you're drawing in through the well screen. In the bottom it doesn't matter. It's exactly the question you asked before, Commissioner Anaya. What are you screening? What are you not screening? You don't screen until you get that water. Well, now that we're pushing up further into the Mountain Zone and the Homestead Zone there are other considerations.

After a lot of discussion we reached consensus with this language, which is essentially saying – the first part of changing the terminology is saying the hydrologic connection. There's no hydrologic connection, so you're not going to count them. However, we allow the applicants to conduct tests. Say, the tests show that there is a hydrologic connection there. That could be through the well bore, like some people claim. It could be through fracture zones. It could be through just enough sand in the shale, but if the tests show there is a connection then they get that saturated thickness. If the tests show there is no connection, then it's not reasonable to say that that water is available to them.

So this language is a crystallization of that discussion. I actually polled everybody in the room and we had overwhelming consensus. This was the language that drafts the technical issue that allows further tests to [inaudible]

CHAIRMAN CAMPOS: Have you had our legal staff review the language?

DR. WUST: I'm not sure.

COMMISSIONER SULLIVAN: Mr. Chair, one question of Steve. Does that – I'm unclear as to how do we deal with perforated casings.

DR. WUST: Well, I would call that screening.

COMMISSIONER SULLIVAN: You would call that screening? Why not perforate the whole casing?

DR. WUST: Well, because, Commissioner Sullivan, as I mentioned in the case before the last Commission meeting, we all have requirements that you cannot drill the water level down below the top of the screening, plus 20 percent. So if you just screened the entire interval, when you started pumping away, that was a very clear example, they drew the water level down during the pump test to where it was far above the uppermost water-bearing unit, which was in the uppermost screen, and we don't accept that.

COMMISSIONER SULLIVAN: In the Code currently?

DR. WUST: Or in the new one which has the same language. So you have to make a decision, which we do all the time with these wells. How much am I going to screen so I can get maximum water yield and yet not hurt my well by drawing it down too far. And that's already a decision that has to be made. The same kind of thing occurs in the State Engineer's Office, [inaudible] the uppermost screen. The word perforation refers to a different technique.

COMMISSIONER SULLIVAN: We don't have any requirements that the applicant screen the well, the casing.

DR. WUST: No, but if they do, they wouldn't get any water –

COMMISSIONER SULLIVAN: But they can perforate them.

DR. WUST: Oh, they can perforate them, yes. There's no requirement that you have to have a screen. The fact that you use steel casing, I think you have to perforate it. I don't know that they do much screening with steel casing. It's usually the PVC that has screened intervals.

COMMISSIONER SULLIVAN: Either way, there was something from one applicant's engineer that we were designing wells for them and telling them where to put the screens and so forth, but we don't design wells. We don't tell them where to put the screens, and in fact we don't even require screens.

DR. WUST: Correct. In one sense we do have requirements telling them how to complete a well, because we do have a requirement that you can't drill the well –

COMMISSIONER SULLIVAN: I understand that.

DR. WUST: We could add a definition where we say screening also means perforation.

COMMISSIONER SULLIVAN: Or not add it [inaudible] I think perforations are pretty unscientific way of getting water [inaudible] But if you're comfortable with it, that's fine. But in any case, we're saying perforating or screening. [inaudible]

DR. WUST: It's actually screening because 99 percent of the time it's PVC. With the big production wells where they may use all steel then you say perforation but most of our applications it's PVC and that's screening.

So that's very much it until we get to –

MS. ELLIS-GREEN: The water conservation section on page 220, and that's just to bring it in line with our Water Conservation Ordinance. We haven't changed anything from that ordinance. That's language from the new ordinance.

And on 221 –

DR. WUST: To clarify, I hope I'm doing this correctly, the red is the change from the previous version you got. A lot of this language was new to version you got in the working session. We have changes from this version. And so there's a lot of language in there that was new to the version you had at the [inaudible] The redlines and strike-outs all came from the comments. We didn't get much objection to what you see in there. That's not current Code language. I just wanted to see if you had any questions on what's in there that's not in the current Code.

I will add one change that I put in. It isn't a major change in the Code and I think it will keep us up to date. If you look at page 218, a couple places. Under 2. Community Water Systems, New Systems, it mentions, number 6 there, we follow the Safe Drinking Water Act, which they will have to do if there's a public water system. This is more in conformance with [inaudible] and that references water quality and under the water quality standards, which is the next page. Currently in our Code we say you have to use these standards and we list them on a

big table, which, when that table was created it equaled EPA drinking water standards. But EPA's been updating them and it's difficult for us to try and keep up with that. So we propose to change the language to basically say you have to meet EPA drinking water standards.

And in here it is described how the EPA drinking water standards have two levels. The secondary levels are equal to the table in the current Code that says if you exceed these you have to notify people, things like hardness, sulfates, they're not health-based standards. If you exceed the primary drinking water standards, the MCLs that are in number one there under B on page 219, you can't serve that water, which actually is what's in our current Code but we listed them all and this just says if you exceed the EPA primary drinking water standards you can't serve that water. If you exceed secondary drinking water standards, you have to notify the public.

The language is very similar to what's in the current Code but instead of trying to relist everything ourselves in keeping up with the EPA standards, we just reference the EPA standards, and that's what you have to do. But the requirements are the same kind of requirements that we had.

MS. ELLIS-GREEN: I think that's it on water supply.

ORALYNN GUERRERORTIZ: I was just wondering if the public could speak on water supply and liquid waste.

MS. ELLIS-GREEN: On the agenda there is -

CHAIRMAN CAMPOS: Public comment on number V.

MS. ELLIS-GREEN: Yes.

CHAIRMAN CAMPOS: That will be later.

MS. ELLIS-GREEN: So if we go back to the format we were doing before, asking if there's any questions on page 7-27.

CHAIRMAN CAMPOS: Starting with Liquid Waste Disposal. Any questions about section 7.7?

COMMISSIONER SULLIVAN: No. I'm assuming that the percolation rates are the ones used by the SCS, the Soil Conservation Service. On 7-32.

MR. GRICE: These percolation rates are specifically the ones used by the Soil Conservation Service.

COMMISSIONER SULLIVAN: Because when we come in with projects with septic tanks and go to the SCS, the local Soil Conservation, and get a letter, and that's who issues the permits on the septic systems.

MS. GUERRERORTIZ: The NMED.

COMMISSIONER SULLIVAN: Okay. So these are their requirements.

MR. GRICE: It's called the Natural Resources -

COMMISSIONER SULLIVAN: Yes, I understand that.

DR. WUST: The NMED deals with the liquid waste permits.

COMMISSIONER SULLIVAN: And these jibe with their perc rates.

DR. WUST: In fact I believe the County Code includes a requirement that they have to have approved a liquid waste permit. That's one of our requirements.

CHAIRMAN CAMPOS: Any questions on 7.7. Okay, let's go on.

MS. ELLIS-GREEN: Section 7.8 is Underground Utilities. One change we're looking at it is to add pole heights. We say in the first paragraph, 7.8.2.A that everything needs to be underground unless approved by the Board of County Commissioners that as you've seen Project Power, PNM is coming in with applications for overhead utilities. And because of that we met with PNM, they're requesting that if they maintain a line or replace a line that that be allowed to be either unpermitted or administrative approval. They're constantly replacing or maintaining lines, so we wouldn't have to take them through a committee approval each time.

An increase up to five foot, we're looking at an administrative approval; any height increase over five foot would need to go through a public hearing. So that's if they are maintaining an existing line, not for new lines. All new lines have to be approved by the BCC. And I think what we're looking at is any transmission lines, the really big, tall lines, would have to go in front of the BCC. Their request is that distribution lines, the smaller lines, be approved by the CDRC. Any comments on -

CHAIRMAN CAMPOS: The distribution lines are the big lines?

MS. ELLIS-GREEN: Transmission would be the big lines.

CHAIRMAN CAMPOS: The kind that go down into the Zia station.

MS. ELLIS-GREEN: Right. There is [inaudible]

CHAIRMAN CAMPOS: They don't necessarily apply to what you have within a subdivision.

MS. ELLIS-GREEN: They will apply within a subdivision.

CHAIRMAN CAMPOS: And these will be undergrounded within a subdivision. Okay. Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, I guess the question I have particularly with the situation that we just went through with PNM, can we legally require companies or developers to do this?

CHAIRMAN CAMPOS: On transmission lines? Not just lines within subdivisions?

COMMISSIONER MONTOYA: All of it. This states all of it is underground, right?

MS. ELLIS-GREEN: It says all are underground unless it's approved by the Board of County Commissioners. So you have to go to the Board of County Commissioners to go overhead. It's not -

COMMISSIONER MONTOYA: So they have to request a variance the way they're doing now.

MS. ELLIS-GREEN: I believe they're requesting a variance to the height but they're not requesting a variance to go over head.

MR. CATANACH: They presented to the Board the development plan request.

COMMISSIONER MONTOYA: Rather than underground utilities in the development plan they'll have it overhead.

MR. CATANACH: They've been proposing that, subject to approval by the

BCC. But not as a variance. Just a discretionary approval, action by the Board.

CHAIRMAN CAMPOS: The County ratepayers would have to pay additional sums of money if they undergrounded that big transmission line. They would pass the cost on to the users in the area that benefited from it. So it would be the whole county.

COMMISSIONER MONTOYA: It could be both, depending on cost.

MS. ELLIS-GREEN: My understanding is if you're doing a subdivision, you're going to be grading for a road and you can actually put other utilities into that road, underground. It's not going to cost as much as taking a transmission line and putting it underground. It's exactly the same language there as we put in the existing Code. What they're requesting, what the request is that when they have those big transmission lines, the ones that you saw in Project Power, they have to go in front of the Board of County Commissioners. If it's a smaller line, a distribution line, usually they're 35 to 40-foot high poles, that could be approved by the CDRC.

MR. CATANACH: That's a replacement of an overhead with an overhead.

MS. ELLIS-GREEN: Yes. Increasing the height of the equipment.

MR. CATANACH: If it's a new line, it has to either go underground or –

MS. ELLIS-GREEN: Actually, they're asking for a new distribution line, not transmission line, new distribution line has to be approved by the CDRC, instead of the Board.

COMMISSIONER MONTOYA: This says new and replacement.

MS. ELLIS-GREEN: What I would look at here is actually clarifying here when it goes to the BCC, when it goes to the CDRC. So a replacement – I thought about taking it out. I'm not sure, because they could argue a replacement but it's actually increasing the pole height by a number of feet. In that case you are going to have to go to a public hearing.

COMMISSIONER MONTOYA: Right.

CHAIRMAN CAMPOS: Any other questions about 7.8?

MS. V. VIGIL: I have a question. It seems this section really addresses sort of visual stuff. Do we ever– has the County ever addressed EMT emissions at all because that's a critical part of [inaudible] And I don't know how to incorporate that and that's probably something that hasn't been addressed so far, but is it possible, through the process of approval, at least have the utility company let us now what the EMT transmission is, so that that can be part of the decision making process. That could make a difference. And I know that EMT is affected by height. It's affected by whether it's underground. And I think it's critical having that option.

MS. ELLIS-GREEN: That could be in submittal requirements.

MR. GRICE: We could add that into a submittal requirement, a use-specific submittal requirement. We have in the appendices, I was going to say if you were going to specify that either a conditional or a special use permit is required for some class of – like for example, major distribution lines, major utilities. If you were to specify that major utilities require a special use permit or a conditional use permit. The difference being the conditional is approved by the CDRC and a special use permit is approved by the Board of County

Commissioners. Either one of those have criteria and those criteria are intentionally broad. They talk about compatibility issues and impacts. So that would open the door for you to have the discretion you need.

And you need standards against which to make these decisions. So if you incorporate a reference or a requirement that it be approved – Penny and I will talk about that, which way to go. If she thinks it should be approved by the CDRC, then that's a conditional use permit. If it's to be approved by the Board of Commissioners, then that's a special use permit.

MS. V. VIGIL: If we make approvals of this kind and all of a sudden we don't have a knowledge of an EMT, if it's rather high or something and we didn't have that in our Code. I think that really [inaudible]

MR. GRICE: My concern is that as has been suggested, discretionary approvals, you need to have standards in advance.

MR. CATANACH: And could that be a basis for denial?

MR. GRICE: If you could prove that it had adverse health impacts. I think there's a big argument. One really big argument. It's never black and white. There will be experts and experts.

MS. V. VIGIL: But it might be possible to adopt setbacks.

MR. GRICE: True. You could do that. That cuts to the chase, regardless what the argument is about, what the health impacts are, if you have a setback established, then you have to comply with the setbacks.

MS. V. VIGIL: I think as a Commission we need to include that knowledge. My experience with the Agua Fria substation and the transmission lines that they were going to put in, there were different readings at different places for different reasons. And if we know what those readings are and are included in this process, I think we'd be better off making decisions for the community with the full knowledge of the impacts. If there was some way that we could actually provide that through the process, that those readings be made a part of the reports from the utility companies I think we would be better informed to make a decision.

MS. ELLIS-GREEN: Okay. We can add that in.

[The Commission recessed from 3:05 to 3:25 and reconvened with Commissioner Anaya.]

CHAIRMAN CAMPOS: We're back to the record about 3:25 and we'll be here to 4:00. So let's see if we can go through the sections where we need the most discussion,

MS. ELLIS-GREEN: Okay, the first thing is probably open space, 7.18 on page 7-78. It's a new section. We're requesting here that subdivisions of more than 24 lots provide land for open space at a rate of 10 acres per 1000 residents. It's in line with what we have in the EZ.

MR. GRICE: The other thing that's interesting here is there are some specific criteria that I suggested and they are the criteria B through G, under section 7.18.3. The land has to be suitable and desirable for parks and recreation uses and then it goes on to explain what that means. We made it exclusive of individual lots. That seems logical but let me tell you, when you're dealing with subdividers sometimes they don't understand that.

It shall not be disturbed, graded or cleared except in conformance with an approved

plan. Legally and practically accessible to the residents. That's sometimes overlooked. They might charge a fee. You don't want to have open space where there's a membership of \$1000 a day. The park dedication has to be permanent through a document approved by the attorney. These are sort of logical things but when open space is required or dedicated it has to meet these criteria.

CHAIRMAN CAMPOS: Okay. Any comments on that?

COMMISSIONER MONTOYA: How in any way does this relate to any water?

MR. GRICE: It doesn't.

MS. ELLIS-GREEN: Unless there's a park where there's -

COMMISSIONER MONTOYA: A park or a swimming pool.

MS. ELLIS-GREEN: Something like that and then it would come under the subdivision water availability section.

MR. GRICE: It could. The minimum lot size, you can see clustered development into a portion of a property. Minimum lot size would still be from the gross area.

MS. ELLIS-GREEN: You'd still have a water budget, even if it's a quarter acre-foot per lot, and then if you have a park area that has a swimming pool or something like that then that would have to be included in the water budget and the water availability would have to show that you have the available water for that.

CHARLIE GONZALES (Code Enforcement): Would that apply for a landscape buffer strip as well? Open space?

MS. ELLIS-GREEN: Right. Yes.

MR. GONZALES: In case it has to be revegetated or something.

COMMISSIONER MONTOYA: Yes.

MS. ELLIS-GREEN: That would be part of the water -

MS. GUERRERORTIZ: Is that acreage that's required in addition to the acreage required for your homes? Or if you cluster, and you have common open space, is this something you can put on your common open space and it doesn't in essence count against your density requirement for acreage?

MS. ELLIS-GREEN: It doesn't count against the density requirement, correct?

MR. GRICE: Correct. The density can be clustered. Your density is there it's just the lots get smaller and then it meets these criteria.

COMMISSIONER SULLIVAN: I'd also add somewhere in here that it can't be on utility easements.

MR. GRICE: It can't be impaired by utility easement.

COMMISSIONER MONTOYA: You can't put a ballfield over a utility line.

COMMISSIONER SULLIVAN: Or a utility easement.

MR. GRICE: E. does that. Legally and practically accessible to the residents.

COMMISSIONER SULLIVAN: No, it could be accessible because typically the way in Santa Fe County we handle open space is we take 15 feet on each side of the lot line, which is also in most cases required as a utility easement, and then that becomes the open space. Well, if you ever tried to play ball on a 15-foot strip, it gets a little difficult. So you

want to exclude utility easements so this is truly a park and not something someone may in the future be digging up to install utility lines or remove -

MR. GRICE: Penny is thinking that we could put something there. There's also B. We'll put something there that says this. The language says suitable and desirable for park and recreation uses. Suitable and desirable, legally accessible -

CHAIRMAN CAMPOS: That covers it.

MR. GRICE: They're intended to be subjective. Because you're writing this for the myriad of circumstances you're going to find in the county. Legally and practically accessible, suitable and desirable, those are performance standards.

CHAIRMAN CAMPOS: We can discuss that later.

MS. GUERRERORTIZ: If you had a liquid waste disposal system, you would want it to be there. It would help water the grasses. If you're going to clear out the terrain to put that thing in, it would be a logical place to put a grassy field.

COMMISSIONER SULLIVAN: But that's not a utility easement. That's a septic, that's a sewer.

MR. GRICE: I don't think it's necessary here to prohibit use of easements. The language I would suggest is something like not unreasonably impaired by easements. Because it might be reasonable to use it. You need to look at the total circumstance. If it's an electric line under a field, that isn't going to hurt them using it for a playfield. So not unreasonably impaired by easements and this other language. That will do it.

COMMISSIONER SULLIVAN: I'm not convinced.

CHAIRMAN CAMPOS: Come on, Jack. There are exceptions.

COMMISSIONER SULLIVAN: If you've ever tried to dig up a ballfield to access a telephone line you've got some unhappy families, I'll tell you that. I think open space is a good idea and playfields are a good idea and they can be just what they are.

MR. GRICE: Okay. We'll discourage the use.

MS. ELLIS-GREEN: The next is the outdoor lighting, page 7-80 and actually Judy and I have worked on this a little bit and we're intending to make some changes. Again, what I'm handing out is 7.21 and I don't know why that has changed. [Exhibit 2] What we're doing here is trying to make use of the latest lighting handbook. Under the Minimum Standards, General on page 278 of the handout, we're referencing the latest lighting handbook and again, this first one is to prevent glare and overspill on properties.

MS. MCGOWAN: It's just to emphasize that that's the basic. [inaudible]

COMMISSIONER MONTOYA: Is there a difference?

MS. MCGOWAN: You can have glare that's actually a safety problem. The basic reason why we're proposing the change in standards here - when the original outdoor lighting code was written in 1995 or something like that, we used the latest handbook that the Illuminating Engineering Society of North America had put out and we had a local lighting engineer at that point who guided us through how to develop and what would be practical to implement. Since then we actually bought the CD-ROM with the latest version of that handbook and most of the standards that we had been relying on, either we were

misinterpreting them because we didn't know how the definitions were being used or they don't exist any longer in this handbook.

So what we're proposing is to reference that handbook and then change the standards we have to that, to work with that handbook, so that it's easier for staff to understand.

COMMISSIONER MONTTOYA: How often is that book updated?

MS. MCGOWAN: I don't know.

COMMISSIONER MONTTOYA: Do we need to reference that?

MS. ELLIS-GREEN: It's in there already.

COMMISSIONER MONTTOYA: Where it says, "And as amended"?

MS. ELLIS-GREEN: Right.

COMMISSIONER MONTTOYA: So that covers any subsequent additions that come out. Okay.

MS. MCGOWAN: And my understanding, from reading the direction is how they are trending in that lighting handbook is to go more towards guidelines and site by site analysis instead of flat standards, which then becomes a problem for all of us who are not lighting engineers to interpret the guidelines. So we looked at a model lighting ordinance that they have developed that came with the document and that's where the standards came from.

MS. ELLIS-GREEN: What we've done under 7.21.4, on page 279 of the handout, the whole table is deleted. What we're going to look for are maximum lighting levels. That is how we were looking at before and a lighting engineer would have to provide that information to us and it's pretty difficult for staff to review that. We were proposing the table that follows, lumens caps per net acre. And this again came from the handbook and it should be easier for us to review. We're given cut-sheets from every lighting source, say for a commercial site, they give us cut-sheets. What their light fixture looks like and what the lumen output is on it. And here what we do is we just simply add up. If you've got five lights with a total number of lumens, five lights in an acre, and we just follow this table.

For example, a 100 watt bulb is 1500 lumens, just under 1500 lumens. A 40 watt bulb is like 500 lumens. We can do that in residential or in commercial areas. One comment is underneath that table, number 1, commercial, talks about a densely developed business area and the commentary underneath that is that it's not likely that we would have many of those. Now, possibly some areas in the Community College District could get that density. In our commercial areas we're probably looking more at the intermediate areas here, so instead of the commercial, we're more likely to see intermediate.

MS. MCGOWAN: And the result is when we actually got the handbook, I looked through it, I realized we had been treating commercial as a per-commercial use. What the lighting handbook actually said was to look at areas. If you look at their definition for commercial, downtown Santa Fe and maybe Villa Linda Mall is what fits in terms of the county. So what that means is, we've probably been approving more lighting that we should have been, more intense lighting. So this in fact will hopefully keep the lighting levels more to the context of where we're putting them.

MS. V. VIGIL: Judy, do you know if this is in alignment with the state's night

sky lighting?

MS. MCGOWAN: Probably more restrictive. But our Code right now is more restrictive than the state's. It's not very different but I think the basics of the state standards are very similar to the basics of our standards and are trying to achieve the same thing. Shielded lighting, no more mercury vapor.

MS. ELLIS-GREEN: The next section – did you have any other questions?

CHAIRMAN CAMPOS: We've got about 20 minutes to wrap this up, so see what you can do.

MS. ELLIS-GREEN: The next section to look at is the archeological section. There has been a change on this at the State Historic Preservation Office's request. Page 7-85, 7.21.4.B.1, this is basically where you need to submit an archeological survey. Currently we have high, medium and low areas for archeological importance. That was done, I was told by SHPO was done overnight about 15 or 20 years ago before that was adopted in the Code. It is now no longer appropriate to call those areas high, medium or low. From the archeological surveys and the research they've done over the last 15 years, there really is no high, medium or low.

What they have requested is this language under 1.a, that all development shall complete an archeological reconnaissance survey and report for all land to be disturbed. So currently, depending on the size of your development and whether you're in high, medium or low determines whether or not you submit an archeological report. What they're requesting is that people doing land divisions, people doing subdivisions, people doing commercial have to do an arc. report. And you do an arc. report but only on the area being disturbed. So if you're creating 100-acre lots, it's your choice. You could survey the whole 100 acres and anyone could build anywhere on that 100 acres. Or you could survey a five-acre building site and an access easement to it and as long as the person builds in there, you don't have to another survey.

Again, that's the request from SHPO. So that's the change in there. They're the ones that catalogue the proposals.

MR. CATANACH: It's interesting. Certainly you could have an archeological ruin out in the open space somewhere and kids go out there and play and start disturbing that. You would think that even though there's an open space area you'd be interested to know that there's a significant site out there to protect it within an easement, at least that, so that activity going on in an open space area would have a better chance of not disturbing a significant ruin.

MS. ELLIS-GREEN: That's true. I think the way that the state has approached this is that they know that this is going to require more people to do surveys that maybe wouldn't have had to under the old Code, and so what they're saying is what their minimum would be for areas to be disturbed. If the Board wants to require everyone to survey everything then I'm sure that would be even more.

CHAIRMAN CAMPOS: More work for certain folks. They have a whole industry.

DOLORES VIGIL (Land Use Administrator): Mr. Chair, Commissioners, I

have a question for you. If there's an applicant proposing any development, so we don't have any archeological sites or areas that have already been identified?

MS. ELLIS-GREEN: If they've already been identified and they've already surveyed, that's on their database, SHPO's database and you could use that existing survey.

MS. D. VIGIL: So they're saying if you do a lot split you need to do an archeological -

MS. ELLIS-GREEN: For your buildable site. I think family transfers are exempt from that.

MS. D. VIGIL: How much is that going to be for the applicant? Is it going to be \$500? \$350? On top of everything else they have to pay for? It's something we need to consider at some point. It says in the Code, the way it's written out, it says any development would have to go through the archeological survey, not knowing how much that's going to be. Is every lot split going to have to get an archeological survey? Who knows? Maybe even \$1000.

MS. GUERRERORTIZ: Is there an exclusion for a family transfer? Or for smaller things? Isn't development plan before the building permit? So is that for a building permit?

MS. ELLIS-GREEN: Applicability pertains to site disturbance.

MR. GRICE: It's in 7.21.2.

MS. D. VIGIL: I understand that if you disturb the site and you come in for a building permit, that's when it would also -

MS. ELLIS-GREEN: I don't think there's a requirement for building permit. We can work on that language. If we don't want to include land divisions we can possibly say subdivisions of five or more lots, or areas of land five acres or greater. Or in a traditional community. I think at the moment in a traditional community you do it anyway.

MS. GUERRERORTIZ: Except for a family transfer.

MR. GRICE: I don't know why family transfers would be excluded. A lot of time family transfers are just done for investment purposes and they're getting a piece of land and there will be no site disturbance. So in that case the transfer could be approved and it would be picked up when they came in for a building permit.

MS. D. VIGIL: So does SHPO have the archeological sites marked out?

MS. ELLIS-GREEN: Yes, they do.

MS. D. VIGIL: You could limit it to those areas that have already been identified.

MS. ELLIS-GREEN: Well, no, they have the identified sites mapped, but it's the rest of the county they want surveyed.

MS. D. VIGIL: But they do have a general area -

MS. ELLIS-GREEN: That's what they're saying now is that they don't have a high area.

MS. D. VIGIL: So they want this information. They want the County to propose this -

MS. ELLIS-GREEN: Anywhere in the county.

MR. CATANACH: Is there any discussion where you have a property that already has an existing building where there's already been substantial disturbance of the site?

MS. ELLIS-GREEN: We have the right to waive that in areas where there's been substantial surface disturbance. It says such as gravel quarries. But we have waived this before when we were near areas that have been disturbed.

MS. MCGOWAN: There are areas in La Cienega where houses are built right on top of archeological sites. And the archeologists disagree over whether that's good or bad.

COMMISSIONER SULLIVAN: As long as they're not doing additional site disturbance then there wouldn't be any requirement. That would be a condition noted on the plat that if you did a family transfer to split one to two, then a note on the plat would be for any building requirement on this lot you must obtain a reconnaissance archeological report, once they get around to building on it.

MS. ELLIS-GREEN: Right. And traditional communities now, if you're developing more than two acres, you need to have an arc. survey done. And then it's between five acres and forty acres depending on the high, medium or low potential.

MR. CATANACH: I hear what Commissioner Sullivan is saying and I'm not sure - an archeological permit would be required at the time of a building permit? Is that what

COMMISSIONER SULLIVAN: Reconnaissance.

MR. CATANACH: Reconnaissance.

COMMISSIONER MONTOYA: What's the difference?

MS. ELLIS-GREEN: I think that the state would rather have it at the subdivision of land phase so you don't sell a piece of property on to someone else who comes in for a building permit and then that's put on them and they have to go and hire someone to survey.

COMMISSIONER SULLIVAN: I think you'll have a hard time selling this to five members of the County Commission.

MR. CATANACH: Commissioner Montoya, it's a less detailed report than a full archeological survey.

MS. GUERRERORTIZ: What we do now, and the reason we do it, and we have to do it before hand [inaudible] - I don't have a problem with that. But I guess the question is people who already own lots, will they need to do it for a building permit, and then what happens if their subdivision is an archeological site and that's the only building place.

MS. ELLIS-GREEN: I wouldn't recommend that we require it for single family residential on existing lots. We should do it when we're dividing so we know that we've not created a lot that just has an archeological site on it.

MR. CATANACH: Or if it's a commercial development going through a development plan process. That's clear.

MS. ELLIS-GREEN: Non-residential, multi-family, if we have a site with apartments and which will come out when you're subdividing land.

COMMISSIONER SULLIVAN: Then you might want it to read all developments that contemplate site disturbances instead of involve disturbances.

MS. D. VIGIL: Would you consider requiring it for certain developments that [inaudible] I don't know. Because I know the purpose of this is just to make sure that they're not disturbing any possible archeological sites. The other point that I was going to make, if we ask to have these archeological reconnaissance surveys done, then we're going to have to send their reconnaissance surveys to the state?

MS. ELLIS-GREEN: Yes.

MS. D. VIGIL: So they're going to have 60 days to review? Like you have other state review?

MS. ELLIS-GREEN: I think 30.

MS. D. VIGIL: They're going to have 30 days. So then that's going to slow up - It's a little bit hard. Just kind of clearing that up.

MS. ELLIS-GREEN: Commercial, multi-family, non-residential would take longer than that anyway.

MS. D. VIGIL: I guess I'm kind of just speaking to what's said here.

MS. ELLIS-GREEN: We may look at taking out -

MR. GRICE: All the applicability statements are in the applicability paragraph. We'll make it clean so everybody knows right up front what we're talking about. So the key is determining what it should apply to and then we can craft the language. You can say that while there are exemptions, or you could say it applies specifically to non-residential, multi-family -

COMMISSIONER MONTOYA: I guess the point, and I would argue in favor of easing this somewhat, is that we're starting to send everything for review to the Pueblos. They view everything as a cultural site.

MR. GRICE: Sure.

COMMISSIONER MONTOYA: Everything.

MR. GRICE: I understand.

COMMISSIONER MONTOYA: Within Santa Fe County.

MR. GRICE: There are people who have been here.

COMMISSIONER MONTOYA: So it could potentially get very costly for anyone, an individual or a developer, if we say anything.

MR. GRICE: The other thing, if you apply it even to the construction of a single family dwelling on a previously approved lot, you're running the risk of a takings claim. You have to allow each parcel to have a reasonable economic use of the land and typically that's interpreted as at least a single family dwelling. I really think you should exempt single family dwellings on previously approved lots.

MS. ELLIS-GREEN: We did talk about non-residential, multi-family, like an apartment complex.

MR. GRICE: New subdivisions.

MS. ELLIS-GREEN: And new subdivisions. Now, that means - that includes - subdivisions are two or more parcels, unless you're one of the exemptions. The exemptions

are the family transfer, the large agricultural land. There are 13 exemptions. Or we can split subdivisions and say x-number of lots or greater, or subdivisions involving the division of more than five acres of land. We can put in some kind of cut off there.

MS. GUERRERORTIZ: I was just noticing something. The next page, you basically say in no areas of cultural sites and landmarks that you exclude, you make some things exempt. So that's in known areas there is an exemption. I'm looking at 7.21.4 and it says, Unless a report is specifically required – you say in areas where you have known resources and you exclude single family, you exclude roads, you exclude family transfers, it says you're exempt from the reporting requirements. And yet in areas where we don't know where anything is, those things aren't excluded and maybe these things should be excluded.

MS. ELLIS-GREEN: That's existing Code as well.

MR. GRICE: We just need to move everything that relates to applicability to one spot so that everybody can see what it says. Because I noticed a couple of spots.

COMMISSIONER MONTOYA: So essentially, section 7.21.4.B.2 we'll move to applicability.

MR. GRICE: Looks like the phrase that Ms. Guerrerortiz pointed out needs to be moved. It's a good sentence. That's the last sentence of 7.21.4. The second sentence. That essentially is a big exemption that should be moved up into the applicability.

COMMISSIONER SULLIVAN: I caution against family transfers. We just approved one at the meeting before last that involved 14 lots in one fell swoop. So family transfers aren't always one to two lot splits. This was 14 lots at one time.

MS. ELLIS-GREEN: So perhaps we could say the subdivision of land involving more than so many lots or involving more than a certain acreage.

COMMISSIONER SULLIVAN: I certainly would make it applicable to anything over two lots.

CHAIRMAN CAMPOS: We need to have standards for family transfers. They get into the market eventually, fairly soon. And they don't have the protection the other lots have and that's not really good.

MR. GRICE: So a subdivision of three or more –

MS. ELLIS-GREEN: A land division either involving x-number of lots or more.

MR. GRICE: Three or more.

COMMISSIONER SULLIVAN: We don't call it a subdivision. We call it a land division, because a subdivision is a different term.

MS. D. VIGIL: In the Code it says subdivisions are two or more lots.

COMMISSIONER SULLIVAN: Whatever the proper term is.

MS. ELLIS-GREEN: Do we want to say any kind of division more than three or more lots. You don't have to do it if you're claiming two lots; if you're claiming three lots you do?

COMMISSIONER SULLIVAN: Any land division that results in three or more lots.

MS. ELLIS-GREEN: Okay. We'll fix that.

MR. GRICE: I think we can do that.

MS. ELLIS-GREEN: The last section I want to go through is actually the Non-conformities section, which is 11, page 11-2. Regarding the reuse or expansion of specifically non-residential uses. Currently under the Code it says you cannot expand the use of a non-conforming structure if you're expanding the intensity. The way that we worked it out, for example, was if you've got a restaurant and you want to add some storage space. You've got a tiny amount of storage and you want to add 100 square foot of storage space and you've said that that won't increase the intensity. If you want to add 50 seats, then that would increase intensity.

What we've looked at here is to more like the EZ Code to say you can change or expand up to 50 percent. It has to be approved by the CDRC. So if you had a restaurant with 50 seats, you could expand it up to – with a site development plan, complying with the Code, you'd need to increase your water supply, but you could go up to 150 seats at that point.

CHAIRMAN CAMPOS: Why do you prefer that policy change? Why does staff prefer that policy change at this time? The idea behind non-conforming is to eventually – they just go away. They stay how they are, but the idea wasn't to expand. I know the EZA – what's the policy?

MR. CATANACH: Mr. Chair, the discussion I've had with staff, it could actually be a benefit in the sense that the expansion would have to come into compliance with current standards. So instead of just letting a non-conforming use kind of die away, it might be to the benefit of the community to allow some expansion in order that you can get current improvements on the site.

CHAIRMAN CAMPOS: But the whole idea is they would wither away and eventually you'd have everything in compliance with Code. Wouldn't that be a reasonable intent?

MR. CATANACH: I think that's certainly been discussed and sometimes they don't wither away for a very long time.

CHAIRMAN CAMPOS: We know that. But that is a major policy choice.

MS. MCGOWAN: It is a policy choice. I can tell you what the logic was in the EZ, why we did it that way.

CHAIRMAN CAMPOS: There was a specific case, wasn't it?

MS. MCGOWAN: No. There was a basic disagreement on whether you want non-conformity to wither away or not, because if it's part of the community character to have mixed use and have those old things around, you don't want to create a condition whereby they have to sit there and rot instead of being able to clean them up, add on, modernize and keep the business going. They tend not to wither away. They tend to just –

MR. GRICE: They tend to have monopolies and thrive.

MS. MCGOWAN: There is a question now under the new Code, that maybe some of the new non-conformities could come under the new small business application and they should probably be first to do that so they're not non-conforming any longer.

MS. ELLIS-GREEN: That's another way they could fall under the Code in order to expand and they wouldn't be non-conforming. They'd be approved as a home business. If they can fall under that.

MR. CATANACH: The 50 percent expansion was only if they're not increasing the intensity or level of activity. For example, you have a 2000 square foot restaurant and you want a 1000 square foot building for storage purposes, that's not increasing the intensity.

MS. ELLIS-GREEN: Joe, we didn't change the language that it does not increase the intensity. Before it said you cannot increase the intensity. Now we're saying you can expand up to 50 percent, but with the condition that it doesn't increase the intensity.

CHAIRMAN CAMPOS: I'm not sure I agree with all of it. I'd like to hear better arguments from staff as to why it's 1.5. Why not 1.25? A slight modification, but you're making a major modification to non-conforming use. I'd like to hear some better ideas. I'm not convinced that this is the right policy. I'd like to hear more from you.

MS. ELLIS-GREEN: So now it's actually 50 percent, you could expand up to 50 percent floor area as long as you don't increase the intensity.

CHAIRMAN CAMPOS: So you can increase floor space up to 50 percent as long as you do not increase intensity.

MR. CATANACH: That's correct.

MS. ELLIS-GREEN: That example would be incorrect. Under this, the way it's written you couldn't increase in intensity. You could expand up to 50 percent of the floor area for storage, or for – say you've got 50 seats in a small area. You could increase the size of that but still have 50 seats. That's the way that I'm – sorry, Joe. I didn't see that. So what we're actually doing is putting a lid on it. You couldn't increase by 100 percent.

MR. CATANACH: One of the things that came up in the EZ was building expansion. Does it have to be an attached addition or can it be a separate building? And again it goes back to allowing 50 percent of the building area, and again, I'm going on the basis that you're not increasing intensity. Is it an attached building addition? This came up in the EZ and actually, it landed up in court and I believe the clarification you made in the EZ was that a building expansion could not be a separate building. It had to be a building addition. But I just throw that out there because these are the little things that come into this type of thing.

CHAIRMAN CAMPOS: Well, that's food for thought. What else?

MS. ELLIS-GREEN: I think Commissioner Sullivan wanted to go back to 8.4.

CHAIRMAN CAMPOS: Let's not go back. Let's skip that.

COMMISSIONER SULLIVAN: I wanted to clean up some things on 8-3.

MS. ELLIS-GREEN: Article 8 is the Subdivision Design Standards.

CHAIRMAN CAMPOS: For the record, the meeting has ended. We have lost our quorum right around 4:00 with Commissioner Montoya leaving. So we're just in a study session right now I guess.

COMMISSIONER SULLIVAN: We can study it for the next time when we bring it back before the whole Commission. If you look and think about this chart it brings up some policy issues. For example, you say that if you have – let's look at five to 24 lots or

DUs, dwelling units. And then you have the column, if it's less than one acre, they require A, a community water system, and B, which is a community liquid waste disposal system. You go on and you say, if you have five to 24 lots and they're one to 2.5 acres, they only require a community water system. Beyond that they require none of the above and you move to the right. Dash, dash, dash.

So what we're getting as you well know is 15 to 24-lot subdivisions, all of which are 2.5 acres, so that they don't have to have water systems. They don't have to have sewer systems. Right? Now, is that a good idea, policy-wise? Is that smart growth? It's sprawl. So what we're doing is we're incentivizing land developers to create subdivisions which are sprawl by this chart. Now, that's further complicated by the fact that they have put a little note in there, 3.b. So if you have lots that are less than one acre, and they're in the 5 to 24 category, which is the most abused subdivision category in Santa Fe County, Type III, it says right there, community water, community liquid waste. Period. No confusion. But then you go down to 3.b and it says, in order to promote cluster development, 3.b, you can have shared wells.

So who's going to put in a community water system when you can have shared wells? You might as well throw that little puppy out. Right? You put a note in there which totally obviates the whole idea of less than one-acre lots which is a requirement for a community water system. Who's going to have a community water system when you can have shared wells. Now, there's a place for shared wells and I think they're in the two to four lot area, quite frankly. I think in the two to four lot area, shared wells are an economical way of providing water service. It's hydrologically reasonably sound and it doesn't have a great impact on the environment, but when you allow that 3.b loophole on all of your Type III subdivisions you've got what we've got now, which is all these shared wells popping up.

MR. GRICE: Specifically, how would you propose to change it?

COMMISSIONER SULLIVAN: Well, quite frankly, first of all, I would eliminate 3.b or make 3.b only apply to lots two to four.

MS. ELLIS-GREEN: It was my understanding that that was if you've got an overall gross density larger and you're clustering, therefore, leaving open space. I thought that was the intent of 3. It doesn't read that way.

COMMISSIONER SULLIVAN: It doesn't read that way.

MS. ELLIS-GREEN: I would agree it doesn't read that way but that was my intent.

COMMISSIONER SULLIVAN: My suggestion, and it's more than an editing one, it's a policy one. My suggestion quite frankly is that in the 5 to 24-lot category, that we have to require, regardless of lot size, in other words, we have A + B all the way across that line. And what that does is it doesn't give incentives to develop sprawled subdivisions.

CHAIRMAN CAMPOS: You think that would apply to 10 to 40 acres, or 40 or more, Jack?

COMMISSIONER SULLIVAN: Well, when you get to that point - I'm more concerned on this 2.5 to 10-acre lots.

CHAIRMAN CAMPOS: That would be okay.

COMMISSIONER SULLIVAN: And those three columns are the ones we see the most seriously abuses. And then in the same context, if you look down at note 3.c, Cluster developments containing 25 units shall use community water and liquid waste disposal system. That's not what it says. That's not what your chart says. The chart says if I have a 25 to 99-lot subdivision and it's 2.5 acres, I don't have to use -

MR. GRICE: So in the third column it would be A + B all the way down.

COMMISSIONER SULLIVAN: Yes.

MR. GRICE: It may be a better policy.

COMMISSIONER SULLIVAN: The conflict between the note -

MR. GRICE: It looks like we could solve it if we make A + B in all of the first three -

COMMISSIONER SULLIVAN: But you've got to look at the two to four lots. You've got to go back and look at the two to four lots and I'm not sure if that 3.b was supposed to be stuck on the two to four lots, Penny, or quite where that 3.b applies. But when you look at the two to four lots, then you want to think about allowing a cluster well.

MR. GRICE: I think this chart was simply transferred here from your existing Code.

MS. ELLIS-GREEN: Yes, it is.

MR. GRICE: That doesn't mean it's the right chart.

MR. CATANACH: Well, it is, but I thought we talked about first of all, when it's talking about size of lots, is that gross density, or is that actual lot size of any single lot? That was a problem I've had with this chart. It doesn't really clarify whether it's gross density when you're talking one to 2.5.

COMMISSIONER SULLIVAN: Well, it refers to a note 11, but there is no note 11.

MR. GRICE: Yes there is. At the bottom of the page.

COMMISSIONER SULLIVAN: Oh, way down there. See Section 2.7.2.A for lot area calculation methodology. Okay, we don't have Section 2.

MS. GUERRERORTIZ: Can you tell us whether that's an actual acreage or whether that's the gross acreage? Because I think it would be appropriate to put it here.

MS. MCGOWAN: I can say that cluster was intended to be the net acreage.

MS. ELLIS-GREEN: Number 3 was supposed to put in effect, that to allow 25 or more dwelling units. My understanding is that if you cluster down to smaller than one acre, you're given basically in order to make people want to cluster, to be smaller than one acre and truly cluster your land, instead of doing 2.5-acre lots throughout, do smaller than one acre and leave the rest as open space.

COMMISSIONER SULLIVAN: Where is this?

MS. ELLIS-GREEN: 3.b and 3.c.

COMMISSIONER SULLIVAN: In the first column?

MS. ELLIS-GREEN: The intent of having that there -

COMMISSIONER SULLIVAN: And where would they go? In the first

column? Or in the second column where it says less than 1.

MS. ELLIS-GREEN: I'm not sure where they would go. But I think the intent of that was to truly get people to cluster. Leave open space and cluster and not then be pushed into more requirements because you're clustering. I think that was the intent of doing it.

COMMISSIONER SULLIVAN: I don't understand how it does that. I would just take it out. I don't know what it means. I think we define by the chart what levels of public water and sewer are required for a particular size of lot.

MS. MCGOWAN: I agree, Commissioner, if you change to have A + B, water and sewer required for some of those other categories, there's an automatic incentive to cluster.

COMMISSIONER SULLIVAN: And that's exactly what we want the incentive to do. But when we get out to these larger 10 to 40-acre lots and that kind of thing we realize that it's not economically feasible and may not even be desirable of course.

CHAIRMAN CAMPOS: The last item, we can talk about 100 lots or more, Jack. With a 100-lot subdivision are they required to have a water system?

COMMISSIONER SULLIVAN: They are required to have a water system all the way up to the 40-acre size.

CHAIRMAN CAMPOS: Yes, but what about greater than 40 acres? It's still 100 lots or more. It's a big subdivision.

COMMISSIONER SULLIVAN: When's the last time we approve a 100-lot subdivision? Las Campanas, probably.

MS. ELLIS-GREEN: But they weren't 40 acres or more. Five.

COMMISSIONER SULLIVAN: When is the last time we ever – that's a Type V subdivision and we've never approved one ever.

MS. ELLIS-GREEN: Probably the Community College District, but their lot size is so small –

CHAIRMAN CAMPOS: These don't even apply in the Community College District.

MS. MCGOWAN: They are required to do water and sewer.

COMMISSIONER SULLIVAN: Yes, they're required to do water and sewer.

CHAIRMAN CAMPOS: I'm just curious if there's any argument in favor of – a huge subdivision, 100 units, maybe it would never happen, if it's over 100 lots. That's a big subdivision.

MR. GRICE: It would be more economical to provide central water and sewer.

COMMISSIONER SULLIVAN: So you might want to go A + B all the way across there.

MS. ELLIS-GREEN: How far should the 5-24, 25-99 go?

COMMISSIONER SULLIVAN: I'd go A + B on the second column and A + B all the way up to the ten-acre lots.

MR. GRICE: Not here.

COMMISSIONER SULLIVAN: And of course the developers don't like it, but our purpose is to encourage smart growth and encourage public water and sewer utilities so that

SFC Clerk 10/17/2004

we can conserve water, so we have control of water supply and we're not just dipping into the aquifer with no controls. That's how you do it.

CHAIRMAN CAMPOS: But Jack, a community water system doesn't mean a County or public water system where we're taking surface water off the river. They're still -- they need to have water, don't they?

COMMISSIONER SULLIVAN: We can monitor a community well much more easily than we can monitor 99 individual holes.

MR. GRICE: What this is going to do is encourage clustering, because the cost of extending water and sewer lines [inaudible]

COMMISSIONER SULLIVAN: And there's one below that. You go A + B + C.

MS. ELLIS-GREEN: So it gives you the right to do individual nitrogen removal liquid waste systems. Do we want to still keep that?

MS. GUERRERORTIZ: Do you define cluster developments?

MR. GRICE: Yes, we do. It has a definition.

MS. GUERRERORTIZ: I would argue, and I'm going to argue from the developers' perspective, but I would argue that you're increasing the cost of development, which means you're increasing the cost of housing in the community. And I would also argue that on the liquid waste side, I can't comprehend where there would be any public benefit to having community sewer systems on lots larger than 2.5 acres.

COMMISSIONER SULLIVAN: I certainly think there would. Let me just give you an example of what's happened out in Eldorado. Under this same provision, they've extended -- and other subdivisions are doing the same thing -- under the same provision they've paid the cost to extend water lines all the way to the subdivision to provide fire flow. And then they're drilling individual wells. That's what they do. So they've paid the cost to extend the lines, the fire hydrants, all the way through the subdivision, and because they don't want to transfer water rights, they drill individual wells, but they meet the fire requirements by tying in and bringing in community water lines

So it's already happening. The water extensions are already happening. We just have to make some decisions that we want to encourage the type of development we want to encourage.

MR. GRICE: Mr. Chair, would you like me to read the definition of cluster development?

CHAIRMAN CAMPOS: Sure.

MR. GRICE: I think it's important in this particular meeting with staff here, use the way this Code treats cluster development is different from density transfer. Density transfer is transferring development rights from one site to another location. Cluster development is --

MR. CATANACH: That's TDR. Density transfer is within the same property.

MR. GRICE: Density transfer as used in this Code is different. I know some of the things I got back from the staff didn't seem to understand this. It's just a matter of how they use those words. Those are terms of art. Density transfer, TDR is transfer from one site

to another location off-site. Clustering, cluster development is the following: A development or subdivision that concentrates lots and structures on the most suitable portion of a parcel so as to allow the remaining land to be used for recreation, open space, agricultural land or the preservation of environmentally sensitive areas. Clustered development may involve a reduction in otherwise applicable minimum lot area provided there is no increase in the density allowed by the underlying zoning district of the remaining land that is reserved for open space. See also density transfer, which is a different thing. It's taking development rights from one location and moving them - I'm only trying to simplify the vernacular, because they were used interchangeably when I found them in the Code.

MS. D. VIGIL: Do you have the definition for density transfer?

MR. GRICE: That's also in the Code.

DR. WUST: I just want to add a side effect, I think positive in this respect, requiring community water systems. By our definition, that's acquiring the water rights transfer, and obviously a developer is not going to try to transfer those water rights by putting half an acre-foot into every individual well. It will probably come down to one well, maybe two, which will create a public water supply with state and federal regs, which are very protective of human health. And public water systems or wells tend to be better managed than individual wells. They have certain requirements in terms of completion that domestic wells don't have. They're better wells, actually, in terms of how they're completed, and the system is managed better and they have to test for water quality constantly under the state and federal regs. When it gets up to 25 people, which would be right around 10 homes. So part of that definition is in a way, a lot of developments have gotten out of being a public water supply is they just get everybody on their own well and they say, well, it's not commonly managed. Nobody's serving 25 or more people. But this requirement would actually have a side effect of in essence, once they get up to eight to ten homes, they will be a public water supply because they're not going to be using a bunch of different wells. And I think that would be much more protective of human health. They do have to be yearly or up to three years, tested for water quality and bacteriological [inaudible] and it's a much better managed system.

MR. CATANACH: And in that example where they're using wells for a community water system, do they have to be interconnected?

DR. WUST: If it's under common ownership or management. Usually, if somebody's putting in water rights they want to control those wells. Common ownership or management. They don't have to be physically connected.

MS. MCGOWAN: I have a question, Steve. Is there, in your experience, is there a difference in - you talk about allowing water use by people on individual wells versus in a system?

DR. WUST: There's more control on the amount of water used when people are metered and charged money, unlike a domestic well. [inaudible] In our area especially, we have areas of high arsenic, high uranium. We've dealt with this by [inaudible] With domestic wells, that's their problem, basically. Public water supply, that's everybody's problem and it gets taken care of.

MS. MCGOWAN: No, I meant behaviorally. Because I know there are some cities that have tried to use the price of water as the control for many things. Tried to use the price of water for amount used, for conservation. And people who have a lot of money, they don't care. They absolutely do not care. People will spend \$1500, \$2000, \$2500, \$3000 a month on water bills.

COMMISSIONER SULLIVAN: There are isolated incidents like that but when Santa Fe went to Stage 3 their effluent went from 11 million gallons down to 8 million gallons a day at the plant. So there are certainly incidents like that where people say, I don't care. I'm going to irrigate my Kentucky blue grass and they do and they pay \$1500 a month to do it, but you can also, when you have these community systems, they can eventually become as necessary, a future part of a regional water system and they meet the criteria that Steve was talking about. They meet drinking water criteria and they can eventually tie into a regional system in that sense.

MS. MCGOWAN: Yes. In some places in the county that probably doesn't - I'm interested in the psychology of it I guess because I think people, when you turn on the tap, I think you're less likely to understand where it's coming from and what the impacts are than if you're paying the electric bill to pump it every month and you have to pay attention to the well. I think with a well people pay more attention.

CHAIRMAN CAMPOS: But they will be paying for a well, won't they? As a group?

MR. GRICE: But the flip side is that you can monitor, if it's a public water system, you can monitor - if you've got to go and monitor someone's individual well you can -

MS. MCGOWAN: But that's Joe and mine - that's our retirement plan. We're going to provide that service to the County so we can be outside all the time and never have to come in again.

COMMISSIONER SULLIVAN: On that 3.b issue, in the clustered wells, I think we talked about the bottom line going A + B four boxes and the next one going A + B or C, three boxes and the next line up going A + B for three boxes across. In the 2-4 lots or DUs, in the less than 1 and 1-2.5, I would say the note 3.b in there would be that clustered wells are required. Our hydrology -

MS. MCGOWAN: Or shared wells.

COMMISSIONER SULLIVAN: Excuse me. What do we call them? We say clustered development, blah blah blah, may use clustered or shared wells. I don't know what a clustered well is, but a shared well, are required for those lot sizes. Now, it can always be waived. Once in a while we get a request coming in for four lots and one lot is way over a hill and across the vale and down in grandmother's pasture, and they want to put in two wells. And so we can consider a variance to that. But in those two categories, almost of them we see coming in with shared wells. But those two I would say at a minimum. When you get to 2.5 acres and more for four lots, they're bound and determined, I guess to have their own wells. But small lot sizes, shared wells make a lot of sense.

MS. ELLIS-GREEN: I think there was a discussion at our last BCC meeting. We didn't have actual direction to do that. I'm wondering, do we want to take this forward through the Code rewrite or is this something that you would recommend that we take it through as an ordinance?

COMMISSIONER SULLIVAN: I would say we do it though the Code rewrite. It's just as different as many of the other sections that we're putting in there.

MS. GUERRERORTIZ: Could we ask that staff determine the cost impact of this change?

COMMISSIONER SULLIVAN: Well, why don't they determine the cost impact of the electric poles or the lighting ordinances?

MS. GUERRERORTIZ: The changes to the underground, those are mostly in the Code. There's some clarification things going on. But this is requiring water rights if you're doing a five-lot subdivision now.

COMMISSIONER SULLIVAN: Well, and what's wrong with that?

MS. GUERRERORTIZ: Well, I would say that it's going to have a major impact on the cost of housing in our community and I think that would be something that the Commission would want to consider. If it's going to increase each lot \$20,000, do you care?

COMMISSIONER SULLIVAN: I think all of these have an impact. An archeological, whether they cost \$1000 or \$500. That's got an impact.

MS. GUERRERORTIZ: That's in the Code already.

COMMISSIONER SULLIVAN: I think that it's not in the Code to the extent that it's being proposed in this Code. That's a major change. My suggestion is we put it in there and we debate it, bring it up. We haven't discussed Section 8 yet so we could have public comment. This is just a work session.

MR. GRICE: With issues like this, we'll highlight it.

COMMISSIONER SULLIVAN: Highlight it the way you have the others and sit down and talk about it. I think the Commission needs to make a policy decision as to whether we're going to encourage sprawl in the future or whether we're not. And we know what the cost of sprawl is and we know the cost of sprawl is high. We know that the cost of water at the outset is more, but over the long run -

MR. GRICE: There's other costs. There's the cost of sprawl, as you say, is a linear foot of road or sewer, and the O & M, long-term operations and maintenance to the entire community, is felt in the character of the community.

COMMISSIONER SULLIVAN: We've already done a fiscal cost study. We did it for the Community College District. Unfortunately, water and sewer weren't included. But even in the Community College District, where we encourage clustering and require 50 percent open space, what that study told us was we were way out of whack to the tune of about \$2,000 a lot on road costs. We went through the whole study and said we are subsidizing those road maintenance and improvement costs to the tune of \$2,000 to \$3,000 a lot. The Sheriff was okay, EMT was okay and fire was okay because we have fire impact fees. We don't have any road impact fees and that's really the reason. Even there we know the cost of roads in that kind

of a compacted orientation is a lot more than we thought in a negative way. So with sprawl, you can just multiply that by whatever you want.

CHAIRMAN CAMPOS: Are you saying this is a disincentive to sprawl and would encourage developers in different locations?

COMMISSIONER SULLIVAN: This would discourage, it's a disincentive to continue the pattern of doing 2.5-acre lot subdivisions with wells and septic tanks throughout the 1900 square miles of Santa Fe County.

MR. GRICE: An incentive to cluster.

COMMISSIONER SULLIVAN: An incentive to cluster.

CHAIRMAN CAMPOS: Other than just cluster in one area is there an incentive - we want people to be on County utilities, just like the RPA, we're talking about growth priority areas.

COMMISSIONER SULLIVAN: We don't require it. Changing this chart doesn't require the clustering. It doesn't require it. But from a financial standpoint, once you have to bring a water line in, you're going to say, Hey, it's a lot less water line if I can bring it to a clustered development instead of sticking all those water lines out in all the sites. So the cost of water is going to be less expensive. The cost of sewer is going to be less expensive. So I think it will seek its own level.

CHAIRMAN CAMPOS: Comments from staff.

MS. MCGOWAN: I'm not sure what the cost impact would be. I agree that it's definitely an incentive to do cluster development instead of just let's carve up 2.5-acre lots. It's definitely an incentive for that. I think the cost impact on housing is going to vary by where it's located in the county. Because there's a sensitivity issue. And the land is so expensive already in some areas of the county that you can pile on the incentives and it's not going to impact the lot buyer specifically because it already is way above what any of us in this room could afford. But there are areas of the county where the land values are such that this could have a significant cost. So it will deal with that issue of sprawl. It could mean less miles of road the fire and police have to drive around on. The issue of providing that fire and the police and the schools and school buses I don't think will be changed radically by this because if the lots are out there they're out there whether they're clustered or not. And that's another cost.

COMMISSIONER SULLIVAN: We have to look at requirements for affordable housing. We could put in certain exemption requirements for affordable housing if you want to be sure that -

CHAIRMAN CAMPOS: The housing has to be located in appropriate areas so it's not only in an actual public water system.

MS. MCGOWAN: I know what I wanted to say. It's actually the underlying hydrologic zoning that's causing this problem.

CHAIRMAN CAMPOS: Yes. So what do we do then? Change that hydrologic zoning?

MS. MCGOWAN: Well, we are in a lot of cases. I think part of the way you do that is to provide incentives for development where you can provide the services.

CHAIRMAN CAMPOS: Isn't that what the RPA is talking about. That's where we want growth. Outside of these growth priority areas we don't have the hydrological zones. We go with larger lots.

MS. MCGOWAN: Or what we proposed, which got laughed out of the room. We proposed to use the real County zoning.

CHAIRMAN CAMPOS: Which is?

MS. MCGOWAN: It's not 2.5 acres, it's 10 acres.

CHAIRMAN CAMPOS: Here you talk about the standard lot being 2.5 and not 10.

MS. MCGOWAN: That's what people understand it to be. That's not in fact what it was supposed to be when the original County water plan was done.

CHAIRMAN CAMPOS: That makes sense. But if we are going to use the RPA growth priority areas we have to change the hydro-zoning outside of these areas.

MS. MCGOWAN: It may or may not. I don't know if it's feasible to do.

CHAIRMAN CAMPOS: Feasible in the political sense?

MS. MCGOWAN: Or legally.

CHAIRMAN CAMPOS: Legally, I think it's feasible.

MS. MCGOWAN: I don't know.

COMMISSIONER SULLIVAN: I think we start with this and we put the issue in front of a) the public, b) the Commission, and start public hearings to go with this. c) the developers, and let everyone make their cases for what they think the impacts are and let the decision makers make the decisions.

MS. V. VIGIL: We're going to need so much input on this. This is definitely a policy direction that I think we need as much information as possible.

MS. MCGOWAN: The other side of it is if you don't want to have - if you want to still be able to provide the affordable housing and the middle class zoning you have to allow development to happen in the growth areas and not get in the way of that.

CHAIRMAN CAMPOS: There have to be incentives to do that to be effective. The argument here, Jack, is the more major changes we make the more opposition we're going to draw to these hearings. Do we want to have a basic rewrite with some minor changes, some tweaking, and let's get this done, and then next year we go through the amendatory process and we bring in major policies.

COMMISSIONER SULLIVAN: It's not going to come up.

CHAIRMAN CAMPOS: Just two steps instead of one big step. Let's do it in two steps. That's the argument that we've had or at least the discussion that we've had for some time.

COMMISSIONER SULLIVAN: The other thing is change your definition of the subdivision types. Whoever dreamed up 24 units? Where did that come from?

MR. GRICE: State law.

DR. WUST: I like to remind the Commission that the State Engineer is actually to get legislation in critical management areas, areas in which he could deny domestic wells or

really limit their usage. This is one of the areas he'll be looking at.

CHAIRMAN CAMPOS: Santa Fe County is one of the areas? The basin, or what are you talking about?

DR. WUST: The basin, the growth area.

CHAIRMAN CAMPOS: In the basin.

DR. WUST: So actually, some of this could be taken out of our hands. But the other thing I'll mention is you actually already have under the Code the authority, if you declare a critical basin, the County Commission can declare a critical basin, that would require water rights for all water use. It's never been declared by this County.

CHAIRMAN CAMPOS: Do we have that authority at present?

DR. WUST: It's in the County Code.

CHAIRMAN CAMPOS: It's statutory law? Does that give us the authority –

DR. WUST: In the Code it says in any area that's declared a critical basin, water rights will be required.

CHAIRMAN CAMPOS: But don't we need state law to give us that power?

DR. WUST: You'd have to ask the lawyers exactly how it works, but it is in the Code right at the moment.

MR. ROSS: Last year I think there were 12 bills about domestic wells introduced in the legislature and not one of them passed. I expect we'll have 12 or 20 or 30 more this year. It's been going on every session. One will get through eventually.

CHAIRMAN CAMPOS: Until there is a contrary statute we can do it under our general powers? Is that what you're saying? Okay.

COMMISSIONER SULLIVAN: I think, to answer your question, there's no question there will be discussion about it. There will be moaning from some of the land developers. But if I throw it out and the consultant and staff review it and feels that it's reasonable and it's comparable with what's in other areas, then I think we should bring that recommendation forward and we should act on it. If we want to go back, we can go back to the old one.

MS. ELLIS-GREEN: I was just going to say that Commissioner Montoya had actually asked us to take a look at this when we visited this table, but again, it may be something that we could simply take forward straight away with direction from the Commissioners at the next meeting as an ordinance amendment. One other thing we were looking at from our existing Code is the possibility of penalty fees. We'll be bringing that forward to the Board before this ordinance goes ahead. I don't think we'll actually call them penalty fees. They'll be reinspection and inspection fees.

CHAIRMAN CAMPOS: That's coming forward, right?

MS. ELLIS-GREEN: I think that's already gone forward for authorization to publish.

CHAIRMAN CAMPOS: I think it has. We'll be bringing that forward then we'll just slide it into the rewrite. But that is an option. If it's going to be controversial we can take this table and make the changes necessary.

MR. CATANACH: We might initiate the policy discussion earlier instead of later.

MS. ELLIS-GREEN: It's an option at this point.

MR. GRICE: You don't have the building packed. You don't have the hall, the Commissioners meeting room packed with opposition when you're trying to get a land use code done.

COMMISSIONER SULLIVAN: Well, the only time it becomes packed, quite frankly, is when the developers say they're going to take away your individual well. We see, Oh, they're going to take away the individual well and the people will show up. When we have responsible persons in the development community understand what the purpose of this is, and who got up and said, We think their regional road plan is really great and now we're saying, Fine. We're trying to implement it. When you have that attitude, then you don't have that. But when you have the misinformation you have it. The sooner whatever arrangement is the best to bring it forward I think it's fine. These issues need to be brought forward.

CHAIRMAN CAMPOS: We understand that. It's a question of time. Ms. Guerrerortiz.

MS. GUERRERORTIZ: I just want to say this issue, which we tried before when there was a Code amendment and there was a request to change water rights to include Type III, and that's basically what you're doing by modifying that table, is requiring Type III subdivisions to have water rights. That went through the review process probably 18 months ago and was defeated.

COMMISSIONER SULLIVAN: It wasn't defeated. That was brought forward when there were two Commissioners who are no longer on the Commission and they had particular feelings about that issue and the Commission is now changed. We have two new members on the Commission since that was brought forward and we'll have a third one that will be coming on board the first of January. So there may be different ideas. There may be the same ideas on it.

CHAIRMAN CAMPOS: We want to get this done by the end of this year.

COMMISSIONER SULLIVAN: This isn't going to get done by the end of this year. Did you read the front? We've got two public hearings, the CDRC, this won't come forward until February.

MS. ELLIS-GREEN: The proposal now is we're extending the time line of the contract and we're hoping that by March or April next year in order to get the public meetings take care of, go out to the public after we've done all of these changes. We still have a stack of changes from the public and from developers coming in that we need to review and decide whether or not we're going to recommend those changes. We then will go to public meetings. We will go to a CDRC meeting, a joint LCRC meeting, the local development review committees, and then two BCC meetings.

So with all of that there is no way we're going to get it done by the end of the year. So we're hoping now March or April.

COMMISSIONER SULLIVAN: We can bring it up whenever the staff feels it's

appropriate and I think it's important that Commissioner-elect Vigil has a say-so on it, so I'm not suggesting it be rushed through tomorrow morning or the next meeting. I suggest we look at it, have alternate language. You can hand it out. You can handle it any way you want but one way or another we've got to bite the bullet here and we saw it yesterday in the RPA meeting. It was very graphic, up in the northwest sector, ten different traffic studies, people up there saying, ten different traffic studies haven't done zip for us. All they said is the traffic is fine and we're overloaded. We need one traffic study that ties them all together. And they had a good point. The same thing here with water. At some point we have to step over the line.

CHAIRMAN CAMPOS: Okay. I think it merits a serious discussion, this page, 8-3. Maybe more input from staff.

MS. MCGOWAN: It definitely would have different impacts in different parts of the county. That's a consideration.

CHAIRMAN CAMPOS: Why don't you think about it some more. We still have to think about this in the context of the RPA and growth priority areas and outside the growth priorities area. Think about that too. Because I think we're going to have to go to a larger lot size outside the growth priority areas. Maybe even the basic 10. That's an issue that I think we have to consider seriously. Because we have to encourage people to move in, provide the infrastructure and we've got to get the affordable housing, and that's going to be in the growth priority areas. And we've got to stop sprawl. It's going crazy. We've lost control. We've lost the battle. We've got to do the best we can right now.

COMMISSIONER SULLIVAN: We may have lost the battle but it doesn't mean we stop fighting.

CHAIRMAN CAMPOS: No. The developers are going to develop into any little place they can.

COMMISSIONER SULLIVAN: That's just a modest proposal that I would bring forward.

CHAIRMAN CAMPOS: A radical proposal, Commissioner Sullivan.

MS. V. VIGIL: We'll have probably more through the public process. Your time line includes the public process before the end of the year, could you include me so I could at least take notes.

MS. ELLIS-GREEN: Right.

CHAIRMAN CAMPOS: You need to let all us know where all the public hearings are and all the public input.

MS. ELLIS-GREEN: To the two Commissioners and one Commissioner-to-be, do you agree with what we've proposed as far as our proposal for adoption. We would go out to the communities again, have those public meetings. We would go to the CDRC, to the local development review committees and then twice to the Board of County Commissioners.

CHAIRMAN CAMPOS: When you say the communities, what do you mean?

MS. ELLIS-GREEN: Pojoaque, Eldorado, Edgewood and Stanley. Edgewood asked to be included because of incorporation, they kind of feel like they're stuck out there and

we don't pay any attention to them, so we did add them into the communities that we go out to. We do advertising in newspapers throughout the county and we advertise every single meeting in all of those. So we would go out with the entire document. We've done it out there every single module. We'll do more extensive advertising trying to get a greater number of people.

MS. V. VIGIL: Penny, I have a suggestion. You have four sites, but there's really five districts and we do need to get some input from the northwest quadrant, where there's planning going on. So if you could consider the northwest quadrant. You'll be getting lots of comments to coordinate. I'm not sure what you would call it. Maybe Agua Fria, maybe 599, northwest quadrant, somehow.

MS. MCGOWAN: Because what's neglected by those four meetings is the area around the city.

COMMISSIONER SULLIVAN: We can meet in the Thornburg building.

MS. MCGOWAN: There you go.

COMMISSIONER SULLIVAN: Centrally located.

MS. ELLIS-GREEN: We could possibly meet here at the County, a public meeting in the chambers.

MS. GUERRERORTIZ: I know you don't have a lot of time for public comments, maybe I can make some non-controversial suggestions at this point?

CHAIRMAN CAMPOS: I don't know.

MS. GUERRERORTIZ: In the section on the street lighting that has a very strict requirement for street lights almost everywhere. And I think you should reconsider that.

MS. ELLIS-GREEN: We did delete at the last meeting where it says along arterials. We took along arterials out.

MS. GUERRERORTIZ: I got that, but I think you should consider not having it in traditional communities. Because right now it says at intersections of any road with a highway. Basically, we've got a lot of traditional communities with highways cutting through them and they would rather not see every road covered with street lights.

CHAIRMAN CAMPOS: Why would it hurt the traditional communities?

MS. GUERRERORTIZ: Because it would hurt the existing character of the communities. I think the way our communities work today, they're quaint and if you were to light them up it would have a very different feel.

MS. MCGOWAN: We could leave in when required for safety, because they are required for safety.

MS. GUERRERORTIZ: I like the safety consideration. That's something we need. But I don't think we should have a blanket statement at every highway intersection with every road. That's what that says. It's not a may, it's a shall. I'm on page 281. I'm just concerned because I think lighting should be focused on safety issues and about preserving community character and I think that should play an overall role, rather than a blanket statement. You've got it along paved roads, and I don't know if that's comforting. It could be better. And I just think we should focus on safety and community character and not have

blanket statements where they're required in every case. And I personally just don't like street lighting and I know a lot of people out there that don't.

CHAIRMAN CAMPOS: Yes, but some places you really need it.

MS. GUERRERORTIZ: Safety, no question. And you do have a line in here about protecting motorists and pedestrians. That can be required and that's totally appropriate. And certainly as an engineer who does this thing, I've got some liability when I don't put lights in. But I think we need think about more what's fitting for our communities.

MS. ELLIS-GREEN: I think we've got it covered with 2 and 3, at intersections with a highway or arterial for safety purposes, or when required by the CDRC. So strike A.1.

COMMISSIONER SULLIVAN: You could also do it the other way and say that in areas of unique character consideration can be given to excluding. In other words, you start with the basic criteria for good safe lighting, so you don't have motorcycle wrecks and what not, and then you say, well, if there's an outcry from the local traditional community that doesn't want it – the calls I get, and I don't have any traditional communities in my district. I get calls where people want street lights. But if they don't want street lights, and the only place I've gotten where they don't want street lights is in Eldorado. They didn't want so many lights. Then you have the option of taking it out. If you start with the base of it's in, then you carve it out if you're in a unique situation.

MS. ELLIS-GREEN: If we could require it for safety purposes and then we're deleting it because they're a traditional community that may be a legal issue. If it's required because of safety.

MS. COLLAROS: Looking at it from a legal standpoint, if you've got a safety requirement, you'll need to proceed with the safety requirement. Then if you want to word it somehow that you will be taking into consideration for purposes of safety whatever it is you're describing, a traditional community, what's the end result? We have to work with the language on that because we don't want to take away the safety issue.

MS. MCGOWAN: There's a whole new movement in lighting called contextual design and they're actually working on this at the Highway Department because they don't know what it means either. It varies from place to place, obviously, and they don't know how to weigh that against the threat of lawsuits from other issues. Often, those citizens out there were absolutely right. That design was way, way overlit and guess who pays the light bill? The County.

MS. V. VIGIL: Judy, that was an agreement – that's not what we standardly do, right? It was just somehow factored in.

MS. MCGOWAN: No, we pay the light bill.

MS. V. VIGIL: We pay the light bills always?

MS. MCGOWAN: In certain areas we make the homeowners do it, but on state highways, public roads, the County pays the light bill.

CHAIRMAN CAMPOS: And if the County declines to do so the DOT will not put those lights up on arterials, highways.

COMMISSIONER SULLIVAN: Public roads.

MS. MCGOWAN: So that is something we do need to pay attention to. Because not only do people find it objectionable but –

CHAIRMAN CAMPOS: It's very expensive.

COMMISSIONER SULLIVAN: Also there's not that many subdivisions where there's curb and sidewalk.

MS. MCGOWAN: No.

CHAIRMAN CAMPOS: We already in this country, North America use so much lighting. It's an environmental question. It costs a lot of coal to do this, nuclear power to do all this energy. If you look at the earth from space, America as compared to the rest of the world –

MR. GRICE: It's an economic map. It's an economic activity map. You can see Santa Fe from the moon.

MS. MCGOWAN: Santa Fe doesn't compare to Albuquerque which is way overlit.

MR. GRICE: What were the other non-controversial items.

MS. GUERRERORTIZ: On page 220 on the water handout. It says swimming pools are only allowed in commercial developments or as community facilities. And there is some language in here. Right now you can have a swimming pool only in commercially operated situations or community facilities. Now we're saying publicly open community facilities. What we have done in the past, and I can give you a couple of examples, like Bishop's Lodge is developing 84 dwelling units, they're doing a swimming pool for all 84 units, but it's not publicly open. They don't want to have it publicly open because of liability issues and things like that. So as developers, we're going to have problems with that publicly open statement.

There are some cases maybe where we would want a community, maybe Eldorado or some community to have a swimming pool. You would have water rights associated with that pool.

MS. ELLIS-GREEN: That's actually existing language in the Code right now. It hasn't been changed.

MS. GUERRERORTIZ: Okay, then can we strike publicly open?

MS. ELLIS-GREEN: Eldorado does have a swimming pool but it's not publicly open. It's only for the residents of the Eldorado subdivision.

CHAIRMAN CAMPOS: That's existing.

MS. GUERRERORTIZ: Has it always said publicly open and you haven't followed it? Because I can think of examples that are not publicly open pools.

CHAIRMAN CAMPOS: Are they pre-Code?

MS. GUERRERORTIZ: No, Bishop's Lodge got approved in 2000.

MS. ELLIS-GREEN: I think we can strike that. The intent is still there.

MS. GUERRERORTIZ: So it can just be community facilities. I think that would serve developers.

Ms. Ellis-Green stated it would be difficult to hold public meetings through Thanksgiving and Christmas. A CDRC meeting could be held in January or February with the local development review committees meeting in the same time period. It was determined not to hold a meeting the next day.

ADJOURNMENT

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

Approved by:



Board of County Commissioners
Paul Campos, Chairman

Respectfully submitted:


Karen Farrell, Commission Reporter

ATTEST TO:


REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK

SFC Clerk 12/17/2004



Sec. 7.7 Water Supply

7.7.1 Purpose

The standards of this section are intended to ensure the availability of an adequate, water supply to serve new development over the long term without negatively affecting other properties in accordance with the water right permits issued by the New Mexico State Engineer pursuant to NMSA 1978 §72-5-1, §72-5-23, §72-5-24, §72-12-3 or §72-12-7 and domestic well permits pursuant to NMSA 1978 72-12-1 et sequel.

7.7.2 Performance Standard

A. Maximum Density

Base zoning density and dimensional standards of the respective zoning districts and water policies are based on the best information available and reasonable assumptions regarding water resource availability, in accordance with the *Santa Fe County 1980 General and the Santa Fe County 1999 Growth Management Plan*.

1. Maximum allowable density and the minimum lot area requirements of base zoning districts are not automatic. Notwithstanding other provisions to the contrary, the allowable density is contingent (and may be reduced) on demonstration or determination of water availability, as required by Sec. 7.7.5, Lot Size Requirements.

Commentary: For further information, see Sec. 3.3, Minimum Requirements (Residential Performance Districts), Sec. 4.3, Minimum Requirements (Nonresidential Performance Districts), and Sec. 5.3.1, Minimum Requirements (Community Districts).

2. With proof of 100-year water supply through a geohydrologic reconnaissance report and application of water use covenants (See Sec. 7.7.11, Water Conservation), the allowable density in each performance district may be increased in accordance with the requirements Sec. 2.7.1, Performance Districts Density and Dimensional Schedule.

B. Water Supply Plan and Submittal Requirement Summary

Water supply plan and submittal requirements are dependent on the type and scale of development and the amount of water use, which are summarized below.

REQUIRED CODE SECTIONS FOR WATER SUPPLY	
Development Type	Relevant Sections
Construction or expansion of a community water system	Sec. 7.7.4C, Community Water Systems Sec. 7.7.6, Water Availability Assessments Sec. 7.7.10, Water Quality Sec. 7.7.4, Existing Community Systems Sec. 7.7.11, Water Conservation Sec. 7.10, Fire Protection
All subdivisions containing 6 or more lots	Sec. 7.7.4B, Water Rights Permits, as applicable, Sec. 7.7.6, Water Availability Assessments Sec. 7.7.10, Water Quality Sec. 7.7.4, Existing Community Systems Sec. 7.7.11, Water Conservation Sec. 7.10, Fire Protection
All subdivisions containing 5 or fewer lots	Sec. 7.7.4B, Water Rights Permits, if applicable Sec. 7.7.4C, Community Water Systems, if applicable Sec. 7.7.6, (Water Availability Assessments) Development with 5 or Fewer Lots Sec. 7.7.10, Water Quality Sec. 7.7.11, Water Conservation Sec. 7.10, Fire Protection
All subdivisions required to have community water systems as listed in Sec. 7.5.8B.4 Required Water and Sewer Systems	Sec. 7.7.4B, Water Rights Permits Sec. 7.7.4C, Community Water Systems Sec. 7.7.6, Water Availability Assessments Sec. 7.7.10 Water Quality Sec. 7.7.11, Water Conservation

SFC Clerk 12/17/2004

REQUIRED CODE SECTIONS FOR WATER SUPPLY	
Development Type	Relevant Sections
	Sec. 7.10, Fire Protection
Multi-family or residential development with five or more units	Sec. 7.7.6, Water Availability Assessments Sec. 7.7.10, Water Quality Sec. 7.7.11, Water Conservation Sec. 7.10, Fire Protection Sec. 7.7.4C, Community Water Systems, if applicable
All non-residential development in which the project uses more than 0.25 acre feet of water annually or in which the applicant obtains water other than through a well which is permitted under NMSA 1978 §72-12-1 as it may be amended	Sec. 7.7.6, Water Availability Assessments Sec. 7.7.10, Water Quality Sec. 7.7.11, Water Conservation Sec. 7.10, Fire Protection
All development in which the applicant requests a density adjustment based on water availability	Sec. 7.7.6, Water Availability Assessments Sec. 7.7.11, Water Conservation Sec. 7.10, Fire Protection
All development in which the applicant requests a density adjustment based on water conservation.	Sec. 7.7.6, Water Availability Assessments Sec. 7.7.11, Water Conservation Sec. 7.10, Fire Protection
All lots created in accordance with the Subdivision Exemption provisions of Sec. 10.9.7A.1.e. (Court Ordered Divisions), Sec. 10.9.7A.1.i. (Gifts to Family) Sec. 10.9.7A.1.j. (Security Instruments), Sec. 10.9.7A.1.l. (Trusts and Nonprofits, Tax Exempt) or Sec. 10.9.7A.1.m. (Second or Subsequent Sales)	Sec. 7.7.11, Water Conservation

7.7.3 General

Each development shall demonstrate the availability of a water supply that is sufficient in terms of quality, quantity and dependability to meet the maximum annual water requirements for the proposed development for 100 years; that is, sufficient to provide for domestic use, fire protection, and any other proposed use. In making its determination as to whether the proposed water supply meets this standard, the decision-making body shall give substantial weight to the recommendations of the County Hydrologist, the County Land Use Administrator, other County staff, and the New Mexico Office of the State Engineer.

- A. All water supply plans shall be reviewed by the Administrator and the County Hydrologist.
- B. Water supply plans for proposed subdivisions of 6 lots and greater shall be submitted by the Administrator to the New Mexico Office of the State Engineer and the New Mexico Environment Department. Water supply plans for other types of developments may be referred to appropriate state agencies if, in the opinion of the County Hydrologist and Administrator, such referrals will provide information necessary to the determination of whether or not such plans are in conformance with the provisions of this Code.

7.7.4 Community Water Systems

A. General

Community water systems shall be required for subdivisions according to the number and size of lots as indicated in Sec. 8.4, Water Supply and Liquid Waste Disposal.

- a. All water systems, including individual water systems and clustered or shared wells, and individual sewage disposal systems shall be approved by the Board of County Commissioners only when meeting the requirements of the New Mexico Environment Department, the State Engineer's Office, and County standards, as specified in the Code.
- b. The proposed water supply and sewer system shall be identified in the Preliminary Plat, Site Development Plan application or as required with a conceptual plan and the subdivider's disclosure statement.
- c. Such systems shall comply with applicable design standards of the New Mexico Environment Department and the Construction Industries Division.

- d. The developer shall meet the fire flow requirements set forth in Sec. 7.10, Fire Protection.
- e. The developer shall provide sufficient ~~potable~~ water for full development of all properties within the proposed development ~~or phase of development~~.
- f. If the development is in a traditional community district, the community water system shall be designed to minimize the use of local water resources. The applicant shall obtain water rights as the State Engineer requires. The community water system shall be consistent with any applicable community plan.
- g. All distribution mains shall be a minimum of 6 inches in diameter.
- h. It shall be noted on the Final Plat and plans and in the covenants and disclosure statement that the drilling or use of individual and/or shared domestic wells is strictly prohibited.
- i. The developer shall meet all applicable requirements of the Public Utility Act, NMSA 1978 §62-1 through §62-6 and §62-8 through §62-13.

B. Water Rights Permits

- 1. For all subdivisions containing 20 or more parcels, any one of which is 2 acres or less in platted size, the subdivider shall provide proof that the person providing the water has a valid water right permit issued by the State Engineer, other than domestic well permits pursuant to NMSA 1978 §72-12-1 *et seq.*, which is sufficient in quantity to meet the maximum annual water requirements of the proposed subdivision. The Board shall not approve the Final Plat unless the State Engineer has issued a water permit for subdivision use.
- 2. For all subdivisions within a critical water basin identified by the Board, proof of valid water right permits, other than domestic wells pursuant to NMSA 1978 §72-12-1 *et seq.*, shall be provided prior to submittal of a Conceptual Plan, Preliminary Plat, or Site Development Plan.
- 3. For all Type-I and Type-II subdivisions, the subdivider shall provide proof that the person providing the water has a valid water rights ~~permit issued by the State Engineer~~, sufficient in quantity to meet the maximum annual water requirements of the proposed subdivision. The Board shall not approve the ~~Conceptual Plan, Preliminary Plat, final plat or final Site Development Plan, as required~~ unless the State Engineer has issued a water permit for subdivision use.

C. Community Water Systems

All Developments that propose to utilize a Community Water System shall submit a water supply plan demonstrating compliance with the requirements of this section. Plans and specifications for production or diversion, storage and distribution facilities and a time schedule for their completion shall be prepared by or under the supervision of a professional engineer and shall include the following information.

1. New Community Water Systems

For developments that propose to utilize a new community water system, the water supply plan shall include the following:

- a. Information showing the volume and peak rate of production of water required each month to supply each use at full use of the development.
- b. A legal description of the location of all construction, easements and right-of-way necessary for the installation of the water supply system.
- c. Site Development Plans showing topography, parcel boundaries, roads, wells, hydrants, and water storage and distribution system; including the size and capacity of the system components.
- d. Well plans indicating casing diameter, total depth, screened interval, and proposed pump setting.
- e. An agreement providing for:
 - (1) Construction and operation of the water supply system as shown in the plat documents and plans;

SFC Clerk 12/17/2004

- (2) Collateral, in the form of a financial guarantee, to adequately assure the complete construction and operation of the system in accordance with design and time specifications;
- (3) Certification of the operator of the system; and
- (4) Involvement as prescribed in the plat documents, of any Homeowners' Association, Mutual Domestic Association, or non-profit corporation for the purpose of operation and maintenance of the system.

f.2. If the development is within a declared basin, the applicant shall obtain a valid water right permit issued by the State Engineer pursuant to Sec. 7.7.4B, Water Rights Permits. The Board shall not approve the final plat or final Site Development Plan, unless the State Engineer has issued a water permit for subdivision use.

2.3. Existing Community Water Systems

If proposed development falls within the service area of a community water system or if water is to be provided to the proposed development by an existing community water system, the water supply plan must also include those requirements as set forth in Sec. 7.7.6C, Existing Community or Municipal Water System.

D. Review of Community Water Systems

In reviewing community water systems the Board of County Commissioners shall encourage the use of such systems, and shall approve them unless the indicated reviews demonstrate that such systems, or the expansion thereof, will substantially conflict with the policies and goals of the *Santa Fe County 1980 General Plan, 1999 Growth Management Plan* and this Code. In reviewing such systems, the County shall consider:

- 1. Availability of water for the system;
- 2. Potential for water conservation in areas served by the system;
- 3. Relationship of the system to adopted local or county land use and utility goals;
- 4. Design of system with respect to well development
- 5. Proper disposal of wastewater from areas served by the system; and
- 6. Conformance of the system to federal and state regulations.

7.7.5 Lot Size Requirements

A. Where the Development will Utilize Permitted Water Rights Ref 7.6.4.B for who needs permits

Applicants seeking approval of a Site Development Plan may base their applications on water rights authorized and permitted by the New Mexico Office of the State Engineer, with the exception of water rights permitted under NMSA 1953 §53 75-11-1 or NMSA 1978 §75-12-1 *et seq.* The applicant shall provide evidence that he/she owns or has an option to purchase the permitted water rights in an amount adequate to meet the needs of the development in accordance with the requirements of Sec. 7.7.5A. Any Site Development Plan approved by the County shall be expressly conditioned upon the applicant obtaining final nonappealable order or final nonappealable approval from the New Mexico Office of the State Engineer authorizing the change in use and change in point of diversion to meet the needs of the proposed development.

B. Where Developments Are Not Required To Will Not Utilize Permitted Water Rights

Where developments will not utilize permitted water rights, minimum lot size shall be calculated by the method in Sec. 7.7.5C, Minimum Requirements, or other method approved by the County Hydrologist, demonstrating a 100-year supply.

C. Calculation of Minimum Lot Size

Calculation of the minimum lot size shall be adjusted and determined by the formula:

$$MLS = \frac{U}{A}$$

MINIMUM LOT SIZE CALCULATION VARIABLES		
Symbol	Value	Units
MLS	Minimum Lot Size	Acres
U	Anticipated Water Demand for a Lot	Acre-feet/Year

A	Amount of Water Available in Aquifer Beneath the Lot	Acre-feet/Year/Acre/Year
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Commentary: See Sec. 7.7.5E, Standard Values for Minimum Lot Size; Sec. 2.7, Density and Dimensional Standards; and Sec. 2.7.2A, Lot Area, for more information.

D. Definitions

For purposes of this section, the following definitions shall apply:

1. "MLS" is the minimum allowable lot size; or, the minimum lot area specified in Sec. 2.7, adjusted for water demand and availability in accordance with the requirements of this section.
2. "U" is the anticipated use of water for the intended development of the lot.
3. "A" is the amount of water available in the aquifer(s) available beneath the lot, using the method as described in Sec. 7.7.5C, Calculation of Minimum Lot Size.

E. Standard Values for Minimum Lot Size (MLS)

1. The table below illustrates the standard values for Minimum Lot Size based upon a water restriction of 0.25 acre feet per year per lot

Resource Area	Standard Minimum Lot Size (acres)
Basin	102.5
Basin Fringe	5012.5
Mountain	8020
Homestead	16040

2. The standard values of MLS may be adjusted based upon water availability and calculation of use if the applicant submits a hydrology report, either a detailed report (see Sec. 7.7.6, Water Availability Assessments) or a Reconnaissance Report (see Sec. 7.7.8, Reconnaissance Water Availability Assessments). Values of A (water availability) determined in such reports shall be reviewed by the County Hydrologist. The Hydrologist shall recommend to the Administrator whether or not the value is reasonable; and if not, shall recommend a value appropriate for the use in determining minimum lot size. In no case shall minimum lot size be adjusted below 2.5 acres unless the development is utilizing imported water.

3. If standard minimum lot size is increased, water restrictions may be proportionally increased.

3.4. Developments within an approved district or community planning area that propose to utilize imported water for water supply shall have allowable minimum lot size in accordance with the approved district or community plan and ordinance.

4.5. Applicants are advised that because of varying geologic conditions in Santa Fe County there is no assurance that a hydrology report will determine that the water supply in an area will allow a minimum lot size less than that indicated by the standard MLS. In some cases the study will result in a minimum lot size increased beyond the standard.

F. Calculation of Use for Small Scale Commercial Development

Applicants who propose small scale commercial development using less than 0.25 acre feet of water per year are required to prepare a written estimate of water use. That estimate is subject to approval by the County Hydrologist. The value of U shall be determined by that estimate unless otherwise determined by the Administrator. The Administrator shall have on file a list of standard water consumption requirements for commercial activities. The applicant may use these figures in lieu of the written estimate of water use.

G. Density Clustering

The minimum lot sizes specified in this section shall be taken as gross figures for the purposes of determining the total number of dwellings allowed in a development. The arrangement of dwellings in clusters or in such locations as to take advantage of topography, soil conditions,

SFC Clerk 12/17/2004

avoidance of flood hazards, access and reduced cost of development, shall not violate the lot size requirements of the Code so long as the total average number of acres per lot conforms with the MLS requirements of the Code.

7.7.6 Water Availability Assessments

Requirements for water availability assessments are dependent on the water supply source and shall be prepared and comply with the requirements of this subsection. Alternatively and subject to determination of eligibility (Sec. 7.7.8A, Eligibility Requirements), a reconnaissance water availability assessment may be submitted pursuant to the requirements of Sec. 7.7.8.

A. New Community Well(s) and Community Water System

Where the source of water will be a new community well and community water system permitted pursuant to NMSA 1978 §72-12-3 or §72-12-7, the applicant shall submit a water availability assessment includes the following:

1. A geohydrologic report shall demonstrate groundwater sufficient to meet the maximum annual water requirements of the development is physically available and can be practically recovered to sustain the development for a continuous period of 100-years. These analyses shall take into account the production of existing wells and demonstrate that the project wells, as proposed or as designed, will be capable of producing the full annual demand for at least 100-years.
2. The applicant shall drill sufficient exploratory wells to adequately characterize the aquifer in accordance Sec. 7.7.7, Well Test Requirements. Tests made within one mile of the development may be utilized, provided that the report demonstrates that the geologic conditions at the site of such tests are comparable to those within the development. For developments involving 6 or more lots, or more than 160 acres, at least one test shall be within the development. Where geologic conditions are complex or uncertain, the Administrator, upon recommendation of the County Hydrologist, may require additional well tests within the development, although the well test requirement shall not be interpreted to require more than one test per 4 dwelling units. Where cluster or shared wells are to be used throughout a development, the requirement should not be interpreted to require more than one test per 10 dwelling units. Such well test requirements may be waived by the Administrator upon recommendation of the County Hydrologist; provided that for subdivisions of Types I, II and IV and subdivisions requiring community water systems, at least one test shall be made within the development.
3. The applicant shall provide a calculated 100-year schedule of effects on the development's production well(s), and the water level in the aquifer in adjoining properties, which may result from existing demands and from the increase of groundwater withdrawals for the project. Analysis shall be performed to assess whether future water level declines will be within the limits of allowable drawdown in the project production wells as provided in Sec. 7.7.6A.4.d. , below. Predicted draw downs shall be calculated in a conservative manner (which estimates maximum drawdown). These calculations shall include estimates of future water uses.
4. The applicant shall calculate the lowest practical pumping water level in the proposed project pumping wells by one of the following methods as most appropriate to the on-site conditions. the County Hydrologist may require alternative or additional methods for calculating the lowest practical pumping level. There shall be no presumption made as to additional available water below the bottom of the proposed production wells, and further provided that the total available drawdown shall be reduced by a factor of 20 percent as a margin of safety to account for seasonal fluctuations, drought allowance, reduction of well efficiency over time, and peak production requirements.
 - a. By using the results of acceptable on-site aquifer pump tests. The lowest allowable pumping level may be the lowest water level reached during the test.
 - b. By setting the level at the top of the uppermost screened interval.
 - c. In wells completed in fractured aquifers, the lowest practical pumping water level may be above the top of the fracture zone.
 - d. In wells completed in alluvial aquifers, the lowest practical pumping water level may be defined by a maximum allowable drawdown equal to 70 percent of the initial water column.

SFC Clerk 12/17/2004

5. The geohydrologic report should present all hydrologic information pertinent to the study area including that available from past geohydrologic studies. All sources of information used in the report should be identified including basic data collected by the consultant who prepared the report. The report shall contain the following information:
 - a. All analyses and assessments as listed in Sec. 7.7.6A.1 through Sec. 7.7.6A.4, above;
 - b. Geologic maps, cross-sections and descriptions of the aquifer systems proposed for production, including information concerning the geohydrologic boundaries, intake areas and locations of discharge of those aquifers;
 - c. Maps and cross sections showing the depth-to-water, water-level contours, direction of ground water movement and the estimated thickness of saturation in the aquifers; and
 - d. Probable yields of the proposed wells (in gallons per minute and acre feet per year) and probable length of time that the aquifer system will produce water in amounts sufficient to meet the demands under full occupation of the development. This information shall be based on pump test analyses, hydrologic boundaries, aquifer leakage and historic water level changes, logs and yields of existing wells and, when the County Hydrologist deems necessary, test wells and aquifer performance tests. This information will give consideration to mutual interference of the proposed wells, and the interference of existing wells.
 6. An estimate of water availability for the development, suitable for calculating any proposed density adjustments utilizing the method set forth in Sec. 7.7.5C.
- B. New Surface Water Diversion and Community System**
Where the source of supply will be a new surface water diversion and community systems using surface water, pursuant to NMSA 1978 §72-5-1, §72-5-23 or §72-5-24, the applicant shall submit a hydrologic report that demonstrates surface water sufficient to meet the maximum annual water requirements of the development is physically available. These analyses shall include the following:
1. Narrative and analytical demonstration that the surface water will be physically available for the proposed use given short-term and long-term fluctuations (base-flow analysis) due to climatic cycles or other factors such as induced recharge due to groundwater diversion, analyses of relevant historical runoff records, and projected water supply available for the project requirements. Applicable legal or water rights constraints on water availability shall be considered.
 2. If the analysis of the historical runoff record indicates possible shortages in the projected water supply available for the project requirements, the applicant shall provide for either storage or a supplemental groundwater supply sufficient to meet the shortage.
 3. If a supplemental groundwater supply is proposed, the applicant shall prepare a geohydrologic assessment in accordance with Sec. 7.7.6A, New Community Wells and Community Water Systems.
 4. Transfer of surface irrigation water rights are discouraged by the Santa Fe County General Plan because of loss of valuable agricultural land and the attendant cultural values.
- C. Existing Community or Municipal Water System**
Where the source of supply will be an existing community or municipal water supply system permitted pursuant to NMSA 1978 §72-5-1, 72-5-23, 72-5-24, or 72-12-3, the applicant shall submit a water availability assessment for water utilities as follows:
1. **For all municipal or County-owned water utilities:**
Name of the utility proposed as the source of supply and a letter of intent from the utility that they are ready, willing, and able to provide the maximum annual water requirements for the development. The letter must also state any requirement for the applicant to provide water rights.

2. For water utilities other than municipal or county owned water utilities:

- a. Applicants must obtain a written certification from the proposed water service provider stating that it is able (has sufficient capacity) and willing to provide an adequate supply of water with adequate quantity, quality and with sufficient pressure to meet the needs of the proposed development based on the projected water usage of that development.
- b. If the existing community water system proposed to serve the development is a system other than a municipal or county owned water utility, the water supply plan must also include the following:
 - (1) Documentation showing the quantity of water presently produced annually, quantity of water supply commitments to date, and proof of sufficient water rights to meet both existing commitments and the requirements of the development for at least 100 years.
 - (2) Documentation from the New Mexico Office of the State Engineer, verifying the utility's capacity and water rights to meet a 100-year supply.
 - (3) Any other information required by the Board of County Commissioners, Administrator, or County Hydrologist to make a determination that the utility has the capability to meet the water requirements of the development.

D. Individual Wells or Shared Wells

Where the source of water will be individual domestic wells or shared wells permitted pursuant to NMSA 1978 §72-12-1 *et seq.*, the applicant shall demonstrate a 100-year supply and shall submit a geohydrologic report in accordance with Sec. 7.7.6D.1, or a reconnaissance water availability assessment in accordance with Sec. 7.7.6, if applicable.

- 1. If the source of water will be individual domestic wells or shared wells to be approved by the State Engineer pursuant to NMSA 1978 §72-12-1 *et seq.*, the applicant shall submit the following information as their water availability assessment:
 - a. At least one well log from an on-site well located within the proposed project;
 - b. A water availability assessment utilizing the method set forth in Sec. 7.7.9, Calculation of 100 year Water Supply;
 - c. A statement of the estimated yield of wells in gallons per minute based upon well logs from existing nearby wells; and
 - d. Any additional information which is required by the Board that will enable it to determine whether or not the subdivider can fulfill the proposals contained in his disclosure statement.
- 2. If the applicant proposes to provide new wells or surface diversion for a community water system, the requirements of Sec. 7.7.6A, New Community Well(s) and Community Water System, and Sec. 7.7.6B, New Surface Water Diversion and Community System, whichever is applicable, shall apply.
- 3. Any further subdivision of parcels created after July 1, 1996 shall meet the relevant requirements of Sec. 7.7.6, Water Availability Assessments.
- 4. If the applicant proposes lots which are less than the minimum lot size allowed by Sec. 7.7.5, Lot Size Requirements, a geohydrologic report and water conservation pursuant to the requirements of Sec. 7.7.11, Water Conservation, are required.
- 5. Subdivisions containing 6 or more lots and developments where the source of water will be individual domestic wells or shared wells permitted under NMSA 1978 §72-12-1 *et seq.*, the applicant shall submit a water availability assessment which includes a geohydrologic report conforming to the requirements of Sec. 7.7.6A, New Community Well(s) and Community Water System, and Sec. 7.7.7, Well Test Requirements.

SFC Clerk 12/17/2004

7.7.7 Well Test Requirements

The following well test requirements shall apply to all wells. In areas where geologic conditions are complex or aquifer characteristics uncertain, the Administrator, upon recommendation of the County Hydrologist, may require additional well tests within the development.

Well Test Requirements				
Well Types	Formation/Location	Pumping Hours	Recovery Days	Additional Tests for Larger Areas
Individual Wells	Santa Fe Formation	36	5	1 per 160 acres
	Greteaceous Formation	25	5	1 per 40 acres
	Other Formations	48	5	1 per 40 acres
Community Wells	All Formations	96	10	1 per 40 acres

7.7.8 Reconnaissance Water Availability Assessments

A. Eligibility Requirements

A reconnaissance water availability assessment may be substituted for a geohydrologic report where all of the following circumstances prevail:

1. Total amount of water to be withdrawn by the development will not exceed 3 acre feet per annum, as demonstrated in a water conservation report prepared in accordance with the requirements of Sec. 7.7.11, Water Conservation;
2. No density adjustment due to water availability is being requested that increases the allowable density set forth in Sec. 7.7.5, Lot Size Requirements, by more than 2-fold;
3. Proposed development will consist of no more than 5 dwellings or parcels;
4. Each parcel will be no less than 2.5 acres in area, unless a greater density is otherwise permitted of this Code;
5. Water will be provided to the development from a single well; and
6. After considering the reconnaissance water availability assessment the County Hydrologist finds, that there is sufficient information to make a determination of water availability.

B. Contents of Reconnaissance Water Availability Assessments

All reconnaissance water availability assessments shall contain the following:

1. Log for an existing well which is located on the parcel for which the Site Development Plan is requested, which log indicates that the well was completed in an aquifer section similar to that of a nearby well which has been described in a detailed geohydrologic report, and which indicates that the well on the parcel provides a yield adequate for the use proposed;
2. A water availability assessment, utilizing the method set forth in Sec. 7.7.9, Calculation of 100 year Water Supply;
3. Summary of the findings of a detailed geohydrologic report which includes data from pump tests made on a well completed within a similar aquifer section and within one mile of the parcel for which the Site Development Plan is requested, which summary indicates the availability of water for the development; and
4. Description of measures the applicant will take to inform any person who may purchase the property as to the findings of the Santa Fe County General Plan regarding water availability and as to the water budget and conservation covenants which were included in the application for the Site Development Plan.

7.7.9 Calculation of 100 year Water Supply

Adequate water availability must be derived from storage. Recharge shall not be used to demonstrate water availability. Demonstration of water availability shall be based on information from an on-site well. Such information shall include, at a minimum, a driller's well log. If the well has been used for supply, historical production information shall be included. The County Hydrologist may require submittal of additional information as needed to make a determination of well characteristics. Values for Specific Yield, Saturated Thickness or Acreage may be revised if geologic or hydrologic information, well

Article 7 Article 2. General Development Standards Use Regulations

Sec. 7.7 Sec. 2.4 Water Supply Use Standards (Principal Uses)

7.7.92.4.49 Calculation of 100 year Water Supply Mining and Extractive Uses

construction techniques or results from well testing or modeling indicate that these parameters contribute a different water availability to the water supply well(s).

SFC Clerk 12/17/2004

A. Water Availability Calculation

Water availability shall be calculated using the following formula:

$$A = \frac{SY \times ST \times RL \times RC}{T}$$

Total water availability for the development property shall be determined by:

$$A \times AC$$

Where:

A =	Water availability per acre (acre-feet per year) contained in storage on the property and available to the water source(s).
SY=	Specific Yield of the water-bearing zones penetrated by the well. SY is determined using the methodology set forth in Sec. 7.7.9B, Determination of Specific Yield. <u>SY is also used for storage coefficient</u>
ST=	Available Saturated Thickness of water-bearing zone(s) penetrated by the well. ST is determined using the methodology set forth in Sec. 7.7.9C, Determination of Saturated Thickness.
RL=	Reliability Factor of the hydrologic demonstration. Where a detailed geohydrologic report is submitted in support of the estimates for SY and ST, RL = 1.0. Where a reconnaissance geohydrologic report is submitted in support of the estimates for SY and ST, RL = 0.7. In all cases, however, the County Hydrologist may reduce the value for RL, based on confidence in the submittal and accompanying information.
RC=	Recovery Factor is an estimate of how much of the water in storage might be reasonably recovered by a properly-designed well. The maximum value of RC shall be 0.8. The County Hydrologist may reduce the value for RC, based on other evidence.
T =	Time factor for water availability, 100 years in all areas.
AC	Acreage for the development property.

B. Determination of Specific Yield

Specific Yield shall be assigned to various sections of the water-bearing zone penetrated by the well according to lithology and aquifer type.

1. Unconfined Aquifers

For unconfined aquifers, Specific Yield (SY) shall be assigned based on lithology, as listed on the drilling log, according to the following table:

Lithology	Specific Yield
Clay, Shale	0.010
Silt	0.05
Sand	0.15
Gravel	0.20
Sand and Gravel	0.15
Volcanics	0.005
Granite	0.001
Fractured units (any lithology)	0.15
Limestone, no secondary porosity	0.001
Fractured or porous limestone	0.15

Sections listed as mixed lithologies shall be apportioned SY values based on the mixing of lithologies, using the assigned thicknesses as described in Sec. 7.7.9C, Determination of Saturated Thickness.

2. Confined Aquifers

Specific Yield for confined aquifers shall be assigned a value of 0.0005.

3. Variation in Specific Yield assigned values

Water availability assessments may propose different values for Specific Yield than those assigned by presenting sufficient evidence to support the claim. At a minimum, such evidence shall include:

- (i) A detailed geohydrologic report;
- (ii) Results of a pump test of the well being analyzed;
- (iii) A detailed lithologic report from cuttings or core (the driller's log is insufficient);

Results from downhole (electric geophysical) logging may be used to support a claim for higher Specific Yield values. Any submitted downhole logging results must be accompanied by a professional evaluation.

The County Hydrologist may revise the proposed Specific Yield values, or require additional information in support of the proposed values.

C. Determination of Saturated Thickness

Saturated Thickness shall only be counted in those portions of the water-bearing section that can reasonably be assumed to contribute water to the well bore. ~~Water-bearing zones separated from the top of the well screen by a significant aquitard or aquiclude, and all units below the bottom of the well bore, shall not be included in the ST calculations. No thickness below the bottom of the well bore shall be included in the ST calculations. Unscreened units above the top of the uppermost screen that have no hydrologic connection to the highest screened unit shall not be included in the ST calculations, unless well tests demonstrate a significant contribution from such units to the yield of the well.~~ The County Hydrologist may revise the proposed Saturated Thickness values, or require additional information in support of the proposed values.

1. Saturated Thickness and Specific Yield Determinations in Unconfined Aquifers

Total ST x SY shall be an iterative sum of the apportioned Saturated Thicknesses and corresponding Specific Yields for the apportioned lithologies, as derived from Sec. 7.7.9B, Determination of Specific Yield.

- a. For sections of mixed lithologies where definitive thicknesses are assigned to the different lithologies (for example, "5 feet of sand"), Saturated Thickness shall be subdivided by lithology.
- b. For sections of mixed lithologies with no definitive or relative thicknesses assigned to the different lithologies (for example, "sand and clay"), Saturated Thickness shall be apportioned with equal parts for the various lithologies.
- c. For sections of mixed lithologies with relative, but no definitive, thicknesses assigned to the different lithologies (for example, "sand with clay stringers"), Saturated Thickness shall be apportioned as relative percentages related to the various lithologies.

2. Saturated Thickness and Specific Yield Determinations in Confined Aquifers

Saturated Thickness x Specific Yield (ST x SY) in confined aquifers shall be the sum of:

- a. The height of the water column above the top of the confined aquifer, using the SY for confined aquifers, as listed in Sec. 7.7.9B.2, Confined Aquifers; plus
- b. The penetration of the well bore into the confined aquifer, to the limit of allowable drawdown, using the method for unconfined aquifers as listed in Sec. 7.7.9B.1, Unconfined Aquifers.

7.7.10 Water Quality

A. Water Quality Documentation

Each Preliminary Plat application shall include demonstration of conformance with the water quality requirements of this section and the New Mexico Subdivision Act as follows.

1. General

All Preliminary Plat applications shall include:

- a. Subdivider's name and mailing address;
- b. Submission date;
- c. Proposal for meeting the water quality requirements of this Code;

SFC Clerk 12/17/2004

- d. Copy of the subdivider's disclosure statement on water quality; and
- e. Other relevant information as may be necessary for the determination of compliance with the water quality requirements of this Code.

2. Community Water Systems

Documentation of approval from the New Mexico Environment Department for the construction or modification of a community water system shall be required before final subdivision plat approval.

a. New Systems

Where new community water systems are proposed, the following information shall be submitted as part of the water quality documentation:

- (1) A water quality analysis of a representative water sample for antimony, arsenic, alkalinity, aluminum, barium, beryllium, cadmium, Chromium, cyanide, calcium, chloride, color, copper, fluoride, foaming agents, hardness, iron, lead, mercury, manganese, nickel, nitrogen, nitrite, odor, ph, selenium, silver, sodium, sulfate, thallium, total dissolved solids, turbidity, and zinc;
- (2) For areas where a potential contaminant source has been documented within 200 feet of the proposed source of water, a water quality analysis of a representative water sample for other water quality parameters listed in Sec. 7.7.10, Water Quality, may be required;
- (3) The location and description of the source of water sampled for the water quality analysis;
- (4) An engineer's report and preliminary engineering plans for the proposed community water system;
- (5) Maps identifying and showing the location of all potential sources of contamination and the flood plain of all watercourses and surface bodies of water within 1000 feet of the proposed community water system source; and
- (6) For community water systems classified as Public Water Supply Systems under the Safe Drinking Water Act (SDWA) regulations, a copy of the water quality analysis as performed in accordance with SDWA requirements.

b. Existing Systems

Where a connection to or extension of an existing community water system is proposed, the following information shall be submitted as part of the water quality documentation package:

- (1) A copy of the water quality analysis as performed in accordance with Safe Drinking Water Act (SDWA) regulations for Public Water Supply Systems;
- (2) A statement of availability of water service signed by an official of the existing community water system; and
- (3) An engineer's report and preliminary engineering plans for the proposed water system.

3. Individual, Clustered or Shared Wells

Where individual domestic wells or clustered or shared wells are proposed, the following information shall be submitted as part of the water quality documentation package for each well:

- a. A water quality analysis of a representative water sample for antimony, arsenic, alkalinity, aluminum, barium, beryllium, cadmium, Chromium, cyanide, calcium, chloride, color, copper, fluoride, foaming agents, hardness, iron, lead, mercury, manganese, nickel, nitrogen, nitrite, odor, ph, selenium, silver, sodium, sulfate, thallium, total dissolved solids, turbidity, and zinc;
- b. For areas where a potential contaminant source has been documented within 200 feet of the proposed source of water, a water quality analysis of a representative water sample

in accordance with the requirements of Sec. 7.7.10B, Water Quality Standards, may be required;

- c. The location and description of the source of water sampled for the water quality analysis;
- d. Preliminary engineering plans for the water system if the system will serve more than one connection; and
- e. Maps identifying and showing the location of all potential sources of contamination and the flood plain of all watercourses and surface bodies of water within the subdivision and within 500 feet of the proposed subdivision boundaries.

B. Water Quality Standards

Conformance with the water quality requirements of this section is required for Preliminary Plat approval.

- 1. The level of a contaminant in water delivered to any user of a community water system or cluster, shared or individual well shall not exceed the maximum contaminant level (MCL) for any of the contaminants listed in the EPA National Primary Drinking Water Regulations.
- 2. The level of a contaminant in water delivered to any user of a community water system or cluster, shared or individual well should not exceed the secondary maximum contaminant level (SMCL) for any contaminant listed in the EPA National Secondary Drinking Water Regulations. If any listed contaminant exceeds the SMCL, the subdivider must state in the disclosure statement on water quality the name of the contaminant exceeded; the contaminant level; the SMCL of the contaminant; the expected adverse effects of the contaminant for domestic water use; and, the recommended treatment method to reduce the contaminant level to or below the SMCL.
- 3. The setback distances shown in "Setback Distances for Water Supply Sources" table below shall be met for all development.

SETBACK DISTANCES FOR WATER SUPPLY SOURCES AND POTENTIAL CONTAMINANT SOURCES		
Potential Contamination Source	Minimum Setback (feet)	
	Community Water Systems, Clustered or Shared Wells	Individual Wells
Water Tight Sewers	50	25
Other Sewers	100	50
Community Liquid Waste Treatment System (e.g. aeration tank, chlorination facility)	300	150
Individual Liquid Waste Treatment System (e.g. septic tank)	100	50
Community Liquid Waste Disposal System (e.g. outfall, leachfield)	600	300
Individual Liquid Waste Disposal System (e.g. leachfield)	200	100
Flood Plain	outside	outside
Contamination Sources such as landfills, stockyards and feedlots	100	75

- 4. The disclosure statement for the subdivision shall contain a statement describing the quality of water available for domestic use within the subdivision.

7.7.11 Water Conservation

A. Water Conservation Reports

A water conservation report shall be submitted with each Preliminary Plat or at the time of initial application for other types of development in accordance with the requirements of this subsection. The report shall contain a water budget specifying the type and amount of water withdrawals and consumption projected at full development, plus any existing uses. All water uses will be considered consumptive. No offset may be calculated for aquifer recharge or return flow unless the applicant includes a plan for active aquifer recharge, approved by the County Hydrologist and the appropriate State agencies, or documentation attesting to return flow credits granted by the New Mexico Office of the State Engineer. Water conservation measures shall be adopted by covenant or other enforceable means intended to restrict water use to specified levels.

SFC Clerk 12/17/2004

Commentary: Only water conservation measures adopted in a manner that, in the opinion of the County Attorney, is legally binding upon any person using water on the parcel shall be deemed to meet the requirements of the Code.

B. Minimum Requirements

Minimum water conservation requirements applicable to all development include:

1. Water saving fixtures as outlined in Ordinance 2002-13 shall be installed in all new or replacement construction. Water saving fixtures shall include, but not be limited to, low flush toilets, low flow fixtures, and insulation of hot water pipes. Toilets shall use no more than 1.6 gallons per flush; shower head flows shall not exceed 2.5 gallons per minute; and faucet flow shall not exceed 2.5 gallons per minute.
2. Evaporative coolers shall ~~be used to~~ circulate bleed-off water.
3. Dishwashers shall use no more than 13 gallons in a regular cycle and shall have a cycle adjustment which allows reduced water to be used for reduced loads.
4. Washing machines shall use no more than 43 gallons in the regular cycle and shall have cycle or water level adjustments that permit reduced amounts of water to be used for reduced loads.
5. Low water use landscaping techniques applying the principles of xeriscaping shall be utilized. Drip irrigation is encouraged whenever possible. Low water use grasses, shrubs and trees may be watered as needed during the first and second years of their growth to become established. Thereafter, such vegetation shall receive only minimal water as needed by each species. Planting sod or grass seed that contains Kentucky bluegrass is not permitted. Lawns of non-native grasses shall be limited to a maximum of 800 square feet per parcel and shall only be watered with rain water collected by means confined to the property or with recycled household gray water. Gray water and waste water systems shall meet the requirements of the New Mexico Construction Industries Division and the Uniform Plumbing Code.
6. All community water system service connections and all wells shall be metered with a Santa Fe County approved meter. Meter readings shall be recorded by the property owner annually within 2 weeks of January 1st. Meter readings shall be provided to the Administrator at his request.
7. Swimming pools of a permanent or temporary nature shall be prohibited, except as commercially operated or publicly open community facilities. Temporary wading pools of a diameter not to exceed 8 feet and a depth not to exceed one foot and covered spas are acceptable at each dwelling unit. All existing swimming pools, hot tubs and spas must be covered to prevent evaporation when not in use. Swimming pools may only be emptied once a year.
8. All wells on the property shall be metered with a Santa Fe County approved totalizing meter. Meter readings shall be documented by the property owner annually within two weeks of January 1st. Meter readings shall be submitted to the County by April 30th each year. Proof of meter installation and a meter reading must be submitted with a ny permit application.
9. Outdoor Irrigation is prohibited between 11am to 7pm from May through September of each year. The following sources and water and types of irrigation methods are exempt from the irrigation hour restrictions:
 - a.) Plants being irrigated for retail or wholesale transactions.
 - b.) All manual watering by landscape maintenance and contracting personnel, however landscaping personnel setting timed irrigation systems must ensure that the systems comply with the irrigation hour restrictions.
 - c.) Any water derived through rainwater catchment systems or any permitted water re-use system and
 - d.) Any water being used from an acequia or other agricultural irrigation system.
- 8.10. All water restriction covenants shall run with the land and bind all successors in interest.
- 9.11. All applicable restrictions on indoor and/or outdoor water use prescribed under permits issued by the State Engineer, or pursuant to an order issued by a court of competent jurisdiction, shall be strictly adhered to.

C. Water Budgets and Conservation Covenants

1. Residential

The maximum allowable annual water use for both indoor and outdoor purposes for each lot in a residential subdivision shall be 1.0 acre foot per year. ~~For developments with lot sizes less than those established by Sec. 7.7.5E, Standards Values for Minimum Lot Size assume a maximum allowable water use of 0.25 acre feet per year per lot for both indoor and outdoor purposes, maximum allowable water use for both indoor and outdoor purposes shall be reduced per requirements presented in Sec. 7.7.5C, Calculation of Minimum Lot Size.~~

2. Nonresidential Development

Non-residential development shall provide a detailed demand analysis for both indoor and outdoor purposes. In all cases where the subject of water use is part of an application for development, the applicant shall submit a water budget, which shall be a listing of all activities within the development which will utilize water, and the amount of water so used. The applicant shall establish covenants or take other measures as necessary to ensure, with reasonable prospects of success, that the estimated water budget will be achieved. The Administrator may deny an application if, after review of the budgets or covenants proposed, the Administrator determines that the budgets and covenants will not reduce usage of water to the extent proposed.

Commentary: The Administrator shall maintain a file of previously approved, representative water budgets for comparison purposes.

D. Water Harvesting

1. Applicability

A water harvesting plan shall be required as a part of each application for a development permit involving the construction, alteration or repair of one to 4 dwellings or the Site Development Plan application for a non-residential development construction, alteration or repair of an accessory structure.

2. Submittal Requirements

Applicants shall provide sufficient information to demonstrate compliance with this subsection.

3. Water Harvesting Standards

A water harvesting plan to collect roof drainage for use as landscape irrigation shall be submitted for individual uses to be permitted within the district, as follows:

- a. A water harvesting plan to capture drainage from a minimum of 85 percent of the roofed area for a residential structure for use as landscape irrigation shall be submitted.
- b. Homes of 2,500 square feet of heated area or greater shall install a cistern that is buried, partially buried or within an insulated structure and is connected to a pump and a drip irrigation system to serve all landscaped areas. Such cisterns shall be sized to hold 1.15 gallons per square foot of heated area but this figure may be adjusted based on proposed landscaping. The capacity of the cistern shall be approved by the Land Use Administrator.
- c. Homes smaller than 2,500 square feet of heated area shall install rain barrels, cisterns or other water catchment basins to capture drainage from noted areas.
- d. A water harvesting plan to capture drainage from 100 percent of the roofed area for non-residential structures for use as landscape irrigation shall be submitted. Cisterns shall be buried, partially buried or within an insulated structure and shall be connected to a pump and a drip irrigation system to serve all landscaped areas. Cisterns shall be sized to hold 1.5 gallons per square foot of roofed area. The size of the cistern may be adjusted to provide a month's worth of landscaping water. The size of the cistern shall be approved by the Land Use Administrator.
- e. The water harvesting plan shall be in accordance with the general guidelines prepared by the Land Use Administrator.

SFC Clerk 12/17/2004

Sec. 7.8 Liquid Waste Disposal

7.8.1 Liquid Waste Disposal Plan Requirements

Liquid waste disposal plans shall clearly demonstrate conformance to the intent of all applicable requirements of this section with the preliminary subdivision plat or site development plan and prior to the issuance development permits, permits to construct the system, to the recording of a final plat, except as otherwise provided and in accordance with the requirements of this section.

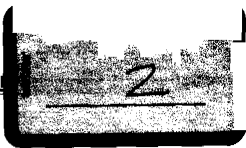
7.8.2 Administration

In making its determination as to whether the proposed liquid waste disposal meets this standard, the decision-making body shall give substantial weight to the recommendations of the New Mexico Environment Department, County Hydrologist and other County staff.

- A. Site Development Plans and subdivision plats shall be reviewed by the Administrator to determine if the proposed manner of liquid waste disposal produced by the development complies with the requirements of this section. Such determination shall be based upon submittals and criteria set forth in this section. No Site Development Plan shall be approved without compliance with the requirements of this section.
- B. All liquid waste systems must be continually operated and maintained in a manner as not to endanger public health or contaminate ground water supplies.

7.8.3 Liquid Waste Disposal Facility Requirements and Submittals

Applicants shall provide liquid waste disposal facility plans, which shall comply with following requirements.



Sec. 7.21 Outdoor Lighting

7.21.1 Purpose

Outdoor lighting standards of this section are intended to enhance the safety of areas designated for pedestrian and traffic use during evening hours, to provide security, to conserve energy, to protect the night sky and in particular, to prevent the spillover, nuisance or hazard effects of light and glare on adjacent locations and uses of land.

Commentary: A range of lighting design solutions for the various aspects of a development is preferred over a single lighting solution. The use of security lights using motion sensors is encouraged, especially for residential applications.

7.21.2 Outdoor Lighting Plan Required

A complete Outdoor Lighting Plan shall be submitted with each Site Development Plan or Development Permit application in accordance with the requirements of this section. Outdoor Lighting Plans shall be drawn to scale and include the following information:

- A. Proposed location, mounting height, types of luminaires, and accessory equipment such as shades, deflectors or other housing controlling the direction of light on a surface and the beam direction of any luminaire;
- B. Manufacturers' cut-sheets and drawings showing sections and photometric data showing the angle of cut off of light emissions;
- C. Elevations of building facades showing the location of, and shielding devices for, wall mounted luminaires and detailed drawings of the luminaires and accessory equipment to be used;
- D. All lighting plans shall consider lights on adjacent roads and parcels to assure that overlighting does not occur and that cumulative lighting meets standards; and
- E. Additional submittals that may be required include, but are not limited to, preparation of a visual impact analysis for alternative types of lighting solutions for the project as those would affect and be seen from adjacent properties and public ways, a comparative analysis of performance standards relating to mounting height, footcandles, footcandle levels and location for various types of lighting which could be developed for the proposed use and types of shields, deflectors and adjustments on orientation or other buffers which could be implemented to mitigate glare, nuisance or hazardous effects of night lighting.

7.21.3 Minimum Standards

A. General

All outdoor lighting fixtures shall be designed, installed, located and maintained such that nuisance glare onto adjacent properties or streets shall be minimized to the greatest extent practical. Disabling glare onto adjacent properties or streets shall not be permitted.

All outdoor lighting shall meet the guidelines and design standards of The IESNA Lighting Handbook, ninth edition, and as amended, in particular Ch. 21, Exterior Lighting and Ch. 22, Roadway Lighting. Illumination levels and uniformity shall be in accordance with current recommended practices of the Illuminating Engineering Society. Recommended standards of the Illuminating Engineering Society shall not be exceeded.

A.B. Fixtures (Electrical Luminaries)

All outdoor light sources shall be concealed within cut-off fixtures, except as otherwise specified herein.

B.C. Lamp (Light Source or Bulb) and Shielding Requirements

All fixtures shall comply with the following light source and shielding requirements. Compliance certification shall be required by photometric test report.

SHIELDING REQUIREMENTS		
Lamp Type	Shielding	Detailed Standards/Notes
Low pressure sodium	Partial	Shielding shall permit no more than 10 percent of light rays emitted at angles above the horizontal plane running through the lowest part of the fixture as certified by photometric test report. This is the preferred

SFC Clerk 12/17/2004

SHIELDING REQUIREMENTS		
Lamp Type	Shielding	Detailed Standards/Notes
High pressure sodium	Full	light source to minimize undesirable light emission into the night sky. Full shielding shall permit no light rays emitted by the installed fixture at angles above the horizontal plane running through the lowest part of the fixture, as certified by photometric test report.
Metal halide	Full	To be used for display purposes; the light source shall be filtered by a glass, acrylic or translucent enclosure; may be subject to timing devices or restricted hours of operation.
Fluorescent and quartz	Full	Signs constructed of translucent materials and lit from within do not require shielding. (See Sec. 7.12, Signs.)
Any light 60W or less	None	None
Halogen	Prohibited except for special uses approved by CDRC	For outdoor display of merchandise or sporting events; may be subject to timing devices or restricted hours of operation.
Mercury vapor or laser	Prohibited	None
other sources	As approved by CDRC	May be conditioned as part of development approval or Temporary Use Permit.

C.D. Maximum Fixture Height

Maximum fixture height above adjacent grade for all fixtures shall be as follows:

1. Residential uses

No luminaire shall be installed higher than the building(s) on the lot.

2. Nonresidential Uses, Multi-family uses and Parking Lots

No luminaire shall be installed higher than 1.5 times the height of any structure proposed for development or 24 feet, whichever is less.

3. Street Lighting

Standards (upright supports) shall not exceed 24 feet, except on public roads wider than 2 lanes and arterials where taller standards up to 36 feet may be used. This height limit may be varied by the Administrator if a site specific study clearly demonstrates that use of a taller standard will better achieve the purposes of this section.

4. Uses with special lighting needs (outdoor sporting events, arenas, jails)

Approval by conditional use (unless use table requires special use). The applicant must demonstrate that the proposed height is the minimum required to achieve the purpose of this section including even lighting. Spillover onto adjacent property is prohibited.

7.21.4 Maximum Illumination Levels

Total outdoor light output shall not exceed the limits below. Seasonal decorations between Thanksgiving and January 15 are not counted toward these limits. The values in this table are upper limits and not design goals; design goals should be the lowest levels that meet the requirements of the task.

Maximum illumination levels shall be as follows:

	MAXIMUM ILLUMINATION LEVELS		
	Commercial	Industrial	Residential
Pedestrian areas:			
— Sidewalks	0.9	0.6	0.2
— Pedestrian ways	2.0	1.0	0.5
Roadways:			
— Freeways	0.6	0.6	0.6
— Major roads & expressways	2.0	1.4	1.0
— Collectors	1.2	0.9	0.6
— Local streets	0.9	0.6	0.4
— Alleys	0.6	0.4	0.2
Parking areas:			

MAXIMUM LIGHTING LEVELS*			
	Commercial	Industrial	Residential
— Self parking	1.0	—	—
— Attendant parking	2.0	—	—
Buildings:			
— Entrance & doorway areas	5.0	—	—
— General grounds	1.0	—	—

* Values are given in minimum average maintained horizontal footcandles
 source: IES Lighting Handbook, 4th ed., Illuminating Engineering, New York.

LUMENS CAPS – INITIAL LAMP LUMENS PER NET ACRE				
	Commercial (1)	Intermediate (2)	Residential (3)	Protected Areas
Commercial and industrial uses				
— Total (fully shielded + unshielded)	200,000	100,000	50,000	12,500
— Unshielded only	10,000	10,000	4,000	2,000
Residential zones				
— Total (fully shielded + unshielded)	20,000	10,000	10,000	10,000
— Unshielded only	5,000	5,000	1,000	1,000

SFC Clerk 12/17/2004

1 Commercial: a densely developed business area with land uses that frequently attracts a heavy volume of nighttime vehicular and pedestrian traffic.

Comment: it is unlikely that many locations, outside of downtown Santa Fe, fit this description in Santa Fe County.

2 Intermediate: areas characterized by frequent moderately heavy nighttime pedestrian activity, as in blocks having libraries, community recreation centers, large apartment buildings, industrial buildings, or neighborhood retail stores.

Comment: Examples of areas fitting this description in Santa Fe County include Village Centers planned and designated for mixed uses.

3 Residential: a residential development or a mix of residential and small commercial establishments characterized by few pedestrians at night.

Comment: Most land areas and uses within Santa Fe County, including small neighborhood commercial centers, fit this description.

4 The descriptions of roadway types are found in the IESNA Lighting Handbook.

Major = major arterial, 4 lane traffic priority

Collector = minor arterial, traffic priority, or mixed priority

Local = local roads, living priority

Definitions: (Richard – do we put these here or in the definitions section?)

Lumen: unit of luminous flux; used to measure the amount of light emitted by lamps.

Glare: The sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility; blinding light

Net acreage: the remaining area after deleting all portions for proposed and existing streets within a development parcel or subdivision.

Outdoor Light Output: the initial total amount of light, measured in lumens, from all lamps used in outdoor light fixtures. Includes all lights and luminous tubing used for general, decorative and color rendition lighting and lights used for external illumination of signs. For lamps that vary in their output as they age, the initial lamp output, as defined by the manufacturer, is the value to be considered. (model code includes rules for measuring lights under canopies etc. that could be added if we think it's important)

AVERAGE TO MINIMUM UNIFORMITY RATIOS	
Roadways Areas	Recommended Ratios
Commercial Areas	3:1
Intermediate Areas	3:1
Residential Areas	6:1
Street Lighting	3.5:1

7.21.5 Off-street Lighting

A. General

Fixtures must be mounted in such a manner that its cone of light is directed down or toward a surface. Spillover of lighting for adjacent properties shall not exceed 0.50 footcandle measured at any point 10 feet beyond a property line. No outdoor lighting shall be directed towards any adjacent residential use or public street.

B. Pedestrian Way, Loading and Service Illumination

All lamps (bulbs) and light sources designated for pedestrian use, loading or service shall be recessed into any canopy structure that is, unless a suitable alternative is submitted for approval; provided, however that fully shielded, decorative lamps housing an incandescent lamp of 160W or less for hanging under portals are exempted.

C. Building Illumination

Ground mounted luminaries for building facade illumination are not permitted in residential districts. In nonresidential districts building facades may be illuminated if there is no spill over beyond the building facade with

1. Ground flood lamps installed close to the structure;
2. Wall mounted flood lamps ~~shall be shielded~~ so that the light source is not visible; ~~and~~

D. Outdoor Storage, Display and Recreational Facilities

Automatic timing devices may be required for such uses to turn off lighting at specified hours. Control of the distribution of illumination for outdoor recreation areas, outdoor storage areas or outdoor display of merchandise may be subject to additional submittal requirements.

7.21.6 Street Lighting

Commentary: These regulations require installation of street lights only where necessary to continue the urban streetscape or to provide for pedestrian and motorist safety. It is not the intent to require or encourage installation of street lights in subdivisions with a rural character.

A. When Required

Street lights are required in the following circumstances:

1. Along paved streets and roads where curb, gutter and sidewalk are required;
2. ~~Along arterial roads or a~~ At intersections of any road with a highway or arterial for safety purposes; and
3. When required by the CDRC ~~or Board~~ or Board of County Commissioners to protect the safety of motorists and pedestrians due to the particular characteristics or location of the site.

B. Street Light Standards

All street lights, ~~including but not limited to those planned by utility companies,~~ shall comply with the following standards:

1. Such lighting shall be provided in accordance with a plan designed using guidelines and standards set forth by the Illuminating Engineers Society (IES) Lighting Handbook, latest revision, and the standards set forth in this section.
2. Low or high pressure sodium lamps or other energy efficient sources shall be used in all installations.
3. Street lights shall be located and designed to enhance the safety of motorists and pedestrians during evening hours. Street lights shall be installed so as to create a transition from unlit areas to illuminated areas, continuity and uniformity of lighting, and avoid blind spots or dark shadows which are hazardous to drivers.
4. All street lights ~~conductors~~ shall be designed for underground power installed underground.
5. Street lighting plans shall be reviewed by the County Public Works Department

C. Maintenance

1. Payments for operations, maintenance and energy charges shall be the responsibility of the developer or homeowners' association. The disclosure statement and owners' association by-laws shall set forth an acceptable method for charging each lot owner for maintenance and operation.
2. Street lights in subdivisions shall be equipped with electric meters to allow billing to the developer or owners' association unless other arrangements are agreed to by the Board of County Commissioners.

7.21.7 Nonconforming Lighting

Nonconforming lighting shall be subject to the applicable provisions of Sec. 11.2, Nonconforming Uses.

7.21.8 Prohibiting Lighting

Prohibited lighting includes:

- A. Spotlights without shielding devices in accordance with the requirements of this section are prohibited.
- B. Ground mounted luminaries for building facade illumination are not permitted ~~in residential districts.~~

SFC Clerk 12/17/2004