

MINUTES OF THE
SANTA FE COUNTY
PLANNING COMMISSION

Santa Fe, New Mexico

February 18, 2021

1. A. This meeting of the Santa Fe County Planning Commission was called to order by Chair Charlie Gonzales on the above-cited date at approximately 4:00 p.m.

In accordance with the Public Health Emergency Order issued by the State of New Mexico, this meeting was conducted on a platform for audio/video meetings.

B. Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Charlie Gonzales, Chair
Frank Katz, Vice Chair
J. J. Gonzales
Steve Krenz
Susan Martin
Rhea Serna

Member(s) Absent:

Leroy Lopez

Staff Present:

Vicki Lucero, Building & Development Services Manager
Penny Ellis-Green, Land Use Administrator
Paul Kavanaugh, , Building & Development Supervisor
Jaome Blay, County Fire Department
Jose Larrañaga, Case Manager
Nathan Manzanares, Case Manager
Robert Griego, Planning Director
Roger Prucino, Assistant Attorney

2. **Approval of Agenda**

Member Katz moved to approve as published and Member Martin seconded. The motion passed by unanimous [6-0] roll call vote.

SFC CLERK RECORDED 03/23/2021

3. Approval of Minutes: January 21, 2021

Member Katz moved to approve. Member Martin seconded and the motion passed by unanimous [6-0] roll call vote.

4. Consent Agenda Final Orders

- A. Gerald Ohlsen, Applicant, Siebert and Associates, Agent, requests variance of Chapter 7, Section 7.17.10.4.1, (25% Slope Disturbance for Roads and Driveways), a variance of Chapter 7, Section 7.17.9.2.7, (Significant Tree Removal), a variance of Chapter 7, Section 7.17.9.2.3 (30% Slope Disturbance for Residence), and a variance of Chapter 7, Section 7.17.10.1.1 (Building Area Analysis). The property is within the Residential Fringe Zoning District and located at 66 Coyote Mountain Road, within, Section 17, Township 16 North, Range 10 East, (Commission District 4). SDA-2 Approved unanimous voice vote 5-0. John Lovato, Case Manager**

Member Serna moved to approve and Member Katz seconded. The motion passed by unanimous voice vote.

- B. Jack and Mark Ellvinger/Sarah Stark, Applicants, Patrick Collingwood, Agent, request a variance of Chapter 7, Section 7.3.3, Table 7-A, to allow a residence to be 18' within the 25' setback, a variance of Chapter 7, Section 7.17.9.2.6, to allow the finish floor elevation to exceed 5' and allow the residence finished floor to be 8'-11" from natural grade; a variance of Chapter 7, Section 7.17.9.2.7, (Significant Tree Removal), to allow the removal of two (2) significant trees; a variance of Chapter 7, Section, 7.17.9.2.3, (30% Slope Disturbance), to allow a residence to disturb 442 square feet of 30% slope disturbance); a variance of Chapter 7, Section, 7.17.9.3.2, to allow a residence to exceed 18' in height and allow the residence to be 24'-6" in height; a variance of Chapter 7, Section, 7.17.9.2 (standards), to allow a structure to be constructed on a ridgetop; and a variance of Chapter 7, Section 7.17.9.2.2, (Ridgetop Setback), to allow the residence to be constructed on the shoulder. The property is within the Residential Fringe Zoning District RES-F and located at 53 Camino Pacifico, within, Section 30, Township 16 North, Range 10 East, (Commission District 4). SDA-2**

Member Katz moved to approve and Member Martin seconded. The motion passed by unanimous voice vote.

5. Old Business

- A. Case # 18-5250 Tierra Que Canta - Conceptual Plan & Variances Rembe Las Campanas, LLC, Applicant, James W. Siebert & Assoc., Agent, request approval for a Conceptual Plan to allow 22 residential-lots to be**

developed in two (2) phases and three (3) Variances. The three (3) variances requested for the project are of Chapter 7, Section 7.17.9.2.4 Steep slope disturbance in excess of thirty percent (30%), with more than three separate areas exceeding 1,000 square feet each; Chapter 7, Section 7.17.9.2.1 to allow structures to be located on a ridge top, ridgeline, or shoulder unless there is other buildable area on the property; of the Sustainable Land Development Code; and a variance of Ordinance 2017-7, Section, 7.11.12.4 to allow Driveway separation of less 100' from return radius of an intersection. The proposal is located within the Las Campanas Planned Development District (PD-16) on tracts B & H of the previously approved Los Santeros Subdivision. Tract B consist of 9.83 acres and Tract H consist of 2.4 acres, total acreage for Tierra Que Canta development is 12.23 acres (±). The proposed development is accessed via Calle Gonzales to the east of Las Campanas within T17N, R8E, Section 15, SDA-2 (Commission District 2).

Case Manager Nathan Manzanares read the case caption and provided the staff report as follows:

NATHAN MANZANARES (Case Manager): The history of the Project is as follows, in 1992 the Board of County Commissioners ("BCC") granted approval for the development known as Las Campanas consisting of 1,419 residential lots to be developed in phases, two golf courses with club complex, tennis and equestrian center, and related accessory facilities on 3,549 acres. On February 8, 2000, the Board of County Commissioners approved the Master Plan, Master Plat and Final Plat known as Los Santeros at Las Campanas de Santa Fe. The approval consisted a residential subdivision consisting of 68 lots to be developed in one phase, with an additional 8 tracts to be developed in future phases. The total number of phased Master Planned lots approved for Los Santeros was 194 lots on 128 acres. The February 8, 2000 Los Santeros Master Plan and Master Plat approval included Tracts B & H which allow a for a total of 22 Master Plat lots on 12.23 acres (±). (Plat Book 447- Pages 7-13 Recorded in the Santa Fe County Clerk's Office. On July 17, 2019 an Application was submitted for a Conceptual Plan and three (3) Variances for Tierra que Canta. The Applicant also submitted for Preliminary Plat and Final Plat which was deemed incomplete by Staff. The Applicant states they will proceed with Preliminary and Final Plat at a later date once a decision has been made for the Conceptual Plan and three Variances requested. On March 12, 2020, the Application was presented to the SLDC Hearing Officer and recommendation to approve the Application were granted in accordance with Staff's Recommendation of approval as described in the Hearing Officers Findings of Fact and Conclusions of Law written order recorded April 9, 2020 under Instrument No. 1913666 in the Santa Fe County Clerk's Office.

On April 16, 2020, the Application was presented to the Santa Fe County Planning Commission, the case was tabled by the Planning Commission and the Applicant was asked to address before the Planning Commission revisited the case.

May through December 2020, the Applicant requested the case be tabled for the Applicant to have more time to address the Planning Commission concerns as well as work with the members of the public who had concerns in light of the Covid-19 restriction.

Summary of the previous Planning Commission from April 16, 2020. The Applicant as well as the Applicant's Agent, Jim Siebert gave a presentation of the proposal and answered questions and concerns from both the Planning Commission as well as from members of the public. The Planning Commission meeting was presented virtually via the WebEx via Covid-19. During the Applicant's presentation the Applicant as well as the Applicant's Agent, stated that they agreed with both Staff's Conditions of Approval as well as their self-imposed conditions which were agreed upon at the previous Hearing Officer's meeting on March 12, 2020, See Exhibit 12.

The self-imposed conditions discussed between the Applicant and the neighbors in opposition during the April 16, 2020 Planning Commission Meeting are as follows and it is also in the staff report:

- Gonzales Road will be continuous with the Rembe Tracts B & H and will be paved with a 20-foot wide, two 10 foot wide and a 20-foot wide driving surface.
- The sharp bend on Gonzales Road will be realigned to a safer curve and the intersection will be improved to a four-way-stop. That's under approval condition 23.
- And 40 percent of the lots on the cul-de-sac road, that goes to the north, Tierra que Canta facing dwellings on the east side of the fairway will be restricted to one story height. That is approval condition 24.
- The development will not be mass graded. A phased grading plan will be provided to the County as part of the subdivision's infrastructure application. That is noted as approval condition 25.

During the meeting, members of the Planning Commission had a lengthy discussion with the Applicant, the neighbors in opposition as well as County Staff regarding both Staff's recommendations of approval as well as the self-imposed conditions proposed from the Applicant.

A motion was ultimately made for the case to be tabled until more information was provided to the Planning Commission from Applicant. The reason for the tabling was so that the Planning Commission could better understand how the Applicant was going to address the concerns that were raised during the meeting.

The proposal was tabled by the Planning Commission until the following concerns were addressed:

1. Define the locations of two-story lots as referenced and described in the self-imposed conditions.
2. Resolve the unpermitted gate issue and work with Las Campanas and County Staff to bring forth a resolution.
3. Provide proof of a road being paved, and adequate drainage and erosion control.
4. Provide more clarification how the previously approved density for the subdivision was granted.

Staff has determined that the Applicant has addressed these concerns and they can be seen in Exhibit 14, as well as in approval conditions 24, 10, 5, 15, 19-22 and 25.

Staff also recognizes that the Applicant has tabled this case multiple times due to the Covid-19 pandemic and the restrictions that come with it and staff acknowledges that the Applicant requested that this project be put on hold until further deliberation with the neighbors could be done.

Lastly, staff recommends that this case be revisited by the Planning Commission and Staff stands by their original recommendation to approve the project. Staff's

recommendation for the requested variances and conceptual plan are in accordance with the approval conditions as stated in the staff report which are also in conjunction with the Hearing Officer's recommendation of approval.

In conclusion, Staff and the Santa Fe County Hearing Officer have established that the application for this proposed variances of the SLDC to create a functional road network within the proposed development is in compliance with the variance review criteria set forth in the SLDC. Therefore, staff recommends that the project be approved subject to the approval conditions as stated in the staff report with a proposed amendment to conditions 21 and 22 to change the requirement of a collector road standard to a cul-de-sac standard. The reason for this is that gate issue is resolved and the road will no longer be a through road. The County asks that the new road be done to cul-de-sac standards, is paved with two paved 10-foot wide driving surfaces and has a 38 foot right-of-way.

Mr. Chair, may I enter all of the original approvals of conditions as well as the amended conditions of 21 and 22 to state a cul-de-sac standard rather than a collector standard.

CHAIR GONZALES: Yes you may.

Conditions:

1. The Applicant must present a reclamation plan with Preliminary and Final Plat submission to ensure that as much disturbance as possible is reclaimed and revegetated.
2. The boundaries of the development area shall be clearly marked on site with limits of disturbance (LOD) and fencing or construction barriers to be approved by Staff prior to any grading or clearing and before starting construction in accordance with submitted engineered Grading & Drainage Plan.
3. Applicant must provide an approved Storm Water Pollution Prevention Plan (SWPPP) prior to any grading taking place on the property.
4. Mass grading of the site will be prohibited and noted as "Special Building Condition" on recorded Conceptual Plan and transferred to any other plats associated with Tierra Que Canta.
5. Limits of grading shall be addressed with Preliminary Plat submittal.
6. All residences built on lots classified as ridgetop lots be limited to fourteen (14) feet in height and be built in accordance with terrain managements standards set forth in Chapter 7 of the SLDC.
7. All residences built on Lots 17, 18 & 19 meet a minimum setback of 25-feet from slopes in excess of 30% this restriction is also for any accessory structures built on Lots 17, 18 & 19.
8. Canta to be a minimum 25' feet from the return radius of the proposed 4-way intersection.
9. Applicant must submit a reconfigured road design showing all driveways with the development 25' feet from the return radius of the proposed 4-way intersection, prior to this request being heard by the Planning Commission (Applicant has complied with condition per Exhibit 12).
10. "The Construction gate located at the end of Calle Gonzales must be permitted After-the-Fact by the Las Campanas HOA prior to commencement of infrastructure and road construction for the Tierra Que Canta Subdivision". "Amended Condition"
11. Limits of grading shall be addressed with Preliminary & Final Plat submittal.

12. The Conceptual Plan showing the site layout and conditions of approval shall be recorded at the expense of the applicant in the office of the County Clerk in accordance with Chapter 4, Section 4.9.9.9.
 13. Applicant must comply with all Review Agencies Comments and Approval Conditions.
 14. Applicant must submit missing documentation pertaining to Landscaping, Parking, Signage and, Water Service Agreements, Waste Water Service Agreements and a reconfigured road design showing all driveways with the development 25' feet from the return radius of the proposed 4-way intersection, prior to Preliminary & Final Plat being heard by the BCC.
 15. The Applicant shall submit a Geo-Technical Report for approval by the Administrator which verifies the stability of the rock and soil within the development prior to Preliminary and Final Plat approval for the development.
 16. An Engineered Traffic Impact Analysis showing updated calculation for trips generated from Las Campanas Drive to Calle Gonzales be submitted to County Staff for review prior to the Applicant submitting for Preliminary & Final Plat approval.
 17. The Applicant must present a reclamation plan with Preliminary and Final Plat submission to ensure that as much disturbance as possible is reclaimed and revegetated.
 18. The boundaries of the development area shall be clearly marked on site with limits of disturbance (LOD) and fencing or construction barriers to be approved by Staff prior to any grading or clearing and before starting construction in accordance with submitted engineered Grading & Drainage Plan.
 19. Applicant must provide an approved Storm Water Pollution Prevention Plan (SWPPP) prior to any grading taking place on the property.
 20. Mass grading of the site will be prohibited and noted as "Special Building Condition" on recorded Conceptual Plan and transferred to any other plats associated with Tierra Que Canta.
 21. Applicant must build all roads within Tierra Que Canta to a SDA-2 "~~Collector Road~~" Cul-de-sac standard.
 22. Calle Gonzales Road would be continuous with the Rembe Tracts B & H and will be paved with asphalt to a 20-foot width (~~Collector Road Standard~~) cul-de-sac standards.
 23. The current sharp bend on Calle Gonzales ~~Road~~ will be realigned to a safer curve and the intersection will be improved to a four-way stop intersection.
 24. Forty percent of the lots on the cul-de-sac road, that's the one that goes to the north, Tierra Que Canta facing dwellings on the east side of the fairway will be restricted to one (1) story as referenced in updated Site Plan provided by the Applicant for the January 21, 2021 Planning Commission Meeting as referenced under Exhibit 14" "Amended Condition"
 25. The development will not be mass graded. A phased grading plan will be provided to the County as part of the subdivision infrastructure application.
 26. Conceptual Plan is subject to all the variance conditions of approval listed above.
- CHAIR GONZALES: Nathan, I do have a question. On Conditions 22 and 23, those should be Calle Gonzales not Gonzales Road; correct?
- MR. MANZANARES: Mr. Chair, good catch. That is correct. That is the main road that goes through the development and it is going to be Calle Gonzales.

CHAIR GONZALES: Okay, thank you. Does any of the Commissioners have any questions of staff?

MEMBER KRENZ: This is Steve Krenz. I have a question about the gate business. What was the final resolution of this gate problem? I see in one of the documents it says that essentially this is not going to be made as a throughway and it is just for construction purposes only; is that correct?

MR. MANZANARES: Mr. Chair, Commissioner Krenz, in a way yes. It was determined by staff and our legal department that the original approvals granted to Las Campanas when the development was originally approved allowed for gates. The gate in question was unpermitted and never intended – I guess not intended, but was not permitted and was only there for construction purposes. The new regulations in the SLDC do not allow for gates but due to the fact that there are those original agreements, the gate will be allowed to stay because of those original agreements between the County and Las Campanas when it was first approved.

MEMBER KRENZ: I guess what I'm asking here is it isn't the gate per se that I'm talking about. It's basically access to Las Campanas Drive. Is that an issue here or not?

MR. MANZANARES: Mr. Chair, Commissioner Krenz, there will not be an opening into Las Campanas Drive. The gate will remain. It will be accessed via the people who live in the subdivision but not allowed to the public.

MEMBER KRENZ: Would you say that again, please.

MR. MANZANARES: Yes, sir. So the gate will remain but will not be allowed as a through street for the public.

MEMBER KRENZ: Okay. So I remember in our original discussions on this that there was some question about the fact that essentially all of these lots are on a dead end because this is not a throughway. And there was some discussion about Fire and Police access.

MR. MANZANARES: Mr. Chair, Mr. Krenz, the Fire Department has given their blessing on this and they are, like I said, they will have access to it in case of an emergency but it just will not have public access.

SCOTT VANDERBERG: This is Scott Vanderberg. I can speak a little further about that gate if you'd like. I live there.

CHAIR GONZALES: Yeah, hold on. The Commission is still asking questions. You can speak during the public hearing part. Thank you. Nathan, continue.

MR. MANZANARES: Mr. Chair, that's all I have for now. If there are any further questions from the Commission I would be happy to answer them.

CHAIR GONZALES: Okay, any other questions from the Commissioners? Yes, Frank, please.

MEMBER KATZ: Can we have a graphic put up that will show us where the gate is. I am curious as to why this is being grandfathered in when it was done without a permit. It seems to me that it shouldn't be given that. Given the rule now is that you don't have gates, maybe you did in the past and this gate would have been grandfathered in had it been permitted. But it wasn't permitted so it shouldn't be grandfathered in.

VICKI LUCERO (Building & Development Services Manager): Mr. Chair, Commissioner Katz, if I could just clarify. As Nathan had mentioned there was an

original development agreement between Las Campanas and the County when they came in for their original master plan approval. In that agreement, it allowed for gates within the Las Campanas planned development district. So although the code now says that gates are not allowed, we are honoring the entire development agreement that we had with Las Campanas.

MEMBER KATZ: Why are you honoring when they didn't have permission to build the gate? It's an unpermitted gate and now it is not allowed.

MS. LUCERO: You're correct. It is an unpermitted gate and they will be required to come in and obtain a permit. But per the development agreement, they are allowed to have gates in Las Campanas.

MR. MANZANARES: Mr. Chair, Commissioner Katz, Vicki is correct. A condition of approval is that an after-the-fact permit needs to be applied for and granted. The County didn't want to stick that requirement on the Applicant because ultimately the gate isn't on their property. So it's going to be the responsibility of Las Campanas to obtain that after-the-fact permit. But it will be brought into compliance.

MEMBER KATZ: Why would a permit be granted after the fact when it's no longer –

MR. MANZANARES: Mr. Chair, Commissioner Katz, because we're going to honor the original agreement that we had for gates to be within the Las Campanas area.

MEMBER KATZ: Okay, tell me then what is the rule that they can't have gates in Las Campanas. What's the current rule that doesn't allow gates?

MR. MANZANARES: Mr. Chair, Commissioner Katz, the intent of the SLDC is to have road networks that – they don't want the subdivision closed off. But Las Campanas is kind of its own unique situation where there's multiple gates within a gated community. So by removing this gate, essentially all of Las Campanas will become ungated and therefore it won't be a gated community any longer so we're going to stick with the original approval that the intent wasn't for the community to – [background distortion] by removing this gate we've changed the network of Las Campanas subdivision.

MEMBER KATZ: Are there other gates in Las Campanas?

MR. MANZANARES: Mr. Chair, Commissioner Katz, multiple gates within Las Campanas. Multiple sub-phases within Las Campanas that have their own separate gates. There's already precedence for this. The reason for the – it was not permitted but they're going to make it right by obtaining an after-the-fact permit.

MEMBER KATZ: Okay. If somebody else were to come in and develop a piece of Las Campanas and want to put up a gate would they be allowed to?

MR. MANZANARES: Mr. Chair, Commissioner Katz, if it were within the parameters of the original agreement, we would honor that.

MEMBER KATZ: Thank you very much. I appreciate your help.

CHAIR GONZALES: Thank you, Nathan. I would like to chime in a little bit as well on that gate. I do construction inspections and I do some work in Las Campanas. I was always under the impression that that gate was a construction entry only and I thought it was only a temporary gate. But it's been there for a couple years and I've used it several times.

MR. MANZANARES: Mr. Chair, you are correct. That gate has been there for quite some time. And like I said, the applicant I believe failed to follow through and obtain a gate permit. This phase that is proposed right now took a long time to get developed as well. But now they're going to bring it back into compliance for an after-the-fact permit.

CHAIR GONZALES: Okay, thank you, Nathan. Does any other Commissioner have a question of staff? Okay, being that that's said, I'm going to open it up for public hearing now. Is there anybody out there that has any questions or comments on this project – for or against it? Please come forward.

[Duly sworn, Scott Vanderberg, testified as follows:]

SCOTT VANDERBERG: I live across the golf course from where these houses are proposed. I am representing our neighborhood and our view of this. Now we have been in talking with Mr. Rembe and he has modified his building of the nine places that face north [inaudible] that five two stories and the rest – we know that we can't stop that and we have come to the conclusion that if he builds these houses as he has them designed right now that it will be the best possible thing for us. So none of us in the neighborhood are going to stand against that. He's also agreed to pave the road, cut down as few trees as possible and other things. So we are not going to be against him.

Now, if I could comment about that gate. Hello?

CHAIR GONZALES: Mr. Vanderberg are you still there?

MR. VANDERBERG: Yes.

CHAIR GONZALES: Are you finished with your presentation or discussion?

MR. VANDERBERG: I can make further comment about that gate and security for Las Campanas.

CHAIR GONZALES: It's up to you whatever comments you want to make.

MR. VANDERBERG: That definitely is a construction gate. It has been there for many, many years. It was not one of our normal gates – 24 gates going into Las Campanas – so it's just a construction gate. The Fire Department – for access in case of fire.

CHAIR GONZALES: Okay, Mr. Vanderberg, thank you very much. Who is next? Does anyone want to speak?

[Duly sworn Kenneth Francis, testified as follows:]

KENNETH FRANCIS: I live at 2 Plaza de Vasquez and we are concerned about blocking our view of the Sierra de la Campanas and the rest of the mountain view west of us. We built our home – we bought this home because of the view and as I understand it they are going to be allowed two story properties; is that correct? Can anyone answer that for me?

CHAIR GONZALES: That is correct, sir, for a few of the lots.

MR. FRANCIS: As I say, we bought less than a year ago here and so we're new to this process but my first question would be, is this normal that when we have invested significant money in a property and then someone can come along and change the rules by changing these lots? We bought this based on there not being a much of condos next to us.

CHAIR GONZALES: Nathan, do you want to answer that?

MR. MANZANARES: Mr. Chair, it's the nature of development. The two stories will have to follow the terrain management regulations that are set forth in Chapter 7 of the SLDC. The applicant's self-imposed conditions – at the end of the day that's Las Campanas and the Applicant's agreements. If it meets our regulations we don't necessarily care if it's a two story or a one story as long as it meets the terrain management standards and meets our code we are going to approve that. If there's a private covenant in place, that's another issue between the homeowners association, developer and the neighbors.

MR. FRANCIS: But if I understand, County regulations to supersede HOA codes don't they?

MR. MANZANARES: Mr. Chair, not necessarily. In most cases, HOA regs are more stringent than SLDC regs where it comes to height.

MR. FRANCIS: If I understand you correctly then the covenants that were imposed in the original development plan were [inaudible] they supersede County regulations?

MR. MANZANARES: Mr. Chair, the applicant would have to meet terrain management requirements for each individual lot that is built out on the property. We would determine that at the time of development, development permit for a single family resident was submitted. But the Applicant self-imposed these conditions to see where the two story lots are going to be. This is not a County requirement.

MR. FRANCIS: But the County is changing that regulation; correct?

[Great deal of interference from individuals on the call]

CHAIR GONZALES: Sir, I think what staff is saying is that the County enforces County code and the homeowners association enforces their own code. There's no code in the County that doesn't allow two stories. Nathan.

MR. FRANCIS: No, no, I'm sorry --

MR. MANZANARES: Mr. Chair, thank you, that is correct.

MR. FRANCIS: I may have misspoke or didn't explain well. The two stories I can understand but the issue I have is how can a developer be able to come in and spend a certain amount of money after we've spend X amount of money and he can come in and change the original development which we bought our property based on the original development and now admit to the fact that we he's going to be allowed to subdivide his and put a bunch of condos in.

JAY REMBE: Mr. Chair, this is Jay Rembe the developer. Is it okay if I respond and comment? I can answer some of the questions for clarity.

CHAIR GONZALES: Okay, go ahead.

[Duly sworn, Jay Rembe, testified as follows:]

MR. REMBE: Mr. Francis, this is Jay Rembe a long term New Mexican. I actually bought that property back in 2009 as part of the second phases in there and Los Santeros was master planned to allow for two stories on the lots that I'm buying. And allows for up to seven attached homes. I'm not a fly-by-night developer. The plans always proposed what I'm proposing here. I've been working hard in here trying to do a nice job. It does allow for two stories and does allow for what I'm designing and I've been up here for quite some time now.

MR. FRANCIS: Well, if I'm not mistaken the original development was for seven lots and --

MR. REMBE: No, that's incorrect. That's incorrect. These parcels allow for 22 lots and always have. When I purchased the second phase, there were a total of, I believe, 17 homes and this was the second phase which would be another – it's actually the third phase. So this is the third and final phase. I believe the whole first, second and third phase was a total of over 70, I believe, and I am just finishing the last and final phase on Tracts B and H.

MR. FRANCIS: Okay, well, I guess I'm sorry, I'm a dumb civil engineer out of Texas but if I understood correctly these two sections B and H were originally platted for, I thought it was seven lots.

MR. REMBE: They were never platted but they were originally planned for 22 lots years ago when they did the master plan. They've been –

CHAIR GONZALES: Okay, hold up. We're getting into a discussion and a debate on this now. Please state your case, Mr. Francis and at the end of this Mr. Rembe then you can do a rebuttal at the end, okay?

MR. REMBE: Absolutely.

CHAIR GONZALES: Okay, Mr. Francis, do you have any more comments or concerns?

MR. FRANCIS: Well, the concern I have is it appears to me from this conversation that he is being allowed to subdivide this land into smaller lots to accommodate more building. If I'm wrong, just tell me and I'll go away.

CHAIR GONZALES: This has gotten this point to the Planning Commission and staff has reviewed it and they say it complies with all the requirements as needed. If the Applicant wants to address your comments when he does a rebuttal, that will be fine. At this point I want to go to the next caller. Thank you, Mr. Francis.

MR. FRANCIS: Okay, thank you.

CHAIR GONZALES: Hold on, Jay. We'll let you do a rebuttal at the end. Do we have anybody else who wants to speak out there?

[Duly sworn, Mona Shoup, 7 Tecolote Circle, testified as follows:]

MONA SHOUP: I have a couple questions. I did submit my questions to the Planning Commission and I hope that they did see them and I don't know if you had any questions for me or if you did understand what I was talking about. But I have a couple of more questions that I thought of last night and I did see that homes that are – at least I think it's 2,500 square feet required the rain catchment systems. And since these homes will be around 1,700 square feet, I guess they will not require the rain catchment cisterns. But since they are going to be side-by-side, basically sharing an outer wall; what does the County do in that situation then especially since they're on the steep slopes and they're having xeriscape, where does the water go? Will they share one of these cisterns and how does that work?

MR. MANZANARES: Mr. Chair.

CHAIR GONZALES: Hold on. Do you have any more comments that you want to make, ma'am?

MS. SHOUP: I have one more and it's regarding the geotechnical report. It's just one more question. Can I ask that at the same time?

MS. LUCERO: Mr. Chair, if I could just – we are getting a lot of feedback.

[The phone lines were muted and those wanting to speak were directed to unmute or press star 6.]

CHAIR GONZALES: Okay, Nathan, I'm going to go ahead and let you answer those questions so we can get through this.

MR. MANZANARES: Mr. Chair, thank you. Staff has talked with Ms. Shoup regarding her concerns with drainage both the soil stability out there and ultimately the application right now is purely conceptual. We are not going to make the Applicant go out and spend a bunch of money on engineering and studies with the possibility of this case not being approved. If it does get approved, we'll have to go through another stage which is preliminary and final plat. At that point, we will determine [inaudible] studies are required and accessed by staff.

Right now, it doesn't make sense to make them submit all of these studies at this point. We do have a number of conditions in the staff report, conditions of approval, that do address terrain concerns, soil stability concerns, ponding concerns – so later on, if this project does proceed forward, those concerns will have to be addressed before preliminary and final plat is heard before the Board of County Commissioners for approval.

CHAIR GONZALES: Thank you, Nathan. Okay, does anybody out there have any more questions? Any questions from the public? One more chance before I close the public hearing. Jim, did you have a question?

AL ANTONEZ: I'd like to say something, Charlie.

JIM SIEBERT: We did have a presentation. Typically, the presentation of the Applicant goes before the public hearing. I would like to go through that presentation so you get a broader aspect of what this project is.

CHAIR GONZALES: Jim, please do that. That was my mistake, please make your presentation, I'm sorry.

[Duly sworn, Jim Siebert, 915 Mercer, Santa Fe agent for Applicant, testified as follows:]

MR. SIEBERT: Let me go to the first slide. This is where the project is located. Just to reinforce what has been stated earlier by staff, there are two parcels and these two parcels are two separate lots. The two lots were approved as part of the master plan for Las Campanas for 22 lots. There's been no change to that. We haven't asked for an increase of that. We haven't asked for a change of zoning that is currently permitted that's called the Planned Development District Zoning. And we are in total compliance with the SLDC.

Calle Gonzales is here and it goes through the property and connects to Las Campanas Drive. The gate that everyone has spoken on and Commissioner Katz had talked about is actually right here within the right-of-way of Las Campanas Drive. It is under the ownership of Las Campanas. This is a wastewater treatment plant here – and these are the structures that are located here at the wastewater treatment plant, and you don't see it here but there is a dog park here for Las Campanas residents. It is surrounded on two sides by the golf course. This side is surrounded by the golf course and the same side is surrounded by the golf course. With that we'll go to the second slide.

One of the questions that the Planning Commission had at the last meeting was it seems way too tight for Las Campanas. Las Campanas is only made up of large lots. That is actually not correct. There are several locations within the Las Campanas Master Plan that they provided for this type of home, and in fact they would have several

different products available to the public. And this is one product. This particular subdivision actually has been built and [inaudible] Rembe bought it from another builder that went bankrupt. And the footprint on this land and the other subdivision are almost identical to the footprint of the other subdivision that we have here.

This is actually what it looks like today and once again some of these are two story and some are one story. But if you take this same subdivision, well, this is the outcome of that same subdivision, this is what it looks like.

Another issue that came up at the Planning Commission meeting was the 40 percent and which units are included in the 40 percent and Jay Rembe has worked out with the neighbors exactly where those one story units will go. And since we're talking about height, I'd like to mention that the SLDC for this type of zoning would be a 24-foot height limit. The restrictions by the HOA because they have their own set of standards to various lots within the master plan, their standards are for 24 feet. We've actually restricted the height of the two-story building to 19 feet. So it is allowed by the SLDC and allowed by the homeowners association.

One of the issues was by one of the neighbors that he didn't like the look of the second story within the porch area and we have modified that. We had a redesign which took place – with the interior of the project so we could make that second story and he actually looks across on to the project. So that was an issue that we thought was important and we had to do something to address that particular concern and we did it with this particular design. The actual location of that is up in this area right here.

And then staff had a concern, they said what does this look like from a 3D standard. So we had somebody here that did 3D architecture. So we generated a 3D drawing of it – looking at it from the point of view of neighbors looking over the existing golf course – and in this case it's a tee. This is on the long roadway that goes north.

The issue of the road I think is pretty important. The gray line is where Calle Gonzales is right now. And then what happens is you come to the top of the hill and you have an absolute blind curve. You can't see over the top of the hill. What we're proposing to do is realign that. First of all, make it safer and then secondly to change it into a four-way intersection with a stop at each intersection. We feel what we have created here is a much safer solution than what we have there today for Calle Gonzales.

And then this is the overall site plan for the property with the units on it. And to refresh your memory here, this is Calle Gonzales realigned, we have the intersection here. We'll have a stop on each of these locations here at the intersection. And then we'll have a paved road, 38 foot of easement, going to the north of the paved road of 38 foot of easement going west as well. The one issue which there was a variance for the driveway access from the intersection design was 100 feet but actually as I recall it is a waiver that can be granted by the Land Use Administrator and in this case we felt that waiver was warranted because we improved the safety of this particular intersection. I think that's it.

CHAIR GONZALES: Okay, Jim, is that the end of your presentation?

MR. SIEBERT: That's the end of the presentation.

CHAIR GONZALES: Okay, again, I apologize for missing you there. Does the Commission have any questions of the Applicant? Jim, I do. Those buildings, what color was that tone on the stucco?

MR. SIEBERT: It would not be white. We tried better toner but the stucco will be more of a tan. The houses that I showed you that Jay had done before

would be more in that order. The reason it was white was because it was hard to get them to stand out –

CHAIR GONZALES: So it would be something like to match earth tones in that area?

MR. SIEBERT: Yes.

CHAIR GONZALES: Thank you. Any other questions from Commission?

RICHARD HERTZ: How about audience?

CHAIR GONZALES: Just for the Commission.

MEMBER J.J. GONZALES: I have a question.

CHAIR GONZALES: J.J., please do.

MEMBER J.J. GONZALES: I was going to ask Jim Siebert what's the average size of those lots? They look pretty small.

MR. SIEBERT: As I recall they vary from 4,500 square feet to 5,500 square feet and then we have some that are much larger than that that go up on the other side of the hill. But they are pretty representative of the subdivision of the width of the lot that is representative of the subdivision that you saw that was previously built in Las Campanas.

MEMBER J.J. GONZALES: Another question I had is what are the sizes of the houses that are going to be built? Are they going to be condos, townhouses or freestanding homes?

MR. SIEBERT: They are going to be townhouses. They are not going to be condos. I'll let Jay tell you exactly what they are.

MR. REMBE: Yes, thank you for the opportunity. They will potentially range from 1,600 to about 2,200 square feet. From the phase that we did there are very few that did the 1,600 and there's a plan that we call the San Ysidro plan that is about a 2,000 square foot plan that creates a casita and a house and create this just beautiful courtyard. They're really meant to be these empty – these lock and leave houses. It's for a different market. Someone that is really looking for something smaller with less maintenance. They don't want a large yard. They don't want large upkeep. These little courtyard houses are just wonderful. I'm happy to show you some of the existing ones that we did. I'm happy to send you photos. They'll range in size no larger than 2,200 but again they're meant to be these wonderful little empty nester houses for people.

MEMBER J.J. GONZALES: Are any homes going to be affordable houses? Do you have to comply with the affordable houses ordinance?

MR. REMBE: I do not.

MEMBER J.J. GONZALES: Okay, I just wondered.

MR. SIEBERT: Let me clarify that. Las Campanas paid a fee early in the process for approval for affordable housing and then the County Commission exempted them from having to do affordable housing within the development.

MEMBER J.J. GONZALES: Okay, thank you. I think those are all of the questions that I have.

CHAIR GONZALES: Thank you, J.J. Any other Commissioners have any questions. Okay, I am going to open up the public hearing again. Anyone have any comments? Mr. Antonez, did you have something that you wanted to say?

[Duly sworn, Al Antonez, testified as follows:]

AL ANTONEZ: I'm the general manager of the Club at Las Campanas. We have two golf holes that are adjacent to this property, the 13th hole and the 14th hole. And I just wanted to state how professional and cooperative and communicative Jay Rembe has been as well as Mr. Siebert and their previous projects have been done to perfection and it's just nice to work with professionals who ask you before proceeding to do anything and get your advice before hand. It's been a great process. I just wanted to add that it's been nice to work with them, they're real pros. And our superintendent Tom Egelhoff is on the phone as well and they have taken all of our concerns into consideration and it's refreshing in this day in age to work with pros. So thank you.

CHAIR GONZALES: Thank you, sir. Any other questions or comments from the public?

MR. FRANCIS: Ken Francis.

CHAIR GONZALES: You already spoke earlier, right.

MR. FRANCIS: Yes, I have one other question.

CHAIR GONZALES: Okay, make it quick, please.

MR. FRANCIS: In the conversation back and forth I really recognize this construction entrance on Calle Gonzales. But in all of the discussion I didn't hear a clear – or didn't get a clear understanding of whether or not a permanent access gate is going to put there or whether that gate at completion of construction was going to be closed permanently.

MR. MANZANARES: Mr. Chair, that gate will be used for emergency purposes only. The Fire Department will have access to that.

MR. FRANCIS: Okay, but is there a gate to be constructed there? I mean, right now it's just a chain-link fence.

MR. MANZANARES: Mr. Chair, a condition of approval is that Las Campanas needs to come in to the County and discuss with staff and provide an after-the-fact permit for the gate. Yes, there will be a gate there.

CHAIR GONZALES: Okay. Let's continue. Does anyone else from the public have any more questions?

MONA SHOUP: I do. I want to ask my second question.

CHAIR GONZALES: Yes, go ahead.

MS. SHOUP: Okay. I put it up in the chat section and it's regarding the geotechnical report and I didn't know about the scope of the geotechnical report and if you're allowed to ask anything about the future conditions of the tracts and what I had in mind was if we happen to have a big monsoon season and the conditions of the property with the very soft soil – it's very, very soft soil out there – and I'm just wondering with all the trees gone, what's going to happen? Like, I can just see things sliding or homes developing cracks and I didn't know if the geotechnical report would look at that scenario.

MR. MANZANARES: Mr. Chair, ultimately, that would be determined by the engineer that does the study.

PAUL KAVANAUGH (Building & Development Supervisor): Mr. Chair, that will be determined at the prelim – what exactly studies are wanted.

CHAIR GONZALES: Okay, so what you're saying is all of that stuff will be looked at at the time of building permit application?

MR. KAVANAUGH: No, it will be at the preliminary subdivision. This is just a conceptual plan to show the siting and how that works. But the engineering aspect will come at the next phase.

CHAIR GONZALES: Okay, so that will be at the preliminary.

MR. KAVANAUGH: Yes, sir.

CHAIR GONZALES: Ms. Shoup, if you have any questions, go meet with staff or call staff at that point in time and see what kind of conditions or requirements they're going to put on that.

MS. SHOUP: Okay, I didn't know at what point I was supposed to ask that so that's why I am asking now. Thank you so much for allowing me –

CHAIR GONZALES: Sure, those questions that you're asking are all part of terrain management and they will definitely be addressed at the preliminary part.

MS. SHOUP: Okay, thank you.

CHAIR GONZALES: Thank you.

[Duly sworn, Richard Hertz, testified as follows]

RICHARD HERTZ: I came in a little late and I don't want to take up too much of your time. If it's easy to put up one drawing that shows the location of this in relationship to all of Los Santeros. Can anybody show me where this piece is? I know more or less.

MR. SIEBERT: I can pull up the aerial photo. We don't have all of Los Santeros. This is Calle Gonzales. This is Las Campanas Drive, this is the wastewater plant here – these are the structures that operate the wastewater plant.

MR. HERTZ: Okay. And which hole is this – which green is that?

MR. SIEBERT: Maybe Las Campanas can tell you which green that is.

MR. HERTZ: Al, you must know that.

MR. ALONZE: The little green at the bottom is the 13th green, Mr. Hertz, it's at the end of the par 3 and then the five little dots are the tees to the 14th hole and then that gray spot right at 12 o'clock is the pond on 14 and the dog park from this thing would be at about 11 o'clock just at the top of everybody's screen.

MR. HERTZ: I got it. I got it. Thank you all very, very much.

CHAIR GONZALES: Thank you. I'm going to close the public hearing now. Does anyone on the Commission have any comments or discussion or a motion? J.J., anybody?

MEMBER J.J. GONZALES: I move to approve with staff conditions.

CHAIR GONZALES: Do I have a second?

MEMBER KATZ: Second.

MEMBER KRENZ: Second.

CHAIR GONZALES: Okay, we have a motion and second. If we could get a roll call.

MR. MANZANARES: Mr. Chair, prior to that, if we could amend that just to include the amended conditions to 21 and 22 for the road standards to a cul-de-sac standards and not a collector standard. And also Mr. Chair, there was some discussion regarding casitas – staff just wants to let it be known that there is only going to be one house allowed on these lots. There will not be any secondary residences allowed in this subdivision.

CHAIR GONZALES: Does that include accessory structures?

MR. MANZANARES: Accessory structures are allowed but not accessory dwellings or casitas.

CHAIR GONZALES: Okay, thank you. Can I get a roll call vote.

The motion passed by unanimous [6-0] roll call vote.

6. New Business

- A. Recommendation on Ordinance No. 2021. An Ordinance Amending the sustainable Land Development Code, Ordinance No. 2016-9, to amend and restate Section 7.2 to include the latest adopted codes and to amend and restate Section 7.14 concerning energy efficiency to, among other things, require new structures to comply with specified pathways in the 2018 New Mexico Residential Energy Conservation Code and 2018 New Mexico Commercial Energy Conservation Code and Removes the whole-house mechanical ventilation requirement for residential structures**

PENNY ELLIS-GREEN: Mr. Chair, Commissioners, thank you. This is an ordinance that will amend the Land Development Code. In August of last year Construction Industries approved including the 2018 International Energy Conservation Code into the statewide building code. The effective date for this is March 24th of this year. This provides different compliance pathways for both residential and commercial buildings. The 2018 residential energy conservation code now has three main residential pathways. The first is prescriptive. The second is an ERI of 61. The third is a performance model. Our code currently requires a HERS 70 or equivalent. The state's ERI 61 pathway is considered to achieve a higher energy efficiency than the two main pathways and HERS 70.

The 2018 commercial energy conservation code has three main pathways: an ASHRAE pathway, a prescriptive, and a performance modeling. The current code requires non-residential structures to be designed to Energy Star certification. The closest pathway to the current SLDC is considered to be the ASHRAE path. The rationale for choosing these changes and the energy rating index approach and the ASHRAE approach will on average achieve a higher energy efficiency than if the structure was to meet the minimum requirements of another approach or pathway.

The state actually adopted an ERI of 61 which is similar to but different to a HERS 61, ERI and HERS index are very similar though there are some differences. Both are based on an underlying standard of RESNET for ratings around the 61 level, the two rating systems are very comparable. In addition, a HERS rater can still rate for an ERI, but the ERI does not require a HERS rater. Like the HERS 61 rating an ERI rating of 61 would require energy use of the house to be about 61 percent of a home that was built in 2006.

So on February 9th the BCC directed staff to publish title and general summary of this ordinance to amend the SLDC to require that new homes meet the ERI pathway and commercial buildings meet the ASHRAE 90.1 pathway.

In accordance with the SLDC the attached amendment is heard by the Planning Commission for a recommendation and will then go to the BCC for final approval.

SFC CLERK RECORDED 03/23/2021

Enforcement of energy efficiency standards is important to ensure compliance. The County does not have building inspectors or even technical reviewers to enforce building standards. Current enforcement relies upon a HERS rater coming back to the County to submit their reports after construction, but the County has no way of knowing when a house is completed or inspected to building standards. Using the same standard as the state would ensure us that the state's building inspectors would enforce these standards and require compliance before a Certificate of Occupancy is issued for a residential structure.

The existing code also includes whole house ventilation requirements and that is now not consistent with state codes. The state based their ventilation requirements on the 2015 International Mechanical Code. Because this additional County requirement could create confusion, add costs to residential development, because the County does not conduct building inspections it could not robustly enforce this requirement, it would recommend it for deletion.

Additional background information prepared by Sustainability and Planning staff is attached in BoardDocs and gives information about why energy efficiency is needed and costs for ERI rating. As a summary, the changes that are proposed is to change Section 7.2 and amend that to update the building and fire codes that have been updated since the 2016 SLDC, and this includes the 2018 IECC. The other section that is amended through this ordinance is Section 7.14. It's amended to required residential development to meet the ERI 61 rating pathway, to require all commercial development to meet the ASHRAE 90.1 pathway through the state, to remove the reference to multi-family development, so this type of development just simply follows the state requirements, and remove the whole house ventilation section.

I would note that this revised Section 7.14 does not apply to manufactured homes or modular homes; neither are we intending it to apply to a remodel of a home.

Staff recommends that the Planning Commission recommend approval of this, and this will then go on to the BCC on March 9th for approval. It will then go into effect 30 days after recordation, which will be shortly after the state requirements come into effect.

And then I'm going to hand over now to Jacqueline and Robert from Sustainability and Planning. They've worked together to provide some background information and have a brief presentation for you. So, Robert, if you could take over.

CHAIR GONZALES: Thank you, Penny.

ROBERT GRIEGO (Planning Manager): Good afternoon, Mr. Chair, Commissioners. This presentation was provided by Sustainability staff along with Planning Public Works staff. This presentation will provide some background information in regard to the relationship of the energy efficiency standards to the Sustainable Land Development Code. The proposed energy efficiency amendments are in alignment with the County's Sustainable Growth Management Plan and the environmental sustainability goals of the County's strategic plan, Santa Fe County's policies and resolutions, the state energy code, and is in alignment with the state energy code and the 2018 International Energy Code, which was described by Penny. This presentation will also provide some background in regard to what the regulations are in regard to the County's current standards and the proposed standards.

First off, Lucy, do you want to go over the SGMP goals?

LUCY FOMA (Planner): Yes. I can't see your slide for some reason. I don't know if it's an error with my home computer. Are they up?

MR. GRIEGO: Yes.

MS. FOMA: They are? All right. Well, I can just talk in broad terms since I can't see the slides. As you're aware, we have our County general plan, the Sustainable Growth Management Plan, and within that plan we state very clearly our intention to be a sustainable community, which means going off of fossil fuels and promoting energy efficiency. Specifically that means also helping the buildings in the county stop relying on fossil fuels. So amending our code to be more efficient and requiring our new buildings to be more efficient is exactly in line with what we have stated we intend to do.

MR. GRIEGO: The County sustainability goals and policies are identified here on this slide. SGMP goal 23 is to support energy efficiency from renewable energy to reduce greenhouse gas emissions, and to replace non-renewable energy, and specifically has a sustainable green design in development elements. The goals related to this: that development should comply with the principles of sustainability and conservation established in the SGMP. The SGMP goal 26 is to provide renewable, sustainable development through green building development techniques.

The County strategic plan is also related to some of these goals as well. I don't know if you wanted me to cover those, Lucy.

MS. FOMA: I am happy to. I just still can't see the slides. As you also know, we have the County strategic plan which is revisited multiple times annually by our County Commissioners, and within that we have also stated that we want to meet renewable energy standards and become more efficient and less reliant on fossil fuels to address climate change.

MR. GRIEGO: The next section of our presentation talks about some of the sustainability resolutions, several County resolutions supporting sustainability, energy efficiency and climate action, and those are identified on the slide here and in your packets. Part of what we wanted to inform the Planning Commission on today is to how the standards align with the state energy code and the 2018 International Energy Code. The state energy code – the County code requires a HERS 70 energy efficiency rating for any residential structures. This is a County requirement, not a state requirement. The state, since they have created the new standard, currently requires the applicant to meet one of several pathways. The County Sustainable Land Development Code does require compliance with the state building and energy codes. That is the Section 7.2 that Penny referred to.

State requirements for residential development include a prescriptive path or performance requirements which includes an alternative path which requires an ERI of 61. In order to maintain consistency with state code and to advance the County's sustainability goals the County is proposing to adopt an ERI standard of 61. The updated standard would provide a clear and uniform regulation for all new residential code within the county.

The next slide refers to the state energy efficiency pathway and to your left are the prescriptive requirements. This is again statewide. You can either choose a prescriptive path or a performance path. The performance path includes a simulated performance or the ERI. The County is choosing to go with the ERI pathway as this is the closest to the HERS rating that is in the current code. It also ensures that there is a certain standard of

energy efficiency that needs to be met, so the County's proposing amending Section 7.14 to require new residential development to meet the ERI 61 rating pathway.

The next section – and I don't know if we have Jacqueline on the line today – is the energy efficiency regulations' costs and benefits. Staff did do a review of what the regulations' benefits and costs were in relation to the regulations, including potential options to the standards to achieve an ERI 61.

We've provided some examples of energy efficiency improvements to achieve an ERI of 61. And this was identified in the information staff has worked with local HERS raters who have provided their time, builders and developers who have provided information, energy efficiency educators from the Santa Fe Community College. We also have coordinated with State CID and the Santa Fe Area Homebuilders Association to identify how does an applicant achieve the ERI of 61. These are some examples of how to achieve an ERI of 61, including a high efficiency furnace or boiler, 90 percent or plus, a high efficiency water heater, tankless or heat pump, hot water recirculation pump, must be demand-activated, higher performance windows, command control hot water recirculation.

Again, these are some examples of ways to achieve that. Part of our goal in communicating with the public is to provide information to the public in regard to how to achieve the ERI of 61. Some of the benefits of achieving an ERI of 61, again, this supports the County's sustainability and energy efficiency goals and policies. The ERI 61 pathway addresses the County's sustainability codes from both an economical and energy efficiency standpoint. It will address decreased energy usage, estimated to be between five and 16 percent, based on sample data, energy bills. Energy savings can be between five and 16 percent based on sample data. Decreased CO₂ emissions, CO₂ emission reduction estimated to be between five and 15 percent based on sample data. And then reduced energy usage significantly can reduce efficiency performance of approximately ten percent in comparison to the average home.

The public benefits of the energy efficiency standards overall would lead to decreased CO₂ emissions, to address climate change, reducing energy usage and energy costs for homeowners, and also providing education, information and outreach for long-term benefits of the increased energy efficiency standards. This is something we're looking to long term to address the County's policy goals and the strategic plan goals.

The 2018 energy conservation code for commercial has three commercial compliance pathways including the ASHRAE 90.1- 2016 prescriptive path, and performance modeling. The IECC compliance process is outlined on this slide, there are different paths to go through. You can choose a path in accordance with the state. What Santa Fe County has done is we currently have standards in place. The current standards in Santa Fe County require non-residential structures to be designed to Energy Star certification standards. The closest pathway to the current SLDC requirement is considered to be the ASHRAE path.

The proposed ordinance will require all development to meet ASHRAE 90.1 2016 pathway for the state code. And this is the graphic and the proposed change to Section 7.14 to require new commercial development to meet this pathway.

This slide summarizes the changes, the amendments to the SLDC to be consistent with the state energy code, amending Section 7.2 to update the fire and building codes to the state residential energy and commercial energy codes, to require new development to

meet the ERI rating pathway, to delete the whole house ventilation section for residential structures, and to require commercial development to meet the ASHRAE 90.1 2016 pathway. And finally, in reference to multi-family development, this type of development will follow the state requirements under the 2018 code. So that concludes our presentation and we stand for questions.

CHAIR GONZALES: Thank you, Robert and staff. Penny, I have a question for you. On your presentation you said that the revised Section 7.14.22, would that apply to manufactured homes or modular homes? Or remodeled homes? Would it apply to attached or detached additions? Or second story additions or guesthouses or accessory structures? Reroofs?

MS. ELLIS-GREEN: Mr. Chair, it would apply only to new construction. So if there was an addition, the addition would need to meet this standard. A new home would need to meet the standard, whether it's a primary dwelling or an accessory dwelling. By not including modular homes or remodels, they're then reverted back to the state and then they get to choose any of the pathways. Because the state does require them to meet that standard. The reason why we're not including modulars is because we did initially require them in the code that came into effect in 2016 and it was a burden on the people buying a modular because the factory had to make changes and that became very expensive. So the state Construction Industries is now working with the modular home industry, because they will have to meet one of the standards. But they can choose which standard they will meet and it's more likely to be the prescriptive standard, because that is the lesser of the three standards for residential.

Same goes with remodels, so what we're looking at is our code will do the same as it did before, which is new dwelling units and new construction.

MS. FOMA: Could I also add, if there's a moment? This allows more transparency and clarity for applicants applying to the County, because we will have the same standard as the state, so not only as Penny mentioned, then we will be relying on the state for enforcing it but it will also reduce duplication of standards.

CHAIR GONZALES: Okay, Penny, did you get my question as far as how is the communication going to be between the County and the state? Are you guys going to get a copy of the tag? Or is it going to be the Certificate of Occupancy? How is the County going to know that this is in compliance?

MS. ELLIS-GREEN: Mr. Chair, Planning Commission members, what the County does is someone comes in, makes application to the County. We would require the ERI 61 model to be met. We're working with CID to get their checklists and to get training with them to make sure we have the correct information. We then seal those up when we're issuing a permit and they get sent over to CID. CID will then review and enforce and make sure it's built to the ERI 61 standard. We have confirmed that with CID, that if we send the building permit over meeting the ERI 61, that is what they will review for. And so they will enforce, and they will continue to issue the Certificate of Occupancy. Does that answer your question?

CHAIR GONZALES: Sure does. Thank you.

MS. ELLIS-GREEN: Thank you.

CHAIR GONZALES: Okay, do any of the Commissioners have any questions of staff?

MEMBER J.J. GONZALES: Mr. Chair.

CHAIR GONZALES: J.J.

MEMBER J.J. GONZALES: Yes, I have questions. What comments did the County receive from architects and builders regarding these standards?

MS. ELLIS-GREEN: Mr. Chair, Planning Commission members, we have heard from several builders. I believe Miles Conway from the Santa Fe Area Homebuilders is on the call and is going to testify. We have heard from a number of builders. It will cost a little more to do a higher energy efficiency. Comments are on BoardDocs in your packet. We also have met with HERS raters, two different HERS raters who support this. So in general, I think there is an understanding that the state is going to more energy efficient buildings and that the Commission has looked at increasing our energy efficiency.

So I think that a lot of the costs can start with how you orient your building on the lot, your window size, how you're designing your building, and then from there, adding energy efficiency standards to it in order to meet ERI 61. Robert, I don't know if you wanted to add anything to that. I think we got three or four comments in the packet.

MR. GRIEGO: That's right. We do have some attachments that have been included in the BoardDocs, but I think there are folks here that may want to speak on this item.

MEMBER J.J. GONZALES: Thank you.

CHAIR GONZALES: Okay, thank you. Does anybody else on the Commission have any questions of staff?

MEMBER SERNA: Chairman Gonzales, I have a question.

CHAIR GONZALES: Sure. Ms. Serna, please go ahead.

MEMBER SERNA: Given the addition costs that I saw that were mentioned from some of the HERS raters and builders in the packet, I'm just wondering from the Planning Department if there were any discussions about how this is going to connect with our ongoing affordable housing crisis here in Santa Fe and Santa Fe County. If there were any discussions with affordable housing or any type of soft second mortgages that could be offered to homeowners that want stick-built homes. And also just considering that if this does increase our already exacerbated housing situation, there probably more people leaving Santa Fe – workers, who will live outside of our county and then maybe be commuting in. So that exacerbates reliance on fossil fuel if more people are having to drive because it's just further and further out of reach for middle income Santa Feans to purchase stick-built homes here in Santa Fe.

MS. ELLIS-GREEN: Robert, do you want to grab that first?

MR. GRIEGO: Yes, certainly I can. Mr. Chair, Commissioner Serna, yes. I think we've begun communicating with Habitat and Homewise and some of the low income housing developers. I think it is a real concern. Housing costs in Santa Fe is indeed a concern. We do understand that. I think that some of the Habitat homes are built at net zero right now and the energy cost savings are an important part of that. Again, there is an additional cost up front to be able to meet these state standards, but the energy costs over time are an important part of that, again, reduced energy costs ongoing. We don't know what the energy situation is going to be like in the future and I think the idea that we have increased energy efficiency for all homes, including affordable homes. The County has had energy efficiency requirements for affordable housing units in our Affordable Housing Ordinance since 2012, I believe. I don't know if that completely

addresses your question, Commissioner Serna, but we do understand that there is a cost, but it's not an additional cost. The state has these requirements. One of the concerns we had was being consistent with the state standards so we would not have an additional layer of costs for development. The County has maintained a HERS standard as we currently do. It will need to meet the state standards and the new housing will have to meet the County HERS standards. So now they will only need to meet one set of standards. So that helps to address the cost issue.

MEMBER SERNA: Thank you.

CHAIR GONZALES: Thank you, Robert. Any other questions or comments? Steve.

MEMBER KRENZ: Mr. Chair, I have a number of questions. First of all, I'm trying to get clear on what exactly we're trying to do here. Are we basically doing two things at the same time in this motion? I understand that we're talking about transferring to the state-supported standard, but are we also moving from HERS 70 to a more stringent 61 standard? Is the ERI 61 standard more stringent than the HERS 70?

MS. ELLIS-GREEN: Mr. Chair, Planning Commissioner Krentz, yes it is. So the Board has directed us to increase our energy efficiency standards and follow the state pathway of an ERI 61. So to give an example from speaking with our HERS raters, that could mean a high efficiency boiler, or a high efficiency water heater, being able to get you from a 70 to a 61.

MEMBER KRENZ: That brings up my second question. That list of five or six items that you presented in the presentation, those items in order to meet the requirements are essentially to allow the builder to move from this HERS 70 to an ERI 61. That's not, let's say, what would be required for a building five years ago to become ERI 61. Is that correct?

MS. ELLIS-GREEN: Mr. Chair, Planning Commissioner Krentz, I'm not sure I follow the question. Our energy efficiency ordinance came into effect January of 2016 and has been at the HERS 70 level. And so the change now is to increase that to ERI rather than HERS. They're fairly similar; they're slightly different, to bring it to 61 level.

MEMBER KRENZ: So essentially, it is more costly and more difficult for a builder now to operate at the ERI 61 level than what we're operating at today.

MS. ELLIS-GREEN: An ERI of 61 will be a higher energy efficiency level than a HERS 70. There will be an addition cost and therefore there also will be additional energy savings to the homeowner.

MEMBER KRENZ: Yes. I understand the energy savings part of this. Another question. This is a procedural one. Before, when a builder wanted to build and we had the HERS 70 rating, basically he had to take his plans to someone who could fill out the HERS form to submit to the County. Now, earlier in the presentation, it talked about an ERI checklist. Would it be possible for a builder to fill out the items on this ERI checklist themselves and submit it? Or is this going to require some sort of third party specialist.

MS. ELLIS-GREEN: Mr. Chair, Planning Commission members, I wish Jacqueline was on but I'm not seeing her on this call. She has worked more closely with CID than me. You do not need a HERS rater to rate the ERI. I believe your builder can do that. There are certain tests that you need to do which are prescriptive for everyone

from the state that you will have to have someone that's qualified to do those tests to provide that information to the state. But that's on any of the pathways that the state has. So right now you would have to hire a HERS rater to meet a HERS 70 under the code. I do not believe that the ERI does not need a HERS rater and I believe that a builder can complete the checklists. Robert, I don't know if you have more information than that.

MR. GRIEGO: There are builders here and HERS raters here that may be able to answer that question. As Penny stated, the HERS raters not required to do the ERI that can't be done by a builder.

MEMBER KRENZ: Okay. Another question is do we have available for review what's in this ERI checklist?

MS. ELLIS-GREEN: Mr. Chair, Planning Commission members, we are working with the state. The state is the one that is getting their checklist ready for all of their different pathways. Vicki tells me that she has been in communication with the state. They have not released it to us yet. As soon as they do they have agreed that they will train our staff to make sure we get the correct submittals and we will have that available. So our checklist will be updated to include what the state requires.

MEMBER KRENZ: So right as of today, we Commissioners don't know what the Santa Fe builders are going to have to do in regards to this change.

MS. ELLIS-GREEN: I do not have the state checklist. The ERI requirements and maybe the Area Homebuilders or a HERS rater that's on the call will be able to answer that in a little bit more detail. Miles Conway, I see raising his hand there, but those checklists, the checklists that you would need to complete the ERI are available. We don't have the state checklist yet.

MEMBER KRENZ: Also, earlier there was a reference made to the energy efficiency regulations cost/benefit. I don't know if that's a report or paper or guideline or whatever. I don't believe that that was included in our packet. Is that available?

MR. GRIEGO: Mr. Chair, members of the Planning Commission, the power point is on your BoardDocs as a pdf. document.

MEMBER KRENZ: The cost/benefit.

MR. GRIEGO: Yes. There's a memo, a cost/benefit memo, but there's also the presentation, which is also a pdf. Both of those documents are on the BoardDocs I'm looking at right now.

MEMBER KRENZ: Okay. That's all I had for this moment, Mr. Chair.

CHAIR GONZALES: Thank you, Steve. Those are good questions. Do any of the other Commissioners have questions? Okay. We'll open this up for the public hearing. Anybody out there want to speak on this? Want to make any comments? Please come forward. Mr. Conway.

[Mr. Conway was sworn in retroactively.]

MILES CONWAY: Yes, I just got out of a board meeting. I'm sorry to be late and miss the whole presentation. Thank you, Chairman Gonzales and members of the Planning Commission. As it is in our packet that we sent in to the Commissioners and staff and is in your packet, 400 members of the Santa Fe Area Homebuilders Association have come out in support of this ordinance and this change. It brings certainly consistency to the building. We've been building to the Santa Fe code, which is at a 61 HERS, which Ms. Ellis-Green said is quite similar to the 61 ERI in terms of how a home performs very efficiently.

So our builder members have the experience and know how to build. We do have that ERI rating index compliance checklist and again, our builders know how to achieve it. As you see in our models, which are in your packets, that Mr. David Best worked on as one of the HERS raters, and Steve Onstad who's on the call. It is very straightforward and easy to understand about what measures will have to be taken to have a home, to what has been built previously to the fairly minor changes that will have to happen during the construction phase to design a home to reach a 61 ERI.

Just one anecdotal story. I did a radio show today with Mr. Rob Gibbs. He is from Arete Homes of Santa Fe. He's building in the Santa Fe, Santa Fe County area for a number of decades, since 1994. He's built over 930 homes, 17 communities, and in our discussion today he told me that the affordable house that he is building that maybe would be at a price point today of between \$300,000 and \$400,000. It's expensive. Those are what we call affordable homes these days – are coming up. They're certainly meeting the 61 ERI, and that homeowner is looking at a utility bill of around \$35 to \$70. I wish I had that kind of utility bill in my home. I don't have one of those super-efficient homes.

So we can build to the RESNET code that you're contemplating today. It abides by the trajectory of what our association does to embrace kind of the evolving building sciences and just to address what committee member Serna brought up around affordability, it's certainly very important. We are in the middle of a housing crisis. We know that people travel from farther and farther away to work in Santa Fe. And that's a challenge we have to overcome. But for the County to get into the realm of affordable housing and making it more affordable, there will be opportunities for this Commission and the Board of Commissioners to take steps to make it more affordable, whether it's incentives to pay for mechanical equipment or changes for permit fees for low income folks or to look at how you handle water or density on Santa Fe properties so that you could build an accessory dwelling units whereas right now a piece of land is maybe there's only one per five acres or something.

So anyway, I won't be long-winded. Thanks for your time and work on this very complex issue. We support the move to the ERI 61. Thank you for your time, and there's some of my other cohorts here on the call who are very informative and helpful and Mr. Onstad's on the call and Mr.. Kim Shanahan can also comment.

CHAIR GONZALES: Thank you, sir. Any other discussion, comments?

STEVE ONSTAD: This is Steve Onstad. I can make a few comments.

CHAIR GONZALES: Steve, go ahead.

MR. ONSTAD: I first want to address Steve's concern. You asked about is a HERS rater required? A HERS rater is not required the way the ERI standard is written. However, it's probably improbable that someone would be able to score that themselves without someone that was trained to do so, but it isn't required to be a HERS rater. I would believe at some point in time someone will write some software that allows people to do an ERI without hiring a HERS rater but in the current environment you're in you probably be hiring the HERS rater, just as you do now.

ROGER PRUCINO (Assistant County Attorney): Mr. Chair, my I interrupt. This is Roger Prucino. Can we have Mr. Onstad sworn in?

[Duly sworn, Steve Onstad testified as follows:]

MR. ONSTAD: So now that I'm sworn in, I think what I would do is just say I can answer any direct questions that any of you have that maybe need clarification.

CHAIR GONZALES: Does anybody have any questions for Stephen?

MR. ONSTAD: We do all of the Habitat homes and I think that Miles brought up that we now have all the Habitat homes at net zero. That means they have PV on the roof. We have low income people that virtually have no utility bill.

CHAIR GONZALES: Steve, I have a question myself. Being that the price of wood and everything has gone up, how is that going to affect this? Do you think it's going to affect this at all?

MR. ONSTAD: Well, I think that the cost of materials – it's a variable. Yes, the cost of wood is a problem. Not the ERI that's going to cause you problem there; it's the wood. I think as long as we're having fires and natural disasters we're going to have a high degree of uncertainty.

CHAIR GONZALES: Okay. Thank you, Steve.

[Previously sworn, Kim Shanahan testified as follows:]

KIM SHANAHAN: Mr. Chair, this Kim Shanahan, if I could go next.

CHAIR GONZALES: Please do.

MR. SHANAHAN: So one of the points that you just made about lumber prices, one of the things that we have noticed in some of the testimony that some people have commented on and that's the idea of how to chase down that lowest HERS rating/ERI rating. Someone we respect a great deal, a builder in Santa Fe sort of put forward the idea that to achieve that lower HERS rating or ERI rating they had to go to an ever deeper dimensional lumber of their wall systems to put more insulation in their houses to be able to get a lower HERS rating.

Anybody who has worked as a builder with HERS raters, like most of us have in Santa Fe for over a decade now, know that if we go to Steve Onstad or David Best or other HERS raters and say, How do we get most cost-effectively to the lowest HERS rating we can, the last thing they're going to say is going to deeper and deeper studs in your walls. So I want to just kind of put that out there, because it brings up the point that what the HERS rating/ERI does is give those of us who believe that we don't want to be told how to do things, we want to be challenged about how to do things so we can figure it out for ourselves and confirmed by our HERS raters, so that we can find that lowest rating through the least dollars that we possibly can.

Santa Fe builders over the last decade have become some of the best experts at that in the entire United States, with the cooperation of people like Steve Onstad. So going from a HERS 70 to a HERS 61, and the HERS 70 is the rule in the county right now. That's the law. You've got to get a HERS 70. To go from a HERS 70 to a 61 is really not that incrementally that much of a stretch. It is true that the lower you go in your HERS rating chase, in terms of the numbers, getting towards zero, each number becomes more expensive the lower you go. But the reality is is that we know as builders how to do that in Santa Fe and we have figured out – because we're smart – the most cost-effective way to do that for our clients, whether they are luxury homebuilders in Las Campanas or they are modular homes in Edgewood.

One last point I want to make is this, is that we have conflated the notion of manufactured and modular and Penny – Penny did a great job and so did County staff for introducing this, but there's a distinction between manufactured and modular. Modular homes are built to the International Residential Code and manufactured homes, what we think of as mobile homes, are built to the HUD code – Housing and Urban Development.

Radically different. And so modular homes are the ones that are actually built to the IRC, and that means exactly to the state code that is now in force, which is the 2018 IRC, and therefore modular needs to be seen as a distinct, different phenomenon than manufactured homes that come on axes and steel chassis.

So I just want to say that we stand as homebuilders in firm confirmation of this notion that what the County needs to do, finally, after a decade of really struggling with this issue, we recognize that we have the ability to partner with CID to help us enforce this code so that a Certificate of Occupancy is not issued until the County is satisfied that an ERI of 61 has been achieved. And people like Steve Onstad and David Best and others will be able to do that. Santa Fe Homebuilders know how to do it. We figured it out a long time ago. We can also make it happen. In affordability issues, we have affordability issues that if the cost of Steve Onstad becomes so onerous, we should think about how to subsidize the cost of that ERI rating, not the cost of what it takes to get to that 61.

So thank you, Commissioner Charlie. Doing good work here.

CHAIR GONZALES: Thank you, and what I would like to say is that I wish the state would partner up with the County on grading and drainage inspections.

MR. SHANAHAN: Don't get me started. One of these days we're going to talk about water harvesting and that's when we will really start to blow your minds. But let's get through this one first.

CHAIR GONZALES: Thank you, Kim. I have one more question. I'm looking at an example worksheet for three homes in Santa Fe and it basically says how to get them down to an ERI 61. I'm looking at the categories and it seems to me that everything is pretty much workable, like walls, ceiling, foundations, windows, space heating, water heating. It's the air conditioning – it sounds like that's kind of difficult. Any of you guys have any comments on that?

[Duly sworn, Bill Roth testified as follows:]

BILL ROTH: I'm going to jump in. In regards to my understanding of the air conditioning and the duct standards, and I think this was addressed earlier in I think Penny's presentation, that's something that cuts – that's a state requirement and that's going to be mandated across any of the permit paths. So I don't think – in a sense that's a level playing field state requirement and not something specific to the ERI path. I'm going to ask Steve to verify that if he's still on the call.

MR. ONSTAD: The requirement for the duct testing and blower door is required by CID in six counties in the state. Other counties have been given a bye on that. But when we do an ERI we're required to do both of those. So that's – during the blower door stuff that we do in a HERS rating, that's part of the prescriptive path as well as the performance path.

MR. ROTH: So in my view that's just a cost that's being borne by any path in the state for at least six counties in the state. So that's not something that's endemic to just going to an ERI path. And then the other thing I'd like to discuss is I've been basically building in Santa Fe since 1998. I've been a licensed contractor since 1988, as a plastering contractor, and built passive solar homes back when Jimmy Carter gave us credit for those sorts of things. So I've been involved in sustainable building for over 30 years. The cost standpoint – in my opinion, it's hard to pull out and it was kind of alluded to in the fact that we have just wild materials costs. But I just don't see it as a

determining factor in building a new home. I honestly don't. The lower end, you're looking at a slightly more robust mechanical system. That's probably your quickest path.

Ironically, the windows used in a lot of lower end homes, vinyl windows, usually come with a fairly low U-value anyway. I've had the experience of inspecting over 1,200 Centex and Quilty homes as a third party inspector for drainage plans, so I got the in-depth view of how they build homes, and at the time they were building to just the regular code in Albuquerque and then they were building to the sustainable building tax credit code. So when I walk through those homes, you barely could tell the difference between something that was built to a HERS 60 and something that was built to a prescriptive path for a County permit. The biggest difference was the mechanical system. That was pretty much it. And a radon system.

So they figured out a cheap way to go on production homes, and frankly, I don't think it was costing them that much more money from the fact they were getting some pretty substantial credits on their homes. So I don't see cost as a determining factor going from 70 to 61 at all, and I think it can be easily met. Most builders in the county build in the city and as Kim has mentioned and Steve has mentioned, we know how to do this. We knew how to do this cost-effectively across all values of homes. So that's what I have to say.

CHAIR GONZALES: Thank you, Bill. Okay, anybody else have anything to say? Okay. I'm going to throw this over to the Commission. What's the pleasure of the Commission? Any more discussion? any motions?

MEMBER J.J. GONZALES: Mr. Chair.

CHAIR GONZALES: Is that J.J.?

MEMBER J.J. GONZALES: I had one question. Maybe somebody could answer it. We're working on a 2018 IECC code. How long did it take the state to adopt that code? And when is it going to be revised? We're working on 2018. Do they revised it every three or four years? Can someone answer that?

MS. ELLIS-GREEN: Mr. Chair, Planning Commission members, I believe that the last code that they had was the 2009. I'm trying to see my code to see what we have in there. So they don't adopt it every single year. They don't update every single year.

MR. ONSTAD: I can address that a little bit. J.J., the code goes in three-year cycles and most jurisdictions can skip the years. In our case we're on 2009 and we've wait until now for the 2018. So there was a significant change in code from all levels from the historic performance path to the prescriptive path. It's probably – I don't know if we're going to go to the 2021, because the cost for CID to go through that process is expensive. As I said earlier, a lot of jurisdictions go in two cycles. They'll go six years at a time and that's a pretty common strategy in the United States.

MEMBER J.J. GONZALES: Thank you.

CHAIR GONZALES: Thank you, Steve. Thank you, J.J. Okay. Still waiting for a motion. Anybody have a motion or more discussion.

MEMBER J.J. GONZALES: I move to approve.

MEMBER MARTIN: Second.


CHAIR GONZALES: Okay. We've got a motion we've got a second.

The motion passed by unanimous [6-0] roll call vote.


7. **Petitions from the Floor** – None were presented
8. **Communications from the Commission Members** – None were presented
9. **Communication from the Attorney** – None were presented
10. **Matters from Land Use Staff** - None were presented.
11. **Next Planning Commission Meeting: March 18, 2021**
12. **Adjournment**

Upon motion by Member Krenz and second by Member Katz, this meeting was declared adjourned at approximately 6:06 p.m.


Approved by:


 Charlie Gonzales, Chair
 Planning Commission

ATTEST TO:


 KATHARINE E. CLARK
 SANTA FE COUNTY CLERK


Submitted by:


 Karen Farrell, Wordswork

COUNTY OF SANTA FE)
 STATE OF NEW MEXICO) ss

PLANNING COMMISSION MI
 PAGES: 29

I Hereby Certify That This Instrument Was Filed for
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Deputy  County Clerk, Santa Fe, NM

Witness My Hand And Seal Of Office
 Katharine E. Clark

