

Consolidated Comment Matrix

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GENERAL COMMENTS								
	8/17/16	Bernie & Nancy Ryan	Residents		<p>There is no place to begin this review that will allow a reader of the draft to fully recognize how, if at all, the provisions are to interplay and be seen as a comprehensive vehicle for decisions on land use (regardless of whether this is technically called a zoning document).</p> <p>There are both substantive and strategic concerns.</p> <p>First, consider the background on the current draft. It has been apparent from the beginning of this process that the drafts were not vetted by all appropriate County agencies or the public. That is a recipe for mistrust, confusion and arbitrariness in post adoption implementation. It is apparent that virtually nobody in the public has been a part of the drafting process. When the earlier draft was withdrawn, there was no opportunity for public input on the next draft. That remains evident today and, by itself, is a reason to insist on a delayed effective date and a public education process before any final vote by the P&Z Commission. Every non governmental entity contacted has told the same story: "We never heard of this effort and want our voices to be heard before the P&Z takes a final vote. We want a real public dialogue, not just a chance in a mere 30 days to review, grasp and comment on a nearly 500 page document."</p>	5	Commentary	B
	8/17/16	Bernie & Nancy Ryan	Residents		<p>This document must be seen for what it is: a determining and authoritative law on land use affecting thousands of persons and tens of thousands of properties and businesses. It is not a theoretical exercise in governance.</p> <p>Any strategy going forward should reflect this reality. It is unrealistic to expect the P&Z to know what is in the new draft without such a public vetting, and especially not a dialogue limited to Thursday mornings in the County Courthouse. Compounding this is the fact that with two new County Commissioners take office in January. They will have to live with whatever is done and, with something as significant as this, how can the new Commissioners expect to explain this new law?</p> <p>Entities that are the most affected by this must be engaged and encouraged to seek a "slow it down" approach. The input from them should be informed, consistent when possible and backed by a willingness/commitment to put in the time needed to craft a set of laws/policies that are not merely "No, not ever" but rather recognize the need for planning and efficient use of land resources and County monies and--most importantly--the County should be given an opportunity to take advantage of their expertise and practical knowledge of how vital are land use decisions. The fact that this has not happened yet should be a signal to the P&Z that they are sailing into uncharted waters with no pilot. This cannot be a County government imposition, and must be a collaboration between all affected parties. Right now, it is the former. These entities should have been identified by County staff a long time ago and brought into the process, especially when the earlier draft was essentially thrown out for a new version. There is every reason to demand a thorough review with public input.</p>	5	Commentary	B
	9/1/16	E. Binns	Developer		2 Page letter hand delivered to staff.		Commentary	
	9/8/16	60+ Emails	LCAR		Form letter opposing UDC, specifically 10 acre T2 lot size.		Staff presented '10 acre rule' to P&Z, 10 acres changed to 2 acres.	

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	8/30/16	Michael Edwards			1) Comment: I would like additional time to listen to, review and offer thoughts to the latest UDC especially now that it is receiving comments and responses being brought to the public's attention. This is a huge document, impossible for a county homeowner to have absorbed it all. There are many many new rules in the UDC which we, the public, are now becoming aware of despite the board having worked on this document for quite a while and it 'being available'. For me personally, I have tried to reference it on-line as recently as 4 months ago and was unable to, especially to be able to read a legible map of where boundaries of the 'villages' are located and where the ETZ was exactly located. 2) Question: derived from an article in the <u>Bulletin</u> , OPINION section (pg 4), August 26, "Confusion clouds county codes".	5	Commentary	B
	8/30/16	Michael Edwards			Is there a section in the UDC which prohibits septic systems? [If so, what section, page is this found on?] If so, would the prohibition of septic systems apply to existing homeowners as well as new homeowners? I have been unable to find any section addressing this subject the closest was a section on waste water systems.	3	Wastewater required for all CT, except Small Villages and Villages. NMED requirements apply.	B
	8/30/16	Bob Hearn	ETA		I have to enter the plea/observation that the schedule for reviewing the Final Version is unrealistically short. The opportunity for public participation in a review is welcome, and critical to its success. However, consider the schedule and the situation –The Final Version was put on line on August 5, without any preliminary notice, and without notice then. It wasn't until the next week that it was generally known to be there. The well-established email notification of changes in the UDC process was apparently not used. At the PandZ meeting on the 11th, the first thought of schedule was considered, and it was "PandZ vote on it on Sept 22nd, with all comments on all sections due in by Sept 2nd. At that point, no one knew much more about the Final Version than that it was 457 pages long, and WOW! And we had from that time just 3 weeks to review it all, and get comments together. Then, it turned out that we had to prepare for an in-depth discussion of the Ten Acre Rule the following week, with Article 2 and Article 5 (Towers) to follow – before the 2nd. That just doesn't work out to a consistent sequence of events. So – the time to review and comment on the 457 pages is very short, and interfered with by the need to do some Articles early. And there are other factors –		Commentary	B

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	8/30/16	Bob Hearn	ETA		Overall Schedule For the many people on the PandZ and the public, and the staff, who have been working diligently to help make the UDC a great product, there just must be enough time allotted to reviewing this new document, the Final Version. And it is new – there is a good deal left over from the past, but there are new words and concepts, and some old ones are gone; the formatting by sections is different; things have been moved around; and words and ideas have changed. There was a summary of changes presented at the 8-11 PandZ meeting, when the new version was first discussed, and that was helpful, but didn't cover all of the changes, and didn't provide much explanation. Note that this final version was in preparation for several months before it was released. That time says there was a great deal of thought, input, adjustment, rethinking, and planning that was incorporated into the Final Version. We got it for review with almost no roadmap to the changes, the differences, the reasons, and the unseen inputs. And it is much longer. There was an expectation that the Final Version would be just a few minor tweaks to the previous version, and it would be smooth and clean. As we read it, it is clear that the changes are significant, and require study to find and understand. As we stand now, the requirement for a total review of the document and written inputs by Sept 2nd, which is just this week, and a total review of the document and a vote by the PandZ on Sept 22nd, are just unreasonable and clearly don't take participation of the public and even the PandZ commissioners into account. And at that, if all comments are in by the 2nd, that leaves just two more PandZ meetings to to over, discuss, and act on the comments, and for staff to prepare the Final Final Version that the PandZ will be voting on – we all hope to see that before the vote. This is an appeal from many in the public to allow more time to get this right. Everyone involved needs it. There doesn't seem to be a rush. Nothing is broken or not working while awaiting the UDC. We want to help, but we need time to get our part done.		Commentary	B
	9/1/16	C. D. Huestis	former P&Z, resident		This "final" (Draft #6) of the Unified Development Code is essentially a full re-write of any and all previous five (5) drafts. All of the prior meetings of the P&Z Commission have little or no effect on this "final" Unified Development Code under discussion. To claim that there have been 40 or more useful discussions of the Code is a fiction. The only ones that count are those beginning in August 2016. That is beginning time frame for real "Public Input" BoCC for enactment. This writer has some familiarity with the prior 5 Drafts, and find this to be as difficult to understand as the first one seen initially in early 2015. This "final" Draft Code needs a lot of scrutiny and a bit more time for a wider "Public" to be aware and involved. (CDH). Suggested Resolution: Allow a concerned "Public" of wider interests to become involved in the "participation" process		Commentary	B
	9/8/16	Paul Dulin	resident		<ul style="list-style-type: none"> Page numbers will eventually have to be updated as the current version is not matched with the Table of Contents. Page 92, Section 4.5.B (i) a. There is an error in the number of lumens (1,6000). Should there be language that conveys rights (or restrictions) to a neighborhood association or similar non-governmental committees as to what should come under their purview as long as they are in compliance with the UDC? Several issues brought up by members of certain neighborhoods are more personal preferences rather than aspects regulated under the UDC. For instance, whether or not food trucks can sell in their neighborhoods, parking of RVs, architectural design restrictions, etc. 		DAC does not enforce covenants, neighborhood associations can imposed their covenants and restrictions for their neighborhoods.	

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	9/9/16	John Moscato	Developer		<p>Having developed extensively—more than 1,500 residential lots—in the ETZ and in the City of Las Cruces during the past 25 years, I would like to provide these general comments on the proposed final draft of the UDC: I doubt that any set of regulations would have a more detrimental effect on prospects for development in Dona Ana County. The proposed UDC is largely unnecessary and overly complicated. It seeks to impose on a mostly rural region the tenets of New Urbanism in a way that is glaringly out of context. Like most working citizens in the County, I have not had the time to read every word and critique every part of the proposal. The sheer length of this draft should be enough of a signal that the UDC is out of control. Therefore, I have selected just a few areas for comment and questions.</p> <p>1. Zoning. Article 5 appears to change the zoning of the entire unincorporated part of the County: “5.1 ZONING DISTRICTS This Chapter establishes two types of zoning districts: transect zones and use zones.” Since those zones do not currently exist in the County, and since zoning districts described in the chapter and depicted in the appended zoning maps are new to the County, I am concluding that passage of the UDC would enact a massive zone change. Here is my question: How do you reconcile that zone change with the “public hearing notice requirements” currently in force, which include the posting of signs on subject properties, the mailing of notices to owners of neighboring properties, and the holding of a public hearing? Will a sign be posted on every parcel in the unincorporated part of the County? If not, then I believe that a BOCC-initiated zone change through the UDC would be illegal because such a change should still have to abide by the zoning regulations in force prior to the passage of the UDC.</p> <p>2. Septic Tanks. In discussions with other developers and builders, I have heard differing interpretations of what appears to be a ban on septic tanks in new developments in favor of some kind of public or private wastewater system. Therefore, please answer this question: Can a new development in the area governed by the UDC be served by septic tanks, or is a wastewater system required? This is important, because a ban on septic tanks in new developments would be tantamount to a ban on new development in most areas.</p> <p>3. Public Utilities. When I read some of the restrictions on location and screening of utilities (4.6), I can only conclude that the authors of the section have absolutely no experience in the real world of development. Here is one example: “Transformers and utility pedestals shall be located behind building frontage and outside private frontage and shall be screened from view of the sidewalk or the street.” With the exception of development in a highly urban setting, that requirement would be impossible to meet, and I doubt that utility providers would agree to serve areas with such requirements.</p> <p>4. Parks, Civic Space, and Open Space. Few if any developers could meet the requirements for land to be set aside for these uses; developers would simply choose to develop elsewhere. Moreover, the lack of a commitment by the County to maintain these spaces shifts the burden to homeowner associations and/or business associations. If you ask any developer, builder, or realtor, you will learn that such associations are so unpopular with customers that nearly no new development includes them. To require such associations to maintain public spaces will guarantee that no such developments are built.</p>		Questions/Comments: County-wide Zoning is a legislative matter that does not require individual notifications. Yes, new developments can be served by septic tanks. Utilities in 4.6 are for transformers and pedestals to be screened from view and located behind building frontages, add "... where possible".	B
	9/12/16	Sharon Thomas	RLC member, former City Councilor		According to their website, Metro Verde is a fast growing development area in northern Las Cruces based on a combination of “New Urbanism,” “mixed use plazas,” a “pedestrian friendly live/work/shop/play” environment, and “Smart Growth Principles.” See Introduction at http://www.metroverdenm.com/metro-verde/ . It is a perfect example of the Community Types in the Unified Development Code currently under consideration by the county. I think we should thank John Moscato for introducing this type of development to our region.		Commentary	B
	9/18/16	P. Hughs	resident		Apparently there have been many changes made to the UDC that were not posted until sometime this week. There has not been time to review what was put online.	5	Commentary	B

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	9/22/16	Lisa LaRocque	Resident		<p>I understand that the County has had an ongoing process for public input and feel remiss for not sharing my perspective earlier. I recognize that the UDC represents a lot of work and coordination. I laud your effort to create a unified code. Although the effort is forward thinking, the overall approach and recommended standards do not fully recognize predicted climatic changes or environmentally sustainable approaches for addressing them. I could find no reference to climate change or practices to mitigate or adapt to these changes.</p> <p>Dona Ana County is no stranger to extreme heat or drought conditions. This season's extreme heat events over 100 projected to become more frequent and last longer. Precipitation patterns will remain highly variable with more pronounced drought and heavy monsoons. According to the National Oceanic and Atmospheric Administration (NOAA) funded climate projection models developed for Las Cruces, the City has learned:</p> <ul style="list-style-type: none"> • There will be many more days per year with maximum temperature above 95, 100 and 105 (virtually non-existent); • There will be many more hours per year when air conditioning is required and evaporative coolers will become less effective; • Average summer precipitation, while continuing to be highly variable from year to year, shows no long-term trend and continued risk of very dry years similar to historical period; • There will be a slight increase in the number of days per year with more than 2.5 inches of rain in 24 hours. <p>When one considers current socio-economic and environmental conditions in the region, the above projections are likely to have a severe impact on low and moderate income areas. The County is poorly positioned to address future federal requirements that will require a more environmentally compatible way of addressing the impacts of heat, drought and climate change. Sustainable strategies need to be fully developed in the following areas:</p> <ul style="list-style-type: none"> • Use of green infrastructure to harvest water to increase shade • Promotion of complete and green streets • Use of energy conservation and renewable energy • Building practices such as white reflective roofs, energy efficient windows, STAR appliances, insulation, cross ventilation that ameliorate extreme heat (especially when evaporative cooling will not function) <p>Given the effort to create this document, I urge the County to incorporate innovative and sustainable practices that have become the accepted norm. Without proper attention we can expect that both our communities and the environment will suffer.</p>	4	Commentary, many of these strategies are enabled but not required.	B
		Joan Hirschman Woodward	Resident		<p>Creating a "How to Use the UDC" one-page road map for residents. Navigating the sectors, community types, development intensities, transects, overlays, and performance mapping is challenging even for those familiar with development and planning processes. An illustrated "map" would improve upon the matrix reliance and increase the UDC's legibility.</p>	4	Under consideration after User Manual is completed.	B
	9/20/16	Bob Hearn	ETA		<p>The UDC should everywhere strive for a complete and consistent set of rules, and particularly where decisions are to be made, careful definition of what is being decided, by whom, on what criteria, and what appeal is available. And if there are rules to be followed, they be clear, "shall" in nature, and have enforcement and penalties if they are not followed. That has been done in some sections of the UDC, but in this section there are areas where it needs attention. I have called some out, but there are probably more -</p>	5	Commentary, no action required.	B
	9/20/16	Bob Hearn	ETA		<p>This section was written by several people, probably with different areas of expertise, and some was brought from the existing code. There are places where the new code has UDC-Links dropped in, like references to "development intensity" or "transect zones". (6.2.3.b, eg) This indicates an uneven awareness or linkage from the writer in places to the UDC and its special needs and vision. It could be that a chunk of this new code is not consistent with the UDC larger picture. Just watch for it to crop up.---- Just double check that the areas all are "UDC-Aware"</p>	5	Commentary	B

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	9/22/16	Kari Bachman	resident, DACU		It is important that the Procedures section of the UDC be made available to the public in an accessible location and in an easily understood format. <i>(Insert a section stating that Section Two will be summarized in plain language and will be housed on an easily accessible page on the county's website.)</i>	5	This is County Legal Dept. approved language, while procedures are discussed with applicant in plain language.	B
	9/22/16	Kari Bachman	resident, DACU		Public engagement is often required too late in the process: developers have already spent money to develop plans, residents feel duped, and everyone gets angry. <i>(Require that meaningful public engagement happen earlier in the development process for all types of issues. This engagement shall be conducted in places and times that are convenient and comfortable for affected residents, in a language that they speak.)</i>	5	Town Halls are at the initial phase of all activities for which they are required. Translators are required.	B
ARTICLE 1 ADMINISTRATION								
	8/17/16	Bernie & Nancy Ryan	resident		Here are some drafting/organizational issues: 1. Decision making, at the staff and Commission level (County and P&Z) must be predicated on four concepts: A. Uniformity of result when circumstances are the same or basically the same; B. Reasonable predictability of results when applications are submitted; C. Utilization of recognized and understood standards; and D. Transparency of process. These concepts require references to precedent of decisions, tables, definitions and publications of professional associations that all applicants and County staff recognize as establishing benchmarks for decisions. They will also help assure that decisions are professionally defensible and not arbitrary or based on the motive or personal beliefs of County staff. 2. It continues to make no sense to have definitions at the end of the document. This is the worst form of drafting since it requires a reader to either constantly look to the end of the document to know if a term is defined and, if so, what the definition is. Only after the reader has finished the substance of the new code does s/he know whether a term has a definition and, if so, what it is. Here is an example of the issues raised by points 1 and 2: In 1.2.1.b.ii there is a reference to "no undue negative impact on the surrounding community...." There is no way of knowing how the BOC will define "undue negative impact." How much negative impact must occur before it is "undue" and therefore not permitted? There is no definition of "surrounding community." How far does the boundary go before an area is no longer considered part of a "surrounding community?" This makes each decision by the BOC basically worthless as a precedent and leaves the decision to whim, or worse. There is no reason to point out all of the examples right now, this is only offered as illustrative.		No precedent, each case unique, quasi-judicial hearings, in the case of Zoning, there is discretion.	B
	8/17/16	Bernie & Nancy Ryan	resident		I am not going to focus on Articles for which I have no or limited expertise. While I recognize the importance of landscaping and transportation matters, my expertise in these matters is very limited (as seen by the failure of our lima bean crop this year). I may offer comments on some of these concerns, but am willing to defer to others who know more than I. In offering these comments, I will attempt to see the document as a whole. That is clearly not an easy thing to do in just a few days, especially when it is necessary to keep referring ahead for definitions. Comments will be by Article/section/subsection number. The term "Draft" will refer to the version dated "August 5, 2016" unless noted otherwise. "ETZ" is a synonym for the Joint Powers Agreement. 1.1.2.1.a. What is the practical effect of this? Does the current ETZ agreement specifically make the Draft effective in the ETZ? As written the Draft appears to not apply unless the ETZ says it does. Is a repeal of the ETZ necessary or are there existing terms that render the Draft a trump of the ETZ, or is a separate vote by the Las Cruces City Council needed? If a separate vote is needed, do we know if the City Council believes the Draft is a zoning document?		No, UDC doesn't apply to any jointly administered Extra Territorial Zone in existence. Repeal of the existing ETA will be necessary. Vote by city council will be on JPA, not UDC.	B

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	8/31/16	P. Hughs	resident	1	I.1.2.1 Does state law does not allow city to give up jurisdiction in 5 mile area around Las Cruces – NMSA 30-20-1?		30-20-1 is a criminal statute and has nothing to do with the UDC.	
	9/1/16	C.D. Huestis	former P&Z, resident	1	I.1.2.1.a. The last sentence is a continuance of one that was added to the existing Code about 2010 in order to make “governmental units”, aka “political subdivisions of the State”, subject to the County Code. Since that clause was adopted there has been a judicial decision rendered that in essence says that one political subdivision of the State <i>cannot</i> tell another political subdivision of the State what it can and cannot do with its property. Thus, if the County were to attempt to enforce (see paragraph 1.8) this Unified Development Code’s terms as provided in paragraph 1.2.2 on the property of other political subdivisions of the State, aka “governmental units”, it would meet with judicial resistance in a Court case needed to force compliance--and it would likely lose. Suggested Resolution: This clause should be removed from this “final” draft Code.	5	The clause does not make an exempt governmental entity subject to the code. If they are exempt they are exempt.	B
	8/17/16	Bernie & Nancy Ryan	resident	1	I.1.2.1.a. The final sentence appears to be an attempt by the County to say it controls federal and state lands unless the federal/state governments say the County does not. Is that something that exists now?	5	We can zone the entire county, not enforce it. When state/federal lands come into private hands, zoning will be in place.	B
	8/17/16	Bernie & Nancy Ryan	resident	1	I.1.2.1.b. If this is not a zoning document, why is there a reference to "zoning provisions" in this section?	5	This is a zoning document.	B
	8/17/16	Bernie & Nancy Ryan	resident	1	I.1.2.2.a. Evidently, if a City ordinance, a federal law or state statute is violated, any application under the Draft shall be denied. This is the natural conclusion from a reading of the phrase "...or any other provision of law exists." Does this mean a judicial determination of such violation is a condition precedent to denial or is this something the County staff will determine? If the latter, how will this be done?	5	City Ordinance not effective outside of city. Federal violations will deny applications.	B
	8/17/16	Bernie & Nancy Ryan	resident	1	I.1.2.2.b. Bad landscaping or signs mean no approval? Consider all of the language about landscaping and signs. If the intent is to approve applications if the violation is "minor" (or some other term for inconsequential) how is the decision to be made about whether a violation is inconsequential? Is a denial of the application going to turn on such a standard?	5	Violations will have to be addressed first	B
	8/17/16	Bernie & Nancy Ryan	resident	2	I.1.2.3. The draft continues to leave unanswered questions regarding covenants. It says only that it is not the "intent" to abrogate covenants while provisions of the Draft that are "more restrictive" than covenants will be enforced. If the Draft intends to allow covenants to take precedence over its terms, then a much better approach is something along the lines of: "Covenants, easements, agreements between parties or valid ordinances are valid unless the Draft imposes greater restrictions than those agreed to or contained in the covenants, easements, agreements and ordinances." It is, obviously, not stated how a determination is made as to whether restrictions are greater. Equally important, what is "meant by "agreements between parties?" Are these only written agreements? Must they be recorded? If two neighbors orally agree that neither of them can do something otherwise permitted by the Draft, how is an applicant (perhaps a successor in interest to a property) to know of the agreement? If this language, including the "intent" ambiguity, is not clarified, litigation is a certainty.	5	Covenants are private agreements. However if an application is approved that violates private covenants that will be a private matter between neighbors. We don't enforce covenants.	B

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	9/1/16	C.D. Huestis	former P&Z, resident	2	I.1.3. "The intent of this Chapter is to achieve the <i>policies</i> and <i>actions</i> delineated in the <i>Comprehensive Plan ...</i> " That "Plan" contains nine (9) "Strategies for Development"; six (6) "Livability Principles; four (4) "Strategic Actions; forty-five (45) "Goals"; about one hundred and forty (140) "Actions"; and Zero (0) "Policies". Why are nine (9) "general purposes" singled out for codification into law? Do these 9 purposes override, or vacate, the provisions of the Comprehensive Plan? What guides the implementation of the Code; the Comprehensive Plan or just these 9 "general purposes"? The lead paragraph says the intent of the Code is "to achieve the policies and actions delineated in the Comprehensive Plan..." Listing of nine (9) "general purposes" has the effect to giving enhanced legal status to some "policies" (of which there are none) and "actions" (145 ±) of the Comprehensive Plan over others. This is not helpful and may even be construed as contradictory; or at best confusing. Suggested Resolution: Is it not sufficient to say that the intent is as stated, and just leave out: "...and to achieve the following general purposes:"? (And take out the remaining list of "a" through "i".)	5	Both the Comprehensive Plan and general purposes (gleaned from state statutes) guide the implementation of the UDC.	B	
	9/1/16	C.D. Huestis	former P&Z, resident	2	I.1.3. General Comment regarding "general purposes" listing: The startling absence of any "general purpose" or "intent" to provide an "adequate" economic base so people have meaningful work opportunities, income and safe sustainable employment is appalling. It is, however, consistent with the overall theme of the Comprehensive Plan. Suggested Resolution: Might try to find a place, any place, in the Code to indicate that the economic well-being of the residents is worthy of a few words in the Code.	5	Sounds more like a policy statement that is more suitable for the comprehensive plan.	B	
	8/31/16	P. Hughs	resident	2	I.1.3. Do NMSA 3-21-1 and 3-21-5 allow county to regulate according to 1.3.a "economically sound development" and 1.3.h "compact pedestrian oriented, mixed uses..."?	5	The county has the authority to regulate such things as long as they are tied to health, safety, welfare and the comprehensive plan.	B	
	8/17/16	Bernie & Nancy Ryan	resident	2	I.1.3. It is worth noting that nothing in the "intent" section refers to environmental integrity of desert and riparian areas or the investments in home and businesses already made by persons affected by the Draft. While there are provisions relating to land use/community types etc, leaving these two things out of the intent section makes little sense.	5	General statements from statutes.	B	
	9/1/16	C.D. Huestis	former P&Z, resident	2	I.1.3.c. Secure safety from... "panic and other dangers". How does this Code make people safe from "panic"? Nonsense! The term "other dangers" is so broad as to be meaningless. Suggested Resolution: Remove.	5	Direct quote from state statutes. 3-21-5 A (2)	B	
	9/1/16	C.D. Huestis	former P&Z, resident	2	I.1.3.d. A "purpose" of the Code is to "Provide adequate (whatever that is) light and air." Really?! The County is going to provide "light and air"? Nonsense! Suggested Resolution: Remove.	5	Direct quote from state statutes. 3-21-5 A (4)	B	
	9/1/16	C.D. Huestis	former P&Z, resident	2	I.1.3.e. "Avoid undue concentration of population" How much population is "due"; what is the concentration of population that is "undue"? Who decides? This is so subjective as to be dangerous. Suggested Resolution: Remove. The Comprehensive Plan gives lots of clues as to where and how populations are to be concentrated for development.	5	Direct quote from state statutes. 3-21-5 A (6)	B	
	9/1/16	C.D. Huestis	former P&Z, resident	2	I.1.3.f. "Facilitate adequate provision for..." What is "adequate"? Who decides? This is so subjective as to be dangerous. Special note: The "County" is not responsible for providing "schools". If this paragraph (f) merely means "facilitate" as it says, then it does not have meaning other than to say that it will be cooperative in working with other agencies that have responsibilities. You cannot legislate "cooperation". Do not know what legal effect this has as a matter of law or code; hence, why such language is in the draft Code is curious. Suggested Resolution: Remove. (If you want to put in something to the effect that the County will be a willing and cooperative partner in "facilitating" the efforts of non-county operators, then some other place in the Code may be appropriate. But that seems superfluous as a matter of law.)	5	Direct quote from state statutes. 3-21-5 A (7)	B	
	8/17/16	Bernie & Nancy Ryan	resident	2	I.1.4.2. On a general note, the Zoning Administrator does not appear to be required to maintain a record of denials of applications unless the applicant is aggrieved and files an appeal. The definition of "aggrieved" is defensible, as I read it, but the only time there appears to be a record of a denial kept is if there is an appeal to the P&Z, or from the P&Z to the BOC. In other words, if the application is denied and not appealed, does anyone know?	5	Public Hearing, Order gets recorded	B	

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	9/1/16	C.D. Huestis	former P&Z, resident	2-3	I.1.4.2. Zoning Administrator (ZA) General Comment: The Community Development Director is, de facto, the "Zoning Administrator". This paragraph sort of says so. She just appoints someone, (a "designee"?) presumably from the Department staff, to do some, or all, of the drudge (staff) work. The listing of work assignments does not contain any decision making authority. Yet it is listed (at 1.4.1 a) as the first level of "approval". Reading further into the Code we find that it has unambiguous authority to "approve/disapprove" actions. It is clear that the "Zoning Administrator" is just a staff employee of the Community Development Director, who retains the actual Supervisory authority over her "appointee" who "performs that (ZA) function". Clearly the Community Development Director retains the decision role—if you read only the lead clause in paragraph 1.4.2. (Well, except for paragraph 2.8.4 in which the incumbent (ZA) "...shall approve...or deny...". My guess is that the "ZA" "decision" has been "approved" by her boss. Confusion reigns!) Then of course there is the vast addition of responsibilities and powers of this mystical character in Article 2. Suggested Resolution: Treat the Community Development Department Director the same way as other Department Directors. Define her simply as: "The Community Development Department (CDD) Director shall administer this Chapter and appoint a designee to perform duties under her direction. (See opening lines of 1.4.2). This past practice of codifying specific detailed duties in law is simply bad management. Accountably may be, and should be, provided in code as a matter of enforcement and legal defenses; but specifying who does what is infringing on the prerogatives of the Accountable Manager/Director. Eliminate all references to the "Zoning Administrator" and where applicable insert "Community Development Department Director". This changes nothing in practical operational terms. The Community Development Director retains all the tools necessary to "administer this Chapter". The Code should not tell her "how".	5	The "Zoning Administrator" is a title held by the Community Development Director to administer this chapter	B
	9/1/16	C.D. Huestis	former P&Z, resident	3	I.1.4.2.a., thru p. If you insist on retaining this list of duties (these are substantive actions that if included in a job description could well affect the job grade--if the salary administration function were being performed in a professional manner) in the Code, then <u>be careful</u> . • This work is currently regularly performed by a department staff person who carries a specific job title. This could be said of many of the work assignments in this listing. (See above; these duties are performed subordinate to the authority of the Community Development Director and are staff support roles; not decision makers.) • c. inconsistent with the appendices. • i. inconsistent with the appendices. Keep Looking! Suggested Resolution: Remove from the Code and include in the appropriate Job title of the person who is currently functioning as a "Zoning Administrator" (or is this job just some ad hoc work assignment on an as-needed-basis made by the Community Development Director?)	5	Commentary	B
	8/17/16	Bernie & Nancy Ryan	resident	3	I.1.4.2.c. If this is not a zoning document, why do the Administrator's duties include reviewing zoning changes requested "...in accordance with this Document?" This "document" is, of course, the Draft.	5	This document is a Zoning Document.	B
	8/17/16	Bernie & Nancy Ryan	resident	3	I.1.4.2.d. When is it not "appropriate" for the Administrator to present P&Z recommendations to the BOC for their action? There may be a technical answer to this that I have missed or that is covered later in the Draft.	5	Applicant withdraws application. Action by higher legal authority renders action inappropriate.	B
	8/17/16	Bernie & Nancy Ryan	resident	3	I.1.4.2.g. Same question regarding zoning as noted in ".c" above.	5	This document is a Zoning Document.	B
	8/17/16	Bernie & Nancy Ryan	resident	3	I.1.4.2.j. The language here is a bit confusing. Is it intended that the Administrator initiate these changes, as well as receive them from interested parties? As written that does not seem to be the case.	5	It is implied that recommendations for changes may be internal or external.	B
	8/17/16	Bernie & Nancy Ryan	resident	3	I.1.4.2.k. Missing from these duties is the requirement to keep track of, and report on, demographic changes. Population growth is quite different from-and a less sound reason for-initiation of zoning or Comp Plan changes. Adding 5,000 children means a service demand change that will be different from adding 5,000 senior citizens, for example.	3	Change made. Population growth to Demographic Changes.	G
	8/13/16	G. Daviet	P&Z	4	I.1.4.3.c Is the P&Z <i>now only a reviewer of zone changes</i> ? Grant P&Z final determination or remove P&Z from the zone change process.	5	P&Z recommends, but if it is denied, the denial becomes a final decision unless appealed to BOCC	B

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	8/14/16	B. Zarges	P&Z	4	I.1.4.3.h Add language to review the UDC/this chapter annually. "Review ... recommend changes and amendments to this chapter [UDC] and the Comprehensive Plan ..."	1	Will include UDC in the list.	G	
	8/13/16	G. Daviet	P&Z	4	I.1.4.3.h The UDC is <i>not included in the annual review</i> . Add the UDC to the list for annual review.	1	Will include UDC in the list.	G	
	8/13/16	G. Daviet	P&Z	4	I.1.4.3.i NMSA 47-6-9.D D. The board of county commissioners of a class A county with a population according to the most recent federal decennial census of greater than three hundred thousand may delegate the authority to review and approve preliminary plats and final plats to a county administrative officer or to the planning commission; provided that the delegation complies with the public hearing requirements contained in Section 47-6-14 NMSA 1978. This appears to conflict with what the P&Z has been briefed regarding the requirements of State Statute that preclude the P&Z being a determining authority for subdivisions.	5	The BOCC has delegated this policy to the P&Z .	B	
	8/17/16	Bernie & Nancy Ryan	resident	4	I.1.4.4.b. The BOC is authorized to make zoning changes upon recommendation from the P&Z, subject to the provisions of the Draft. If the Draft is not a zoning document, why is the BOC bound by it when considering zoning changes?	5	This document is a Zoning Document.	B	
	9/1/16	C.D. Huestis	former P&Z, resident	5	"Administrative Committees and Department Directors" does not, (not!) show the Community Development Director as having any role to play as a "Department Director". It does, at 1.5.2, et seq. list a few Department Directors roles and their ability to have a "designee" to act in their stead. Curiously the Community Development Department Director is not even listed. Suggested Resolution: See ZA preceding.	5	The Community Development Director duties are spread throughout the whole document.	B	
	8/17/16	Bernie & Nancy Ryan	resident	5	I.1.5.1.b. What about issues raised by the public and applicant? Is the DRC limited to considering issues raised by County staff?		DRC is an open meeting. Section has been revised.	G	
	9/1/16	C.D. Huestis	former P&Z, resident	5	I.1.5.1.c. Reference is made to the "Extraterritorial Planning and Zoning Commission (ETZC)" What is the impact of the changed status of the "Las Cruces ETZ"? Suggested Resolution: Should this not be changed or eliminated depending on what the outcome of the Joint Powers Agreement is?	5	Reference to CRRUA ETZ.	B	
	8/17/16	Bernie & Nancy Ryan	resident	5	I.1.5.1.d.ii. Why would the DRC recommend a "matter?" Are they not recommending a resolution of a matter?	5	Changed	G	
	8/17/16	Bernie & Nancy Ryan	resident	5	I.1.5.2.,3.,4.,5. To be clear about these provisions, the respective agencies must all approve an application submitted under the Draft. Why, however, is the Flood Plain Commission where all (not just those related to flood plain areas) the entity required to hold all records under the Draft? Why is this responsibility not at the CDD, since that department/individual is charged with making decisions on applications?	1	Section has been changed.	G	
	8/31/16	P. Hughs	resident	6	I.1.5.3 County engineer should receive subdivision and replats and recommend approval or denial. Suggested Resolution: Add this function to what a county engineer does	5	County Engineer provides comments. 1.5.3.f covers this.	B	
	8/17/16	Bernie & Nancy Ryan	resident	8	I.1.7.1.b. Does the P&Z currently have the right to do a County wide rezone? If it has the capacity to do this, skip this question. But, if it does not how can the P&Z do a County wide rezone? In ".c" it is stated that the BOC must approve zoning, but that appears to conflict with the language of ".b."	5	P&Z is a recommending body.	B	
	8/31/16	P. Hughs	resident	8	I.1.7.1.c. What does "Party with a property interest" mean? Suggested Resolution: Define – preferably use description from state law about who is to be heard at a public hearing.	1	Changed to "all parties in interest and citizens". Language in statute.	G	
	8/31/16	P. Hughs	resident	8	I.1.7.1.c. NMSA 3-21-6 says "all parties in interest and citizens shall have an opportunity to be heard". Suggested Resolution: Change language from "any party with a property interest shall have an opportunity to be heard" to be same as state law.	1	Changed to "all parties in interest and citizens". Language	G	
	8/17/16	Bernie & Nancy Ryan	resident	8	I.1.7.1.c. It appears the introductory sentence should read "Neither this Chapter...." instead of "This Chapter...."	1	Neither this Chapter added.	G	
	8/31/16	Patty Hughs	resident	8	I.1.7.1.d. Legislative amendments can be made to "any zoning district"? Suggested Resolution: Clarify what you mean – a zoning district's definition and general requirements or an individual zoning district on the map.	1	"or any zoning district definition, zoning district requirement, or individual zoning district on the map".	G	

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	9/22/16	Kari Bachman	resident, DACU	8	Section 1.7 The UDC should spell out the process by which revisions will be made. How often will the document be revised? Revisions should reflect not only developers' input, but also residents' input. How will residents' input be incorporated? Their input needs to be gathered in ways appropriate to residents (in terms of location, time, language, and culture). <i>(Spell out a process that clearly identifies the parties responsible for compiling and proposing revisions, how revisions will be compiled, the frequency with which revisions will be considered, and the requirements for obtaining public input into the revisions.)</i>	1	Addressed on p.4 under 1.4.3.h "Planning and Zoning Commission Duty"	B
	8/17/16	Bernie & Nancy Ryan	resident	9	I.1.8.c.iii. Does this remedy apply even if the buyer/acquirer of the illegally subdivided property knew the illegality of the subdivision? If the buyer intended to profit from the acquisition, why should the County support rescission and restitution? For that matter, why is the County even involved in a dispute between two private parties?	5	Language from State Statute. Covered by state law, 47-6-1.	B
	8/17/16	Bernie & Nancy Ryan	resident	9	I.1.8.g. Is it intended that the monetary penalties are cumulative but the incarceration time is capped at eighteen months, no matter the number of violations? In other words, if a person is convicted at trial of four violations, does s/he pay up to \$100,000 but cannot serve more than eighteen months?	5	Language from State Statute. Covered by state law, 47-6-1.	B
	8/17/16	Bernie & Nancy Ryan	resident	10	I.1.8.j. How is this not double jeopardy?	5	As it is written, this is not a double jeopardy issue. This section is more general as 1.8.g applies to subdivisions.	B
	9/1/16	C.D. Huestis	former P&Z, resident	10	I.1.9. Effective Date?? Previous draft language said that the Las Cruces Extraterritorial Zone disappears 30 days after enactment of this Unified Development Code. This "final draft" Code says that the "effective date" is: "[TO BE DRAFTED IN CONJUNCTION WITH THE LANGUAGE OF THE JPA (joint powers agreement) WITH THE CITY OF LAS CRUCES]". My concern is that this language effectively gives the City of Las Cruces veto power over this "final" Code's implementation date. (If you do not concede to whatever the City demands in negotiation of the JPA, you get NO Unified Development Code, if you have no Unified Development Code, you have no "Comp Plan", or any of its subordinated plans.) The effective date is when the City agrees to the terms of a JPA; and/or the County agrees to terms in the JPA that the City dictates. The County "negotiators" are at the mercy of their City counterparts and have no bargaining leverage. This Code goes into effect on terms dictated by the City of Las Cruces in the statutory ETZ. Most people understand that detailed negotiations over any public document need considerable shielding from public special interest parties. However, What is the status of the "negotiations" between the Community Development Director and the City management? Just some sort of public acknowledgement that negotiations are underway and are progressing either well, or not so well. Suggested Resolution: QUESTION: Is the JPA concluded between the County and the City going to be subject to a "Public Hearing"; or is it just to be adopted by the BoCC without the knowledge of the huge segment of the population residing in the ETZ? The County, and the City, "PUBLIC" is entitled to at least know that this Unified Development Code is dependent on the JPA; and the contents of that Joint Powers Agreement and its effects.	5	CLC has no veto power over the UDC. CLC's approval of the JPA is required to eliminate or change the existing Las Cruces Extra Territorial Zone. If the JPA is not approved by the city, it only limits the effect of the UDC to the ETZ boundary.	B
	8/17/16	Bernie & Nancy Ryan	resident	10	I.1.9. If there is not a delayed effective date of this act, with sufficient time for the public education that is going to be needed, none of the rest of the efforts made will amount to anything. Once this becomes law, significant changes will become very hard to accomplish.	5	Changes will come under Amendments.	B
	8/31/16	P. Hughs	resident	10	I.1.9.,10. Repeal of ETZ upon "recordance of this chapter" but according to 1.9 this chapter doesn't become effective until 30 days after recordation. Will ETZ be in limbo for 30 days? Suggested Resolution: Make dates coincide	1	Delete "upon recordation of this chapter.	G

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	8/30/16	Bob Hearn	ETA	10	<p>11.9.,10.</p> <p>I apologize for these comments on Article 1 being late, but we have been pressed tightly for time to review the Final Version, and to get up to speed on these issues, we had to do some homework.</p> <p>-----</p> <p>Residents of the ETZ have several comments and concerns about how these changes will be implemented, and what the end result is anticipated to be. A group discussed the ETZ evolution with City of Las Cruces Community Development Director, and got a useful and factual description of what lies ahead, generally. Here is a summary of that discussion, and suggestions to help everyone understand what to expect, and the options available. The City seems generally in agreement with the moves outlined by the County, but notes that there are some details and options to be worked out before it is all finalized.</p> <p>Overall, note that the ETZ itself, as the area around the city within which the City and County jointly administer many aspects of development and other things, does not go away. What changes is the details of the way the City and County agree to share that management. The management is currently done in accordance with a Joint Powers Agreement, or JPA, which gives the City and County certain powers in the regulation of development. The ETZ has a complete set of development codes covering all aspects of development in the area, and the ETZ is zoned according to an overall plan. The steps to be taken – maybe it won't be exactly this way – The County will tell the City, formally, that it desires to terminate the existing JPA, and that happens within 30 days. The City doesn't object to this happening. At the point where the current JPA is terminated, the City and County administration of the ETZ defaults to each party doing everything – both have to review and approve all permits, subdivisions, zone changes, everything has to be done twice. No one wants to do that. A new JPA then must be negotiated between the City and the County, spelling out how the development in the area will be administered. It is a given that the UDC will govern all development in the area. Rules need to be clarified for how all the existing development, zoning, variances, and special conditions are brought under the UDC, which does not match the ETZ codes – close but not the same. See requests #1 and #2 at the end of this discussion, and take them for action. The City may want to retain a role in reviewing proposed changes. The future role of the ETZ(C) and the ETA, who administer the ETZ now, need to be worked out. There are other details like exemptions for creating subdivisions that need to be agreed upon. Then the new JPA goes before the BOCC and City Council, and assuming it is approved, it goes into effect at some time after that. It appears that, in order to not have the ETZ caught in the default situation between the termination of the present JPA and the effective date of the new one, the new JPA will need to be ready and approved before the present JPA is ended. And in some way, the schedule of the complete change of administration of the ETZ, with the negotiation and approval of changes of JPAs with the City, bears on the effective date of the UDC. But it isn't clear from reading 1.9 and 1.10 just what this relationship is. And given the number of changes that are due to take place in the ETZ, from zoning to grandfathering some existing matters to overall administration, people who own property to live or invest in the area may well be curious about what is going to happen, when, how, and all that.</p>	5	Explanation provided by Legal in P&Z meeting of Sept. 8	B	
ARTICLE 2 PROCEDURES									

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	8/31/16	Bob Hearn	ETA		<p>I have not seen it in writing, but it is apparently the case that the entire unincorporated County is to be rezoned to UDC zones at some time after the UDC becomes effective.</p> <p>This will be a monumental event, but so far it is being done with –</p> <ul style="list-style-type: none"> • No date when this all will happen • No notice to any property owners of what is going to happen • No notice to any property owners of what their new zone will be, and what the changes to their property rights will be • No apparent appeal process by the property owners • No description of the process to be followed for definition of new zones, how they are reviewed and approved, and how they are actually put into effect • No information on who is the initiating activity (see Art 2.3 and comment ReZoning Authority) • Probably other things that should be on the list <p>The process I have gathered is that Staff has prepared “The Official Zoning Map of Dona Ana County” which is included with the draft version of the Final Version. If anyone wants to know what their new zone will be, they apparently are to go to this map, in large printed form or on line at appropriate resolution, and look. Then they go to the UDC Document and look up their zone and figure out what it is, and what it means. Staff please present and discuss with the PandZ and Public, and present at least the following –</p> <ul style="list-style-type: none"> • What is the reason the complete rezoning is being planned? • What part does the rezoning play in the implementation of the UDC? • Is the rezoning necessary for the UDC to work, in some parts of altogether? • Will there be an announcement to the public that the rezoning will happen? • Will there be public participation? • Will there be an appeal process for anyone dissatisfied with the results? • If this is being planned under the authority of the UDC, what Article and Sections govern? • If not, by what authority and by what body will this action be taken? • Has the possibility of creating nonconforming parcels been investigated? What was the result? • Has the potential effect on the Colonias been investigated, to include existing nonconforming situations, lack of surveyed lots in many cases, and transition to current Legal Nonconforming? <p>All this apparently without having to comply with this provision of the UDC, Final Version – (Continue next line)</p>		<p>Converted existing zoning to new use and transect zones as we are creating a new zoning ordinance. The zoning maps compliments the zoning districts of the UDC. Yes the rezoning is necessary for the UDC to work and publication and posting are required for the public hearings of the UDC, which includes the zoning maps. Public is and has been participating with the P&Z and will have additional input with the BOCC. The UDC can be appealed to District Court. Staff is attempting to minimize the creation of non conforming lots.</p>	B

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	8/31/16	Bob Hearn	ETA	11	<p>2.3.1 Public Hearing for a Zone Change</p> <p>No zone change shall be approved until a public hearing has been held by the P&Z, who shall recommend approval, conditional approval or denial to the BOCC. The BOCC shall also hold a de novo public hearing in accordance with the General Notice Requirements established in Section 2.2.2.a. No zoning regulation, restriction or boundary shall become effective, amended, supplemented or repealed until after a public hearing at which all parties in interest and residents shall have an opportunity to be heard. Notice of the time and place of the public hearing shall be published, at least 21 days prior to the date of the hearing, within its respective jurisdiction. Whenever a change in zoning is proposed for an area of 1 block or less, notice of the public hearing shall be mailed by certified mail, return receipt requested, to the owners, as shown by the records of the County Assessor's, of lots of land within the area proposed to be changed by a zoning regulation and within 300 feet, excluding public right-of-way, of the area proposed to be changed by zoning regulation.b. Whenever a change in zoning is proposed for an area of more than 1 block, notice of the public hearing shall be mailed by first class mail to the owners, as shown by the records of the County Assessor's, of lots or of land within the area proposed to be changed by a zoning regulation and within 300 feet, excluding public right-of-way, of the area proposed to be changed by zoning regulation. If the notice by first class mail to the owner is returnedWhat would happen to the UDC functions if the rezoning was just dropped, and not done? Even if the County has the legal authority, is this rezoning by fiat the right thing to do? Do the County residents want their government to change the use and value of their land and the character if the areas where they live with out their having any sort of notice or participation in the process? Why does this process apparently not have to follow the standard rezoning procedures that are clearly laid out for any resident or landowner who wants to rezone their land? How is it that the County Staff can develop a new zoning map with no input from landowners and residents that is better than could have been done with participation? And anything else that comes to mind.</p> <p>(Continue next line)</p>		The UDC can not be implemented without the Zoning maps. Yes the rezoning is necessary for the UD. Public has participated at the Comp Plan meetings and continue to do so at P&Z and BOCC meetings. This is a legislative matter not quasi-judicial. For the most part ETZ zoning is mirroring existing zoning classifications.	B

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	8/31/16	Bob Hearn	ETA		<p>Doña Ana County FINAL DRAFT 8/5/16 - UDC Article 2 Procedures</p> <p>19 undelivered, the zoning authority shall attempt to discover the owner's most recent address and shall remit the notice by certified mail, return receipt requested, to that address. Notification shall not extend past a major land feature such as the Rio Grande or the Interstate Highway. c. If the owners of 20% or more of the area of the lots and land included in the area proposed to be changed by a zoning regulation or other land use change or within 300 feet, excluding public right-of-way, of the area proposed to be changed, protest the proposed change in the zoning regulation or other land use change, in writing on a County issued application at the time of the filing of the appeal, the proposed change shall not become effective unless the change is recommended by a majority vote of all the members of the P&Z and approved by a four-fifths vote of all the members of the BOCC. d. A case may be postponed until the next regular meeting or until such time as the matter may be resolved.</p> <p>Observations relative to all this –</p> <ul style="list-style-type: none"> • How does “the County” in any part have the legal authority to carry out this rezoning. It bypasses all zoning and rezoning processes and criteria in the UDC and elsewhere. • If the County has the legal authority to do this rezoning, in my view it still isn't right to basically change the use, value, and future plans related to land ownership essentially in secret. This is certainly no way for the County to engender good will toward the UDC or any other of its activities. • How does it make sense that staff is better equipped to develop a brand new zoning map of the County than anyone else, especially the landowners who are directly affected? <p>As a county resident like most but also more familiar with UDC-related activities than most, I am flabbergasted that any part or all of the County government has this power, and would use it in this way. I hope there is something about this that I don't understand,</p>		This is a legislative matter.	
	8/17/16	Bernie & Nancy Ryan	residents	11	<p>II.2.1.1.a.i. It is somewhat unclear what is contemplated with this language. The publication requirement relates only to the date at which the ordinance is submitted to the BOC for final passage. On the assumption that final passage is not a given for any ordinance in its first iteration, what is the timeline actually contemplated? Should publication be at least twice before the initial consideration of the Zoning regulation change? How can anyone be certain when final passage will occur?</p>	5	Language comes from State Statute.	B
	8/17/16	Bernie & Nancy Ryan	residents	11	<p>II.2.1.1.a.iii. The language in this subsection is not clear. Does it relate to proposed ordinances? If so, the first sentence should make that clear, as near the end of the paragraph, there is a reference to "proposed" ordinance. More importantly, a defense is provided to persons who are accused of violating a zoning regulation ordinance. The defense is that no publication occurred. This makes sense, but that sentence really (and I mean REALLY) needs to be separated from the rest of the subset, into "iv." It is a defense to a criminal charge, perhaps, and should stand alone. This is basic good drafting.</p>	5	Language comes from State Statute.	B
	9/22/16	Kari Bachman	resident, DACU	8 11 12 16 17 18	<p>Sections 1.7.1.c., 2.1.1.a.i., 2.1.1.b.iv., 2.2.1.b., 2.2.2., 2.3.1.a., 2.3.1.b., 2.4.3.a.ii., 2.4.3.b.ii., 2.7.3.d., 2.12.5.b., 2.1.3.4.</p> <p>Public notice of all proposed UDC-related actions should be provided together in one prominent section of the DAC website in order to ensure transparency and make it easier for the public to keep track of planning and zoning issues. <i>(Modify all portions of the UDC that refer to public notice to specify that such notice will include posting to one prominent section of the DAC website.)</i></p>	5	Article 2 reflects statutory notification requirements. Additionally placing notices on websites is a county policy decision to be addressed with the County PIO.	B
	9/7/16	C. D. Huestis	former P&Z, resident	12	<p>II.2.1.1.b.ii “...state agencies shall give consideration to...”. You cannot mandate what the State agencies will or will not consider... Maybe change “shall” to “should”</p>	5	Language from State Statute 47-6-10	B

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	8/12/16	J. Aldrich	resident	12	II.2.1.1.b.iv Changes in zoning or regulations "shall be noted in a newspaper of general circulation in the County." Consider Sunland Park, Chaparral, Mesquite, Hatch – no such newspaper exists. Furthermore, a single notice is woefully insufficient. Notices of this kind should be disseminated at least 2 or 3 times in every kind of public communication: local newsletters, post office bulletin boards, radio/TV, social media, emails to village or colonia leaders.	5	Requirement is per state statute for amendments to the subdivision code	B	
	8/14/16	B. Zarges	P&Z	12	II.2.1.1.b.iv Need better ways to inform the public. I realize we can't post notices on every door like some residents might wish but we can at least attempt to reach more persons. "... on the County website as well as newspaper of general circulation ..." Perhaps also newspapers regionally circulated in the affected area, like weekly papers in Hatch or the southern areas of DAC.	5	Requirement is per state statute for amendments to the subdivision code	B	
	8/17/16	Bernie & Nancy Ryan	residents	12	II.2.1.b.ii. This requirement for pre-adoption consultation makes sense. So does the requirement to obtain written guidelines for the BOC prior to adopting Subdivision Regulations. Some questions arise here. First, the County has no authority to force state agencies to do anything in this case. So, their cooperation is all going to be voluntary and (as seen in .ix), the failure to advise the BOC by a state agency has no impact on the validity of an ordinance. Second, are we to assume the County agencies (Roads, Legal etc) will also be consulted and required to give written guidelines?	5	Language comes from State Statute.	B	
	8/17/16	Bernie & Nancy Ryan	residents	12	II.2.1.b.iii. In the section relating to zoning regulations, a condition is imposed on the BOC that must be met prior to adoption of the ordinance. The condition (majority vote) are omitted from the subdivision regulation. That omission makes no sense. Both should be identical and listing it only once raises a question of what must happen in the subdivision vote. Conversely, in "iii" there are several conditions imposed on subdivision regulation ordinances which do not appear in the zoning regulation part. Why is this? Should they also not be identical?	5	Language comes from State Statute. Refer to 5-1 of the County Code for Language on majority vote for BOCC	B	
	8/17/16	Bernie & Nancy Ryan	residents	12	II.2.1.b.v. Does the "reasonable effort" part relate only to subdivision regulations? If so, why? If it is more universal, then why is it in this subset? Should it not apply to zoning regulations also, at a minimum?	5	Language comes from State Statute.	B	
	9/22/16	Kari Bachman	resident, DACU	12 33	Sections 2.1.1.b.ii., 2.12.4.a. The BOCC should also consult with the NM Department of Health prior to adopting, amending or repealing any Subdivision Regulation in order for health impacts of potential changes to be fully considered. (Add NM DOH to the list of agencies with whom the BOCC must consult.)	5	Requiring additional outside agency review is beyond the authority of the County. State agency reviews are set by state statute.	B	
	8/31/16	P. Hughs	resident	13	II.2.1.2 There is no statement of public notice here. Suggested Resolution: Add statement of notice.	5	General quasi-judicial proceeding, see Sec. 2-2-2	B	
	8/16/16	B. Ryan	resident	13	II.2.1.3 - if the second 'f' is correct defining "documentary evidence", then the language defines this term for the entire Chapter. If that is intended to be the case, defining "documentary evidence" is more appropriately placed in the Glossary, not in a specific section relating to quasi-judicial hearings. I would not look, nor would most folks, for a definition that applies to an entire Chapter in the middle of one of the Articles. On the other hand, if it is intended to relate only to Article II, then it should be separated into its own part, and placed at the beginning of 2.1.3.	5	Applies to whole Chapter, dependent upon what is being heard.	B	
	8/16/16	B. Ryan	resident	13	II.2.1.3 - the lettering goes 'a,b,c,d,e,f,g' and then reverts to 'd,e,f, etc.' May cause confusion in cross-referencing these subsets.	5	Formatting to be corrected	G	
	8/17/16	Bernie & Nancy Ryan	residents	13	II.2.1.b.xi. This makes no sense. All of the BOC ordinances are in writing and are available under the public records act. The section appears to limit who may obtain these to persons who appear in person or via representation at the hearing. This could not be enforced to limit access to such persons.	1	Language comes from State Statute.	B	
	8/17/16	Bernie & Nancy Ryan	residents	14	II.2.1.3.d.,e. Note there is a lettering sequence problem here, as the letters repeat themselves within the subset. I have notified Janine of this--although it may seem a non-issue, it may be important because sections are often cross-referenced and this mislettering can cause confusion. More importantly, what happens if the documentary evidence is not copied? Is it to be excluded? Presumably, the answer is 'yes' as it is a requirement.	1	Formatting to be corrected. Documentary evidence may be excluded at discretion of BOCC chair.	G	

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	8/17/16	Bernie & Nancy Ryan	residents	14	II.2.1.3.f. This is the second 'f'--the definition of "documentary evidence" in the part says it relates to the entire Chapter. If so, it must be placed in the Glossary rather than being buried in a part of the Draft relating to application of the Hearsay Rule in quasi-judicial proceedings. On the other hand, if it relates to these hearings only, then "Chapter" should read "Article." I have also advised Janine of this.	5	Chapter also implies this article.	B
	8/17/16	Bernie & Nancy Ryan	residents	14	II.2.1.3.g. This is the second 'g'--it is not unusual for limits to be placed on public comment. However, placing the limits in ordinance by time allowed--even if it is just advisory--is going to suppress speech. Especially is this the case if the public wants to comment of expert testimony given prior to the public's opportunity to speak. It may make more sense to leave out the specific minutes references and instead say the BOC and P&Z should consider whether testimony is duplicative and if the persons offering testimony have their comments in writing. Obviously, the best approach is to continue the hearing to a later date.	3	Chair exercises discretion when running a meeting.	B
	9/22/16	Kari Bachman	resident, DACU	14	Section 2.1.3.k. This section implies that those presenting more formal presentations are more important than members of the public who have less formal presentation styles. In fact, formal presentations can be long and repetitive and sometimes contain specious arguments, and they may have the effect of dissuading the public from participating. <i>(Reword to state that the formality of a presentation is not the only criterion for determining how long someone is allowed to speak. Formal presentations shall be held to the same standards of brevity and basis in fact as commentary by the public.)</i>	1	Formal presentations are expected to be more organized. Additional time for more organized presentations is appropriate. This matches resolutions adopted by the ETZ and ETA.	B
	8/31/16	P. Hughs	resident	14-15	II.2.1.3.g.,h. Limiting number of people to be heard does not conform to 3-21-6B which says "all parties in interest and citizens shall have an opportunity to be heard." Suggested Resolution: Make language same as state law.	1	To clarify first sentence in 2.1.3.k, change to " all parties in interest and citizens shall have an opportunity to be heard, subject to limitations consistent with g above".	G
	8/31/16	P. Hughs	resident	15	II.2.1.4.b You would always reference "specific ordinance sections and statutes" to justify a position. What expectation does this set for a public hearing? Shouldn't planning and legal staff be ready to talk about ordinances and laws in a meeting? Does asking for a written memorandum to be included in the packet discourage people from addressing the real issue-what the ordinance and law says-as they come up in a meeting?	5	Language is necessary.	B
	8/17/16	Bernie & Nancy Ryan	residents	15	II.2.1.4.b. I cannot see how this can be enforced, as written. Nor, can I see how it is constitutional. What it says, literally, is that a speaker cannot even reference a federal or state statute, county ordinance or a city ordinance unless the person has submitted an advance copy of that citation to the County staff in advance of the hearing. That could never be enforced. This would mean, in effect, that nobody could say "the proposal before you may violate my constitutional right to freedom of assembly" without submitting a copy of the Bill of Rights in advance. Clearly, what is intended here is to require a copy of a fully developed legal brief be submitted in advance (which makes sense, as this is a section relating to quasi judicial hearings) but how is the public affected by a provision that says 'if you reference a state statute we will close the hearing until you get that to County staff?' I think this relates to the concerns raised at earlier hearings about the state subdivision statute. The P&Z Commissioners didn't like being caught by this issue but the response is not "don't talk to us" but rather to direct the County staff to do its job better by being aware of these issues before presentation of the draft.	5	This is a non-issue, 2 nd half of paragraph addresses this.	G
	9/7/16	C. D. Huestis	former P&Z, resident	15	II.2.1.5.a "All" should mean ALL, it is a pretty simple concept. The entire definition of "Ex-parte" is superfluous.... Remove definition of ex-parte; or put it in the glossary.	5	Definition in a and the exception in b are legally appropriate	B
	9/7/16	C. D. Huestis	former P&Z, resident	15	II.2.12.5.b Seems to authorize members of the BoCC to communicate directly with the County Staff (employees). This is frowned upon by the BoCC protocols, and various Commissioners have been scolded for doing so--in the past.... Remove "or BOCC"	5	Exception in b legally appropriate	B

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	9/22/16	Kari Bachman	resident, DACU	15	Section 2.1.5 These requirements are reasonable, but they point out how important it is for staff to be unbiased as well as accessible to the public. Those who are experienced in land use matters have an advantage over residents with little experience in this area.	5	Suggestion inappropriate for Ex-Parte Communication Section.K	B
	8/23/16	Dennis Smith	DAC GIS	16	II.2.2.1.b.iii Mailed by first-class mail to the adjacent property owners, as shown by the records of the County Assessor, of property owners within 300 feet of any lot line of the site in question, excluding streets, alleys, channels, canals or other public rights-of-way and railroad rights-of-way. A minimum of 10 different owners shall be required to be notified. This area shall be the area of notice;	5	Change made throughout document	G
	8/16/16	B. Ryan	resident	16	II.2.2.1.b.iii - it appears the sentence should read "Mailed by first class mail to the adjacent property owners, as shown by the records of the County Assessor of properties ..." rather than "... of property owners ..." I don't think property owners own other property owners but rather own properties.	5	Change 2nd "property owners" to "properties" - change this throughout document	G
	8/17/16	Bernie & Nancy Ryan	residents	16	II.2.2.1.b.iii. I cannot determine how the "...10 different owners..." are to be determined. If only one person, for example, owned all the property within 300 feet of the lot lines of the project who shall be notified? Nor can I determine why a "major land feature" acts as a barrier to notice. There is no definition of a "major land feature." If someone is proposing a major development in or near a riparian area, persons on the other side of the riparian area from a development are very likely to be impacted. Why would notice to them not be required? When does a land feature stop being "major?" This is the problem with doing an ordinance by example instead of definitional standard. Of course, as noted, the Rio Grande is a major land feature (even when dry). But, what is not? Using the examples given, it is not necessary for the "feature" to be naturally occurring--note the inclusion of freeways.	5	Existing requirement exceeds State Statute requirements and is being rewritten.	G
	8/17/16	Bernie & Nancy Ryan	residents	16	II.2.2.1.d. It is appropriate for the P&Z and BOC members to not be present. It is appropriate for the County staff to be present. However, the language says the staff shall "...answer any questions related to the County Code." That raises the question of what the response will be if the question is "Does this comply with the County Code or will a rezone or land use change be required?"	5	Staff will not be there to provide legal opinion.	B

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	9/22/16	Kari Bachman	resident, DACU	16-17	Section 2.2.1. The town hall meeting is often not an effective way for information to be exchanged or for the community to provide input for a number of reasons: 1. It is a setting that unduly favors the applicant because the applicant organizes the agenda, arranges for the moderator, and is not required to share the agenda with the public beforehand. 2. This setting encourages one-way communication rather than dialogue. 3. Notes from public meetings are often incomplete. Recording the meetings would yield a more accurate record and would also encourage all parties to engage with each other in a civil manner. 4. Other public engagement methods (see right) are more inclusive and less contentious. <i>(Introduction: Town hall meetings will facilitate dialogue between those with differing perspectives.</i> 2.2.1.a. <i>Town hall meetings shall also be convened if requested by staff or by the public, and in cases where initial zoning or rezoning is being proposed for property that had been public lands.</i> 2.2.1.b. <i>The format and agenda of the meeting shall be publicized to all parties ahead of time.</i> 2.2.1.d. <i>A neutral party shall organize the town hall meeting. This includes determining the format of the meeting as well as selecting a skilled and neutral moderator.</i> 2.2.1.e. <i>In particularly contentious cases, town hall meetings shall incorporate breakout sessions in which attendees with different perspectives explore creative solutions to the issues. Each breakout shall report out their ideas and the large group will then discuss promising avenues for resolving the issues.</i> 2.2.1.g. <i>Town hall meetings shall be recorded on video.</i> 2.2.1.g. <i>The neutral party shall submit the summary report.</i> <i>Other methods of public engagement shall be encouraged including focus groups, scenario planning, citizen cabinets, and advisory committees.)</i>		<ul style="list-style-type: none"> • Introduction lists the different perspectives that participate. • Town Hall meetings compel the applicant. Current requirements are appropriate. • TH's are a 1 item meeting. The 21 day advance notice constitutes the agenda. • The applicant is required to provide a moderator. • Code cannot compel that level of participation from the public • Videotaping is an option that the applicant may choose. County staff is required to attend Town Halls and observe, take notes, and answer questions. • See above comment. • Organizations, such as Place Matters, are better placed to provide these functions. 	
	8/17/16	Bernie & Nancy Ryan	residents	17	II.2.2.1.g. To whom is the summary submitted? This actually matters because the public may want to see the summary (it is no doubt a public record) and it should be made clear where the public goes to get it.	1	Summary gets submitted to staff. Section will be rewritten to address this.	G
	8/31/16	P. Hughs	resident	17	II.2.2.1.g. Does this information carry any legal weight? If a case, is appealed at the subdivision stage, how is this information handled? Is the information admissible in a court of law since the meeting was not quasi-judicial with a swearing in procedure and is filtered by the applicant? Since this is the only public meeting to address the impact of a community type on the surrounding uses and any input from the public does not impact the ability to do a community type since they are allowed by right what legal standing does a town hall meeting have? Suggested Resolution: Community types are a de facto rezone and should go through the steps to be rezoned.	5	Community Types are administratively approved, which can be appealed to P&Z. If a Subdivision Application is submitted along with an application for a CT then a public hearing for subdivision approval may be required. Also, some CT uses may require a public hearing per the land use matrix in Table 3.5.	B
	8/16/16	B. Ryan	resident	17	II.2.2.2 - probably the "a. b. and c." under "a." should be "i., ii., and iii." Not a huge deal, but again the issue of cross referencing comes up.	5	Formatting to be corrected	G
	9/7/16	C. D. Huestis	former P&Z, resident	17	II.2.2.2.a. Sub paragraph "a" formatting error... Probably should be "i", et seq	1	Edited	G
	9/7/16	C. D. Huestis	former P&Z, resident	17	II.2.2.2.a. The Community Development Director supplies signs?? Why not the "ZA"? Change Community Development Director to ZA	5	The second D in CDD stands for Department	B

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	8/31/16	P. Hughs	resident	17	II.2.2.2.a. What is a "resident"? Next door resident or county resident? Does this nomenclature limit who may speak? Suggested Resolution: Define resident	5	2.2.2 Introductory paragraph to read "Unless specific procedures are required elsewhere in this Chapter, the following general notice requirements shall apply".	G
	8/31/16	P. Hughs	resident	17	II.2.2.2.b. Where in state law does it limit publication to "one time." Wouldn't at least twice be better? Suggested Resolution: Site state law where notice requirements are enumerated.	5	Statutory language in 3-21-6 says 15 days, we are requiring 21 days.	B
	8/31/16	P. Hughs	resident	17	II.2.2.2.c. NMSA 3-21-6 differentiates between notification for changes in zoning for an area one block or less. Notification must be done by certified mail. This doesn't agree with 2.3.1.a. Suggested Resolution: Notify by certified mail for area one block or less to be consistent with 2.3.1.a.	1	2.2.2 Introductory paragraph to read "Unless specific procedures are required elsewhere in this Chapter, the following general notice requirements shall apply".	G
	8/17/16	Bernie & Nancy Ryan	residents	17	II.2.2.2.c. Same questions regarding 10 owners and major land features.	1	Existing requirement exceeds State Statute requirements and is being rewritten.	G
	9/22/16	Kari Bachman	resident, DACU	17	Section 2.2.2.b. Notices are sometimes written in language that is not clear or easy for laypeople to understand. They are sometimes formatted in a way that does not encourage people to read them. The County could develop a template that applicants would be required to use. <i>(Notices shall be written in plain language. They shall be formatted to be accessible and eye catching to the public.)</i>	1	Signs are color coded. Notification requirement is for Date, Time, and Place per statute. All other information is determined by staff as appropriate.	B
	9/8/16	Paul Dulin	resident	17-18	II.2.2.3. It is assumed that this conference is required whether an applicant is changing land use through an administrative process (including a Special Use Permit) or formal zoning change process. Should the section also include, as a result of the review, that the applicant proposing to use an administrative process should actually go through a formal rezoning process?	3	No, administrative decisions can be appealed which trigger a public hearing.	B
	9/22/16	Kari Bachman	resident, DACU	17 18 22 22 26	Sections 2.2.2.c., 2.3.1.b., 2.4.3.a.i., 2.4.3.b.iii., 2.7.3.iv. As worded, these items privilege owners over renters because renters never receive mailed notices. <i>(Notices shall be placed on doors as well as mailed to the property owners.)</i>	5	This code regulates use by property owners.	B
	8/31/16	P. Hughs	resident	18	II.2.3.a. Explain under what circumstances the CDD, P&Z or BOCC have legal authority to apply for a zone change. What limitations are there on this? Suggested Resolution: See comment box.	5	The county government has inherent authority to seek a zone change subject to the same restrictions as a private applicant.	B
	8/31/16	P. Hughs	resident	18	II.2.3.b. Shouldn't a description of the surrounding zoning be included? Suggested Resolution: Add description of surrounding zoning.	5	Identifying surrounding zoning is a function of staff.	B
	8/17/16	Bernie & Nancy Ryan	residents	18	II.2.3.1.a., b. Presumably, "one block" means "one square block." If so, that should be clarified. If not, then what does it mean? Beyond the difference of "one (square) block or less" and "more than one (square) block" it isn't clear why the mailing processes are different for these two areas. I may be missing something here.	5	Language comes from State Statute. Definition of Block in Glossary.	B

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	9/22/16	Kari Bachman	resident, DACU	18	Section 2.3.1.a. It is not clear why the wording differs between the two items. Is it because it would be cost prohibitive to send all owners a certified mail notice in areas larger than a block? In addition, the section needs to be divided. <ul style="list-style-type: none"> • (Require the same notification for both situations. • The first part of letter a. should be its own section. • Start a new letter b at "Whenever a change...") 	5	• Statutory requirement	B
	8/17/16	Bernie & Nancy Ryan	residents	19	II.2.3.1.c. This section establishes a minimum for approval of a zoning or other change, when there are protests to the proposed change(s). One word, in particular, should be changed. The minimum established is to a proposed change, but the language refers to an "appeal." As there has been no final action, the word "appeal" is wrong and should be replaced with "protest." Also, it appears that no deferral of final action will occur unless the protest/appeal is filed on a County issued form. Use of a County issued form seems unlikely to be the intent, but the language is unclear. This should be clarified because it should not be the case that the BOC says "well, you filed the protest/appeal on your own paper and we don't accept that." I doubt they would, but it is better not to provide that possibility.	1	If the owners of twenty percent or more of the area of the lots and of land included in the area proposed to be changed by a zoning regulation or within one hundred feet, excluding public right-of-way, of the area proposed to be changed by a zoning regulation, protest in writing the proposed change in the zoning regulation, the proposed change in zoning shall not become effective unless the change is approved by a two-thirds vote of all the members of the board of county commissioners.	G
	9/7/16	C. D. Huestis	former P&Z, resident	19	II.2.3.2.a. Zone changes "shall be consistent with the intent of this Chapter and...". The subsequent wording seems to add an "intent" to Article 1 paragraph 1.3... Why is this "intent" not in Article 1? Or, is it in the NM Subdivision Act?	5	2.3.2 is decisional criteria specific to zone changes	B
	8/17/16	Bernie & Nancy Ryan	residents	19	II.2.3.2.a. This is a critical part. It is appropriate that standards are being embedded in the code for determining whether to approve a change. It is appropriate that the standards be forward looking, as well as examining current resources in the affected area. Presumably, the applicant has done sufficient market research to determine whether the change will be commercially successful. This means, in effect, the applicant has to know who s/he wants to move into the changed area. The applicant will also need in place some kind of marketing plan to fill the space. Is the County going to make a decision based, in part, on whether it believes the marketing plan is feasible? That isn't clear, but perhaps the "demographics" element is part of that. Note that, in 'b.', the financials of the applicant are not a sole determining factor in the approval process. Presumably, they can still be considered but what if the applicant has a lengthy history of failing/abandoning projects? What if the applicant has gone through multiple bankruptcies? Aren't those sufficient warning signs to say 'no?' We should consider adding: existing covenants, etc within the affected area; whether the development will create new demands for ancillary services (that is different than a "need for new commercial/residential activity"); and impact on the quality of life of persons residing within the affected area. Just for a start, that is.	5	Decisions will not be based on marketing plans. This is Change in Zoning, not the construction of a project. Not a definitive list. We are not in the business of covenants, marketing plans, bankruptcy, etc.	B
	8/31/16	P. Hughs	resident	19	II.2.3.2.a. This is a great improvement.		Commentary	B
	8/31/16	P. Hughs	resident	19	II.2.3.2.a.viii. 2.4.2.d and the forms in the appendices ask applicants for information about areas of historical significance. Shouldn't that be included in this list? Suggested Resolution: Add "areas of historical significance."	5	Add "areas of historical significance or areas that contain endangered or rare species of animal or plant life" to section 2.3.2.a.viii	G

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	8/17/16	Bernie & Nancy Ryan	residents	19	II.2.3.2.c. It is appropriate to place the burden on the applicant. What a "sound justification" is, of course, remains unclear but presumably it is something that reflects addressing all of the criteria found in 2.3.2.a.	5	The BOCC will determine sound justification. Part of their discretion.	B
	9/7/16	C. D. Huestis	former P&Z, resident	19	II.2.3.2.d. "not be in significant conflict with adopted elements of the Comprehensive Plan..." The Comprehensive Plan has no (Zero) "elements". It has Principles, Strategies, Goals, Actions and objectives; but NO "Elements" What does this mean? If not nothing--or everything. If you insist on having this in the Code, just say "not in conflict with the Comp Plan". Just eliminate the offending words	1	"adopted elements of" deleted	G
	9/22/16	Kari Bachman	resident, DACU	19	Section 2.3.1.c. The 100-foot distance does not match the notification area. It could have the effect of including very few properties, meaning that if the residents were renters and did not receive the notice, they would be unlikely to participate. In addition, 2/3 of the BOCC is not clear (does it mean 3 or 4 members)? • (Change the distance to 300 feet. • Require a four-fifths vote of all members of the BOCC)	5	• Statutory requirement	B
	9/22/16	Kari Bachman	resident, DACU	19	Section 2.3.2.b. Additional costs should be mentioned. (The cost of land or other economic considerations pertaining to the applicant, local economy, or County shall not be the sole determining factor for a zone change.)	5	No changes made	B
	9/22/16	Kari Bachman	resident, DACU	19 22	Sections 2.3.2.a., 2.4.4 Additional factors should be included. • (Culturally important areas • Pollution (air, land, water, noise, light) • Open space)	5	No changes made	B
	8/30/16	Bob Hearn	ETA	20	II.2.3.2 Miller Criteria – 2.3.2 Decisional Criteria for a Zone Change e. The applicant shall demonstrate that the requested zone change is supported by a: i. Need to cover and perfect a previous defective ordinance or to correct mistakes or injustices therein; or ii. Sufficient change of conditions making the zone change reasonably necessary to protect the public interest The Miller Criteria is in three parts – all three are in the Supreme Court decision, the ABQ and other ordinances around the state, our current ordinance, and the UDC up through Draft 4. In Draft 4 it says – e. The applicant shall demonstrate that the existing zoning is inappropriate because: i. there was an error when the existing zone map pattern or Chapter was adopted; or ii. there has been a change in neighborhood or community conditions that justify the zone change; or iii. there is a different use category is more advantageous to the community, as articulated in the Comprehensive Plan, even though the points above do not apply. Why was this changed? Why was the wording of the first two changed from Draft 4, and the third element left out altogether?	5	Current draft more accurately reflects case law. Even though paragraph iii is recognized by the city of Albuquerque, it has not been sufficiently judicially tested.	B
	8/17/16	Bernie & Nancy Ryan	residents	20	II.2.3.2.e. How will this ever happen? If there is a mistake in an existing ordinance, it should be corrected. That makes sense, to some degree so long as the mistake is causing actual harm. But, protection of the "public interest" by a private developer is difficult to imagine as a universal standard. Certainly, the mere desire to increase density is not something that is protecting the public interest.	5	Requirement of State case law.	B

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	8/31/16	P. Hughs	resident	20	II.2.3.2.f. This section should mean that there is a great deal of care in assigning zoning and sending notification to every property owner before a legislative action rezones the entire county. Suggested Resolution: Notify every property owner and give them a chance to agree or object.	5	2.3.2.f has nothing to do with notice. Appropriate notice by publication is given per state case law for county wide comprehensive rezone.	B	
	8/17/16	Bernie & Nancy Ryan	residents	20	II.2.3.2.h.ii. The County should never grant a land use change with an "implicit" understanding of anything. If the County does not feel obligated to cover infrastructure costs the understanding needs to be explicit, not implicit. This has been raised before and remains unaddressed. It is very bad policy.	1	Implicit has been deleted.	G	
	8/31/16	P. Hughs	resident	20	II.2.3.2.j.i. This statement overrides any other consideration and is not in conformance with the 2.3.2.j.ii or with any of the other decision criteria in the rest of the document. Suggested Resolution: Eliminate this statement.	5	Quote from Albuquerque Ordinance verbatim and is subject to discussion as a matter of policy.	O-B	
	8/17/16	Bernie & Nancy Ryan	residents	20	II.2.3.2.k. It is appropriate to have criteria for granting a spot zone. The criteria as written, however, may not lend clarity to the decision making process. For example "i." speaks of disharmony with the surrounding area. There is no definition of "surrounding area." Is the "disharmony" before the spot zone or afterward? The decision maker(s) are to consider the benefit to the "community" (which presumably is not the same as the "surrounding area") OR (my emphasis) the owner of the parcel. The use of "or" creates all sorts of potential mischief, especially if the owner is the applicant for a spot zone. No owner is likely to apply for a spot zone that is detrimental to her/his interest. If the County initiates the spot zone, it might make sense to consider the owner's benefit but if the applicant is the owner, what is being served by this language? Some clarity, designed to protect the public interest, is needed here.	5	Requirement of State case law. Definition of Surrounding Area is left to the zoning authority.	B	
	8/17/16	Bernie & Nancy Ryan	residents	20	II.2.3.2.k. Spot zoning does not "wrench" a lot from its environment. Zoning is a change. The lot remains in the same place. Nor is spot zoning a "rating." It is a zone. It is not clear how spot zoning, which is defined as a single lot change, can change the use of adjoining properties. It can certainly affect the quality of life of the owners of adjoining properties but it does not change their legal use. This is a confusing draft in this case. If, as defined, a spot zone changes only a single property, why does the paragraph contain language about changing the use of multiple properties?	5	Quote from State case law.	B	
	8/31/16	P. Hughs	resident	21	II.2.4.1. "Special use shall not be considered a zone change." Where does the power come from to eliminate SUP's, which are a zoning function, from having to have a public hearing? Hearings for SUP's are required in DAC, Las Cruces, the ETZ, Albuquerque, Santa Fe and Santa Fe County. How do you declare a zoning function to be not a zoning function? Suggested Resolution: Give specific state statutes that say SUPs are not zoning functions. If this can't be done this statement should be eliminated. This is one of the very troubling aspects of this UDC	5	If written objections are received a public hearing is required.	B	
	8/31/16	P. Hughs	resident	21	II.2.4.1. According to NMSA 3-21-6 "no regulation, restriction or boundary shall become effective, amended, supplemented or repealed until after a public hearing..." Special use permits are a zoning action and must have a public hearing. Suggested Resolution: Administrative approvals of SUPs should be eliminated	5	3-21-6B does not apply to SUPs.	B	
	8/17/16	Bernie & Nancy Ryan	residents	21	II.2.4.1. SUPs are authorized on a two alternative track process. The administrative approval requires no written objection and that "all agency review comments are satisfactorily addressed." Rather than language that says all comments are addressed, would it not be better to require that the agencies give written notice to the Zoning Administrator that the agencies recommend approval of the SUP? It is not clear who, in the current version, declares "satisfactorily address" status has occurred, nor is it clear what that means.	5	We can't require written notice.	B	
	8/17/16	Bernie & Nancy Ryan	residents	21	II.2.4.2. I am unclear what "....some controlling interest in the property" means. A controlling interest is generally considered to mean a majority of the ownership rights, perhaps expressed in terms of stock ownership. Adding "some" only serves to confuse. How much is "some?"	1	Delete some controlling interest in the property	G	
	8/17/16	Bernie & Nancy Ryan	residents	21	II.2.4.2.e. Does "verified" mean "reviewed and approved?" Or, does it mean the Administrator says "yes, an analysis was done?"	1	Verified by the ZA deleted.	G	

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	9/7/16	C. D. Huestis	former P&Z, resident	21	II.2.4.3. Signs "supplied by the Community Development Director", Should this not be the "ZA:?" This kind of confusion between and among the "Cdd" and duties and responsibilities of the majestic ZA permeates this Code	1	The second D in CDD stands for Department	G	
	8/31/16	P. Hughs	resident	21	II.2.4.3.b. "Notice of deadline for public input shall be published one time..." Suggested Resolution: There should be a public hearing and notification is not required to be limited to one time.	1	Separated administrative SUPs from SUPs requiring public hearing. SUP is not a zone change, administrative approvals of SUP have been in place to a limited extent.	G	
	9/22/16	Kari Bachman	resident, DACU	21	Section 2.3.2.k.iii. The current wording is ambiguous: suggest adding more language and splitting this into several items. <i>iii. The benefit of the rezoning to the community.</i> <i>iv. The benefit of the rezoning to the owner of the parcel.</i> <i>v. The benefit of the rezoning to the County.</i> <i>vi. The benefit of the rezoning to the environment.</i>	5	No changes made	B	
	9/7/16	C. D. Huestis	former P&Z, resident	22	II.2.4.4. Same issue as with the wording at 2.3.2 a (above). You are using different wording; but seemingly with the same "intent" General remark: several places the wording such as "may consider" appears; and is then followed by "but not limited to:" It is Permissive language, the "not limited to" is absolutely superfluous. Examine the entire document to see where this meaningless language exists. If there are places where the words "not limited to" are appropriate, fine. But where it just legal jargon, eliminate it.	5	2.4.4 is decisional criteria specific to SUPs	B	
	8/17/16	Bernie & Nancy Ryan	residents	22	II.2.4.4. What does "near vicinity" mean? Near to the property line? Near to the newly permitted use? What may be intended here is that an SUP increasing traffic by only a few cars a week may have little to no impact on air or noise pollution so the only affected persons might live right next to the new use while a tower might have visual impacts for miles. But, I am not sure. Note that the approval is not required to include consideration of whether similar SUPs in similar circumstances were granted or denied.	1	Definition of near vicinity will be at the discretion of the zoning authority. 'near' deleted	G	
	8/31/16	P. Hughs	resident	22	II.2.4.4.e. Include "areas of historical significance" in accordance with 2.4.2.d. Suggested Resolution: See comment box.	1	"areas of historical significance or areas that contain endangered or rare species of animal or plant life" added.	G	
	8/31/16	P. Hughs	resident	22	II.2.4.5. SUP/zoning approval by a ZA is a huge departure from standard practice in NM. Suggested Resolution: See resolution for 2.4.1 above.	5	SUP is not a zone change, administrative approvals of SUP have been in place to a limited extent.	B	
	8/17/16	Bernie & Nancy Ryan	residents	22	II.2.4.5. It is appropriate to require the Special Use to actually happen, rather than leave it in limbo. In terms of due process, it might be helpful to require a notice be sent to the applicant (perhaps 30 days before the year is up) notifying her/him of the impending deadline.	5	The SUP automatically expires.	B	
	8/31/16	P. Hughs	resident	22	II.2.4.6. SUP/zoning approval by a ZA is a huge departure from standard practice in NM. Suggested Resolution: See resolution for 2.4.1 above.	5	SUP is not a zone change, administrative approvals of SUP have been in place to a limited extent.	G	
	8/17/16	Bernie & Nancy Ryan	residents	22	II.2.4.6. There is a definition of "major revision" of SUP Site plans, found at II.2.8.5. The question is whether the Zoning Administrator is the appropriate entity to approve a major revision if the SUP went before the BOC for its action. Why would it be right to allow a major revision by County staff if the BOC is responsible for the underlying SUP approval?	1	Section 2.4.6. has been edited to delete the first sentence.	G	

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	9/18/16	P. Hughs	resident	22	Section 2.4.4 According to this draft, SUP's can be administratively approved. The criteria given for approving them may be used. Why aren't they required to be used if, as this section indicates, they are appropriate considerations? This does not ensure that everyone is treated the same or that decisions are made on the same basis. (Change may to shall.)	1	Changed "may" to "shall"	G
	8/17/16	Bernie & Nancy Ryan	residents	23	II.2.5. Instead of using limited examples, from which one is apparently supposed to intellectually extract what the examples have in common, it would be better drafting to set forth criteria such as limited in time to not more than.....days, intended to be occasional in nature, not requiring construction of permanent facilities for the permit to be issued, etc. As written it is entirely up to the discretion of the Zoning Administrator with no standards for decision making. Note, there is no notice required to be given to anyone. Or, if there is I missed it.	1	Adequate provisions for traffic, fire suppression, crowd control, liquid and solid waste removal, dust mitigation. 2.5.4 changed to applicant requirements. 2.5.4.d any other mitigation deemed necessary to protect the public interest. 2.5.5 ..using the requirement of 2.5.4 to ensure the public health...	G
	9/7/16	C. D. Huestis	former P&Z, resident	23	II.2.5. "...or other uses determined by the" ZA. This usage is totally open-ended. It says the ZA has unlimited authority to determine what requires a Temporary Use Permit. This is not good construction; but if you insist on using it: Insert the words "uses such as" after the words "limited to,".	5	Section edited	G
	8/17/16	Bernie & Nancy Ryan	residents	23	II.2.5.2.a. Either make it 30 feet or say "The Zoning Administrator shall require adequate setbacks from the property lines, considering population density, traffic and pedestrian flows, parking concerns and other matters of public safety and impacts on adjoining properties."	5	Delete 30 ft requirement.	G
	8/17/16	Bernie & Nancy Ryan	residents	23	II.2.5.3. To assist the Zoning Administrator, it would be helpful to include: "Whether this is a initial application for this use at the property or the event has been held elsewhere in Dona Ana County and, if so, where and when."	5	Case by case basis.	B
	8/17/16	Bernie & Nancy Ryan	residents	23	II.2.5.4. It will be interesting to see how a circus/fair manages to put a carousel or feris wheel some place that is not accessible to the public. I think what is intended here is to place the mechanical and electrical devices that are designed to support the event but not used by the public to be off limits.	1	Section edited. Locate all mechanical and electrical machinery not intended to be accessed by the public...	G
	8/31/16	P. Hughs	resident	24	II.2.5.6. What length of time is "a period of time"? What makes something temporary? Suggested Resolution: Can have a time limitation that can be renewed. Some ordinances use a 14 day limit that can be renewed.	1	time limitation to be determined by ZA, 30 days suggested.	G
	8/16/16	G. Daviet	P&Z	24	II.2.6 "Administrative Zoning Adjustment" doesn't seem to fit what is described in the section – The section describes 'Temporary relief from development requirements' Change the title to 'Temporary Variances' or something else appropriate	1	Change title to "Administrative Temporary Relief"	G
	8/17/16	B. Ryan	resident	24	II.2.6 This is a formatting issue, I think, as well as grammar. The lead-in at the end of the introductory paragraph ends with "shall:" and then sets forth in "a." what the Zoning Administrator is to do with an application for a temporary exemption from development requirements. 'a.' follows directly from "shall:" and makes sense as written. However, 'b.' is not written to follow a 'shall:' and instead is probably better written as its own paragraph, along the lines of "The Zoning Administrator may extend....shown." The second sentence of "b.", appears somewhat lost. It relates to extension requests that exceed 180 days and directs their submission to be directly to the P&Z. This may not be an "Administrative Zoning Adjustment" as the contents of the rest of the section are, since it is not administrative in nature. The second sentence should probably stand as a single sentence paragraph and consider changing change "Administrative Zoning Adjustment to Zoning Adjustment."	1	Put "shall" in front of "a.", remove from "shall" from preceeding paragraph	G

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	8/17/16	Bernie & Nancy Ryan	residents	24	II.2.6. It is reasonable to allow some flexibility in this area, as the Draft does. There are issues, not addressed, that need to be part of ".6". There is no limit in numbers as to how often an extension may be granted. An extension of the suspension is allowed under 'b.' but it is not clear this is a one time extension or if it may be granted multiple times. In other words, there needs to be something to prevent the extension becoming a ruse for gaming the system. There is no definition of what shall constitute "good cause." The exemption appears to be unlimited in terms of to what it applies (e.g. having a site plan, doing a traffic impact) and does not require the applicant to demonstrate the reasons for the extension request are due to circumstances beyond her/his control (e.g. delays in other government agencies response to need for information, delays in financing not caused by the applicant). It needs to be clarified what is contemplated by the hardship created by strict enforcement outweighing the impact to surrounding properties. There are grammar and formatting issues in this also, which I have forwarded to Janine.	1	Section edited. Delete Good Cause. Applications for all extensions for temporary relief shall be made 45 days prior to expiration.	G
	9/22/16	Kari Bachman	resident, DACU	24	Section 2.5.4.a. Add additional provisions. <i>(Make provisions for adequate traffic control, fire protection, erosion control, dust mitigation, noise control, light control, and solid and liquid waste removal)</i>	5	Light addressed in item d. Noise addressed in Chapter 261 of the County Code.	B
	8/31/16	P. Hughs	resident	26	II.2.7.3.d.ii. Word or words missing. Clarify.	1	Replace P&Z with County	G
	8/31/16	P. Hughs	resident	27	II.2.8.2.e. "accessible spaces" – do you mean handicap spaces? Clarify.	5	Yes using current nomenclature	B
	8/17/16	Bernie & Nancy Ryan	residents	27	II.2.8.2.j. Although this comment is out of order, it is needed for perspective. I have never seen a draft of a code which references watercourses that have an "ephemeral flow." And, I do not know what it means. On a more serious note, it is beyond my expertise to know if the requirements of the detailed site plan in .2.A are appropriate. will leave this to others.	1	Ephemeral Definition: Flow in a river, stream or arroyo that only occurs during and immediately after rain. Intermittent Streams. Flowing water periods during wet seasons but are normally dry during dry seasons.	G
	9/8/16	Paul Dulin	resident	28	II.2.8.5. It is suggested that "significant changes in environmental conditions or other external risks" be included as reasons for site plan revisions. For instance, nearly half of the flood occurrences during the flooding events of 2006 were in areas outside of FEMA Flood Zones, with much of the damage occurring in previously unflooded areas where arroyos jumped their banks and changed courses. These resulted in new high risk areas. The same consideration should be given to a change in zoning, as new high risk areas could be created.	5	If there are significant changes in environmental conditions that triggers a revision than this section would apply. However, this statement could be used as the basis for a change in conditions related to Miller criteria.	B
	8/17/16	Bernie & Nancy Ryan	residents	28	II.2.8.5.a. This is difficult to comprehend. Initially, it appears the ZA approves all of the revisions listed under ".a.", but how to read these provisions in light of the lead-in relating to the "less than 25%" is not clear. What is less than 25% of non structural changes to a building? The same question applies to all of ".a." Just as unclear is the fact that the lead-in says the ZA may approve the minor revisions. So, is the approval required or optional?	1	Section edited: 25% that shall...Intro: Major revisions and all other minor revisions....b. include but not limited to	G
	8/17/16	Bernie & Nancy Ryan	residents	28	II.2.8.5.b. Presumably, these revisions--being major in nature as defined--must go out to reviewing agencies. If the agencies approve, then evidently the ZA shall(?) may (?) approve the revision? The 25% threshold remains an issue in terms of clarity. What is a 25% change in land use? Does this mean that, for example, if an applicant files a site plan with 200 lots and then proposes to change the use of 40 of them (less than 25%) this is a minor revision? Note, there is no reference to land use changes in ".a.". There is also, as best I can tell, no requirement for notice of a major revision being requested or approved. If these revisions are sufficiently significant to be denominated as "major" why is there no opportunity for P&Z comment or public input?	1	Answered above.	G

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	8/16/16	G. Daviet	P&Z	28	II.2.9.1.b 'Upon application ...'? Upon application of what? What is the 'Letter of Non-Conforming Use' required for? TBD upon explanation of paragraph.	1	Change "application" to "written request"	G
	8/17/16	Bernie & Nancy Ryan	residents	28	II.2.9.1.b. As written, it appears every nonconforming use in existence upon adoption of the Draft requires the owner of the use to request approval of ZA. Three documents in support of the nonconforming use are to be submitted. This needs to be read carefully to determine if I am misinterpreting this provision. If I am not, what is the consequence for failure to submit these documents? How is a property owner to know s/he is required to do this? Hopefully, I am not reading this provision correctly.	5	This language does not require applicant to come in at a particular time. At some point in time an applicant may wish to come in to establish a non-conforming use. The burden is upon the applicant.	B
		Bernie & Nancy Ryan	residentss	29	II.2.9.2/.3./4. In .2, expansion of a nonconforming use is prohibited. In .3, it is permitted so long as it does not exceed 20% of the dimensions. In .3, any change is permitted that brings the nonconforming use into greater compliance with the Draft. In .4, expansion of a destroyed/damaged nonconforming structure is only allowed if the Building Code requires it. It is difficult to reconcile these provisions. What if the owner of the damaged structure wants to bring it into "greater compliance" but the Building Code does not require that?	1	Section edited. 2.9.2. The legal non-conforming use shall not be changed or expanded except as provided for in section 2.9 unless brought into compliance with this Chapter.	G
	8/10/16	B. Czerniak	P&Z, NMSU	29	II.2.9.3 This is philosophical, but why allow a non-conforming use to expand or intensify at all? 2.9.8 does not allow expansion on a piece of property so why would you allow a use to expand in a building?	1	2.9.3 amended by P&Z	O
	8/10/16	B. Czerniak	P&Z, NMSU	29	II.2.9.4 To support the comment above, if a building is damaged or destroyed, this section allows the owner to rebuild and use the building in the same way it was used before, but it doesn't allow the owner to increase the amount of floor area to be used for the legally non-conforming use so why would you give an owner up to 20% in Section 2.9.3?	1	2.9.4 requirement per the Building Code, no change necessary per the P&Z	O
	8/17/16	Bernie & Nancy Ryan	residentss	29	II.2.9.8. What does "administrative approval" mean? Who gives this approval and what is the process for obtaining it?	1	Administrative Approval has been deleted.	G
	9/14/16	Bob Hearn	resident	29	The Legal Nonconforming Uses coverage has undergone significant changes from present code (250-10, 1 page) to Draft 4 (2.2, Half page) to Final Version (2.9, 2 pages). This topic seems particularly important for the UDC because of the rezoning of all the parcels, and the changes in rules and regulations for land use compared to the past. I am concerned for the impact of these changes on the people who live in and own land in the Colonias. Will they be impacted by these combined changes, and the changes in the Legal Nonconforming rules? Clearly, there are many Nonconforming situations throughout the Colonias. Generally they have just come into existence that way, and have never been given Legal or other status – their magnitude is beyond the ability of the County Codes and other staff to regulate. But, they exist peacefully and without significant problem, for the most part. The changes to the zoning and regulations may, in cases in the Colonias and any other parts of the County, cause even currently Legal uses to become Nonconforming. That potential needs attention, as well. The complexity of this section puts it beyond my ability to review and evaluate it. It seems appropriate to start with the current code and work forward, noting and understanding the changes from there to Draft 4 to the Final Version, keeping in mind at least the two areas of concern outlined above – and others which might arise. Solutions: Staff analyze and report to the PandZ and public on the effects of and reasons for the changes to the Legal Nonconforming sections of the Code, from present Code through Draft 4 to the Final Version. Address as possible on the results and anticipated impact of the UDC changes on the people and landowners of the County. Address anticipated changes in the Nonconforming cases in the County, especially those not yet made Legal, due to rezoning or other new regulations.	5	Section was lacking in V4, Procedures from existing ETZ Ordinance inserted in FV.	B

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	8/31/16	P. Hughs	resident	30	II.2.9.12. Not clear what this means. Can this be clarified?	1	Development intensities changed to Transect Zones. Rephrased for clarity.	G
	9/7/16	C. D. Huestis	former P&Z, resident	31	II.2.11.1. "Subdivisions are authorized by (statute)...and the Comprehensive Plan..." The Comprehensive Plan "Authorizes" nothing. It is a concept document. The purpose of the Code is to implement the concept plan. Remove this language.	1	Section edited	G
	8/31/16	P. Hughs	resident	31	II.2.11.2. How will you satisfy NMSA3-20-9 and 30-2-5A? Address these aspects of state law.	5	Any issues regarding concurrent jurisdictions will be addressed through the JPA. NMSA 30-2-5A is related to excusable homicide and not the UDC.	B
	8/31/16	P. Hughs	resident	31	II.2.11.3. Approval of subdivision at the same time as zoning approval puts undo pressure on a deciding body to deny developer all or part of what he has already put so much time and money in. Have zoning hearing first followed by subdivision hearing.	1	Commentary, up to the applicant.	B
	8/31/16	P. Hughs	resident	32	II.2.12.1.a. Definition of subdivision is in Article7 rather than 8. Edit.	1	Corrected	G
	8/31/16	P. Hughs	resident	32	II.2.12.1.a. How does 47-6-2 apply in LC ETZ?	5	47-6-2 not used in the current ETZ because the administration of subdivisions is done by the city, but it will be under the new JPA and UDC.	B
	8/31/16	P. Hughs	resident	32	II.2.12.2. This opens the question as to whether the CDD can try to "sell" one option over another. Limitations to staff's influence or direction should be stated.	5	Commentary	B
	8/30/16	Bernie & Nancy Ryan	residents	33	II.2.12.4.c. The County can control the response time for its own agencies. It cannot control the response time for state, school and other independent entities. The deadline for response from such agencies is a goal, not a mandate. It must be made clear what the consequences of not meeting the deadline from those agencies are. Is the plat application suspended? Considered approved if no response is received? How does this work considering the fact that the ZA is allowed to extend the requirements for development for up to a year (or longer if no limit is placed on the number of extensions granted)? Are the agency comments part of the requirements? It appears they are. ".d." declares the County must make certain the agencies have had a chance to comment, but that does not address the question of a non-response. Note that, in ".d." the BOC is to proceed with the hearing if no input is received. This means, in effect, that a state or independent agency that does not respond is deemed to have "approved" the plat. This is not a sound basis on which to make a decision. And, it effectively relieves the BOC of responsibility for its decision by allowing them to say "well, we asked and got no answer so we're moving forward (without a solid base of information on something that may have significant impact on adjoining property owners and their land." A better response may be to postpone the hearing at least 30 days and make it clear to the public, and to appropriate elected officials, that the County needs the information to make an informed decision.	5	Procedure is set from State Statute. 47-6-11. 47-6-20, 47-6-22.	B
	9/7/16	C. D. Huestis	former P&Z, resident	33	II.2.12.4.c. What happens if the "state and (or) local (governmental) agencies do not so respond to this mandate placed upon them by the Community Development Director. I seriously doubt that you can tell the State how and when to respond to anything. This language needs to be rephrased as to be a request. Or if you really mean it, it must have consequences. Like make it an assumption that no, or untimely, response is presumed to mean acceptance/concurrence	5	State Statute language. 47-6-22. In the absence of a response the BOCC can proceed	B

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	8/31/16	P. Hughs	resident	33-35	II.2.12.4.e.,5.d. Why do opinions from all agencies have to be favorable? Wouldn't P&Z be able to evaluate opinions in their decision rather than forcing all opinions to be in favor of an application? Does this mean you are bringing applications forward in a way where there will be no debate? The applicant thinks he has met all the criteria and is sure to get approval?	1	The cited sections have been revised to more closely track the language of the state statutes	G
	9/22/16	Kari Bachman	resident, DACU	34	Section 2.12.4.d. NM DOH should also be consulted. <i>(Insert a new section stating...NM Department of Health to determine: (a) Whether the applicant...)</i>	5	Requiring additional outside agency review is beyond the authority of the County. State agency reviews are set by state statute.	B
	8/16/16	G. Daviet	P&Z	35	II.2.12.4.e. What is the recourse for an applicant to appeal an unfavorable opinion from a reviewing agency? State the appeal path for applicants receiving unfavorable opinions.	5	Applicant discusses unfavorable opinion with reviewing agency, to resolve issues	B
	8/31/16	P. Hughs	resident	35	II.2.12.4.f. What is a "revised opinion"? Clarify.	1	The cited sections have been revised to more closely track the language of the state statutes	G
	8/30/16	Bernie & Nancy Ryan	residents	35	II.2.12.5. Recognizing there is a Town Hall meeting requirement established, which happens before any plat is submitted for review, is the only public notice of the hearing a newspaper publication? This may be addressed somewhere else. Note that Summary Plat Reviews require posting of signs at the affected property.	5	See 2.12.7.c.iii which references Section 2.2.2 General Notice Requirements.	B
	8/31/16	P. Hughs	resident	35	II.12.5.a.iv. This leave room for an adverse opinion. This doesn't fit with 2.14.4.e. Do you mean an adverse opinion in the process of being worked out so that you eventually get to a favorable opinion? Clarify.	1	2.12.4.e has been revised. This accounts for all public agency opinions both favorable and unfavorable.	G
	8/31/16	P. Hughs	resident	37	II.2.12.6.f. There is no indication of what actions or input adjacent property owners and passersby have to take advantage of...there is only notification. Suggested Resolution: Give steps for action and input and how it will be addressed.	1	Signs contain the following information: Case #, description of request, date of administrative decision, staff information to submit comments.	G
	8/30/16	Bernie & Nancy Ryan	residents	37	II.2.12.6.h. I grasp what the intent is--that the County may not simply ignore a Summary Plat request. If such Plats are to be allowed, it makes sense that the County be required to act in a reasonably prompt manner. What is not clear to me is how the BOC is supposed to "issue a written notice..." of approval. Is this an ordinance? A letter signed by a majority of the BOC? Is it (the notice) to be recorded with the County Clerk? Sent to the CDD? The ZA? What exactly is contemplated here?	1	Section has been revised to include approval of plat without further delay.	G
	8/31/16	P. Hughs	resident	37	II.2.12.7.a. Do you mean Article 7? Edit.	1	Change made.	G
	8/30/16	Bernie & Nancy Ryan	residents	37	II.2.12.7.c.i. If the agencies to which the plat is to be submitted for review are not spelled out, who is to determine what agency is not "appropriate?" In all other parts of the Draft, the agencies are delineated. The plats in question here can be, by definition, very large and impactful. There is no reason to treat them more ambiguously than lesser plats.	1	"As appropriate" deleted	G

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	8/30/16	Bernie & Nancy Ryan	residents	38	II.2.12.8.a. Several questions arise here. First, the ZA is allowed to extend the expiration date by up to 12 months. No standard is given for making this decision, and it appears possible that the developer may take advantage of this for events which were under her/his control and simply didn't get the work started. Some standards should be in place for this extension to be granted. Second, multiple phased developments extend the expiration date for longer than the original 24 months. Why a second plat gives the original plat more than it needed in the first place is unclear, but this may be something that reflects market condition history of Dona Ana County development. What is not clear is how this would work in a development of three or more phases, as written. If the developer has not acted on the first preliminary plat within 24 months, files the second preliminary plat and receives at least 36 more months on the initial plat, and then files a third plat, does the first plat then get another 36 months? Or, does the third 36 month extension apply only to the second preliminary plat? That should be clarified. I think the policy being addressed here is: at some point, development has to move forward or the land opened up to other possibilities. That is reasonable, but in doing so certainty is needed.	1	Removed the standard for making a decision on extension. Language from state statute.	G	
	8/30/16	Bernie & Nancy Ryan	residents	38	II.2.12.8.b. The need for clarity is especially evident when ".b." creates an opportunity for a 36 month extension which is supplemental to those granted in ".a.". Presumably, the applicant is to file the extension under ".b." to the ZA? Regardless of that, what are the standards for granting the ".b." extensions? Circumstances beyond the control of the applicant? Without standards, the ".b." extensions appear to be susceptible to inconsistent granting/denial. It is important to identify the decision maker here and if there is some sort of appeal process if the extension request is denied.	1	Removed the standard for making a decision on extension. Language from state statute.	G	
	9/9/16	Molly Magnuson, P.E. Water Use & Conservation Bureau Chief	NM Office of the State Engineer	38	Section 2.12.9.a – Suggest removing “or provide a copy of a permit obtained from the State Engineer, issued pursuant to NMSA 1978, §§ 72-5-1, 72-5-23, 72-5-24, 72-12-3 or 72-12-7 for the subdivision water use”. Pursuant to §47-6-11.2 “The board of county commissioners shall not approve the final plat based on the use of water from any permit issued pursuant to Section 72-12-1.1 NMSA 1978”, therefore it is not necessary to refer to §§ 72-5-1, 72-5-23, 72-5-24, 72-12-3 or 72-12-7.	1	Language deleted.	G	
	8/30/16	Bernie & Nancy Ryan	residents	39	II.2.12.9.e. I think it is clear what is intended in this part. No final approval until either public improvements are complete or until the developer and County enter an agreement setting forth the deadline for completion. However, the first sentence says "At the time of approval of the final plat..." and then says if the improvements are not complete the agreement must be executed as a condition precedent to approval. If the final approval has occurred, how can a condition precedent be created? In other words, when is "approval" not "approval?"	5	Language from state statute.	B	
	8/31/16	P. Hughs	resident	41	II.2.12.14. This seems like a good addition.	5	Commentary	B	
	8/30/16	Bernie & Nancy Ryan	residents	41	II.2.12.14.a. What does "upgrade for classification purposes" mean? Proposal: Define this term.	5	Quoting state statute	B	
	8/30/16	Bernie & Nancy Ryan	residents	42	II.2.12.15.d. If this part applies to the Chapter it should stand alone, not be placed in ".11." People will not look and the Table of Contents lists Subdivision Procedure as this part. Proposal: make it into ".12" and renumber the rest and correct internal cross references.	7	Citation does not agree with partial citation on comment; therefore, comment cannot be understood.	B	
	8/30/16	Bernie & Nancy Ryan	residents	42	II.2.12.15.d. Simply determining there is a party "...adversely affected" by a plat vacation is not clear guidance to the BOC. if such adverse affect is found, is the vacation denied? Proposal: BOC shall determine whether the benefits of the plat vacation outweigh the adverse affects on the individual.	5	Quoting state statute. 47-6-7	B	
	9/8/16	Paul Dulin	resident	43	II.2.12.16. Exemptions (also linkage to Article 4 on Subdivisions). What about in cases wherein the subdivision of a current parcel is proposed to convey land (farmland, rangelands, open land or lots) to relatives of the current owner, or to a non-profit as a legacy (or tax exemption) donation, and the transaction may not include any development or land use change? Could this not be done	5	Yes, these types of exemptions are permitted in the UDC as well as State Statutes.	B	

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	8/30/16	Bernie & Nancy Ryan	residents	43	II.2.12.16.a. On the matter of exemptions, they are listed in Art VII. One of them is "...sale or donation as a gift to an immediate family member." First, under NM law is a testamentary or intestate transfer a gift? Second, the Draft contains no definition of immediate family member. Who is not included in this category? Proposal: Clarify whether testamentary or intestate transfers are gifts. Define immediate family member.	1	Definition of immediate family member copied from state statute and added to glossary; whether a testamentary or intestate transfer is a gift does not affect the language of this ordinance.	G
	8/30/16	Bernie & Nancy Ryan	residents	43	II.2.12.16.b.ii. The notice must be executed and transferred in a recoverable and verifiable format. It is unclear what "...personal notification" means, but such notice must be something the public and government agencies can find and read. Proposal: Change "personal notification" to "notify by electronic mail." Then change "ii(a)" to "...the Zoning Administrator fails to notify the applicant...". Note this part uses "applicant" and "claimants" as if they are the same person. If they are, then use one term consistently.	1	Changed claimant to applicant; personal notification is appropriate.	G
	8/30/16	Bernie & Nancy Ryan	residents	44	II.2.12.17.a and .b. The intent of this seems clear. A question arises. In ".a" a minor replat is something that does not "...materially affect" existing lots. In ".b." Any amendment that "alters" existing lots is a major replat and requires County approval. Is this to be read that any lot line adjustment is, therefore, a major replat? Proposal: clarify whether lot line adjustments are material and provide a better standard for determining what is a minor replat.	1	Materially is determined on a case by case basis. Section rewritten and clarified.	G
	8/31/16	P. Hughs	resident	44	II.2.13. How is it that the UDC can so favor community types that it bypasses the decisional criteria in 2.3.2.a? How do you enforce 2.3.2.a in a traditional zone change when you don't require it for a community type that may have as much or more impact?	5	Community Type is not a zone change; therefore, CTs are permissible developments regardless of zoning category. This is a policy choice that is before the P&Z and BOCC as they consider the UDC.	B
	8/31/16	P. Hughs	resident	44	II.2.13.1. By definition in this paragraph and in glossary, a community type is zoning. Can you site a state law that allows a zone change without a public hearing. Otherwise, what gives authority to declare that a rezone is not a rezone. Is it possible to declare something to be lawful that is not in accordance with state law? This deserves a full explanation.	5	Community Type is not a zone change; therefore, CTs are permissible developments regardless of zoning category. This is a policy choice that is before the P&Z and BOCC as they consider the UDC.	B
	9/1/16	C. D. Huestis	former P&Z, resident	44	II.2.13.1. "...over 10 acres". (?) If this means "10 acres or more", say so. If it intends to Exclude exactly 10 acres, say so. Suggested Resolution: Say what you mean. (See the construction on P. 47 at paragraph 2.15.2 b)	1	Changed to 10 acres or greater	G

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	8/30/16	Bob Hearn	ETA	44	<p>II.2.13.1. Point 1</p> <p>I offer comments on this section, and the changes from Version 4 to FV.</p> <p>In general, I would appreciate a discussion of the differences between FV Art 2.13.1 and Draft 4 Art 2.7.1. Of special interest is the deletion of the internal zoning clause in Draft 4 –</p> <p>The plat map of the subdivision applies the standards of certain zones selected from section 5.1 of this chapter to the land within the subdivision, including lots, land in civic space, and its thoroughfares. These zoning standards shall then be enforceable by the County within the subdivision.</p> <p>That seems to say that there is no zoning in the CT, but “implied” zoning shall be there and be enforced. I don’t understand it, but wonder why it was taken out. Explain why this material was taken out from Draft 4, and what difference it makes to the view of CTs</p>	5	To eliminate confusion, development intensity standards were consolidated and rewritten in Article 3.	B
	8/30/16	Bob Hearn	ETA	44	<p>II.2.13.1. Point 2</p> <p>From FV 2.13.1 Approval of a community type shall not be considered a zone change</p> <p>This is a logical challenge for me –</p> <p>A CT can go anywhere, regardless of zoning on the land where it is to be located –</p> <p>A community type as defined in Article 3 is an optional development standard permitted in every Zoning District on any parcel of land over 10 acres within the County.</p> <p>For illustration, let’s say I want to build a Village on a piece of land near my house now zoned Industrial. No zoning problem – when I do that, the land in the Village no longer has ANY Zone, but it used to be Industrial. Isn’t that a change?</p> <p>From the standpoint of my neighborhood, we all expected some industrial development down there, with jobs and action. But we got a Village. Without zoning? If that’s the case, what use is zoning to begin with? I would appreciate an explanation to help cure my logical dilemma.</p> <p>I sense that there are several points where matters dealing with Zoning and Community Types are swept aside to be sure the CTs can be freed from anything to do with Zoning. I don’t understand it. Please explain why this is not a zoning change. The Zone in place does change. It seems to be an argument made to avoid the difficulty of having to go through a rezoning – but what is it all about? And why, then, is this benefit given only to CTs? Why not to “traditional subdivisions”?</p>	1	The development of a community type does not alter the underlying zone. Community Types will not be allowed in industrial zones.	G
	8/30/16	Bob Hearn	ETA	44	<p>II.2.13.1. Point 3</p> <p>It appears that the CTs have no internal zoning. That idea carries forward from statements in earlier drafts and the fact that if they did have internal zoning, that could only come about through rezoning, and that isn’t going to happen with CTs. Is that right? If that is the case, how is the internal organization of a CT maintained over time? Without zoning, how are the uses separated, how are landowners who want to change things kept in line, who says we can’t build whatever as things work out.</p> <p>Say that part of a Village sells well and the developer needs more, like high density homes. But the low density residential isn’t selling at all well. So can he just change the planned low density into high and build apartments? It’s another place I’m perplexed. There are other issues for me with Community Types, but they come in Art 3. Please explain. Is it correct that CTs have NO internal zoning, and/or – If they DO, how is that achieved without rezoning; and If they DON’T, how are they maintained into the future, guiding changes and desires of landowners?</p>	5	The lots within the CT are associated with the Development Intensities. Specific uses are governed by the land use matrix.	
	8/30/16	Bob Hearn	ETA	44	<p>II.2.13.1. Point 4</p> <p>I am happy to see the much more complete treatment of Substantial Completion</p>	1	Existing requirements inserted but not in this section.	G

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	9/14/16	Bob Hearn	ETZ	44	This entire article is quite different from its earlier equivalent, 2.7, in Draft 4. The changes include definitions of the status and controls on Community Types, criteria for approving them, and authority to approve them. The total rewrite for the Final Version begs a total review, since earlier reviews are not relevant to this version. This is a key section of the UDC as it sets up and launches Community Types, and I propose that it receive careful attention, and explanation from Staff on at least the points raised here, and others which may come up. Solution: Staff discuss key parts of Article 2.13 overall, and by parts as they are mentioned here and in other inputs. Present answers to specific questions and comments, and overall rationale for changes from Draft 4.	3	Procedures and Design Criteria inserted that were lacking in V4	B
	8/30/16	Bob Hearn	ETA	44	II.2.13.1 The first part of this article says 2.13.1 General Provisions and Procedures Approval of a community type shall not be considered a zone change. A community type as defined in Article 3 is an optional development standard permitted in every Zoning District on any parcel of land over 10 acres within the County. Community types shall be in accordance with the sector plan as defined by the Comprehensive Plan in Table 3.1 Community Types by Sector. There is also this section, which says the same thing -2.13.3 Decisional Criteria for Community Types c. Each community type shall be allocated to the Sectors indicated in Section 3.1.1 and Table 3.1. Table 3.1 says Community Types are "Recommended" by Sector, and there does not appear to be a "shall" level of control here. This statement about the effect of Sectors appears to be in error. It needs to reflect the nature of the Recommendation in Table 3.1, which is less restrictive than the "shall" in this article. Perhaps in place of "shall" as used here, it might say "if agreeable", or "as it fits the developer's plans". <u>Also see following discussion of the Sectors Recommend.</u>	3	P&Z changed permitted to required per the sector plan map in the Comp Plan.	B
	8/30/16	Bob Hearn	ETA	44	II.2.13.1? It appears that the CTs have no internal zoning or other means of officially controlling land use once they are built and sold. If they did have internal zoning, that would take zoning action, which CTs don't deal with – is that right? A case illustrating my thought is – suppose I buy a lot in a CT of some sort, and it is set put to be L (low density). But after some years, I decide a duplex or triplex, not suitable for the L use, would be better, and I set out to build one. Or maybe I want to construct a small office. May I do that? What is there to stop me, and how would that authority be exercised, by whom, on what basis, etc.	3	Applicant would need to resubmit for a CT.	B
	8/30/16	Bernie & Nancy Ryan	residents	44	II.2.13.1. If one reads the definition of Community Type and the definition of Zoning, it is very difficult to find an analytical difference between the two. That makes more difficult reaching the conclusion that the Draft is not a zoning document as Community Types appear to establish a zoning apparatus. This is more evident when reading "a.i-VII" together with the definition of Zoning. The approval process for Community Types does not meet any reasonable standard of accountability. The Zoning Administrator is not required to adhere to agency recommendations given following their review, or even give them great weight. The agencies are not identified. These developments can cover huge areas without approval of accountable elected officials. Ironically, many smaller developments do require such approval.	5	Community Type is not a zone change; therefore, CTs are permissible developments regardless of zoning category. This is a policy choice that is before the P&Z and BOCC as they consider the UDC.	B

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	8/30/16	Bob Hearn	ETA	44	II.2.13.2. This section has, near the beginning – 2.13.2 Application Requirements a. A detailed site plan meeting the requirements of Section 2.8.2 Detailed Site Plan Standards and Article 3 to include specific details such as, but not limited to:I go back and read Section 2.8.2 and it has separate material related more to subdivisions, and some material related to CTs that seems to belong more in the 2.13.2 section, and it repeats some of 2.13.2, and finally sets up a circular reference taking the reader from one to the other and back again. It appears that in creating 2.13.2 for the Final Version, parts were created, parts were taken from 2.8.2 and possibly elsewhere, but the result is confusing and incomplete. In addition, to require that the site plan meet the requirements of 2.8.2, 2.13.2, and Article 3 gets into some vague territory for the applicant. This Application Requirement for CTs, 2.13.2, should be clear, concise, and complete so the applicant knows what is expected of him, and how to meet it. I suggest that the section be reviewed carefully in this light, that it be separated from 2.8.2 to stand on its own, and that references to Article 3 be made very specific. It's a big article.	1	Detailed site plan requirements changed to a conceptual site plan. Application requirements and decisional criteria are being revised.	G
	8/31/16	P. Hughs	resident	44	II.2.13.2. If a subdivision is not planned does this mean all property is jointly held or owned by 1 person? Otherwise, how can a low density single family residential property, required in a small village, be owned by the resident of that single family property if a subdivision does not take place? Please explain.	1	As a practical matter, all community types will typically require a subdivision. Section has been revised.	G
	9/1/16	C. D. Huestis	former P&Z, resident	45	II.2.13.2.a.vii. "...any other information...necessary..." This is dangerous to the point of being not only arbitrary, but also ad hoc to the point of uneven application of data requirements. Suggested Resolution: Either remove it or be considerably more descriptive of what "other information" may be "necessary."	1	"reasonably" has been added.	G
	8/30/16	Bob Hearn	ETA	45	II.2.13.2.b. 2.13.2 Application Requirements b. The Traffic Impact Analysis (TIA) shall be in compliance with the requirements outlined in Article 6 Development Construction Standards. The level and extent of the required TIA shall be determined by the County Engineering Services based on the review of the Site Threshold Analysis (STA). Note that there are no requirements for a TIA that I can find, in anything related to the CTs or this section. If there is no reference to the TIA requirement, in fact, this statement might be removed.	1	Site Threshold Analysis added as a requirement. Details of the TIA are outlined in Art 6 as required in this section	G
	8/30/16	Bob Hearn	ETA	45	II.2.13.3. This section is new – as far as I can find, there is no decision criteria or authority on CTs specified in Draft 4, an oversight. 2.13.3 Decisional Criteria for Community Types The Zoning Administrator may administratively approve a community type...And a later statement in the same section – e. The Zoning Administrator shall notify the applicant of the approval, approval with conditions, or denial for the community type in writing. It appears that the PandZ and the BOCC are left out of this process, and the Zoning Administrator has complete control of the CT approval and development process. The approval process is just outlined, and it appears that the Zoning Administrator has the latitude to make it as easy or as difficult as he deems appropriate, without oversight. That seems strange, and puts a great deal of authority in the hands of the Zoning Administrator, especially since most of the development in the County, by the UDC, will be Community Types. Have I read this right – does the ZA have this total authority over the CTs? If not, where are the other approvals specified? If so, does the PandZ consider this a reasonable arrangement?	3	ZA has the authority to approve or deny a CT based on decisional criteria and this decision can be appealed to the P&Z.	B
	8/30/16	Bob Hearn	ETA	45	II.2.13.2., 3. The UDC decisional criteria, inputs, and analysis are much reduced from the equivalent for non-CT subdivisions. The CTs don't require review by various agencies and in general appear to have fewer requirements to meet. Review the comparable criteria for CT and non-CT developments, and make sure the differences are understood and agreeable to the PandZ and others.	5	CTs do require agency review, DRC review and a Town Hall meeting.	B

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	8/30/16	Bob Hearn	ETA	45	II.2.13.1., 2., 3., 4. The CTs have to be designed in detail, with the only guidance in the UDC that the space allocations and used align with the percentages in the tables, and the R, L, M. H uses, and a bit of guidance on roads and such here and there. Within those limits, there are infinite possibilities. Are there any other design guides or restrictions or requirements placed on the developer? Does the developer actually have a very free hand to arrange the blocks of land in his project in any way he chooses? The Comp Plan indicates that CTs in different areas will be, somehow, different, reflecting the heritage of the area. How is this reflected in design, architecture, and details? Does Staff have any say in these decisions? Staff present the process for the creation of the design of a CT, and how the Staff might interact with the developer's work in this area. Indicate how the designs of CTs are anticipated to reflect the areas where they are being built. This seems like an important area to support with specifics about who does what.	1	Decisional criteria for CT are outlined in Articles 3,4,5,6 and has been revised.	G
	8/31/16	P. Hughs	resident	45	II.2.13.3. A de facto zone change that normally requires a public hearing is administratively approved. Explain where authority to do this comes from.	5	Community Type is not a zone change; therefore, CTs are permissible developments regardless of zoning category. This is a policy choice that is before the P&Z and BOCC as they consider the UDC	B
	9/1/16	C. D. Huestis	former P&Z, resident	45	II.2.13.3.d. "Community Types shall have water and wastewater services". This clearly means some form of wastewater treatment facility. It should remain as a "requirement". HOWEVER, note that this places the county at the mercy of numerous independent governmental units such as Mutual Domestics, various water "Authorities" and municipalities for this service. These governmental units have legally enforceable "service area" jurisdictions for both domestic and waste water services. They defend these areas of jurisdiction vigorously. Some of them have no reasonable capability to provide waste water services; others are providing that service currently. Suggested Resolution: It would behoove the County to do what it can to facilitate providing such services that it treats as "required" for economic development.	1	Table 3.2 has been amended.	G
	9/7/16	C. D. Huestis	former P&Z, resident	45	II.2.13.3.d. "Each community type shall have water and wastewater services" The requirement for a "Small Village" has been changed to "optional" in a descriptive matrix. The language in this paragraph needs to reflect the matrix change	1	Section has been rephrased	G
	8/31/16	Bob Hearn	ETA	45-46	II.2.13.3.,4. Decisional Criteria for Community Types. The Zoning Administrator may administratively approve a community type. It appears that the approval for Community Types has been changed from PandZ to BOCC, like other developments, to an administrative action. Given that CTs seem destined to become the primary type of development in the County, is it appropriate to make this change in approval, so that, apparently, the PandZ and BOCC are not in the loop? Did I read this right? Please discuss.	5	As a practical matter, all community types will typically require a subdivision and a public hearing. The delegation of decision making authority is a policy matter.	B
	8/30/16	Bob Hearn	ETA	46	II.2.13.4. 2.13.4 Notice & Approval Procedures for Community Types f. When approved, the community type shall be mapped on the Official Zoning Map of Doña Ana County. Mapped How? It is not a zone – curious. It needs to be called something, but what, that is consistent with being on the Official Zoning Map? Is this right? How will the CT be designated on the map?		CTs will be shown on the map as the name of the CT along with the Case #.	B

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	8/31/16	P. Hughs	resident	46	II.2.13.4.c. If a subdivision application is not submitted, what agencies will ZA consult with in reviewing community type application? What will those agencies, if any, be looking for? Clarify in text.	1	All CTs must comply with subdivision standards. Section 3.2.3.d revised accordingly.	G
	8/31/16	P. Hughs	resident	46	II.2.13.4.f. Community types are mapped on the official zoning map but are considered a zone change??? What happens to original zoning? Is it still on the map? Explain.	3	The zoning map will reflect underlying zoning and community type. Original zoning remains the same.	B
	8/30/16	Bernie & Nancy Ryan	residents	46	II.2.14. This is appropriate. Earlier parts of the Draft do not make clear the extensions should only granted when the circumstances are beyond the control of the applicant. However, many of those parts grant 180 day extensions so there may be inconsistencies between some of these parts. Also, this appears to allow multiple extensions--but with no standards for granting the second and subsequent extensions. Proposal: Review all extensions to make certain the time period for extensions are uniform when appropriate. Make the extensions contingent upon circumstances beyond the control of the applicant unless some other reason should be given. Never give the Zoning Administrator the power to grant an extension solely at her/his discretion--that provides too much likelihood of inconsistent outcomes In similar circumstances.	1	Section revised to require circumstances beyond control of the applicant on all extensions.	G
	9/21/16	Bob Hearn	ETA	46	Section 2.13.1 Now added "...except industrial zones..." What does that mean? If I want to do a 100 Acre Village on a plot that is 99 acres some residential zone, and 1 acre industrial, I can't, or I have to get a rezoning for that last 1 acre? The word "except" notes that the conditions for the other land don't apply, but it doesn't say what does - it needs to be explained. And is it OK to put a CT into a Commercial Zone? What about N zones? It says "...permitted in EVERY zoning district..." -----NOTE----- There seems to be a crossover and possible confusion in the controlling of the placement of CTs between Zones and Sectors. In this section 2.13.1, the control is by Zones, with I Zone specifically exempted. But in Table 3.1, the control is given over to Sectors, independent of Zones. What if an I zoned parcel is in a G1 Sector? 2.13.1 says a CT cannot go there, but Table 3.1 says it is recommended. I think the intention of all of this is clear, but as in many cases where major changes are made quickly, there needs to be careful consideration of other effects. Sectors? Zones?	5	1) It means, CT's are not permitted in Industrial zones. 2) Correct, or only develop the 99 acres. 3) Yes 4) No, see Table 5.1 5) I zoned parcel not eligible for CT's 6) Commentary	B
	9/7/16	C. D. Huestis	former P&Z, resident	46-47	Formatting errors	1	Formatting improved	G
	8/30/16	Bernie & Nancy Ryan	residents	47	II.2.15.2.a. There is no definition of Land Use Application. If a Master Use Application is a Land Use Application the provisions of "2.14." apply. If a Master Use Application is not a Land Use Application then no time limit is placed on the extensions and no standards are articulated. Proposal: Clarify whether 2.14 applies to Master Use Applications. If it does not, place time limits and standards on granting the extension.	5	The expiration applies to all land use applications including master plans.	B
	8/30/16	Bernie & Nancy Ryan	residents	47	II.2.15.2.b. Are the numbers in this part cumulative? In other words is the total 10 or fewer acres or is each development 10 or fewer acres? Same inquiry for the number of lots. There is no standard for the Zoning Administrator to grant an exemption for the Master Plan requirement. Proposal: Clarify if the numbers are cumulative. Establish a standard for granting an exemption from the Master Plan requirement and that the requirement be in writing and state the reasons.	1	Not cumulative, reworded for clarity.	G

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	8/30/16	Bernie & Nancy Ryan	residents	47	II.2.15.3. I'd "d." Is really about conceptual plan, this seems out of sequence. The lead-in paragraph discusses the conceptual plan for the Master Plan. Then "a.-c." discuss the Master Plan. Then "d." discusses the contents of the Conceptual Plan. Proposal: place "d." following the lead-in paragraph and correct internal cross references. Or, take out "conceptual" from "d." Note: Should Master Plans be required to include the existence of threatened or endangered flora and fauna? In "e" there is an option for this but, given the likelihood of litigation around these issues, perhaps this should be a mandate from the beginning.	1	Reorganized to clarify. Staff does not recommend such detail regarding threatened species being presented at master plan stage.	G	
	9/7/16	C. D. Huestis	former P&Z, resident	47	II.2.15.3.b. Is this parenthetical of "(including all parties...) necessary. If it is then the Glossary is incomplete. This is hard because "owners" may vary based on context. However, to have an "owner" defined in the Glossary and then defined otherwise elsewhere leads to confusion and maybe other problems	1	() Removed	G	
	8/31/16	P. Hughs	resident	49	II.2.15.d.viii. Wouldn't proof that utilities can be provided be important?	3	Ready, Willing and Able letter required at subdivision stage.	B	
	8/30/16	Bernie & Nancy Ryan	residents	49	II.2.15.3.e. It is good to have standards for requiring additional information. It is inappropriate to have no standards for waiving the required information, as is stated in "e." Proposal: Either delete "waive" or state clearly the information is not needed and make the declaration in written form with stated reasons.	1	amended to limit the exercise of discretion by a reasonableness standard.	G	
	9/7/16	C. D. Huestis	former P&Z, resident	49	II.2.15.3.e. "...if it is determined... By WHOM? This is a very complex paragraph establishing various authorities to open ended things. The authority to decide needs to be specified. Accountably must be assigned.	1	Waiver or requirement of additional information may be made at each stage of the process and at the discretion of DRC, ZA, and P&Z if determined to be reasonably necessary.	G	
	9/1/16	C. D. Huestis	former P&Z, resident	49	II.2.15.3.f. Internal "Departments" have 10 working days to respond to the "ZA" -- a mere appointee of the Community Development Director. What if one or more does NOT so respond??? See also discussion of the ZA above (1.4.2) —and previous commentary on this matter by this writer. (cdh). Suggested Resolution: There should be a statement that no, or an untimely, response is presumed to constitute an "approval" of the subject of the requested response. Otherwise this becomes meaningless. A toothless ZA is just a clerk!	1	Amended for clarity.	G	
	9/7/16	C. D. Huestis	former P&Z, resident	49	II.2.15.3.f. "10 working days". Why 'working' days here? Elsewhere in the code it is just "xx days". BTW: What is the consequence if the "department" does NOT so respond? No consequence, no effect Remove "working" and leave it just "days". It might be useful in the Glossary to define "day". Try this: the word "days" as used herein shall mean consecutive block periods of time of 24 consecutive hours each commencing at 0001 hours.	5	Working days means not weekends or holidays. See 12-2A-7.E.	B	
	8/30/16	Bernie & Nancy Ryan	residents	49	II.2.15.3.g. Note the Master Plan must be approved by the reviewing agencies. This is in contrast to what happens with Community Types which do not require approval of reviewing agencies.	5	Reviewing agencies do not approve master plans or community types.	B	
	8/30/16	Bernie & Nancy Ryan	residents	49	II.2.15.5.b. Residents of what? The area covered by the Plan? All of Dona Ana County? Proposal: Either state of what the persons are residents or change it to "the public."	1	Residents changed to Persons	G	
	9/9/16	Molly Magnuson, P.E. Water Use & Conservation Bureau Chief	NM Office of the State Engineer	49	Section 2.15.3.f states "Master plans will be processed by the Zoning Administrator and sent to the applicable reviewing agencies for review, comment, and recommendation. Each department shall have 10 working days to complete the review. Written reports, containing comments and recommendations shall be returned to the Zoning Administrator." Consider removing "and sent to the applicable reviewing agencies for review, comment, and recommendation" as Master Plan developments are not formally covered under the New Mexico Subdivision Act	1	Deleted "applicable reviewing agency."		

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	9/7/16	C. D. Huestis	former P&Z, resident	50	II.2.15.5.d. Why is this submission made to the Community Development Director, and not to the all-powerful (elsewhere) Zoning Authority? The confusion reigns eternal!	5	The second D in CDD stands for Department	B
	8/30/16	Bernie & Nancy Ryan	residents	50	II.2.16. Are all Zoning Administrator decisions recorded? The language of this part references Recorded decisions. Proposal: Clarity whether all Zoning Administrator decisions are recorded. If not, clarify that the time for appeal begins to run upon notice of the decision being provided to the affected party.	1	Rewritten to clarify. In Section 2.2.2.d	G
	8/30/16	Bernie & Nancy Ryan	residents	51	II.2.16.2.b.iii and v. There is a definition of "aggrieved party" (Art VII) which requires a specific personal or legal interest as distinguished from a general interest or is likely to be specifically and injuriously affected. In "iii" and "v" the term "interest" is used to give appellate standing to a Neighborhood association (iii).and any person the P&Z./BOC has an "interest" in the matter. This is unclear. Is this a specific legal interest or a general interest? Proposal: Clarify the type of interest that must be shown to have appellate standing. If it is a general interest and this applies to any person, that is a very broad reach.	1	Rewritten to clarify.	G
	8/30/16	Bernie & Nancy Ryan	residents		It is good to require substantial changes undergo a thorough review. The examples help. If the examples are changed to include increases in industrial uses or significant reductions in open space this would strengthen the likelihood of a better deliberative and review process. The Draft does not include a standard For the Zoning Administrator to declare a change substantial. Proposal: Add increased industrial uses and decreased open space to examples. Establish a standard for declaring the change to be substantial and that the declaration be written with reasons.	5	Concerns covered in 2.15.5.f.i.	B
	9/22/16	Kari Bachman	resident, DACU	51	Section 2.15.6.f. Removal of any amenities from the original master plan that would impact health should be considered a substantial modification. (Include this as a new item in the list.)	5	No changes made, but can be covered with 2.15.6.f.v.	B
ARTICLE 3								
SECTOR PLAN AND COMMUNITY TYPES								

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	9/13/16	Bob Hearn	ETA	53	<p>This series of comments is directed at the idea of Sectors, what they do, and how they are determined. I realize that the Sectors originate in the Comp Plan, and are approved, but the implementation is still available for discussion.</p> <p>The thrust of the Sector idea is that there will be planning for what development is to take place in the County, what type, where, when. The oft-stated background is that the County will have an "intended growth plan" and decide what growth would be appropriate for all county areas, and what types of development are right for different areas.</p> <p>This is clearly a far-reaching authority and, if it continues, seems worthy of strong community input to the process which determines the boundaries and characteristics of sectors. As it stands now, staff are making up the Sector maps. I propose it would be more appropriate to have those decisions made by a community group with a cross section of interests. It is worth being very careful, in my mind, in the process of setting the County staff in charge of the What, Where, and When aspects of development.</p> <p>From the Final Version, UDC - ARTICLE 3 SECTOR PLAN AND COMMUNITY TYPES</p> <p>The Sector Plan allocates each community type to one or more sectors in locations suitable, with respect to infrastructure, transportation and adjacent development, by ensuring that each community type is of a size and internal design appropriate to its location and surroundings. (This is no longer a function for the overall planning, and then developers and the market place)</p> <p>3.1 SECTOR PLAN ADOPTED</p> <p>The BOCC has adopted the Sector Plan in support of Plan 2040--The Comprehensive Plan for Doña Ana County ("Comprehensive Plan"). The Sector Plan describes the community types that are recommended in each Sector (See Section 3.1.1 Sectors and Table 3.1. Community Types by Sector).</p> <p>The Sector Plan considers the various development scenarios in the Comprehensive Plan and considers the physical attributes of the land and its current patterns of development, including proximity to existing infrastructure.</p> <p>3.1.1 Sectors</p> <p>Each sector, as defined by the Comprehensive Plan, is used as a guide to express whether or not a particular area is intended for growth and what type of growth is expected: controlled, intended or targeted; and each sector is used for the following purposes (This amounts to a good deal of control over areas that have been traditionally carried out by planning in general, then decisions by the developers, who risk their money, and the marketplace, which responds to needs most reliably.)Staff consider alternate methods for determining areas of "intended" growth and development types, including more participation by the PandZ, the public, special committees, or reducing this control.</p> <p>Report to the PandZ and the public about possibilities and recommendations.</p>	5	These sector plans were created from input received from the public at the Comp Plan input meetings. The Comp Plan can be amended and is subject to annual review by the P&Z.	B
	9/13/16	Bob Hearn	ETA	53	<p>III.3.1.1. 3.1.1 Sectors</p> <p>b. The O2 Sector consists of lands of rural character, such as a Small Village, in which development shall be limited to not overburden resources or natural systems.</p> <p>A Small Village is not "lands".</p> <p>What if I have land the ends up in an O2 Sector, in the R zone, but it happens to have sewer and roads right at hand – it is the corner of my farm, next to the local highway. How do I get relieved from the Sector assignment so I can do a more reasonable development? Staff report on the way the use of Sectors will respond to situations like this, where the zoning or general features are inconsistent in an area with the Sector assignment.</p> <p>Consider having this practice, or at least a review, included in the UDC.</p>		CT's are optional development standards. Sectors are areas identified in the Comp Plan as potential sites for CTs. You can still develop the property according to the underlying zoning or request a zone change.	

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	9/13/16	Bob Hearn	ETA	54	<p>T3.1 In this table, it says that specific Community Types are "Recommended" in various Sectors. What does that mean?</p> <p>Say I have 20 acres and it is in an O2 Sector, where only a Small Village is Recommended, but I want to build a Village. What are my options?</p> <p>I see nowhere in the document that there are repercussions for not following the Recommendations. There are many places where it says that the Sector type Recommendations shall be followed, but so what?</p> <p>There is nothing in Table 3.1 or elsewhere that I can find that says I can't build a Village in an O2 Sector, if I can meet the other requirements to build a Village there. Who has the authority to tell me I can't do that? On what basis?</p> <p>When I was growing up, if I started to do something and my Dad said "I would recommend that you NOT DO that", I had a pretty good idea what would happen if I didn't follow recommendations.</p> <p>In this case, there seems to be no "or else", and no actual basis for denying my application to do what I want to with my property. ??Discuss and explain. What is the actual practical value of the "Recommendation" in this table, what is its force, how should a developer think about it?</p> <p>If Sectors only "Recommend" an outcome, it seems better to take them out of the UDC altogether.</p> <p>As it stands, it is just confusing.</p> <p>I recommend that, if this is the total power of Sectors, that they be taken out of the UDC as ineffective and confusing. It is never good to have rules like this.</p> <p>Over time, maybe they can be tightened up or made more useful, and included back into the UDC at an update</p>	5	Recommended was changed from Permitted by the P&Z but still need R Recommended to pursue a CT. You need 40 acres to build a Village and the ZA has the authority to deny or approve. This decision can be appealed to the P&Z.		

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	9/13/16	Bob Hearn	ETA	53-54	<p>III.3.1. & T3.1 Zones are treated with certain rigorous legal processes (most of the time) because they are an instance of the government "taking" from landowners, and this "taking" is a power that is carefully regulated. "Taking" here is defined generally as restricting or limiting how a land owner can use or have access to his land. It is NOT a literal taking of ownership, as in the use of Imminent Domain, but a legal restriction. Sectors, it appears to me, do exactly the same thing. By restricting what Community Type(s) I can develop on my land, (see Table 3.1) they restrict and limit my use of my land, by government action. I believe that is a "taking" by the above definition, and that Sectors, the assignment and changes, should be dealt with the same way, with the same careful processes, as zoning and rezoning. If that turns out to be correct, that means that the current processing of Sectors, primarily through the Comprehensive Plan, which is not an ordinance and has no actual processes or procedures in it, is not right and the whole process needs to be moved into the UDC and set up correctly. But I may be off track. This bit from the infamous ABQ COMMONS Supreme Court case may be of interest – Supreme Court of New Mexico.</p> <p>ALBUQUERQUE COMMONS PARTNERSHIP, Petitioner-Petitioner, v. CITY COUNCIL OF the CITY OF ALBUQUERQUE, Respondent-Respondent {1} In Miller v. City of Albuquerque, 89 N.M. 503, 554 P.2d 665 (1976), this Court held that when a zoning authority rezones a piece of property to a more restrictive use (known as "downzoning"), the zone change must be justified by either a change in the surrounding community or a mistake in the original zoning. We later reaffirmed this rule in Davis v. City of Albuquerque, 98 N.M. 319, 648 P.2d 777 (1982), and applied it to a rezoning pursuant to a sector plan. In this case, the City of Albuquerque adopted a new sector plan that restricted the uses on Petitioner's property. Petitioner argues, and the district court agreed, that, in adopting this sector plan, the City downzoned Petitioner's property without complying with Miller and in violation of Petitioner's procedural due process rights. A jury also agreed with Petitioner and awarded damages under 42 U.S.C. § 1983. {2} The City claims, and the Court of Appeals agreed in reversing the damages award, that Miller and Davis do not apply to the City's zoning action because (1) the adoption of the sector plan in this case was a legislative act, and (2) the zone change was done pursuant to a text amendment, as opposed to a map amendment, and was therefore not the type of zone change to which Miller and Davis apply.</p> <p>See Albuquerque Commons P'ship v. City Council of the City of Albuquerque, 2006-NMCA-143, 140 N.M. 751, 149 P.3d 67, cert granted, 2006-NMCERT-011, 140 N.M. 846, 149 P.3d 943 (Commons II). We now hold that the City's actions did constitute a downzoning of Petitioner's property without complying with important standards set forth in Miller and Davis, which we reaffirm in this Opinion. Accordingly, we reverse the Court of Appeals and remand for further proceedings. It seems to me that this says the Sectors are, indeed, zoning, and must be treated accordingly. The County Sectors are applied in the Comp Plan, which may be legislative, although it is not an ordinance – but that doesn't seem to matter</p> <p>Please discuss, and make clear what the legal difference between Sectors and Zones is, that lets Sectors be treated as something different from Zones, and in particular, why are Sectors not an instance of government "taking".</p>	5	CT's are optional development standards. Sectors are areas identified in the Comp Plan as potential sites for CTs. You can still develop the property according to the underlying zoning or request a zone change. There is no taking as you can still develop your property per the underlying zoning.	B	
	9/13/16	Bob Hearn	ETA	53-	<p>III.3. I observe that Art 3 from Draft 4 has been significantly rewritten for the Final Version. I haven't enough time to list all the changes, but some seem significant, and it seems right that all should be reviewed with Staff leading to identify the changes. Staff review Art 3 for changes from Draft 4 to the Final Version.</p> <p>Discuss significant changes and explain why they were made, and what their expected effect will be.</p> <p>Since Draft 4 was the result of a long period of review and revision, it seems appropriate to consider it as a good starting place, and to include changes to it with care and explanation.</p>		CTs where moved from Art 5 to Art3. This section was expanded and clarified and the land use matrix and site standards where added.		
	8/31/16	G. Daviet	P&Z	53	<p>III.3.1.1.d. G2 gets specific descriptions of CT's, but the other sectors don't. Unless it is enumerating differences for G2 sector, the descriptions should be omitted.</p>	1	Move the CT descriptions to 3.2.1 or remove the descriptions	G	

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	9/7/16	P. Hughs	resident	53	III.3.1.1.d.i. How do you ensure small villages are isolated? Couldn't large parcels be split down to 40 acres or smaller and develop into several small villages? Is there any provision in the UDC that would prevent cumulative villages from bypassing requirement for transportation adjacency?	3	They're not required to be isolated. Yes. Traffic impact analysis	B
	9/7/16	J.Woodward	resident	53	Placing the Sector Plan from the Comprehensive Plan directly into the UDC on p. 53 so that the UDC can stand alone and be more useful to residents.	5	Maps incorporated into the UDC become regulatory. The Comp Plan map is non-regulatory.	
	8/31/16	G. Daviet	P&Z	53	III.3.1.1.e. G3 is the only sector that doesn't list the permitted CT's.	1	List the CT's permitted in G3	G
	8/31/16	G. Daviet	P&Z	54	III.3.2.1.d.i Wrong table number for Land Use Matrix	1	Change Table # to 3.5	G
	8/10/16	B. Czerniak	P&Z, NMSU	54	3.2 "a new community on any parcel greater than 10 acres" - shouldn't this be 10 acres or greater?	1	Change to "10 acres or greater"	G
	9/8/16	Paul Dulin	resident	54	III.3.2. I believe a resolution was adopted by the P&Z to reduce the minimum lot size for development in the "R" Community Type. This change needs to be reflected in this section and others as applicable; for instance, in the first paragraph it states 10 acres	1	The 2 acre minimum applies to T2 in the Transect Zones and the 10 acres is still required for the development of a CT.	G
	9/7/16	P. Hughs	resident	54	III.3.2. Community types are really a rezone as implied by the phrase "regardless of underlying zoning" and should be subject to a quasi-judicial hearing as required by state law. Community types should be treated like all other rezones.	3	That is not a zone change issue	B
	9/7/16	P. Hughs	resident	54	III.3.2.1.a. See comment above	3	See above	B
	9/7/16	P. Hughs	resident	54	III.3.2.1.b. "shall be allocated" - "shall" is language that requires conditions to be met but Table 3.1 uses the word recommended for placement of community types in certain sectors. Make language agree.	1	Changed "shall;" to "should".	G
	9/21/16	Bob Hearn	ETA, resident	54	Section 3.2.1.b This now says CTs "should" be allocated as in Table 3.1, and not "shall". That seems to be due to the word "Recommended" appearing in Table 3.1, with no backup or enforcement, as I noted earlier. But changing "Shall" to "should" does not fix the problem. The Table 3.1 is still altogether ineffective. It would be a better indication of the proper approach to using Table 3.1 to say something like "might give a bit of consideration to..." rather than "should". To repeat - if Sectors may not have any real effect in the UDC, with their parameters set in the Comp Plan. The Comp Plan may not set law. In the absence of any further real structure or definition set in the UDC, the whole idea of Sectors is of no real value in the UDC and are a clear source of confusion. Best to just take the whole thing out altogether. Consider the Supreme Court findings about Sectors and legislative actions in my last comment on this, and there seems to be a clear cap on the whole idea. Sectors are not needed - there seems to be no upside to keeping them around.	5	"Shall" is mandatory "Should" allows discretion Table 3.1 provides guidance for the decisional criteria in 2.13 Review of the Sector Plan is part of the decisional criteria. The Sector Plan provides general guidance for Community Types.	B
	8/30/16	Staff	DAC Planning	55	Table 3.2, waste water services are optional rather than required for small villages.	1	Change to optional	G
		Staff	DAC Planning	55	3.2.2.b.ii change the landscape is agriculture	1	Inserted	G
	8/31/16	G. Daviet	P&Z	55	III.3.2.2.b.ii. 'R' intensity isn't used anywhere in Article 3	1	Remove 'R' intensity paragraph	G
	8/31/16	G. Daviet	P&Z	55	T3.2 Small villages and villages should permit septic systems	1	Change Wastewater Service from required to Optional for Small Village and Village	G
	9/7/16	P. Hughs	resident	56	III.3.2.3.b. When is a ped shed a ¼ radius and when is it ½ mile radius? Define?	1	1/2 mile radius deleted; only 1/4 mile radius required	G
	9/7/16	P. Hughs	resident	57	III.3.2.c.ii. & v. It is not clear what the difference is in these. Clarify?	1	Deleted c.ii.	G
	9/7/16	P. Hughs	resident	57	III.3.2.3.d. Didn't the consultant say there would be subdivisions within community types? This indicates there may not be. If there are not subdivisions in community types, would the P&Z have any review?	1	Revised. Community types require individual lots and blocks	G

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	9/7/16	P. Hughs	resident	57	III.3.2.4.c. Our community is very pluralistic. It would be unusual for a place of worship to be a common meeting place unless a church would also serve a secular function. Would churches be required to also act as a meeting hall?	3	No - a church is an example of such a common destination	B
	9/7/16	P. Hughs	resident	58	III.3.3. Do you mean Table 3.5 in second line?	1	Yes.	G
	8/31/16	G. Daviet	P&Z	56	T3.3 'R' is not used for any CT	1	Remove 'R' column	G
	8/31/16	G. Daviet	P&Z	56	T3.3 Civic Space requirement – these appear to be minimums, not actual ranges.	1	Change heading to “minimum percent”, and only list the lower percentage	G
	8/31/16	G. Daviet	P&Z	57	III.3.2.4.c. Small villages and villages should permit septic systems	1	Change Wastewater Service from required to Optional for Small Village and Village	G
	8/31/16	G. Daviet	P&Z	57	III.3.2.4.c Reference to Table 3.3. is missing as part of the criteria	1	Add reference to “Table 3.3”.	G
	8/31/16	G. Daviet	P&Z	57	III.3.2.5.?? The 'C' bullet got deleted	1	Properly place the 'C' bullet	G
	8/31/16	G. Daviet	P&Z	57	III.3.2.5.c [The C bullet is missing, but this should be 'C'] Small villages and villages should permit septic systems	1	Change Wastewater Service from required to Optional for Small Village and Village	G
	8/31/16	G. Daviet	P&Z	57	III.3.2.5.c Reference to Table 3.3. is missing as part of the criteria	1	Add reference to “Table 3.3”.	G
	8/31/16	G. Daviet	P&Z	57	III.3.2.6.b. Reference to Table 3.3. is missing as part of the criteria	1	Add reference to “Table 3.3”.	G
	8/31/16	G. Daviet	P&Z	58	III.3.2.7.c. Reference to Table 3.3. is missing as part of the criteria	1	Add reference to “Table 3.3”.	G
	8/31/16	G. Daviet	P&Z	58	III.3.2.8.c Reference to Table 3.3. is missing as part of the criteria	1	Add reference to “Table 3.3”.	G
	8/31/16	G. Daviet	P&Z	59	T3.4 Ag is 'NP' in L intensity, but permitted in 'M' intensity. This doesn't seem to make sense.	1	Remove 'Ag' row from T3.4	G
	8/31/16	G. Daviet	P&Z	60	T3.5 'N' is already defined as 'preserved from development' in 3.2.2.b.i It does not need to be included with blank entries for everything	1	Remove column 'N' from T3.5	G
	9/8/16	C. Tanski	resident	60	(1) Request that UDC guidelines maintain all 5 acre lots in the Las Alturas Del Sol community for noncommercial single family homes only as per existing HOA covenants. A) Remove permission contained in the UDC land use specifications for mobile homes, community recreational vehicle parks, and food trucks within our area. B) Specify within the final UDC that existing covenants will remain in effect, will control land use within communities and will overtake UDC specifications.	5	No changes necessary per P&Z	O
	8/31/16	G. Daviet	P&Z	60	T3.5 'R' is not used for any CT	3	Comments withdrawn	B
	8/31/16	G. Daviet	P&Z	60	T3.5 Residential – When did mobile homes become acceptable for CTs?	3	Per P&Z Mobile Homes removed from from the m, H residential section of T3.5	O
	8/31/16	G. Daviet	P&Z	61	T3.5 Large Format Facilites are listed as 'C'onditional in H intensities. No conditions are specified.	1	Specify the conditions for Large Format Facilities	G
	8/31/16	G. Daviet	P&Z	61	T3.5 Nightclubs are listed as 'C'onditional in H intensities. No conditions are specified.	1	Nightclubs deleted from Matrix	G
	9/7/16	P. Hughs	resident	61	T3.5 This table permits ag auction yards. Could these include livestock auctions? If so, holding areas for livestock are required. There is a great deal of truck traffic, dust, and odor which would have a significant impact on surrounding uses. For example, a small village can be up to 40 acres in size. According to Table 3.3, you can have as little as 30% of the acreage in L, M and H. The rest, 28 acres, could be in R which allows by right an auction yard. A good size livestock operation could be allowed without considering surrounding use and without a public hearing. Solution:Shouldn't this be treated more like an industrial use and require an SUP and a public hearing?	1	Requires a Special Use Permit for an auction yard	G
	9/7/16	P. Hughs	resident	61	T3.5 Define stock yard	5	Common definition used	B

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	9/7/16	P. Hughs	resident	61	T3.5 Define auction yard	1	Added to Art. 7 glossary - AUCTION YARD: A place to which the public may consign livestock for sale by auction open to public bidding	G	
	9/8/16	Paul Dulin	resident	62	T3.5 This table has fewer categories than Table 5.1, Land Use Classification for Zoning Districts; should they be the same in format with the same categories? For instance, in Table 3.5 under Agriculture, you have "Livestock Pen". But is that also considered a feedlot? Under Industrial, why are all the spaces blank for "Borrow pits, batching plants, and asphaltic mix plants"? Would this not be a special use in "R"?	3	CTs are mixed residential and commercial uses. Industrial uses are not allowed.	B	
	8/31/16	G. Daviet	P&Z	63	T3.6 'R' is not used for any CT	1	Remove 'R' row from T3.6	G	
	8/31/16	G. Daviet	P&Z	65	T3.8 'R' is not used for any CT	1	Remove Table 3.8 'R' site standards	G	
	9/7/16	P. Hughs	resident	65	T3.8.1. & 2. R5 and R5L are zones not community types. Shouldn't reference to R5 and R5L be omitted? Shouldn't different designation be given to "R" in community types to avoid confusion? Clarify and rename "R" zone.	1	Deleted R5 & R5L	G	
	8/31/16	G. Daviet	P&Z	68	T3.9E Primary Frontage setback is less for L than M. This conflicts with 3.2.2.b.iii.	1	Change Primary Frontage setback to 25 feet.	G	
	8/31/16	G. Daviet	P&Z	75	III.3.4.4.a. R intensity is not used in CT's.	1	Remove 3.4.4.a	G	
	9/7/16	P. Hughs	resident	80	III.3.4.10. Shop fronts with 50% glass? Does this make sense in the desert? What "traditional settlement" (see 3.2 pg. 54) sets a precedent for this? What justifies 50% glass front? Solution: This requirement should be left out.	5	It is more about daylight and cross-ventilation than merely tradition, and a positive pedestrian environment is key to retail success. Also, low E glass technology greatly mitigates heat gain and energy losses	B	
	9/7/16	P. Hughs	resident	80	III.3.4.11.a. Why "designate on the zoning map portions of thoroughfares" in which administrative variances are likely to be granted to masking of frontages when it carries no weight as to where CT's can go?	1	Designation portion of statement was deleted	G	
	8/31/16	G. Daviet	P&Z	81	III.3.4.11.c. Reference to Article 2.6.4 is incorrect	1	Change reference to Article 2.6.4	G	
	8/31/16	G. Daviet	P&Z	81	III.3.4.11.d Reference to Table 5.26 is incorrect	1	Change reference to Table 5.25	G	
	8/31/16	G. Daviet	P&Z	81	III.3.4.13 'R' intensity is not used in CT's	1	Remove section 3.4.13	G	
	9/7/16	P. Hughs	resident	81	III.3.4.13.c. Does this agree with Table 3.5? Correct?	1	It doesn't agree, so table 3.5 changed to be consistent with 3.4.13.c	G	
	9/7/16	P. Hughs	resident	82	III.3.4.13.d. Does this agree with Table 3.5?	1	Same as above	G	
	9/21/16	Bob Hearn	ETA		Articles 3 and 5 I have been trying to get a good handle on the total zoning picture, with all the types. I am now pondering – Are Development Intensities considered zoning? Table 3.6 adds the "N" Development Intensity, but it is not included in the other tables, 3.5, eg, for uses. Table 3.8 Lot Standards lists lots in R as having 10 acre minimum – with lots of red. Is this not completely done? Or not what the 2 acre agreement had to do with?	5	1) No, refer to DI in the Glossary 2) N is preserved from development 3) This only applies when R Development intensity is included in a CT – Different from T2	B	

ARTICLE 4

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SUBDIVISIONS								
	9/7/16	P. Hughs	resident	84	IV.4.1. NMSA 3-10-6 says BOCC "shall approve" subdivision plats. See 2.11.2. How will you satisfy this?	5	P&Z and recommending body	B
	9/7/16	P. Hughs	resident	84	IV.4.3. Article 4 is called Subdivisions. 4.3 (intro) refers to development intensity and not zoning districts. What is meant here? Clarify.	1	Definition for continuum of intensity was amended	G
	9/7/16	P. Hughs	resident	85	IV.4.3.a.11. If developer doesn't build his half of the road who will build it?	5	Developers will build other half, if this provisions applies	Y-B
	8/31/16	G. Daviet	P&Z	86	T4.1 Table 4.1 is not labelled correctly	1	Correctly label Table 4.1	G
	8/17/16	Staff	DAC	87	4.3.F(1) Change "platted" to "granted", add R5 to R, and change NMED to D1 and DL	1	Changed	G
	9/7/16	P. Hughs	resident	87	T?.2 4' sidewalk in R5/R5L zone? Why require sidewalks?Eliminate this requirement.	1	P&Z determined that sidewalks are eliminated	O-G
	9/7/16	P. Hughs	resident	88	IV.4.4.a.2. "Ped sheds shall contain at least one main civic space that is a square or plaza." This doesn't agree with Table 3.3.	5	Will add Green to 4.4.A.2, and Square to Table 3.3	G
	9/7/16	P. Hughs	resident	88	IV.4.4.a.3. Do you really mean playgrounds within .2 mile of every residential lot?	1	Yes	G
	9/7/16	P. Hughs	resident	88	IV.4.4.a.6. Who enforces maintenance strategy?State how this will be done?	5	Code Enforcement	B
	9/7/16	P. Hughs	resident	89	IV.4.3.b. Green is not a plaza or square. Clarify.	5	A square or plaza spatially bounded by landscaping rather than building frontages.	B
	9/7/16	P. Hughs	resident	92	IV.4.5.b.1.c.5. Athletic field lights should be turned off when not in use to protect surrounding uses from constant high intensity lighting. Add provision to require lights to be turned off when not in use.	1	Added	G
	9/7/16	P. Hughs	resident	92	IV.4.5.b.1. What about lighting in other zones?	5	Per 4.5.B.2 - Lighting shall comply with NMSA 1978, §§74-12 Night Sky Protection	B
	9/7/16	P. Hughs	resident	92	IV.4.5.b.1. R5 is not an intensity zone	1	Corrected	G
	9/7/16	P. Hughs	resident	93	IV.4.6.j.1. Does this agree with Table ?.2, pg 87?	5	Yes	B
	9/7/16	P. Hughs	resident	94	IV.4.7. This doesn't seem to be in conformance with Article 2.12.1. I don't see in Article 2 where it asks for a sketch plan, etc. Don't understand this section	5	See 2.12.2 pre-application process	B
ARTICLE 5 ZONING								
	8/30/16	Staff	DAC Planning	102	Section 5.1.1 Add "natural and rural conditions"	1	Change made	G
	8/30/16	Staff	DAC Planning	102	Delete T1 and change to N (Natural)...change to read "lands unsuitable for settlement or development"	1	Change made	G
	8/30/16	Staff	DAC Planning	102	Delete T2 and change to R (Rural)...change to read "Typical buildings to include single family residential site-built homes and mobile homes, ...on lots greater than 10 acres"	1	Change made	G
	9/18/16	P. Hughs	resident	102	Section 5.1.1 "These zoning districts are located and mapped zoned to existing historic communities." 5.1.1.a. says "each zone shall have a distinct character" as outlined in i through v. Existing historic communities will have their own character throughout. How will you map T zones to an already built environment, allow them to stay the way they are and make each zone fit the distinct character of a transect zone? Will new growth have to meet the standards of zones, walls, landscaping, etc. rather than allowing the existing nature of the built environment to stay? (I think that historic communities should have the means and incentives to protect their history rather than having to fit into something new as defined by this code.)	5	Transect Zones are intended to match how existing traditional communities are built. Yes - site standards of Transect Zones are intended to match the standards in existing communities. This allows historic communities to protect their history.	B

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	9/21/16	Bob Hearn	ETA, resident	102	Section 5.1.1 Shows "N" as the designation for what was T1. Why was this change made, and what is its significance? I don't understand Transect Zones, by present or former names, especially as they seem only to have been applied to the cores of the colonias. Will there be something to explain them, preferably in the UDC, so people faced with them can sort out what they mean?	1	1) N is to emphasis that this zone is preserved from development 2) Edited to clarify in 5.1.2.	G
	8/10/16	B. Czerniak	P&Z, NMSU	103	ix. "Zone permits small-scale commercial" (this isn't defined anywhere) so shouldn't it be neighborhood commercial?	1	Add as listed on Table 5.1	G
	8/17/16	Staff	DAC Planning	103	in R5 and R5L change greater than 5 acres to 5 acres or greater...	1	Change made	G
	9/18/16	P. Hughs	resident	103	Section 5.1.2.a.i Shouldn't this read 5 acres minimum lot size or 5 acres or greater? (Edit)	1	Corrected	G
	9/21/16	Bob Hearn	ETA, resident	103	Section 5.1.2 I was told earlier that the "R" zone was a use zone and would be on the list. But it is not there, and apparently does not exist any more – it is not included in Table 5.1, for instance. This is part of my uncertainty – what are the zones? Is "R" a zone? Does that designation have multiple meanings? Does it mean the same today as it did a week ago?	1	1) T2 was substituted to avoid confusion with the R Development Intensity in Article 3.	G
	9/18/16	P. Hughs	resident	103-104	Section 5.1.2.a.xv Do you mean properly buffered?	1	Corrected	G
	9/18/16	P. Hughs	resident	103-104	Community types have an N zone, transects have a T1 zone, but use zones have no comparable zone. Wouldn't an N use zone be the best zone for a place like the A Mountain recreation area or other natural lands? (Create an N use zone.)	5	There are no uses permitted in T1. By definition, it is not a Use Zone. T1 is appropriate for suggested area.	B
	8/17/16	Staff	DAC Planning	104	Change T1 to N and T2 to R in the legend and Table, Delete R from R/R5 in Use Zones	1	Change made	G
	9/22/16	Erick Tokar	resident	104	Table 5.1. R5 and R5L are seemingly designated as RURAL. According to 5.1.2 I and ii these are RESIDENTIAL use zones. The same comments are applicable to Table 5.4 on pages 114-116. We live in a R5L zoned development in Las Alturas... an obviously RESIDENTIAL neighborhood, with little to suggest a rural lifestyle. (These use zones should be characterized as Residential 5 acre....)	1	Table 5.1 corrected to match Zoning District descriptions	G
	9/18/16	P. Hughs	resident	104	According to the table there is an R zone - see R/R5 column under use zones. An R zone is not described under 5.1.2.a and is not included in Table 5.1 legend. Which is correct? Is it this R zone that makes up the zoning for most of the county? Should it be named "RU" or something to differentiate it from the R zone tied to community types?	5	The R terminology was replaced by T2. This prevents confusion with the R development intensity in Community Types. 5.1.2 amended to clarify differences between transects and use zones.	B
	8/10/16	B. Czerniak	P&Z, NMSU	105	The C1 under ETA, residentil facility allows buildings up to 50,000 sq. ft. (are we talking lot size or building size?) This is much too large for neighborhood commercial. A typical Pik Kwik is about 7,000 - 8,000 sq. ft. I suggest this use in a C1 should be limited to a building of no more than 10,000 sq. ft.	1	Legend modified to specify building size for *.	G
	9/18/16	P. Hughs	resident	105	Table 5.1 Home occupations that have as many as 2 outside employees are permitted in all residential zones without an SUP. This will bring commercial use into neighborhoods and change their primary character. (Allow 2 employees other than occupants of the home by SUP only.)	5	2 employees are permitted, per P&Z direction.	B

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	9/20/16	Ed Hughs	resident	105, 218 - 220	Section 5 and 5.10.b.i. Table 5.1 (Land Use Classification Matrix: Zoning Districts) shows that home occupations are permitted by right in all residential use zones and Section 5.10 (Home Occupation Permits) lists the proposed conditions for home occupations to be permitted. The proposed language here reflects the changes made to the current ETZ Zoning Ordinance in Amendment No. 2012-001, Ordinance No. 88-02, June 15, 2012, and is being applied now to all Residential Transect and Use zones in the UDC. Prior to the 2012 amendment, only family members residing on the premises could be engaged in home occupations. The amendment now allows up to two (2) people, in addition to the permanent occupants residing on the premises, to be engaged in the home occupation. Assuming at least one or two family members and then two outside employees engaged in the home occupation that is at least three to four employees engaged in the home occupation. According to the New Mexico Dept. of Workforce Solutions Economic Research & Analysis Bureau, Regional Review, Vol. 3, Issue 4, Fall 2013 publication, 60.3% of New Mexico's commercial firms/businesses have less than five total employees engaged in the business and is the rule and not the exception. What this means is that this ordinance is moving very significant commercial activity into any residential area of the unincorporated County regardless of its design or history of development. Commercial business the size of 60% of New Mexico's current businesses should not be allowed to freely move into residential areas and the 2012 amendment to the ETZ should not be the basis for proposed home occupations in the UDC. <i>(Revert language specifying number of employees allowed in home occupations to pre-2012 ETZ language which is, "No person, other than members of the family residing on the premises shall be engaged in such home occupation".)</i>	5	No changes made per P&Z direction	B
	8/10/16	B. Czerniak	P&Z, NMSU	106	Entertainment facility in a C1 - shouldn't this be a special use permit, especially if there is alcohol involved?	3	No, already zoned	B
	9/18/16	P. Hughs	resident	106	Ag packaging, warehousing and processing may very well be on an industrial scale and would not conform to definitions of R5L and D1L. <i>(Require SUP in these zones.)</i>	5	See legend Table 5.1 A is Assessed as agriculture for on farm operations only.	B
	8/10/16	B. Czerniak	P&Z, NMSU	107	Why wouldn't we allow a hospital in a C1 district? I can see a health clinic or urgent care facility, but a hospital?	3	Hospital not a neighborhood commercial use.	B
	9/8/16	Paul Dulin	resident	109	Section 5.2.2.f. Can it be assumed that any residential property can have an owner's RV parked on the property permanently? Is there another section that deals with RVs that I missed?	3	RVs can be parked on private property, but not lived in.	B
	9/7/16	J. Woodward	resident		<i>The 75-foot allowable WCF height is too high for DAC residential zones. There is very little for a 75-foot tower to blend in with in a DAC residential zone (Design Standards, p. 116). The majority of houses, vegETA, residenttton, and telephone poles are in the 30' height range, with some mature vegETA, residenttton patches, including pecans in the Valley "ecoregion" as tall as 50'. Palliative concealment offered by 75'-tall artificial means is largely unacceptable in Dona Ana County's desert context. The proposed allowable height must be reduced, with exceptions up to 75' granted only under special circumstances, after thorough study of visual impacts.</i>	5	75' was a balance between height needed for co-location of carriers and a reduction in total towers needed.	
	9/7/16	J. Woodward	resident		<i>Provide better means for determining if WCFs cause visual impacts . It is insufficient to require only a "Line-of-sight diagram or photo simulation from a distance of the Area of Notification (300' or more, depending on housing density) showing the proposed WSS and any additional components set against the skyline and viewed from at least the four cardinal directions." (p. 113) Decision-makers need to see the proposed telecommunications towers as they would appear viewed from the closest residences and from adjacent public rights-of-way.</i>	1	Revised to reflect comments. (Note: WCF is now section 5.13)	
	9/7/16	J. Woodward	resident		In 5.2.3.I.D, p. 113, the UDC states that a public hearing process is required for: "New wireless facilities, regardless of zone, if it is to be located in any significant view shed or scenic byway that is inventoried at the local, State, or Federal level. " I fully support this requirement. However, there is no reference to any county documentation of significant local viewsheds. If none are documented or regularly updated as new lands are dedicated as parks or greenways, then this is a gap that needs immediate attention. Dona Ana County has numerous significant viewsheds of high, irreplaceable value; once towers are placed in these viewsheds, they are lost forever. The inventory should be referenced in the UDC or immediately created or updated.	5	UDC does not inventory viewsheds. The BOCC may choose to create one in the future.	

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	9/18/16	P. Hughs	resident	109	Section 5.2.2.e What criteria would ZA or DRC use to allow a group home to not meet zoning restrictions for such a dwelling use. (Exceptions to rules or decision criteria should be spelled out rather than leaving decisions up to someone's personal judgment. This occurs frequently in the UDC.)	1	Exception phrase deleted	G
	9/18/16	P. Hughs	resident	109	Section 5.2.2.f.ii Is there an upper limit to the temporary use permit? Without an upper limit of time, trailers or rec vehicles would never apply for 5.2.2.f.i since ii has no restrictions at all. (Temporary uses need an upper limit of time. Would 2.56 apply here?)	5	Yes, time limit of Section 2.5.6 applies.	B
	9/18/16	P. Hughs	resident	109	Section 5.2.2.g It is not clear if you can have 3 unit sales and 3 street sales per year. (Would help to clarify.)	5	Per address, some addresses contain a unit number e.g., 2b or 3b	B
	8/14/16	B. Zarges	P&Z	110	Section 5.2.3 Does not fit the format of Article 5. Make the Wireless Facilities a section all its own, e.g., Section 5.13.	1	Move entire section to a new 5.13	G
	8/13/16	G. Daviet	P&Z	110	Section 5.2.3 The numbering format doesn't match other sections. Create own section in Article 5 (e.g., 5.17) and match numbering format.	1	Move entire section to a new 5.13, match format to rest of document	G
	9/7/16	C.D. Huestis	former P&Z, resident	110	Section 5.2.3. Same question everyone else is asking: Why the format change? ALSO. In Janine's memo on this, extensive reference is made to the Federal Regulations governing these "towers". Could not numerous pages of "cut&paste" be eliminated by citing the regulations and limiting the Code's content to those things that are outside the bounds of the Regulatory mandates?? Fix it. Review this entire section to find a way to make it usable. The tower contractor is familiar with the Regulations. He just needs to know "what else".	1	Format corrected	G
	9/18/16	P. Hughs	resident	110	Section 5.2.2.j Having a hard time understanding this. This appears to have a broad and undefined application. Can you give examples for what you mean as "structure." (Give examples to clarify. I know you don't want to include examples as a rule but it seems needed here.)	5	Refer to definition of structure in Article 7.	B
	9/18/16	P. Hughs	resident	110	Section 5.2.2."a" Lettering wrong? 200 sq. ft. unconcealed outside storage is a lot considering all the requirements on other aspects of buildings/lots. (Reduce amount of unconcealed storage.)	5	Restriction of 200 sf is adequate, in addition to Section 5.6.14	B
	8/13/16	G. Daviet	P&Z	111	Section 5.2.3.I.A.2 The last item for both Minor and Substantial modifications is identical. Remove the duplicated section from either Minor or Substantial section; whichever is most appropriate (probably remove from Substantial).	1	1) Applies to minor and substantial modifications, needed for enforcement. 2) Change correct item numbers in b.ix.	G
		G. Daviet	P&Z	112	Section 5.2.3.I.C.2.d This describes a modification and should be moved to the 'Existing Wireless Facilities' section (5.2.3.I.C.1). [Resolution described in comment.]	1	Move C.2.d to C.1.b	G
		G. Daviet	P&Z	112	Section 5.2.3.I.D.1 Section 'Heading' missing, doesn't match section C above. Add: 1. Existing Wireless Facilities, and change the 'Co-location' bullet to (a).	1	Add title "Co-location in Residential Zones", change 1. to a.	G
	8/13/16	G. Daviet	P&Z	112	Section 5.2.3.I.D.2.a Remove parenthesis '(' before '75 feet ...'	1	Remove "("	G
	8/13/16	G. Daviet	P&Z	114	Section 5.2.3.III.A.1.iii Towers exactly 150 ft in height are no described in '... greater than 150 feet ...' Change to '... 150 ft or greater ...'	1	Rephrase iii. to "Support structures 150 feet or greater..."	G

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	9/21/16	Bob Hearn	ETA, resident	114	Table 5.4 The R zone reappears in this table, with the 2 acre minimum lot size, apparently. The note there, under 1.1, doesn't specifically call out the R zone for 2 acres, it is redlined in its appearance, and the designations for the R5, R5L, and T2 zones is not clear.	5	R5 is large lot residential Use Zone. It shares the same site standards as T2. There is no longer an R zone in Article 5.	B	
	8/13/16	G. Daviet	P&Z	114 & 116	Sections 5.2.3.III.A.3 and 5.2.3.III.E.6 These describe 2 different process for altering the 'concealment' requirement: 1) Commission waiver, or 2) Variance. Decide if this is a waiver or a variance, and remove from the incorrect section.	1	Change "waive" to "consider a variance"	G	
	8/13/16	G. Daviet	P&Z	117	Section 5.2.3.III.1.a I cannot understand what this means as a 'Recommended location'. Reword bullet (a) so it's intent is clear or remove bullet (a).	1	Make it 3 categories (a - c), remove "Not" in a; a = architecturally integrated, b = ground-mounted, c = "Positioned to provide ..."; explain each of the above; add each of above to definitions.	G	
	8/13/16	G. Daviet	P&Z	118	Section 5.2.3.VI Is this the only section with it's definitions included instead of in Article 7? I like it, but it is inconsistent. Do we need to move this to Article 7 for consistency? Or can we leave it in the WCF section of Article 5?	1	moved to Article 7, added statement "specific to WCF and WSS".	G	
	8/15/16	Bob Hearn	ETA, resident		On Thursday the 18 th , the "10 Acre" rule is up for discussion. This is an important part of the UDC, and bears in many ways on the future of development and land use in the County. At the heart of the issues seems to be future land value for investment and development, and flexibility in land use by the owners. The 10 Acre rule has some clear issues and some that are not so clear, and reach into many parts of the UDC. A proper discussion of this topic, with the objective of finding resolution, should be based on a clear and complete understanding of the issue, and the pros and cons of all of the alternatives. This rule is a major new addition to the County Land Use regulations, coming for the first time with the UDC as proposed by the County, and the County has the best understanding of what it is all about, why it is proposed in the UDC, and its impact on County land use. Interested parties include everyone with investment in land in the County now or in the future, developers who plan to conduct projects on available land, bankers who have loans out now or may in the future where those loans are dependent on the value of the land – and others. It seems then to be incumbent on the County to present and explain the ins and outs of the 10 Acre rule, so everyone has a solid basic understanding of what it is, how it works, and how to think about it. I hope that makes sense, and that the County can help us all to a better understanding of the rule. County prepare a thorough presentation of the 10 Acre rule, as described here, to provide a solid basis for discussion and resolution of the rule as part of the UDC.	5	Staff presented '10 acre rule' to P&Z, 10 acres changed to 2 acres.	G	
	9/7/16	J. Woodward	resident		I support reestablishing the 10-acre minimum lot size for development in the Rural Zone: it has the potential to reduce sprawl development in remote areas; reduces county costs in providing police, fire, and utility services; and incentivizes the Small Village Community Type.	1	Staff presented '10 acre rule' to P&Z, 10 acres changed to 2 acres.		
	8/22/16	Bob Hearn	ETA, resident		I have tried to understand the background of the Ten Acre rule, and how it fits into the UDC processes and objectives, particularly for the Rural County (Performance District going to R Zone). I have written a note describing my understanding of that part of the UDC, and how it includes the Ten Acre rule and provides context for discussing it. That note is attached along with this Comment Log sheet, and should be considered part of the comment. Discuss the Ten Acre Rule and resolve it, and continue in later sessions to discuss other facets of how the UDC affects the rural County.	5	Staff presented '10 acre rule' to P&Z, 10 acres changed to 2 acres.	G	
	8/23/16	Jorge Castillo	DAC Planning	109	Section 5.2.2.e. Group Homes. Group homes, including all uses meeting the definition of "Group Home" in the Federal Housing Act and Federal Housing Amendments Act, shall be permitted where a single-family, duplex, triplex, fourplex, or multi-family dwelling use is permitted, and shall obey any zoning restrictions for such a dwelling use, except as determined by the Development Review Committee (DRC) or the Zoning Administrator. Group homes or halfway-houses for prisoners, parolees, juvenile offenders, and similar uses shall be approved by the P&Z as special use permits (S).	1	Add "and Federal Housing Amendments Act"	G	

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	8/31/16	Penny McAndrews	resident		<p>These comments pertain to the Matrix in Article 5. Previously, I had made comments to the staff and Commissioners about changes from the ETZ to the UDC. I now bring to your attention changes from the last time Article 5 was publicly discussed, November 19, 2015. I would like to know why these changes were made and if the Commission approves of them. I am attaching the Article 5 Matrix with the changes highlighted. If the Commission decides to change the Final Draft Matrix, the Matrix in Article 3 will also be affected, and will necessitate changes to be consistent.</p> <p>1. Civic Space: this entire section had been "O", changed to "C", but is now "P". "Permitted" is not the same thing as "Conditional." (As a side note, in the ETZ, more than half of the zones had been "S".)</p> <p>2. Residential: a. T4 Apartment or Condominium -- "P" was "C" b. T4 Fourplex -- no "P" in previous draft</p> <p>3. Office: a. T4 Office, small -- "P" existed in previous draft b. T5 Office, small -- no "P" in previous draft c. MU Office, small -- "P" existed in previous draft d. I3 Office, small -- no "P" in previous draft</p> <p>4. RETA, residentil & Service: a. T4 Kiosk -- "O" changed to "P" b. T4 Open Market Building -- "O" changed to "P"</p> <p>5. Institutional: a. T4 Off-site Parking etc. -- "O" or "C" omitted in clean final draft</p> <p>6. Agriculture: a. T3 Farming & Ranching -- new "A" designation (may have been approved by Commissioners) b. T4 Farming & Ranching -- new "A" designation (may have been approved by Commissioners) c. T5 Greenhouses & Nurseries etc. -- no "P" in previous draft d. T5 Wine Tasting Room -- "S" changed to "P" (may have been approved by Commission)</p> <p>7. Automotive: a. T4 Automobile, SUV Repair, Sales, or Service -- no designation on final draft (redline and 11/19 draft show "O", now "C")</p> <p>I have attached only the Matrix pages that showed questionable changes (pp. 121- 124); the last two pages of the Matrix are available online.</p>	1	Matrices revisited, uses updated, typos corrected. C is now Conditional, not Civic. O, Overlays zones were deleted and changed to C, A=Agriculturally assessed	G
	9/18/16	P. Hughs	resident	122	Table 5.4.2 "1 accessory dwelling permitted for every 5 acres of property area." There may be R5 zoning on a 20 acre parcel and according to this it could have 4 accessory dwellings. This doesn't conform to Table 5.1 which ties number of accessory dwellings to the lot regardless of size. It clearly states the "total number of dwellings permitted on lot is 1" without a special use permit. There may be other zones in this list of tables where this comment would apply. <i>(Remove this statement from Table 5.4.2 – "1 accessory dwelling permitted for every 5 acres of property area.")</i>	5	Standard seems fair as a SUP is required in R5 & R5L, per Table 5.1 and corrected in Table 5.4.	B
	9/18/16	P. Hughs	resident	122	Table 5.4.1.1 Does 10 acres still apply?	5	No, changed to 2 acres per P&Z vote	B
	9/18/16	P. Hughs	resident	122	Section 5.4.3.C,D Define story. It is defined for transect zones but not for use zones. Is it the same? An accessory building should be subordinate to the main structure but a 2 story accessory dwelling does seem subordinate. I think it is excessive in T2, R and R5 zones. <i>(Define story and eliminate 2 story accessory dwelling.)</i>	5	Story is defined in Section 5.2.3.	B
	9/18/16	P. Hughs	resident	134	Table 5.8.7.1 Not sure what this is referring to. Title of this section is "Access Buildings, Distance" but square feet denotes area not distance. Same comment on other zones.	5	Deleted Distance from all tables	B

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	9/18/16	P. Hughs	resident	141	Table 5.12.3 This table along with Table 5.1 allows unlimited number of dwelling units in the MU zone. How do you ensure that the definition of this zone is met – “conserves traditional development patterns while allowing for infill and development of new uses that are compatible in scale and intensity with existing development” - if you allow unlimited housing? How do you assess impact on the surrounding development? How do you determine what the appropriate number of dwellings would be to meet the definition above? An example of the discord something like unlimited housing could cause is the new 3 story apartment complex in the Alameda Depot district. Nothing like that has ever existed in that district and it ruins the historic character of the surroundings. The standards of “smart growth” are not appropriate everywhere and this is an example of losing the character of an area for the sake of the newest best idea. <i>(Include mechanism for determining upper limit of dwellings based on existing surrounding development)</i>	1	Unlimited number of dwelling units was deleted from Table 5.1. Concerns of scale and intensity will be addressed in the site plan review process.	G
	9/18/16	P. Hughs	resident	143	Table 5.13 C1 zones should clearly “accommodate limited rETA, residential and service establishments as a convenience to nearly residential neighborhoods. It should be designed to be compatible and consistent with the needs and character of a residential neighborhood” per its definition in 5.1.2. Imagine a 40’ high principal building and a 35’ high accessory building on every lot in a neighborhood commercial zone. This might be appropriate in an urban area but not in DAC. (“No uses which exceed 10000 sq. ft. of gross floor area per business are allowed to avoid creation of undue traffic, noise, etc. that would be detrimental to the residential character of the neighborhood.” Limit C1 zone to 5 acres.)	5	No changes made	B
	9/18/16	P. Hughs	resident	153	Section 5.3.2 “except in R zones.” Paragraph 5.3 does not say this applies to R zone. Hard to understand what this is saying. <i>(Clarify.)</i>	1	Corrected	G
	9/18/16	P. Hughs	resident	153	Section 5.3.3 and following 5.1.1 says “transect zones reflect the historic development patterns of DAC.” And they are “located and mapped zoned to existing historic communities and town sites.” This section and its tables are very specific as to what private frontages must look like. How can you make these requirements fit historic, existing communities? <i>(Allow frontages to be according to what frontages have always been in historic communities and town sites.)</i>	5	Implementation of regulations in Tables 5.5-5.7 with Table 5.18 and Section 5.3.3, new buildings should conform to the design of historic frontages	B
	9/18/16	P. Hughs	resident	157	Section 5.3.4 Parking garages in HISTORIC town sites in DAC? What would a parking garage look like in La Mesa or Dona Ana? Surely is would disrupt the historic character.	5	Parking garages only permitted in T5. Currently, no historic town sites have T5 zones.	B
	9/18/16	P. Hughs	resident	157	Section 5.3.5.a 50% glass on shop fronts is inconsistent with many southwest traditional building. Mesilla is a good example. What about cooling a building with that much glass? Drop this requirement.	5	Modern glass technology mitigates heat gain well.	B
	9/18/16	P. Hughs	resident	158	Section 5.3.8 First sentence – isn’t this a T2 zone rather than an R zone? (Change designation)	1	Corrected	G
	9/18/16	P. Hughs	resident	159	Section 5.4 & following R5 and R5L zones don’t appear in Table 5.19 or in “regulations specific to...”	1	Added	G
	9/18/16	P. Hughs	resident	163	Section 5.6.2 How will violations be handled?	5	Refer to Section 1.8, Enforcement	B
	9/18/16	P. Hughs	resident	163	Section 5.6.3 Ordinary vehicular noise can be deafening, even inside a home. (This should be expanded to address vehicular noise)	5	Covered in Chapter 261	B
	9/20/16	Ed Hughs	resident	163	Section 5.6.3 Noise regulation refers to Chapter 261. Obviously a typo or an incomplete reference, but could not find any combination of numbers related to a Chapter 261 on noise. <i>(Make correction for appropriate reference.)</i>	5	Chapter 261 is correct – it is the Noise Ordinance in the actual DAC Code	B
	9/18/16	P. Hughs	resident	165 and following	Section 5.7 Plant sizes are cost prohibitive.	5	Required trees (24" box, 15 gal) sizes lower cost, smaller than in other regional codes (2"-4" caliper +) Plant substitutions permitted, per Table 5.20	B

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	9/18/16	P. Hughs	resident	165 and following	Section 5.7 Re-vegetation to a natural state in our environment is extremely difficult. Why not include a requirement for land in its natural state to remain natural except where grading is required for a building pad? A buffer of 10' or so from the pad could be included in the graded area? Article 6 doesn't have any restriction on grading like this that I could find. See Comment)	5	Corrected in 5.7.3 and revegetation removed from 5.7, preserving natural cover incentivized. Grading area limited in 6.5.4.a.	B
	9/20/16	Ed Hughs	resident	165	Section 5.6.14 States that storage enclosure restrictions do not apply to commercial agricultural or single-family residential areas. The exemption for commercial agricultural makes sense but why are single-family residential areas also exempt while all other residential areas have to meet the restriction? Storage enclosures are just as intrusive in single-family residential areas as in any other. <i>(Remove the exemption for single-family residential areas and leave only for commercial agriculture)</i>	1	Removed	G
	9/18/16	P. Hughs	resident	166	Section 5.7.3.a Needs editing ... "trees shall: ii. provide a plan for protective fencing..." (Needs editing.)	1	Corrected	G
	9/18/16	P. Hughs	resident	167	Section 5.7.4.c.ii Does this property owner will landscape outside his property line ?	5	Yes	B
	9/18/16	P. Hughs	resident	171 and following	Figures Different titles, same figure but I don't think what title is referring to is clear in figure.(Clarify?)	1	Figures removed	G
	9/18/16	P. Hughs	resident	198	Table 5.23 Buffering for R5/R5L from DM, MU and C1&2 should be what the last draft required – buffer class 3. In general, because CT's that allow high density residential, industrial, rETA, residentil and service, hotels and motels, etc. can be anywhere there is a 10 acre parcel, great care should be taken in buffering surrounding low density housing from them. (Change buffering for R5/R5L as suggested in comments. Treating CT's as zoning would prevent incompatible uses from being next to each other)	2	R deleted from Matrix	Y-G
	9/18/16	P. Hughs	resident	199-200	Some people have enclosed gardens, traditional in New Mexico, with garden walls higher that 6'. These should be allowed.(Raise limit)	5	Courtyards walls within building setbacks are not regulated.	B
	9/18/16	P. Hughs	resident	201	Section 5.7.23.f Is there an ag zone? A barbed wire fence would be hard to paint. Barbed wire fence should be allowed wherever large scale grazing of animals is permitted. See comment)	1	Corrected see 5.7.20.f in redline draft	G
	9/21/16	Bob Hearn	ETA, resident		Section 5.7.11 Overall, I offer that the County has plenty of important stuff to do, and not enough people and money to do it with, and this stuff written in as regulations which are never going to be enforced – or at best once in a while, here or there – is not good law. Is someone going to go into a colonia where people are struggling to get some landscaping going, and tell them they trimmed their plants wrong ? And then what? There are no penalties in here.	5	No; single family residential is exempt per 5.7.1, and existing properties are exempt from 5.7 - no penalties. Proper arid-region horticulture is important to safety, health and welfare	B
	9/21/16	Bob Hearn	ETA, resident	205	Section 5.7.11.ii Just curious – My house is surrounded by native desert landscape which has been in place for a long, long time. There is a mesquite tree outside our living room window which has been watered, and has grown, naturally, very tall and now blocks our view of the Organs. I plan to top that tree, to cut it back to where it was 10 years ago. Will I be breaking the law if I do that? Do I have to get a permit? There doesn't seem to be a permit process.	5	No; single family residential is exempt per 5.7.1., maintenance regulated only in the right-of-way per 5.7.11 intro. No permit needed, no permit process.	B
	9/21/16	Bob Hearn	ETA, resident	205	Section 5.7.11.iii The skirts of old leaves or fronds on palms and yuccas are extreme fire hazards. They are very dry and will go up with a spark. Doesn't happen often around here, but it's a real problem.	5	Commentary; reason: early dieback, hazards from poor maintenance practices far more common than fire in monocots.	B
	9/18/16	P. Hughs	resident	215	Section 5.8.9 Do you mean the area of all types of signs added together is 32 sq. ft. max? If not, how does this relate to previous dimensions of signs given for each type? Clarity?	5	Yes, all signage added together. The minimum if 32 sf.	B

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	9/18/16	P. Hughs	resident	216	Section 5.8.10 There is very careful control of signs until you get to billboards. This allows up to 6 billboards per mile. This is too many to make the entrances to our county attractive. Every entrance to LC and DAC is controlled access highway. The overuse of billboards creates a very poor entrance. This many billboards can't meet the criteria of 5.8.b, c and d. Please rethink this. I think 2 billboards per mile would be max in order to meet the criteria for regulation of signs. The trip from El Paso to Las Cruces is an example of a view shed being taken out by billboards. Even the industrial uses don't intrude the way billboards do.(Allow 2 billboards/mile)	5	State regulates billboards	B	
	9/18/16	P. Hughs	resident	217	Section 5.9.2.c Do thoroughfares have to extend in all directions at an intersection? An example would be when thoroughfares meet at an internal corner of a mobile home park.	5	No (5.9.2.e)	B	
	9/20/16	Ed Hughs	resident	218	Section 5.10.d. A storage structure of 600 square feet is a very substantial and visible structure and approaches the size of accessory dwellings allowed in the T3 and D2/D2L zones (800 sq. ft.) and approximately half the size allowed in D1/D1L zones (1,250 sq. ft.). (Allow a storage structure for the home occupation no larger than 200 sq. ft. as per the ETZ Zoning Code prior to 2012.)	5	No changes made	B	
	9/18/16	P. Hughs	resident	219	Section 5.10.j.iv. Add at end of sentence "or surrounding dwelling units." See comment	5	Section as written is acceptable.	B	
	9/20/16	Ed Hughs	resident	220	Section 5.10.k.iii. Due to the lot size and design of most residential areas parking is often very limited and can be a significant safety and congestion issue with any increase over that of the permanent residents. Parking for up to five students for instructional and related service could be a very significant problem for a given situation. (Require a special use permit for any more than two students at a dwelling at any one time)	5	No changes made	B	
	9/20/16	Ed Hughs	resident	220	Section 5.10.k.vi. Any Day Care/Child Care Service with up to six children will also have traffic problems as above with same concerns as above. (Go back to the pre-2012 ETZ requirement of special use permit required for five or more children.)	5	No changes made	B	
	9/18/16	P. Hughs	resident	222	Section 5.11.1.a You have to read further to know what large animals are. Can they be defined here rather than later in document?	5	Classes of large animals listed in first sentence of 5.11.1	B	
	9/18/16	P. Hughs	resident	223	Section 5.11.1.d In residential areas, 6 bulls, 6 stallions, 6 male buffalo area lot. These animals fight for dominance. Could there be a serious safety issue for this kind of concentration? (Could an animal expert say what an upper limit, if any, should be?)	5	Minimum lot size for these large animals require 2 acres or more. No quantity mentioned in this section.	B	
	9/18/16	P. Hughs	resident	223	Section 5.11.1.e This allows animals to be kept at the property line between the animal owner and his neighbor if his neighbors dwelling is 35' from the property line. A neighbor who wanted to keep their children from a large animal next door would have to provide the buffer himself. (This might read "no animal shall be kept closer than 35' to the property line of an adjacent parcel.")	5	Section specifically refers to 35' from adjacent dwelling, not parcel.	B	
	9/18/16	P. Hughs	resident	223	Section 5.11.1.g This reflects state law I believe. If 200 feet is a necessary distance from an animal dwelling unit to a public well would it be a necessary distance to a private well that is less likely to be treated? (Should animals be kept 200' from a public well or a neighbor's private well?)	5	State law.	B	
	9/18/16	P. Hughs	resident		Table 5.1 R5L and D1L give the expectation that these areas will be low density. Take the P for community types off the matrix for these zones. Apply the same rationale that Mr. Daviet applied on behalf of the farmers to changing the 10 acre minimum to these zones so that these property owners don't have to risk losing their investment. By not only allowing but promoting community types you are taking away the investment people have made in being able to offer low density as a selling point for their property and as assurance that it will remain that way. (Remove P for community types from R5L and D1L zones.)	5	Community types are permitted by the Sector Plan Map and are permissible on any parcel identified on this map.	B	
ARTICLE 6 DEVELOPMENT CONSTRUCTION STANDARDS									

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	9/20/16	Bob Hearn	ETA	226	This section is intense and technical, and I am not qualified well to comment on much of it. But I have read through it, with attention drawn to some sections, and offer the following thoughts – hope they help Also note that a good deal of the long parts, like SWPPP, resemble the current code, but are different in some ways. Just a thought to be sure the translation from old to new catches all the right bits.	5	Commentary, no action required	B	
	9/20/16	Bob Hearn	ETA	238	Section 6.2.2.a Says sidewalks have to be 6" thick. Earlier in hearings a rep from the homebuilders noted that 4" is thick enough in most cases, and would save excavation and concrete costs. Consider 4" in some cases?	5	6" standard per Engineering for maintenance mitigation and service vehicle loads.	B	
	9/20/16	Bob Hearn	ETA	239	Section 6.2.3.b Defines road width for linking a "development intensity" or "transect zone development".... But is that everything that gets linked? How about traditional subdivisions? This is the "UDC Aware" stuff. Just check	5	6.2.3.c addresses traditional subdivisions. Reference to Table changed from 6.5 to 6.8.	B	
	9/20/16	Bob Hearn	ETA	239	Section 6.2.3.f Second line from end – after utilities change ; to , Picky....	5	No punctuation needed	B	
	9/20/16	Bob Hearn	ETA	239	Section 6.2.3.h ..."maintenance of such will be by private means"... Doesn't make sense. Some words not right. Check and change	1	Clarified	G	
	9/20/16	Bob Hearn	ETA	240	Section 6.2.3.i Good control of private roads – better not to have any at all	5	Commentary, no action required	B	
	9/20/16	Bob Hearn	ETA	240	Section 6.2.3.o Second line, ..."require, as determined..." This doesn't make sense. Needs word changes	1	Deleted 'as determined by ESD'.	G	
	9/20/16	Bob Hearn	ETA	243	Section 6.2.5 This section requires a "common sense" escape clause, which the planners are well aware of. From PandZ and ETZC we regularly run into cases where a minor subdivision in the middle of nowhere requires the applicant to build half of a 4-lane, median divided, curb, gutter, sidewalk for 300 feet, creating a monster which will turn into an expensive, unused, dangerous big hunk of concrete in the desert. It's OK to require roads be built where it makes sense, but often it just doesn't. It seems like the MPO doesn't think about this when they designate a gravel path as an Major Arterial (Someday), and the effects that has on the people in the area. Think practically, and see if there can be a way out, like "If the major road is not likely to be built in 10 years..." Have the applicant dedicate the Right of Way and let it go. The law should always make sense. Same for the roads required from the subdivision to the nearest paved County road – sometimes it just can't be done due to the built-environment.	5	Difficult to draft Code for all scenarios, it's a gray area that is reviewed on a case by case basis.	B	
	9/20/16	Bob Hearn	ETA	245	Section 6.2.6.a "...may be based upon the Comprehensive Plan..." Seems to me that this is an ordinance, a law, and it has to refer either to its own terms, or those of other laws. The Comp Plan is policy, NOT a law. There are other references like this – all need attention. I think Seems inconsistent to take law from the Comp Plan.	1	Sentence deleted	G	
	9/20/16	Bob Hearn	ETA	245	Section 6.2.6.a ..."See Table 6.4..." No Table 6.4 in my book -	1	Table 6.4 exists, directly below T6.3 Already got that, eh	G	
	9/20/16	Bob Hearn	ETA	246	Section 6.2.6.e.i ..."will or may..." Which one? And if "will" should probably be "shall", and if "may" should probably be taken out as meaningless	5	This is correct, it depends on which agency is being referred to.	B	
	9/20/16	Bob Hearn	ETA	246 247	6.2.6.v, 6.2.6.h.vii "...asphaltic...minimum of 8 feet wide..." OK sometimes, but that seems like a big deal for what could be a very nice 4 foot wide path maybe not even paved. If 5 feet is enough for a sidewalk, why not for a path? Is it good to restrict things that much?	5	8' due to multi-use function.	B	
	9/20/16	Bob Hearn	ETA	246	Section 6.2.6.f.i.a, b, c, d In this nested AND and OR stuff, are these points offered as AND or OR? Makes a difference. Same thing in the next two sections	5	i, ii or iii as options for an alternative thoroughfare. Each option requires a, b, c, d...	B	
	9/20/16	Bob Hearn	ETA	276	The referenced FIRM maps need to have their dates and identifiers on them, seems like, so that they can be told from all the other, similar versions around.	5	Latest maps adopted by reference and applied to this Code.	B	

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	9/20/16	Bob Hearn	ETA	277	Section 6.4.2.b "...reasonably safe..." May be too hard, but how is "reasonably" determined? This comes up in other sections of the UDC and here, and is often debated – it is a very loose term for a requirement.	5	These are the duties and responsibilities of a certified Flood Plain Administrator.	B
	9/20/16	Bob Hearn	ETA	277	Section 6.4.2.f "Notify..." is the only action, and there is no recourse. What if he doesn't do it? Is there any related approvals or actions? Seems an empty requirement.	5	These are the duties and responsibilities of a certified Flood Plain Administrator.	B
	9/20/16	Bob Hearn	ETA	277	Section 6.4.2.i 6.4.2.i "...no new construction...shall be permitted, provided it is demonstrated..." Doesn't make sense – words missing or something	5	Change provided to unless.	G
	9/20/16	Bob Hearn	ETA	277	Section 6.4.2.j "...a community may approve..." Who is this "community"? Is that now the County? Be a good idea for clarity to say that?	5	Wording from federal regulation, refer to 44 CFR. "Community means any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaska Native village or authorized native organization, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction"	B
	9/20/16	Bob Hearn	ETA	278	Section 6.4.6 "...following provisions are required..." But they are really vague. Lots of quite general requirements but no specifications. "Adequately anchored", "minimize flood damage", how does the applicant know just what to do?	5	These provisions are technical issues to be determined on a case by case basis to be reviewed by Flood Commission	B
	9/20/16	Bob Hearn	ETA	279	Section 6.4.7.a "...insurable structure..." This term just showed up – not clear to me what it has to do with anything. What kind of insurance? Flood, fire, theft, liability? Who determines "insurable" if it is not insured? This crops up again in the next section.	5	Federally defined as a habitable structure.	B
	9/20/16	Bob Hearn	ETA	282	Section 6.5.1.a "... constitute a violation of this Article." But there is no penalty for the violation. Not a good rule – needs some backup.	5	Refer to Article 1 for enforcement provisions.	B
	9/20/16	Bob Hearn	ETA	284	Section 6.5.4.b.iii "...County staff member will determine if the ECP is sufficient. If insufficient....property owner has 10 days to fix it." That leaves the property owner completely at the mercy of the County staffer, with no good set of rules to meet in generating the ECP, and no route of appeal if he disagrees with the Staffer's ruling. That isn't fair – not good for anyone. Need better ECP requirements, better decision process with criteria, and appeal route. This applies to every similar "Submit to the rules – Get a decision – Fix or Appeal" situation of which there are many	1	Clarified	G
	9/20/16	Bob Hearn	ETA	285 ff	Section 6.5.4.d.iii The dust-control material seems vague, general, and very lacking in the specifics people need to know to comply with the regs, and the County needs to issue meaningful permits and enforce the rules. There could be approved lists of dust control and abatement materials available for people to shop from. This approach just leaves it up to the contractor to choose something and use it and hope for the best.	5	Refers to best management practices that are constantly evolving.	B
	9/20/16	Bob Hearn	ETA	286	Section 6.5.4.f "...may include any 1 or more of the following..." So I could choose, as I "may" to include NONE of the following. There is no penalty and no other direction.	1	Changed "may" to "shall".	G
	9/20/16	Bob Hearn	ETA	286	Section 6.5.4.f.xiii From the City background, I believe the County unpaved roads are one of the largest sources of dust around here. The County needs to see to its own issues before coming down too hard on the builders and others. And farmers, too, and they are exempt from all this – no argument.	5	This is specific to construction sites and new roadways.	B

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	9/20/16	Bob Hearn	ETA	287	Section 6.5.4.f.xii.A.4 "...upwind..." That direction changes with the wind, of course. It might be stable somewhere, but not around here. The wind blows from all over the place, and may change several times a day. This is not a useful requirement, and others as vague or unsure are not good. It is not fair to put this sort of burden on builders. How would this be enforced? If I started work this morning and the wind was from the north, I would set up accordingly. Then at noon, the wind shifted to come from the West and the inspector showed up. OOPS?	5	These are suggested short term best management practices.	B	
	9/20/16	Bob Hearn	ETA	287	Section 6.5.4.f.xii.a.5 "...high wind periods..." That MUST be defined in some detail. This section says the builder must STOP WORK when the wind is "high". How fast is that, in mph? Where – at the airport, at City Hall, or at the site? How is it measured? What sort of instrument? Does it cover gusting or sustained wind? How long must it blow to be considered sustained? I have these questions handy because we fought through them in setting up the dust ordinance for the City – which could be a good model for this section to adopt. And it still have issues. It's a tough area to control.	5	These are suggested short term best management practices, which does not say to must stop work and the definition of high winds in the glossary	B	
	9/20/16	Bob Hearn	ETA	290	Section 6.5.5.b.ii "...dust suppression CAN be achieved..." So what? Does this say that if the builder just tries these measures, and he CAN settle the dust, all is good? Nothing required? No enforcement?	1	Clarified	G	
	9/20/16	Bob Hearn	ETA	290	Section 6.5.6.b End of the first paragraph – "...section is to..." doesn't make sense.	1	Clarified	G	
	9/20/16	Bob Hearn	ETA	290	Section 6.5.6.b This whole section, which says it is the Purpose of the section, is without real meaning. Suggest it be removed.	5	Section illustrates options for meeting federal law requirements	B	
	9/20/16	Bob Hearn	ETA	290	Section 6.5.6.c.i "...be the guardian..." Sounds like fun – out there swinging a sword and scaring away the bad guys – but it doesn't seem to have meaning. It's in the current code, as well, but this stuff just confuses things.	1	Clarified and reworded	G	
	9/20/16	Bob Hearn	ETA	294	Section 6.5.6.f All of this very long and detailed section is written around a truck driver who has something spill from his truck – or others, but that is a possible example. Now think of that guy out in the field somewhere, and read the rest of this section in all the bits and pieces and try to figure out how he would know all that stuff, where he would find out, how much he would care, where he gets the forms to fill out the reports, and where he is going to get the money to pay the County to clean up the stuff he spilled. But what do you know? You get to the end and discover there is no penalty, no enforcement, nothing but a long list of rules no one has to pay any attention to. So he doesn't have to worry. Not a good way to have rules.	1	Deleted "24 hours". The driver notifies the SWPPP operator. The SWPPP operator is trained or certified in these requirements. The SWPPP operator is the overall supervisor on the construction site, responsible for compliance w/ federal law.	G	
	9/20/16	Bob Hearn	ETA	296	Section 6.5.7 A builder has to submit his SWPPP draft 30 days before he is to start work. But the County has 30 days to get back to him, and he may turn it down. Then the guy is stuck -	5	Yes, deficient SWPPPs will cause a delay to construction starts	B	
	9/20/16	Bob Hearn	ETA	297	Section 6.5.7.a "...the SWPPP shall contain, but is not limited to, the following..." When I put in my SWPPP, how to I tell what all I have to turn in, if it all isn't in the book – who says what the limits are and where to I find out?	5	A professional engineer or a certified professional in erosion and sediment control is required to certify a SWPPP plan. They know the requirements.	B	
	9/20/16	Bob Hearn	ETA	298	Section 6.5.7.b "Qualified Personnel..." What are the qualifications for Qualified Personnel? Gotta tie that one down – End of that same paragraph – "A report shall be prepared..." What does that report contain, what format, what media (can it be on my phone?) Need specifics.	5	Defined in Article 7, glossary of terms. Report requirements are defined in federal law. The blank report forms are a part of the prepared SWPPP	B	
	9/20/16	Bob Hearn	ETA		At this point, I ran out of gas. If this is useful, it could be in either of two ways – Items pointed out could be better if modified. Items pointed out could be leads to other, similar issues elsewhere which could be found by others. And on we go	5	Commentary	B	

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ARTICLE 7 GLOSSARY OF TERMS								
	8/30/16	Bernie and Nancy Ryan	residents		At no time should the definition/glossary section contain requirements, standards, procedures or grants of decision making capacity. That will confuse the reader (who will expect to find those in the substantive part of the law) and the court which will have to decide why such terms are included in a definition rather than the substance and how to integrate those non definitional components into the body of the work. That should not happen as it will lead to inconsistent outcomes and is very bad drafting. Unfortunately, this confusion of substance and definitions happens frequently in the Draft. It is easily fixed and not doing so will cause needless work later. Initially, a lead-in paragraph that says, for example, a "building" includes a "structure" requires a combined reading of all the cross-referenced terms. So, a "building" is defined as a "structure" and has a roof and walls. However, the lead-in says a "building" includes a "structure" but the definition of a "structure" is something that is affixed and located with a specific reference to a point on the ground. So, a "structure" appears to be (among other things) a road. This fairly illustrates the circular nature of many of the words in this paragraph. It makes no sense to do this. A building should just be defined, in the Glossary, as a structure with a roof and walls intended for work/storage/dwelling, not used in the lead-in as a term that "...includes the word structure." What definitional benefit is there to this fairly twisted logic? The same question applies to the rest of the terms in the lead-in. This is not a change from the earlier draft and there is no improvement or logic to this paragraph.	5	Commentary	B
	8/30/16	Bernie and Nancy Ryan	residents	340	"Access Permit." This does not belong in the definition section. It belongs in the relevant part of the Draft. Nothing that is a requirement should be in the definition section because persons using the Draft to make decisions will look to the substantive part of the Draft to find the requirements. The second sentence should likely read: "Permits shall be applied for by the....." rather than "Permits shall be made by....." Nobody makes a permit.	3	Leave first sentence, delete last	G
	8/30/16	Bernie and Nancy Ryan	residents	340	"Accessory Building." This illustrates the confusion between 'building' and 'structure.' The term is "Accessory Building" but the definition is of a structure. Why does the Draft use "Building" when it doesn't limit it to "Building" but instead refers to a "structure?" Why not just say "A building which is on the same lot...."	5	Change Structures to Building	G
	8/30/16	Bernie and Nancy Ryan	residents	340	"Accessory Structure." What is added by the phrase "...and may serve...?" Nothing is changed if the structure does not serve a principal building, so why is the phrase there?	1	Delete phrase	G
	9/22/16	Erick Tokar	resident	340	Accent Plant. This makes it seem that the only accent plants approved are those native to the Chihuahuan Desert (<i>Maybe say "may be common native....."</i>)		Art. 7 definition is a statement of fact and not exclusionary; refer to plant list for some options	
	8/30/16	Bernie and Nancy Ryan	residents	341	"Active Landscape Feature." This definition is unclear. It appears to reference any feature of any landscape that does one or more of the listed activities (regardless of whether the feature is naturally occurring or is of human design and construction). If so, perhaps this could be rewritten as follows: A landscape element that functions by utilizing one or more of the following: generating plant growth; (Note, the current definition uses "," and ";" inconsistently which makes it difficult to know what is included in each phrase) supporting existing hydrological functions of a site; water harvesting; storing and infiltrating storm water; erosion control; lowering water consumption through the use of native plants; and tree shading. Active landscape....."	1	Definition revised	Y-G
	8/30/16	Bernie and Nancy Ryan	residents	341	"Active Operations." This continues to have a very broad reach, and appears to include use of agricultural vehicles being used in their normal course of operations on plowed fields or elsewhere on an agricultural site. It also appears to include use of machinery in any business such as a firewood lot or a welding facility. How is this supposed to be understood and enforced in such places?	5	Definition specific to Erosion Control	B
	8/30/16	Bernie and Nancy Ryan	residents	341	"Agriculture." If I have two or three fruit trees on a lot of 10,000 square feet do I meet the definition of "agriculture." This is prompted by the later restriction of livestock to being "for sale or profit." As that limitation is only relevant to livestock, what happens to the non commercial/sale crop growing?	1	DG recommends changing Ag definition to Farming and Ranching.	O-G
	8/30/16	Bernie and Nancy Ryan	residents	342	"Agricultural Building." Same confusion. If the term is changed to "Agricultural Structure" it will match the definition given.	1	Change made	G

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	8/30/16	Bernie and Nancy Ryan	residents	342	"Apartment." This definition misses the point of apartments. An apartment is a non-owner occupied room/set of rooms in a larger building. The nature of the occupant (individual or single family) makes no difference--what is critical is that its tenancy is not fee simple based for the occupant(s).	5	Defintion correct	B
	8/30/16	Bernie and Nancy Ryan	residents	344	"Bed and Breakfast." The largest commercial Bed and Breakfast entity is AIR BnB. It does not require its hosts to live on-site. If this definition is passed, will AIR BnB become unlawful in unincorporated Dona Ana County?	1	Not that technical	B
	8/30/16	Bernie and Nancy Ryan	residents	344	"Bed and Breakfast." In addition to the previous comment, this is a good example of mixing definition with substantive content.		Commentary	B
	8/30/16	Bernie and Nancy Ryan	residents	345	"Boarding House." This definition is circular, at best. "Residential" is defined as activities within land areas. Why this is referring to activities instead of the nature of a land use, at least in this definition, is not clear. It is also not clear why the reference is to "land areas" when there is no definition of that term. A "dwelling unit" is a structure (not "building") that contains living facilities. Then, there must be two or more rooms that are to be rented independently (presumably, meaning independently of each other). But, why is this not also an apartment? There are lots of one room apartments. I think the intent is clear: it is a place where people rent only one room in a multi room house. But, the definition fails to do that and instead only confuses the matter by referencing "activities" and not saying "building."	5	No Action required	B
	8/30/16	Bernie and Nancy Ryan	residents	346	"Channel." Presumably, since a "Canal" cannot carry water for domestic consumption, and the definition of "Channel" and "Canal" are otherwise interchangeable, can a "Channel" carry water for domestic consumption?	5	No revision necessary, per Flood	Y-B
	8/30/16	Bernie and Nancy Ryan	residents	346	"Character." The obvious question here is 'whose image and perception?' How are these determined and by whom? The more important question is, once they are determined what is the use that is made of the determination? Are they noted somewhere on a map? And, finally, what is the difference between "image" and "perception?" One (image) seems more substantive than the other (perception).	5	All-determining authorities, quasi-judicial.	B
	8/30/16	Bernie and Nancy Ryan	residents	346	"Chihuahuan Desert." Does acknowledging that the region extends into states and nations beyond Dona Ana County have any consequences in terms of measuring/considering the impacts of development decisions? Does this give appellate standing to persons outside Dona Ana County?	5	Chihuahuan Desert refers to the ecoregion and is specific to the landscaping section. Everything else is in DAC jurisdiction.	Y-B
	8/30/16	Bernie and Nancy Ryan	residents	347	"Community." What does this mean? What is it that is "self-identified" by the residents? It appears the answer is either the variety of neighborhoods or the land uses. But, land uses can be zoning determinations, so how is it possible those are "self-identified" when the zoning is an act of law? More importantly, how is anyone to know what "self-identification" really means? How is this to be done? How was it done in crafting the Draft? What if some persons in a neighborhood (a term that has no definition) think one thing, while a substantial number of others think something else? Is this something subjected to some form of plebiscite? Who would determine how to ask any of these questions, and to what purpose? This definition is clearly the result of concerns expressed in the previous draft, but the definition has raised more questions than it answers. And, once a "Community" is identified, how is that useful in the Draft? Town Hall meetings, for example, do not rely on this term and instead use boundaries and distance limits for providing notice. So, what is this definition really doing? Is it part of "Community Type?" Since it is a defined term and appears to amend "Type" in "Community Type" does this mean a Community Type requires some form of "self-identification" prior to approval?	5	Community you live in.	B
	8/30/16	Bernie and Nancy Ryan	residents	347	"Common Destination." Although not stated, presumably this is limited to within a community. In other words, an area outside a "Community" (however delineated) cannot be a "Community Destination." Also, this is presumably something that is intended as a place for such activities? This term continues to use the undefined word "neighborhood." Is there some significant difference between "Community" and "Neighborhood?"	5	Yes, no change necessary	B

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	8/30/16	Bernie and Nancy Ryan	residents	348	"Community Type." Before going into the substantive parts of this term, there is a word that appears here that must have some meaning to the Draft but is not found in the Glossary. The word is "settlement." I do not know the difference between a "community" and "settlement." This word either needs a definition or deletion. It is worth noting that a "Community" is something that is "self-defined" by area residents but a "Community Type" happens before there are residents. If the word "Community" in "Community Type" has the meaning in the Glossary, this definition makes no sense.	1	Change settlement to development	G	
	8/30/16	Bernie and Nancy Ryan	residents	348	"Compaction." This is another example of putting standards into a definition. "Compaction" doesn't mean 'to a specified' degree or standard. It means pressed together. If a standard is needed, it should be placed in the substantive part of the Draft.	1	Definition revised	G	
	8/30/16	Bernie and Nancy Ryan	residents	348	"Construction." I do not understand why 'breaking ground' is in this definition as a mandatory part of 'Construction.' If a second story is being added to an existing building or structure and no ground is broken, is this not construction?	1	Change and to or	G	
	8/30/16	Bernie and Nancy Ryan	residents	348	"Construction Activity." To be clear, does this mean the definition never applies to a single family home being built on a site of less than an acre and intended as a stand alone building rather than a larger development? Are such buildings no longer allowed?	1	Revised	G	
	8/30/16	Bernie and Nancy Ryan	residents	348-349	"Continuum of Intensity." I do not know the definition of 'urbanism' which is a term used in this definition.	5	No change needed	B	
	8/30/16	B. Ryan		348-349	"Continuum of Intensity" the term "transect zones" is repeated in the same sentence. Was another term intended where the second usage appears?	1	Corrected	G	
	8/30/16	Bernie and Nancy Ryan	residents	349	"Corridor." If I read this definition correctly, a "Corridor" is both a street and adjacent land uses. Someone better prepared than myself should explain how a street is the same as a land use.	5	No change needed	B	
	8/30/16	Bernie and Nancy Ryan	residents	349	"Daycare." Do persons who work graveyard shifts ever take their children or elderly parents to a facility? I think what is intended here is that the facility not provide care for more than a specified time period, but the definition doesn't address the issue that way. Instead, it declares (which should be in the substantive part of the Draft) that such services cannot be "overnight." Perhaps all that means is that such services get a different label.	1	Deleted last sentace as operating hours for daycare facitilites are regulated by the State.	Y-G	
	8/30/16	Bernie and Nancy Ryan	residents	350	"Density." There is no reason to include "..., usually expressed as " per acre." This adds nothing to the definition	1	Delete "per acre"	G	
	8/30/16	B. Ryan		350	"Design Criteria" I cannot figure out why the word "for" is in the sentence. I think the confusion is actually the word "that" which, if eliminated, would make the sentence more clear.	1	Rewritten	G	
	8/30/16	Bernie and Nancy Ryan	residents	350	"Developed Land or Developed Area." Only in this term (thus far) is there a cross-reference to another Article. So, if the term is used elsewhere, it evidently has no definition. If it is not used elsewhere, the cross-reference makes no sense and only confuses. Also, does the term "Developed Land or Developed Area" actually appear as such? Someone (Bob or Ed or Patty or.....) should check that and if the terms appear separately, then they should be defined separately. This is oddly drafted.	1	Rewritten	G	
	8/30/16	Bernie and Nancy Ryan	residents	350	"Developer." As written, does this make a person who sells or remodels his/her own home in a subdivision a developer? Please read the definition carefully as I cannot figure out why this does not make such person a developer. I understand the real estate agent/broker is not a developer, under the term.	5	Statutory definition	B	
	8/30/16	Bernie and Nancy Ryan	residents	356	"Final Stabilization." This probably should have a true definition such as: "The covering of areas, exclusive of permanent structures, by vegetation or non-vegetation methods, such that the site is reasonably protected from erosion and excessive consumption of water." Then, the standards can be appropriately placed in the substantive section(s) of the Draft	1	Revised	G	
	8/30/16	Bernie and Nancy Ryan	residents	358	"Grading Permit." There is no definition here. There are only requirements. A definition could be put in place: "An authorization by the County or municipal authority to excavate or fill or both." That is all that should be in a definition. Then, the requirements can be placed in the appropriate substantive part of the Draft.	1	Delete last line	G	
	8/30/16	Bernie and Nancy Ryan	residents	358	"Green." If the word 'green' ever appears in the Draft that does not refer to a Civic Space, this definition does not work. If the intent is to refer only to Civic Spaces, then an improvement would be: "Green Civic Space."	1	add, Civic Space	G	
	8/30/16	Bernie and Nancy Ryan	residents	359	"Hazard to Public Health." Is there a separate place where harmful products in the atmosphere are covered?	1	Specific to NMED Liquid Waste	G	

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	8/30/16	Bernie and Nancy Ryan	residents	360	"Improvements." There is no definition here. Perhaps: "Changes or additions to infrastructure serving properties with, or intended to have, residential, agricultural, commercial or industrial use, including streets, gutters....."	1	Rewritten	G
	8/30/16	Bernie and Nancy Ryan	residents	360	"Infrastructure." Same issue. There is no definition and it is unclear how these are intended to be distinguished from "Improvements."	1	Rewritten	G
	8/30/16	Bernie and Nancy Ryan	residents	361	"Landscaping." Same issue. There is no definition. In fact, the first sentence says landscaping is "...new landscaping that has been enhanced...." This is circular reasoning. Perhaps: "The placing of plants, non-vegetative items such as rocks and statuary, and water courses on the non permanent structure area of a property." Then, if desired, the rest of the text can be left in place.	1	Revised	G
	8/30/16	Bernie and Nancy Ryan	residents	362	"Lease." The second sentence adds nothing to the definition	1	Delete second sentence	G
	8/30/16	Bernie and Nancy Ryan	residents	363	"Main Civic Space." If the intent of the second sentence is to establish a standard, it should be rewritten as such and placed in the appropriate place in the Draft. If it is not intended to establish a standard, then it should be considered for deletion as it does not add any substance to the definition.	1	Rewritten, add indoor and delete second sentence.	G
	8/30/16	Bernie and Nancy Ryan	residents	365	"Moisture Content." These conditions do not belong in a definition. They belong in the substantive part of the Draft. If a definition is needed, consider: "The percentage of moisture in subgrade or embankment material at the time of compaction."	1	Rewritten	G
	8/30/16	Bernie and Nancy Ryan	residents	367	"Neighborhood, General." There are multiple times, both in the substantive parts of the Draft and in the Glossary, when the term "Neighborhood" is used. However, there is no definition of the term. Instead, there is now a definition of "Neighborhood, General" which appears to be distinguished (in some manner) from "Neighborhood" although the distinction is unstated. If the intent is to make "Neighborhood" and "Neighborhood, General" the same then either delete ", General" or add it when "Neighborhood" is used. Otherwise, nobody will know the difference and be able to say what a "Neighborhood" is.	1	Delete, General from title	G
	8/30/16	Bernie and Nancy Ryan	residents	376	"Sell." This definition is too restrictive. The substantive part of the Draft and the Glossary often use "sell" when referencing sale of goods or services. This has nothing to do with real property interests. A different term should be found for the transfer of real property.	5	Definition specific to Subdivisions	B
	8/30/16	Bernie and Nancy Ryan	residents	377	"Single Family Dwelling, Mobile Home." Is the entire term ever used? Or, is only the phrase "Mobile Home" used? If the latter, then why is the introductory phrase helpful or needed? The Glossary defines terms used in the substantive part. Adding additional phrases adds only confusion.	5	Used in Matrices	B
	8/30/16	Bernie and Nancy Ryan	residents	377	"Single Family Dwelling, Site-Built." Same question	5	Used in Matrices	B
	8/30/16	Bernie and Nancy Ryan	residents	378	"Spot Zoning." I have covered the issue in other comments. It is not appropriate to include the criteria in the Glossary.	1	2.23.2k modified. Definition from case law.	G
	8/30/16	Bernie and Nancy Ryan	residents	380-381	"Subdivision." There are larger issues than the definition found in the Glossary. A few questions: under "3)" if the ETZ remains in effect, is the land sale not a subdivision under the Draft?; "5)" what is being done in this case? Is the court order constrained by the exemption? In other words, if the Court grants a party two parcels, is that order in suspension until a subdivision is approved by the County? under "13)" how is the Community Type designation to be given effect here? In other words, if the zoning is overridden by Community Types, is the division of land exempt from subdivision requirements?	5	You cant do a community type with a Claim of Exemption.	B
	8/30/16	Bernie and Nancy Ryan	residents	381	"Substantial Completion." The first sentence is a reasonable definition. The second sentence tells readers very little. The remaining sentences belong in the substantive part of the Draft.	1	Delete second half of sentence	G
	8/30/16	Bernie and Nancy Ryan	residents	383	"Transect Zones." If there are multiple Transect Zones, are they identified in some place that they may be reviewed? What is their purpose for the Draft? These questions may be answered in parts of the Draft I have yet to review.	5	See Article 5	B
	8/30/16	Bernie and Nancy Ryan	residents	384	"Use Zone." If the Draft is not a zoning document, why is there a definition of 'Use Zone?'	5	This is a zoning document.	B
ARTICLE 8 APPENDICES								

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	9/22/16	Kari Bachman	resident, DACU	441	Appendix Q Just as there are flow charts for developers, there should be flow charts for members of the public to walk th	5	All notices include an invitation to contact CDD.	B
	8/29/16	Andy Wakefield, Archaeologist	NM Dept. of Cultural Affairs and Historic Preservation	418&430	Change language in items 21 and 44 to read: Should unmarked human burials be discovered during construction, local law enforcement shall be notified, which will then notify the State Medical Investig			
ARTICLE 9 MAPS								
	8/16/16	Matt Kenney	NASA, White Sands Test Fac.	449	T21S R3E Section 34 is zoned D1. Request changing this section to T1-Natural. This section provides a safety and security buffer for NASA Road.	1	Changed to T1	G
	8/16/16	Matt Kenney	NASA, White Sands Test Fac.	449	T21S R3E Section 35 is Zoned T2 – Rural. Request changing this section to T1-Natural. This section provides a safety and security buffer for NASA Road.	1	Changed to T1	G
	8/16/16	Matt Kenney	NASA, White Sands Test Fac.	449	T20S R3E Section 31 is Zoned T2 – Rural. Request changing this section to T1-Natural. This section is withdrawn for NASA utility use.	1	Changed to T1	G
	8/16/16	Matt Kenney	NASA, White Sands Test Fac.	449	T21S R3E Section 6 is Zoned T2 – Rural. Request changing this section to T1-Natural. This section is withdrawn for NASA utility use.	1	Changed to T1	G
	8/16/16	Matt Kenney	NASA, White Sands Test Fac.	449	Properties located in or near T22S R3E Section 3 are zoned I1. Request changing this zoning to T2-Rural or D1. These properties are adjacent to NASA Road and a high intensity land use is not preferred at this location.	1	Changed to T2	G
	8/16/16	Matt Kenney	NASA, White Sands Test Fac.	449	Portions of T21S R3E Section 5, T20S R3E Sections 33, 34 and South ½ of Section 28, T21S R3E Sections 3, 4, 9, 10, and portions of Section 14,15 are zoned T1 and T2. This land area was withdrawn and incorporated into the White Sands Missile Range. Request changing this to DOD land use/zone.	1	Changed to DOD	G
	8/16/16	Matt Kenney	NASA, White Sands Test Fac.	449	T21S R3E Section 6 is shown as owned by the State of New Mexico. This section is owned by the US Government.	1	Change ownership	G
	8/16/16	Matt Kenney	NASA, White Sands Test Fac.	449	T21S R3E Section 16 is zoned T2-Rural. Request changing this section to T1-Natural. This section provides a safety and security buffer for NASA's White Sands Test Facility.	1	Change to T1	G
	8/29/16	Allen Takeshita & Dale Woods	Cruces Investment Properties	449	As discussed, we would like to request a rezoning of our land from the currently proposed D-1 to the smaller D-2 lot size based on the following reasons: 1) Condition change: Presence of new schools(need to have improved roads for school buses) and residential lots the allow housing for younger families and the ability of children to walk to school. The present zoning makes it impossible to develop the property because of the requirements for existing exterior road improvements (Jornado, Peachtree, Mesa Grande) the costs need to be divided among many lots not just the amount of lots possible under present zoning. 2) The minimum one acre lots make it only economically feasible to have septic systems which is not good for the City water table. For these reasons we are requesting that the current zoning for these parcels be changed to D-2: 03-21459 (60 acres); 03-17264 (6.78 acres); 03-17014 (6.78 acres); 03-16323 (40 acres)	1	Changes made	
	9/28/2016	B. Zarges and G.Daviet	P&Z Commissioners	449	Zoning classifications in the PD should be Transects as reflected in the Comp Plan and the Continuum of Intensity in order to accommodate the new T2s and to minimize the Use Zones within the County.		Changes made	G