

# MINUTES OF THE DOÑA ANA COUNTY PLANNING AND ZONING COMMISSION

October 13, 2016

## CALL TO ORDER

9:04:10

Chairman Westmoreland called a Special Meeting of the Planning and Zoning Commission for a Public Hearing to consider the Unified Development Code to order at 9:04 a.m., Thursday, October 13, 2016 in the County Commissioners Chambers, Doña Ana County Government Center, 845 N. Motel Blvd., Las Cruces, New Mexico.

## 1. ROLL CALL

9:04:50

Led by: Amanda Alarcon, Project & Grant Coordinator

Mel Acosta	Here
Bob Czerniak	Here
MaryAnn Galindo	Here
Bill Zarges	Here
Greg Daviet	Here
John Townsend	Here
Brent Westmoreland	Here

## 2. APPROVAL OR CHANGES TO THE AGENDA

09:10:45

Motion to approve the agenda.

Motion: Townsend

Second: Acosta

## 3. APPROVAL OF MINUTES

## 4. OLD BUSINESS

09:05:11

Janine Divyak-presented on the Unified Development Code (UDC) which includes the following slides:

- 1) Unification of Comprehensive Plans
- 2) Current Complexity
- 3) Consolidation of Land Use Regulations
- 4) Guided by Public Engagement Over 3 Years
- 5) Public Comments
- 6) Bringing Balance
- 7) The Unified Development Code

- 8) Two Zoning Categories: Use Zones
- 9) Two Zoning Categories: Transect Zones
- 10) Sector Plan
- 11) Zoning Map of Dona Ana County
- 12) Positive Impacts of the UDC
- 13) Recommendations
- 14) Article 5: Table 5.23 Buffer Class Requirements

Greg Daviet -Under Recommendations on item 4: Update graphics, correct typos and formatting, what are you requesting from the commission?

Janine Divyak-If we see a typo we would like to correct it instead of documenting every single item

Greg Daviet-Second item I would suggest is a typo, first item I would suggest is not, and if there's verbiage that needs to be changed I don't consider that a typo.

Daniel Hortert-Will keep an ongoing list of any changes going forward other stuff we would bring back to the commission for recommendation or an amendment.

Greg Daviet-Regards to updating graphics is on the border between a typo correction and the change in text, with a typo correction being appropriate and change of text not.

Janine Divyak-Section 6.8 regarding curb and intersections update them so they are more legible and readable.

Greg Daviet-Would that include changing the standards in 6.8?

David Cristiani-No change in the language or standards.

Greg Daviet-I would suggest changing line weights and graphics is acceptable, changing the document's standard is no.

09:19:44

Public Input

Charles Scholz-Former member of the LC Planning and Zoning Commission, Vice-chair of the Vision 2040 Committee a couple years ago, I support the document and code, it is a good plan for future.

Rosa Garcia-Executive Director of Tierra Del Sol Housing Corporation, nonprofit housing organization that has developed much of the infrastructure of Dona Ana County in the area of interest 75,000 people, much of which are the colonias, 250 families ready to buy a home. These regulations are overwhelming, not consistent with the housing plan and will add \$5000 to each lot. Urge not to adopt.

Bill Zarges-You talked about this code break down on \$5,000 per lot can you give us some kind of break down on that? Between the existing code and this code, where did the number come from?

Rosa Garcia-Our engineer Larry Underwood is here today, I asked him to examine some of the subdivisions.

Bill Zarges-Your still able to go through the same subdivision process as you have been, will you see the same increase?

Rose Garcia-Some of the regulations are stringent, I do not support this process.

Roger Beck-Retired academic lived in the county for 10 years I am in favor of the adoption of the code.

Kevin Bixby- Executive Director for Southwest Environmental Center we're a nonprofit organization our mission is to protect wildlife in their habits in the Southwest I would like to express our support, community types will create less sprawl, open space good for wild life.

Bob Czerniak-Are you aware of any maps of migration corridors for animals within the county?

Kevin Bixby-No, but you might contact Dr. Gray Romero at NMSU.

Kurt Anderson-longtime resident of Dona Ana County, I strongly agree that this document be adopted, represents a lot of work by people, still needs some work, no such thing as a perfect document, what I see looks good.

Carol McCall-Resident of Mesilla was involved in the planning process for the Comprehensive Plan, been to a lot of the P&Z work sessions and meetings in discussing the Unified Development Code, supports the Unified Development Code and provides greater flexibility.

Donna O'Daniel-Urge not to vote for final approval on the Unified Development Code, where did 477 pages originate, federal government, HUD, and Agenda 21, infringe on property rights.

Richard Allen-Former Department of Housing of Urban Development career employee, lives in Anthony in a colonia, strongly supports the Unified Development Code as it implements the livability principles of Vision 2040 and will provide vibrant growth in the county.

Bernard Ryan-Delay the effective date, suggest 180 days, take time to see document as a whole.

Bob Hearn-Supports what Bernie Ryan said.

Debbie Moore-President and CEO of the Greater Las Cruces Chamber of Commerce, not in support of it in its current state its current state and form, needs some tweaks and changes before moving forward.

Troy Truder-Vice President of the Chamber, discusses businesses prosperity, how affects minimum wage, gross receipts and taxes, has not seen any numbers.

Orlando Cervantes- Why is this taking so long and it's flawed in several ways.

Paul Dulin- Northern Valley, small pecan farmer, has provided a lot of time and constructive input, P&Z needs to stand by a deadline, will not be perfect, but will be tested by development and there will be changes, Urge to get approval and move forward.

Steve Montanans-Failure to notify property owners and the residents of Dona Ana County on this process. Comments sent to staff are dismissive.

Randy McMillian-Property in Berino, the zoning on the property has been changed was not aware of it was notified by third party.

Daniel Hortert-Was changed to mixed use zoning T3 is more flexible on what he's trying to do, will be a zoning lookup tool on the county website.

Patty Hughs-Santa Fe County rezoned entire county and notified each property owner individually, delay effective date.

David Lutz- Need to update JPA as this is a major change to eliminate ETZ.

Randi Tokar-County resident for the last 11 years, need longer effective date, as a body you have the ability to change the date from 30 to 180 days.

Bob Hearn-Delay voting or vote no on the recommendation to the BOCC.

Brent Westmoreland-Let the record show that Mel Acosta has arrived.

Kari Bachman-Commends staff for stick-to-ive-ness, concerned about how the public is engaged.

Greg Carrasco-Discusses the proposed or recommended changes slide, not sure on how it is going to work, thinks the UDC is a good idea just don't think we have tested it in enough, needs more work, don't know about the JPA.

Greg Daviet-Do you have a suggestion on how we proceed?

Crosco-Needs to be a joint work session BOCC and the City.

Daniel Hortert-City has been monitoring and reviewed the document, been in motion for 3 years

David Lutz-Not aware of the City signing off on a Joint Powers Agreement, will look into that, when that line is drawn, a compelling reason to draw that line today.

Don Kurtz-Lives in Las Cruces there's tremendous flexibility here, recommend adoption.

Joan Woodward-Urge to approve the UDC Draft and forward it to the County Commissioners, suggests the residential cell tower heights can be one of the first amendments of the UDC.

Christopher Lyons-Land owner in Santa Teresa and also developing an industrial park in support of the UDC, mirrors Don Kurtz comments.

Brent Westmoreland-Deal with staff and commission recommendations first and will take a vote on recommendations

16:12:08

Bill Zarges-It may be appropriate to start with addressing those staff concerns that were brought up

Greg Daviet-I don't know if we want to put it to a decision if we may want to extend our time in consideration of voting or if we even want to discuss that or move forward with amendments

Bill Zarges-My preference would be to deal with staff recommendations to get those done, then I know you have several in addition and get those recommendations done, then we can talk about the time frames

Brent Westmoreland- We have to get through all the recommendations one way or another whether they are staff's or ours

16:13:20

Brent Westmoreland-First Recommendation is to Consolidate Comment Matrix, reflected on the 9/30/16 redline version

David Cristiani-The following additional recommendations start below that-delete section 2.9.12, as they not applicable in transect zones.

16:14:08

Motion to delete section 2.9.12

Motion: Greg Daviet

Second: Bill Zarges

Brent Westmoreland- What I intend to do is take these on a voice vote unless there is a descending vote then we'll go back up and take on a roll call

Greg Daviet-Review of 2.9.12 is a remnant from before we had Transect Zones throughout the county and that the Transect Zones were separated out in to the original town sites and 2.9.12 added confusion to the code and does not have any useful benefits, is that correct?

Daniel Hortert-That is correct.

16:15:26

Brent Westmoreland-Any further discussion on that motion? Being none all those in favor of deleting 2.9.12. The motion was passed by a vote of "ayes" from all Commissioners present.

Motion carries unanimously therefore it stands.

16:15:46

Brent Westmoreland-Next item Move tables 5.21 and 5.22 "Plant List" to Article 8 – any further description needed, none.

16:16:00

Motion to move tables 5.21 and 5.22 "Plant List" to Article 8

Motion: Bill Zarges

Second: John Townsend

16:16:44

Greg Daviet-Like to offer a friendly amendment just for clarification that we move table 5.21 numbered as Appendix X and table 5.22 to be numbered Appendix Y

Bill Zarges accepted friendly amendment

Brent Westmoreland-Any further discussion on the motion? Discussion being none

The motion has passed by a vote of "ayes" from all Commissioners present.

Motion carries unanimously therefore it stands.

16:18:05

David Cristiani-Modify Buffer Classes in Table 5.23 per UDC Draft 4. In other words make them congruent.

16:20:50

Motion to move to except changing to the Buffer Class Requirement Matrix Table 5.23 as presented by the staff at this public hearing.

Motion: Greg Daviet

Second: Bill Zarges

Brent Westmoreland-Any further discussion on the motion, discussion being none.

The motion was passed by a vote of "ayes" from all Commissioners present.

Motion carries unanimously.

16:22:01

David Cristiani-Delete end of Section 5.13.6.b.iv that's the wireless communications section, it says: everything starting at "that is inventory at the local, state or federal level" be deleted – Ill pull it up on the clean document so you can see it.

16:22:33

Motion I move to amend 5.13.6.iv to insert a period after the word byway and to delete the remainder of the sentence.

Motion: Greg Daviet

Second: Bill Zarges

Greg Daviet: I will note that while I do concur with Ms. Woodward's comments, we do not currently have an inventory and it leaves this section ambiguous, I do believe that an inventory of these things so that staff can make a ministerial decision as opposed to a discretionary decision about whether or not they can administratively approve a cell phone tower request is still appropriate-typically what I'm saying appropriate to require an inventory list of these things staff reviews to make that decision so therefore I do not support deleting this out of this sentence and I

encourage staff to move forward and working with the community and planning and zoning commission to establish an inventory.

Brent Westmoreland roll call vote perhaps will be indecisive

Mel Acosta	Yes
Bob Czerniak	Yes
MaryAnn Galindo	Yes
Bill Zarges	Yes
Greg Daviet	No
John Townsend	No
Brent Westmoreland	No

Brent Westmoreland-By a vote of 4-3 the motion has carried.

16:25:49

David Cristiani-Add "View Shed" to the Glossary of Terms.

16:25:58

Motion to move add significant view shed to the Glossary of Terms.

Motion: Bill Zarges

Second: MaryAnn Galindo

Brent Westmoreland-any further discussion on the motion?

Greg Daviet-My only question was the major arroyos-what are we talking about as an arroyo being in a major view shed?

Motion- Move to amend the motion to add a period after the word Rio Grande and to delete the rest to the sentence.

Motion: Greg Daviet

Second: John Townsend

Brent Westmoreland-Discussion on the amendment-discussion on major arroyos and view sheds.

Mel Acosta	No
Bob Czerniak	No
MaryAnn Galindo	Yes
Bill Zarges	No
Greg Daviet	Yes
John Townsend	Yes
Brent Westmoreland	Yes

Brent Westmoreland-By a vote of 4-3 by the amendment to the motion has passed now back on the original motion now as amended.

Brent Westmoreland-Motion before us is to add Significant View Shed and the amendment was to put a period after Rio Grande-amendment passes now were back on original motion as amended as I stated.

Mel Acosta	Yes
Bob Czerniak	Yes
MaryAnn Galindo	Yes
Bill Zarges	Yes
Greg Daviet	Yes
John Townsend	Yes
Brent Westmoreland	Yes

Brent Westmoreland-unanimous vote on the motion as amended.

16:40:40

David Cristiani-Update graphics, correct typos and formatting a couple of examples on page 19 of the clean version.

16:55:30

Motion I move to delete that last sentence in section 2.1.3.b.

Motion: Greg Daviet

Second: Bob Czerniak

The motion was passed by a vote of “ayes” from all Commissioners present.

Motion carries unanimous.

16:56:01

Motion I move to permit staff to correct all typos, formatting errors and graphical improvements that provides no subtle changes to include the addition, deletion or changing of words.

Motion: Greg Daviet

Second: Bob Czerniak

Brent Westmoreland-any further discussion on the motion discussion being none

The motion was passed by a vote of “ayes” from all Commissioners present.

Motion carries unanimous.

16:57:03

Motion I move to change the last word in section 2.15.2.a.3 from ‘and’ to ‘or’

Motion: Greg Daviet

Second: Bill Zarges

Brent Westmoreland-Any further discussion on the motion, discussion being none

Motion carries unanimous.

16:57:46

Motion for greenhouse and nursery, commercial in Matrix, place the S in the T3 category and delete the S under livestock pen.

Motion: Bob Czerniak

Second: Bill Zarges

Mel Acosta	Yes
Bob Czerniak	Yes
MaryAnn Galindo	Yes
Bill Zarges	Yes
Greg Daviet	Yes
John Townsend	Yes
Brent Westmoreland	Yes

Brent Westmoreland-It's unanimous.

David Cristiani-WCF and WSS heights, designated visual resources

Greg Daviet-I recommend no change at this time and to follow Ms. Woodward's suggestion of initiating study and proposed amendments after adoption.

Brent Westmoreland-is there a consensus on this all the board members shaking their heads yes.

David Cristiani-Require a public hearing for Community Types.

Greg Daviet-Option1: Is to reduce the process requirements for zone changes to be equivalent to community types that would have zone changes being determined administratively with decisional criteria for a zone change that will require a town hall meeting by an applicant prior to approval of the zone change. Option 2: That we make communities types difficult process wise, as zone changes that will require us to move community types out of administrative approval and to have the two requisite public hearings that we currently have for zone changes. Option 3: We meet somewhere in the middle, we allow zone changes to be approved as a final decision to planning and zoning commission and we require community types to be approved at the planning and zoning commission level. Option 4: is to change the site standards for T2 to a standard that is likely to be developed with its existing site standards especially there I would recommend 3 quarters of an acres.

Motion I move to change to 2.3.1 to read as follows: "No zone change shall be approved until a public hearing has been held by the P&Z, who shall approve, conditionally approve, or deny in accordance with the General Notice Requirement established in Section 2.2.2." Inserting as 2.13.4.f the following language "No community type shall be approved until a public hearing has been held by the P&Z, who shall approve, conditionally approve, or deny in accordance with the General Notice Requirements established in Section 2.2.2."

Motion: Greg Daviet

Second: Bob Czerniak

Mel Acosta	Yes
Bob Czerniak	Yes
MaryAnn Galindo	Yes

Bill Zarges                    Yes  
Greg Daviet                    Yes  
John Townsend                Yes  
Brent Westmoreland        Yes

Brent Westmoreland-by a unanimous vote motion carries

17:51:40

Motion I move to change Section 1.9 to delete number 30 and insert the number 180.

Motion: Greg Daviet

Second: none

Brent Westmoreland-motion fails as a result of no second.

17:53:26

Motion I move to change 4.4.A.6 the first sentence to read as follows: "The County shall accept ownership of land in civic space unless accepted for ownership by Homeowner Association or Civic Organization."

Motion: Greg Daviet

Second: John Townsend

Mel Acosta                    Yes  
Bob Czerniak                 Yes  
MaryAnn Galindo            Yes  
Bill Zarges                    Yes  
Greg Daviet                    Yes  
John Townsend                Yes  
Brent Westmoreland        Yes

Brent Westmoreland-By a unanimous vote motion carries.

Motion I move to change Section 1.9 to delete number 30 and insert the number 180

Motion: John Townsend

Second: Greg Daviet

Mel Acosta                    No  
Bob Czerniak                 No  
MaryAnn Galindo            No  
Bill Zarges                    No  
Greg Daviet                    Yes  
John Townsend                Yes  
Brent Westmoreland        Yes

Brent Westmoreland-By a vote of 4-3 the motion has failed so that number stays 30.

18:20:

Motion I move that the Planning & Zoning Commission recommend to the Board of County Commissioners that they have the completed JPA from DFA and approved by the City of Las

Cruces and the Dona Ana County Board of County Commissioners prior to publication of notice and general summary.

Motion: Greg Daviet

Second: John Townsend

Mel Acosta	No
Bob Czerniak	No
MaryAnn Galindo	No
Bill Zarges	No
Greg Daviet	Yes
John Townsend	Yes
Brent Westmoreland	Yes

Brent Westmoreland-By a vote of 4-3 the motion has failed

Section 2.3.3 Change-Mistake Rule In the event of a zoning classification error by the County on the official County Zoning Map, the County shall correct the error through a County-initiated zone change at no cost to the applicant.

Motion: Bob Czerniak

Second: Bill Zarges

Brent Westmoreland-Any further discussion on the motion, discussion being none

The motion was passed by a vote of "ayes" from all Commissioners present.

Motion carries unanimous

Motion I like move to recommend approval of the Unified Development Code.

Motion: Bob Czerniak

Second: Bill Zarges

Mel Acosta	Yes
Bob Czerniak	Yes
MaryAnn Galindo	Yes
Bill Zarges	Yes
Greg Daviet	Yes
John Townsend	Yes
Brent Westmoreland	Yes

Brent Westmoreland-By unanimous vote the UDC has been approved.

**5. NEW BUSINESS**

a.

**6. COMMITTEE REPORTS**

None.

**7. ADMINISTRATIVE APPROVALS**

Janine Divyak-Discussed August Building Permits.

**8. STAFF INPUT**

None.

**9. COMMISSION INPUT**

None.

**10. ADJOURNMENT**

**11:14:50**

Chairman Westmoreland adjourned the meeting.

---

Officer: Planning and Zoning Commission