



# Code Assessment Report

## March 26, 2025

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## 1. Introduction and Background

Taos County has identified the need to update its land use code and subdivision regulations. The existing land use code (zoning) was last updated in 2018, but has been amended and grown incrementally over many years without comprehensive review and revision. The subdivision regulations were adopted in 2005 and have not been substantially revised since then.

Various ordinances have been adopted since the last versions of the land use code and subdivision regulations, including amendments to the zoning and subdivision regulations, and stand-alone ordinances related to land use. All of these separate ordinances can become part of a unified development code.

The County adopted its current comprehensive plan in 2017, which provides some guidance on land use goals that the code can implement and recommends some specific code updates. Currently, the County is in the process of updating its comprehensive plan that will provide additional guidance for the code update.

The purpose of the code update project is to modernize the current codes to:

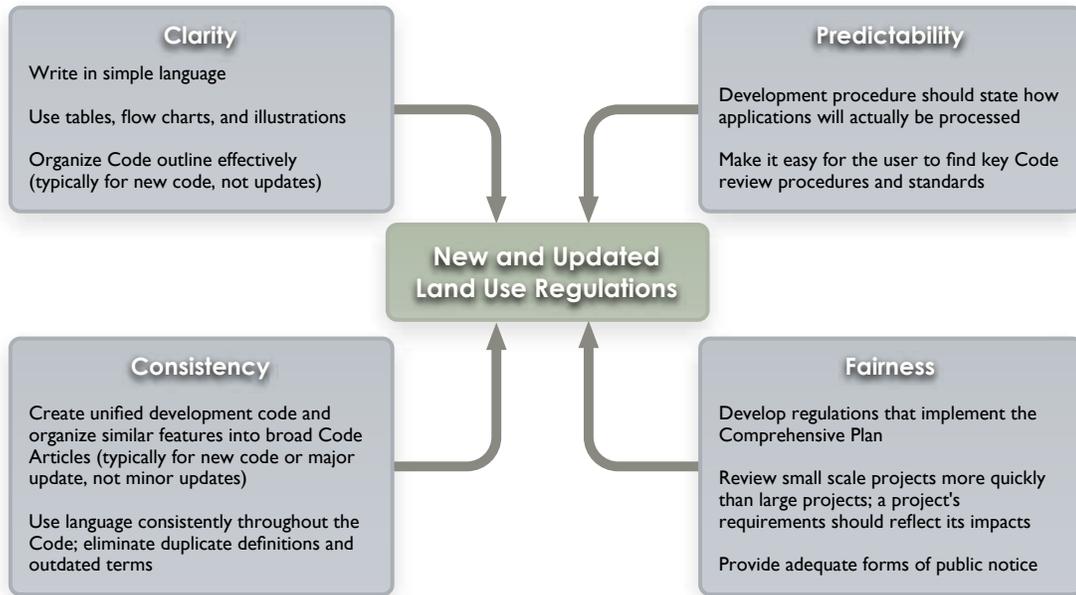
- Meet current conditions
- Provide clear and predictable guidance to developers, policy makers, and community stakeholders
- Implement the project through working as a team consisting of the County Planning Department and planning consultants, and
- Reflect the vision, values and guiding principles of the comprehensive plan.

Themes of the project include:

- Simplifying and making the code more user-friendly
- Creating a single land development code with coordinated application and review processes
- Recalibrating the balance of what is not allowed and what is allowed to be built “smartly” to encourage smart growth,
  - Encourage affordable housing
  - Meet locals’ development needs
  - Allow communities to grow
  - Accommodate some growth of second homes and tourists facilities
  - Assure protection of cultural and environmental assets
  - Allow more economic development opportunities for businesses and jobs
  - Encourage ecologically-sound and sustainable development practices
  - Protect the beauty of Taos County - landscape features, dark skies, farmland, acequias, forests, views, historic buildings, and signage
  - Reduce review requirements for smaller projects with few or no impacts and conduct rigorous review for larger projects
  - Provide more objective rules on desired types of development
  - Provide ample opportunities for public involvement in public review process

### Principles for Successful Codes

In order for development codes to give effective guidance to land use change and activities, the codes should achieve clarity, predictability, consistency and fairness.



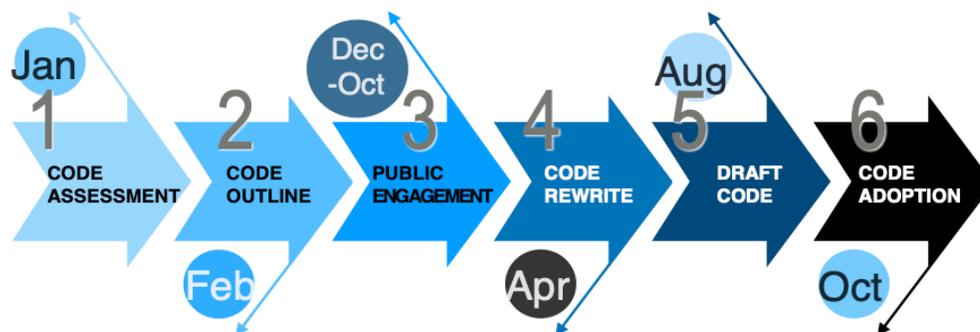
### Consultant Team

Taos County selected Architectural Research Consultants, Incorporated (ARC) to update the land use code and subdivision regulations in August 2024. ARC teamed with White Smith Cousino Planning Group (WSC) on the project.

- ARC is an Albuquerque based firm that provides specialized services in community planning, facility programming & evaluation, and research. ARC has worked with the Town of Taos, Taos Pueblo and Taos Municipal Schools and has drafted land use codes for several municipalities and counties in New Mexico. Steve Burstein, planner, is lead for ARC.
- WSC, with offices in Kansas City, MO and Charleston, SC, has a national practice in zoning and subdivision law and land development regulation rewrites and updates. They have worked in most states including New Mexico. Mark White, partner, is lead for WSC.

### Project Schedule and Tasks

The project is scheduled to be completed in 14 months. The project work plan consists of six tasks. The project is a collaborative effort of the Taos County Planning Department and the consultant team.



Task 1. Code Assessment includes the review of zoning and subdivision regulations: standards, administration, enforcement, and other code provisions, conducting stakeholder meetings and interviews to identify code issues, developing the code assessment report, and giving a presentation on the draft report to the Board of County Commissioners. (January 2025)

Task 2. Code Outline will be developed by applying findings from the code assessment. The Planning Department and consultant team will consult with the county attorney regarding the format and legality of the unified code. (February 2025)

Task 3. Public Engagement includes: developing a public engagement plan, creating a set of hyperlinked documents (educational materials and drafts of code) on the Planning Department webpage, conducting a community survey and, late in the project, conducting an open house. The team will provide update presentations to the Planning Commission and Board of County Commissioners as this task progresses. Overlapping with Task 1, an extensive series of stakeholder meetings was conducted as part of the code assessment. Overlapping with Task 6, workshops, meetings and public hearings will be conducted by the Planning Commission and Board of County Commissioners in review and approval of the draft ordinance late in the project. (December 2024 - October 2025)

Task 4. Code Rewrite consists of creating separate modules for the basic code elements, creating cross-references in the code, developing tables and diagrams to illustrate processes, definitions, and development standards. The code rewrite will also incorporate land use-related ordinances that are standalones. (April – August 2025)

Task 5. Draft Document involves developing three drafts for internal review, consistency, legal review, public review, and edits based on reviews. (August 2025)

Task 6. Present Ordinance for Approval will include meeting with the Planning Commission and the Board of County Commissioners at workshops and in public hearings. The team will revise the draft ordinance based on directions from the public bodies. (October 2025)

## 2. Process for Developing the Assessment Report

The assessment report process included meetings with County administrative and Planning Department staff, Board of County Commissioners and stakeholders (described below), identification and review of state statutes enabling land use regulations, and review and critiquing of the land use code, subdivision regulations and standalone ordinances related to land use.

The consultant team reviewed the County Comprehensive Plan 2017 and draft materials prepared for the 2024-2025 Comprehensive Plan Update related to land use regulations. A summary of this analysis is in Appendix 1.

The ARC team prepared a paper describing the purpose of zoning as general educational information to post on the Planning Department webpage (<https://www.taoscounty.org/492/Land-Use-and-Subdivision-Regulations-Upd>) and is included as Appendix 5. A presentation describing the project is posted on the County Planning Department webpage.

## Code Assessment Meetings with Taos County and Stakeholders

The process of developing the code assessment report has included conducting various meetings with the Board of County Commissioners, County staff and stakeholders to learn about concerns that the County and users of the code have. In the stakeholder meetings, the consultants and Planning Department sought to explore differing perspectives, examine diverse needs, and find strategies for amending the codes that can be implemented.

Meetings with elected officials and staff included:

- Kick-off meeting with Planning Department and driving tour (9-18-24)
- Interviews with Planning Department – Part 1: General subjects of code update needs (11-7-24)
- Interviews with Planning Department – Part 2: Review of representative cases (11-15-24)
- Board of County Commissioners meeting (12-3-24) – introduction to the project and discussion
- Board of County Commissioners meeting (1-28-25) – presentation on code assessment findings

Stakeholder meetings included:

- Stagecoach Neighborhood Association (12-18-24)
- Contractors and design professionals (12-19-24)
- Taos Housing Partnership (1-10-25)
- Upper Las Colonias Neighborhood Association/lessons from Tarlton PUD application (1-14-25)
- Taos Land Trust, Alianza Agricultura, and Acequia Association (1-15-25)
- Taos County Chamber of Commerce and Board of Realtors (1-15-25)
- Contractors and Design Professionals (1-29-25)
- El Prado and Ranchos de Taos Traditional Historic Communities (1-29-25)
- Managers and planners of municipalities in the county (1-29-25)
- Upper Las Colonias Neighborhood Association Design Advisory Review Board (2-12-25)
- Taos County Soil and Water Conservation District (2-19-25)
- Taos County Cooperative Weed Management Area (TCCWMA) (3-5-25)
- Rio Fernando de Taos Revitalization Collaborative (3-12-25)
- Greater Valle de Taos Alliance (Rural Community Assistance Corporation) (3-26-25)

## Future Meetings and Community Survey

Additional meetings will be held later in the code rewrite project, including informational meetings for the general public, public open house meetings and public hearings. The code rewrite project also has the benefit of the comprehensive plan public engagement meetings and community survey results to draw from, as discussed in Appendix 1. A community survey will be conducted in April 2025 to provide the public with information on the update and receive input on general changes proposed in the code update.

### 3. Overview of Features of the Existing Codes

County Ordinances that regulate land use are listed as follow:

Land Use Code (zoning) and Subdivision Regulations – primary ordinances

- Ord. 2018-02 Land Use Code
- Ord. 2005-08 Subdivision Regulations

Ordinances amending the land use code not yet codified

- Ord. 2003-1 Upper Las Colonias Neighborhood Zone
- Ord. 2003-7 Upper Las Colonias
- Ord. 2006-8 Stagecoach Neighborhood Association
- Ord. 2019-4 Clarifications of legal nonconforming uses
- Ord. 2021-1 Cannabis production, manufacturing and retailing
- Ord. 2024-4 Short term rental units

Ordinances amending the subdivision regulations not yet codified

- Ord. 2013-3 Payment of Taxes on Properties for which subdivision application is submitted
- Ord. 2013-10 Clarification of previously approved subdivision and ability to further divide a lot through a lot line adjustment
- Ord. 2020-2 Clarifications of lot sizes and antiquated subdivisions

Stand-alone ordinances related to land use

- Ord. 1995-10 Excavation and Grading
- Ord. 2006-9 Night Sky Protection
- Ord. 2022-3 Sign Code

#### Land Use Code

In the Land Use Code, the County Rural Area Zone is the principal, default zone district applying to unincorporated areas of Taos County (excluding federal and Indian lands). Zoning “clearances” are issued to permit new development activities. Code provisions differ based on whether the proposed development falls into land use/intensity categories of: residential, commercial, major development, and special use. The system is largely discretionary. Application requirements, review procedures, and development standards differ by land use category/intensity.

Other use categories of zoning clearance include: condominium development, multifamily development, wireless communication facilities, commercial wind power, commercial solar power, mining or extraction. Each has special code provisions.

Two areas within the county are classified as “community and neighborhood zones”: Stagecoach and Upper Las Colonias - where “subzone” districts are mapped. Creating such zones are generally recommended in the code to give more specific zoning guidance than is provided in the County Rural Area Zone, including creation of subzones by density and land use types, specifying allowed uses and performance standards, and design review recommendations for each subzone. The Stagecoach and Upper Las Colonias community and neighborhood zones were established through separate ordinances that amended the land use code.

Planned Unit Developments (PUDs) are allowed in any zone. In a PUD the applicant proposes development standards that may differ from underlying zoning with the intent to achieve innovative development and design solutions. The proposed standards for a PUD are typically somewhat different than the underlying zoning and subdivision standards, and, by definition, they are “exceptions”.

Appendices to the Land Use Code include road standards, specifications and utility easements, water supply, terrain management, fire protection, cultural properties, schematics for site triangle area and height of buildings, and official zoning maps of Taos County.

#### Performance Standards Categories in the Land Use Code

The table on the following page shows the categories of development standards for residential and for commercial, administrative, special use and major development zoning clearances. *This is a draft table and will be updated with any corrections* The categories have been reorganized by topics from their original listing in the code. Zoning clearances for commercial, administrative, special use and major development require additional development standards to meet.

Crosswalk Between Performance Standards Categories for Residential and for Commercial, Special Use and Major Development		
Topics	4.3.1 Residential Zoning Clearance Performance Standards	4.7.1 Commercial, Administrative, Special Use and Major Development Zoning Clearance Performance Standards
Applicant Eligibility	A. Property Rights	
	Q. Rural Addressing	
Dimensional	U. Limits Table	DD. Developmental Standards Limits Table.
	G. Max. Height 27'	N. Maximum Height
	F. Sight Triangle Area	
	S. Fences	CC.Fences
Environmental	N. Clearing and Grubbing	
	D. WUI	W. Wildland Urban Interface (WUI) Impact Areas
	E. Water Quality Protection	
	O. Flood Plain - comply with Ord. 2009-01	V. Flood Plain and Elevation Certificate
	H. Wetlands	Q. Wetlands
	J. Archeological Sites	Z. Archeological Sites
Infrastructure	R. Acequias	P. Acequias
	B. Water and Wastewater	C. Water Supply and Quality
	C. Utilities	B. Utilities
	I. Solid Waste Disposal	U. Solid Waste Disposal
Site Improvements	M. Storm Water control	F. Storm Water Control
	P. Legal Access and Driveways	E. Legal Access
Other	L. Grade of driveways (<12% or install fire protection water storage system)	O. Grade
	K. Lighting - Dark Skies compliance	M. Exterior Lighting
Environmental	T. Additional performance standards - Png Dept may require adherence to Special Use when applicable	BB. Additional Performance Standards
		H. Environmental Impact Study
		J. Wildlife Areas Identified as Wildlife Habitat
		I. Geologically Unstable Areas
		K. Agricultural Areas
Infrastructure		Y. Slope
		A. Roads
Site Design and Improvements		D. Liquid Waste Disposal
		L. Site Improvement.
		R. Americans with Disabilities Act (ADA).
		S. Landscaping
		AA. Minimum Off-Street Parking Requirements.
		T. Street and Parking Design.
	X. Loading.	
	G. Fire Prevention Plan	

### Dimensional Standards (Limits)

The following table, 4.3.1.U, is from the existing code.

<b>4.3.1.U Limits Table</b>			
<b>Residential, Commercial , Administrative Zoning Clearances, Special Use and Major Development</b>	<b>Less than 2ac.</b>	<b>2 ac. or more</b>	<b>COMMENTS</b>
Maximum Lot Coverage	80% for commercial, 60% for residential, or as approved in the development site plan and plat	75% for commercial, 60% for residential, or as approved in the development site plan and plat	Includes buildings, patios and decks. Excludes parking lots, roadways, driveways, courtyards, walkways, utilities and landscaping.
Minimum Commercial Setbacks: (1)			
Front	20 ft.	30 ft.	
Side	20 ft.	30 ft.	
Rear	20 ft.	30 ft.	
Minimum Residential Setbacks: (1)			
Front	20 ft.	20 ft.	
Side	10 ft.	10 ft.	
Rear	10 ft.	10 ft.	
Minimum setback from acequias, and legal lateral (venitas) acequias (2)	20ft.	50 ft. commercial 20ft. residential	Measured from the nearest bank of acequias.
Minimum setback from water sources, streams, wetlands, springs etc.	85ft. commercial, 40ft. residential	150ft. commercial 40ft. residential	Measured from the nearest bank of streams, springs, or from wetlands
Maximum developable slope	20%	20%	If > 20% see Section 4.14
(1) Setbacks do not apply to fences, except fences on driveways that abut access easements shall comply with site triangle area requirements. Refer to Appendix 6.			
(2) More or less if established in acequia bylaws.			

Standards should be reevaluated to reflect current conditions. For consideration are the following:

- Maximum Lot Coverage: 60%
- Minimum Setbacks: 20' front, 10' side and rear
- Acequia Setback: 20'
- Water source Setback: 40'
- Maximum developable slope: 20%

For commercial/Admin/SP/MD development the following standards apply and should be reconsidered:

- Maximum Lot Coverage: 80% when parcel less than 2 acres and 75% when parcel is 2 acres or more

- Minimum Setbacks: 20’ from all property lines when parcel is less than 2 acres and 30’ when parcel is 2 acres or more
- Acequia Setback: 20’ when parcel less than 2 acres and 50’ when parcel is 2 acres or more
- Water source setback: 85’ when parcel less than 2 acres and 150’ when parcel is 2 acres or more
- Maximum developable slope: 20%

Review Procedures in Existing Codes

The table below shows the types of review and the responsible parties and actions that each party takes (such as review and recommendation, appeal, and decision). Where the code requires public hearings is also identified. *This is a draft table and will be updated with any corrections.*

Summary of Taos County Permit Procedures in Existing Codes						
Types of Review	Responsible Party, Type of Decision and Public Hearing					Code Reference
	Planning Department	Planning Commission	Board of Adjustments	Board of Cnty Commissioners	Neighborhood Association	
<b>Zoning</b>						
Residential zoning clearance	D*	AH		AH	R	4.2.2, 4.2.3 , 4.2.4
Administrative zoning clearance	D*	AH		AH	R	4.4.3, 5.1.5
Commercial zoning clearance	D*	AH		AH	R	4.4.3, 5.1.5
Major development zoning clearance**	R	RH		DH	R	4.5.6, 5.1.5
Special use zoning clearance***	R	DH		AH	R	4.4.3, 5.1.5
Planned Unit Development (PUD)	R	RH		DH		5.1.8.H
Rezoning	R	RH		DH	R	5.3, 5.1.5
Variance	R	DH combined	DH single app	AH	R	8.1.2
Short-term rental owner occupied	D*	AH		AH		Ord. 2024-4
Short-term rental non-owner occupied	D	AH		AH		Ord. 2024-4
Cannabis production, manufacturing, retailing	Types of use include microbusiness, small cannabis producer, large cannabis producer, major cannabis producer, cannabis manufacturer, and cannabis retailer. Depends on whether type is administrative, special use or major development					Ord. 2021-1
<b>Subdivision</b>						
Exemptions from definition of subdivision	D*					SR 2
Summary Plat	D*	AH		AH		SR 6.1.2, 11
Preliminary Plat	R	RH		DH		SR 4.8
Final Plat	R			D		SR 5.3
<b>Residential zoning clearances, further detailed</b>						
Manufactured homes	D*	AH				4.8.8
IBC building permit	D					
Vending booths	D*	AH				4.8.14.A
Home occupations	D*	AH				4.8.2
Temporary uses	D*	AH				4.8.3
Non-commercial wind	D*	AH				4.8.4
Non-commercial solar	D*	AH				4.8.5
Non-commercial excavation and grading	D*	AH				4.8.6
Non-commercial burial of immediate family member	D	AH				
Residential wetland	D*	AH		AH		4.8.13
Community and neighborhood zones creation	R	RH		DH		5.1.1
Sign permit	D	D - Variance	D-Variance	A- Variance		Ord. 2022-3
Key to Abbreviations: R - Review and Recommendation, D - Decision, A- Appeals with Decisions, H- Public Hearing						

Notes for Summary of Taos County Permit Procedures in Existing Codes table	
* Planning Department can approve with conditions	
Appeals procedures are described in Article 9 and SR Article 11	
Size and Type of Development determine Major Development and Special Use review type as follow:	
**Major development zoning clearance is required for projects that are:	
Over 5 acres	
Equal to or over 80,000 s.f.	
Over \$5m.	
Expansion of a legal non-conforming use that exceeds quantitative limits above	
***Special use zoning clearance is required for projects that are:	
Condominium development, Code Ref. 4.4 (if not major devt) or 4.5 (if major devt)	
Multifamily development, Code Ref. 4.4 (if not major devt) or 4.5 (if major devt)	
Wireless communication facilities	
Commercial wind power	
Commercial solar power	
Mining or extraction	
Public facilities	

## Upper Las Colonias and Stagecoach Neighborhood Subzones

The following draft tables gives partial summaries of subzone requirements (*these tables may change with corrections*). Additional information is contained in the respective ordinances creating the zones and subzones.

Upper Las Colonias Community and Neighborhood Zones					
Subzones	Intent of zone	Minimum Lot Size	Setbacks	Uses (not all inclusive listing)	Additional Information/Questions
SubZone #1		2 acres	75' from highway or public roadway (front),	Vague language: "Any (use) that meets the performance criteria for this subzone as indicated herein and is approved by Taos County Planning Commission if such approval is required"	No more than 10 units per acre and no more than two freestanding buildings per acre. Higher density, more units per acre, development is allowed if more of the parcel is left unimproved according to the 20%/10% rule: "If the density is 20% higher, the unimproved area must be increased 10%".
SubZone #1A		2 acres		Agriculture (as restricted in SubZone 4), single family residences or cottage industries. Multiple family residences or low impact, low traffic business activities	
SubZone #1M		2 acres	30' from all prop boundaries, 23' height at 100 ft. setback	Single family residences or cottage industries. Multiple family residences or Bed and Breakfast Operations	
SubZone #2		1 acre	setbacks?, 23' height	Single family residences or cottage industries. Multiple family residences or Bed and Breakfast Operations that are approved by Taos County Planning Commission	
SubZone #3		1 acre	setbacks?, 23' height	Agriculture (as restricted in SubZone 4), single family residences and cottage industries, except that in this SubZone, no more than two non-family employees are permitted to work in a cottage industry at any given time	
SubZone #3A		0.75 acre	setbacks?, 23' height	Agriculture, single-family residences and cottage industries	
SubZone #4				Agriculture	

Stagecoach Community and Neighborhood Zones/Subzones				
Subzones	Intent of zone	Minimum Lot Size	Setbacks	Uses (not all inclusive listing)
<b>Zone #1 – Highway Corridor Protection District (HCPD)</b>	Commercial uses and services along the major roads leading in and out of Taos County, retains the architectural styles of the Taos Valley and to retain an appropriate mix of rural and other uses	1 acre	10' front, 15' side, 20' rear	General merchandise retail, eat/drinking establishments, person service, S.F. dwelling, department stores, RV park, etc.
<b>Zone #2 TRANSITIONAL COMMERCIAL RESIDENTIAL</b>	Neighborhood-oriented, small-scale commercial uses primarily to supply convenience goods and services to the local residents	1 acre	20' front, 7' side, 15' rear	Eating/drinking establishments, professional office, general merchandise retail, MHP, duplex and MF is CUP
<b>Zone #3 – Single-Family Residential (R 2.5) Zone (Tune Tract)</b>	Low-density single-family residential areas with a two and one half (2.5) acres where municipal water and wastewater services are allowed	2.5 acres	50' front, 30' side, 30' rear	S.F. dwelling, cottage industry, mobile/manu homes, modular, guest house
<b>Zone #4 – R 3/4 DON FILIBERTO MARTINEZ (R 3/4) ZONE</b>	Low-density single-family residential areas with a minimum lot size of three fourths (3/4) of an acre where municipal water and wastewater services may or may not be allowed.	0.75 acre	10' front, 10' side, 10' rear (<1 acre), 20' front, 10' side, 10' rear >1 ac	S.F. dwelling, cottage industry, <b>temporary</b> mobile/manu homes, modular, guest house, storage of no more than 2 RVs
<b>Zone #5 – A 20 DON PATRICIO MARTINEZ (A 20) ZONE: AGRICULTURAL/RANCHING</b>	Agricultural and/or ranching activity	20 acres		Agriculture and ranching, riding stables, grazing, wildlife; CUP: 1.5 acre parcels and Min 1200 s.f. residence, mobile/manu homes, temp. mobile/manu homes, cottage industry, SUP: temp. farm labor housing, feed store, nursery, rec.- golf course

## Subdivision Regulations

The Subdivision Regulations closely follow the format and content specified in the New Mexico Subdivision Act (Article 47-6, NMSA 1978). Major features of the County Subdivision Regulations are establishing a system of summary subdivisions, creating up to five lots, and types 1,2,3,4 and 5 subdivisions. Based on the number and size of lots created in Types 1-5 subdivision, review procedures and submittal requirements differ. Thirteen exemptions to the definition of subdivision as delineated in the New Mexico Subdivision Act are incorporated into the regulations. Major sections of the subdivision regulations include: pre-application procedures, preliminary plat procedures, final plat procedures and summary plat procedures and mobile home subdivisions. Appendices address in detail: roads, water supply, solid waste, utilities easement and installation, fire protection, terrain management, protection of cultural property and archeological sites, disclosure statement, agreement to assure completion of infrastructure, and claim of exemption.

## 4. Document Review Comments and Recommendations

### General Comments about the Existing Code

#### Good Things about the Code

The existing code, consisting of the various identified ordinances, is comprehensive, identifying most topics of concern regarding development. It is one of the most thorough codes of any rural county in the state. A great deal of thought went into the code over many years. The thoroughness of the existing code is evidenced by such provisions as: the protection of acequias, wildlands urban interface (WUI) standards for development, architectural review in two community areas, steep hillsides regulations, evaluations of environmental impacts in special review and major developments, and thorough adherence to the NM Subdivision Act.

## Discretionary Decision-Making and Subjective Standards

The code contains an overabundance of discretion and subjective standards, which leads to excessive time for review and approvals, confusion, and higher costs for applicants and development.

Most zoning clearances require discretionary public review processes, as shown in Summary of Taos County Review Processes table on page 10. Administrative and residential zoning clearances are approved by the Planning Department; even these allow for the placement of conditions of approval, which invokes a degree of discretion by staff. Virtually all nonresidential development are allowed only with public review. Adaptive reuse of an existing building, for example, is typically only allowed with public review, when abandoned for longer than 365 days.

Appeal processes for decisions are an appropriate and necessary “check and balance” in zoning systems, while recognizing that they contribute to the time and cost of the application process. With greater clarity and predictability in the code, appeals can hopefully be reduced in number and scope. Subjective standards add to the complexity of appeals. Conventional zoning that establish uses by right, conditional uses and prohibited uses would substantially reduce the level of discretion and subjectivity.

Examples of subjective standards are found in many sections of the code. The following discussion provides specific examples, while it is not exhaustive.

- **Land Use Code:** visual compatibility (Section 4.6), use compatibility (Section 4.6), consistency with purpose statements as a standard for administrative decisions (4.2.3), portion of public open space in 25% open space for major development (4.5.5.B.8), affordable housing and/or workforce housing (4.4.5.B.10), adequate capacity for roads (4.7), utilities determined by providers (4.7), stormwater control erosion (4.7), criteria for requiring an environmental impact study, parking ratios, additional performance standards that Planning Department can require (4.7) visual corridors (4.13.2)
  - Appendices have vague standards such as “green infrastructure” or “low impact development,” leaving vegetation undisturbed “where possible.”
    - In the respective appendices, subjects in the Land Use Code overlap with Subdivision Regulations.
  - In Stagecoach Neighborhood Ordinance 2006-08, examples of subjectivity and vagueness are: view shed, definition of general merchandise retail, trailers definition, conditional use provision, architectural exterior color, and architectural styles of pueblo adobe and territorial.
  - In the Upper Las Colonias Neighborhood ordinance (2003-01) examples of subjectivity and vagueness are view sheds C.1.i., landscaping (C.1.j.), Subzone 1, 1A, 1M, 3 allowed use and prohibited use, 23’ height in diagram 4.A.c.iii, and Subzone 3 5.A.a.i. reference to zone 4.
- **Subdivision Regulations,** vagueness includes: criteria for mobile homes definition, affordable housing definition, resubdivision (9.2), “encourage” recycling (App B, Part II, Sec. 3), road standards (App C, Part I), fire protection (App. D, par. 6 [overbroad], exemption from subdivision does not mean exemption from all county land use regulations, Wildland Interface Area defined somewhat differently in subdivision regulations and land use code, family transfer holding period, stream corridor area map referenced, critical management areas if applicable, Maximum water use (6.2.10), Water availability (6.2.12) Planning Director to identify areas of water supply concern with density restrictions (C.5), extraterritorial plating (coordination with Town of Taos) (5.5), minimum lot size varies with slope and affordable housing (6.1), Cluster Housing Development can do without

going through a PUD - no criteria for open space, how lots are arranged and related to open space (8.1), redundancy in the standards within the body of the subdivision regulations and in the appendices that have made the subdivision regulations ordinance so lengthy. Probably the Planning Director and applicants have to read through several sections, such as on subject of water availability, on the same subject to be sure the code provisions are understood

Development standards should be simplified and revised to be more objective. An opportunity for code simplification is to create (1) a section of common development standards applicable to all development activities and (2) a set of supplemental standards for those types of development activities that have unique standards.

Creating more objective, measurable development and design (performance) standards would make it easier to interpret and comply with the code. Many performance standards are basically supplemental use regulations, not development standards.

#### Procedures, Standards, and Definitions are Mixed Up

Intermingled standards, procedures and definitions are found in various sections of the Land Use Code, Subdivision Regulations, and in Stagecoach and Upper Las Colonias Community and Neighborhood Zones.

- Some definitions should be updated
- User-unfriendly redundancy lengthens the codes and creates opportunities for inconsistencies
- Creating tables and charts will improve readability of the code and make future refinements easier

#### Land Use Code Organization

An overarching goal of the project is to combine into a single code all land use regulations. This will make it easier for a user to find provisions. It will facilitate simplification by placing procedures into a single place, reduce redundancy, and improve consistency.

Following is an example template for code organization. This will be revised and detailed in the Code Outline, a product of the code update project.

1. General
2. Zoning
3. Development Standards (Site Plan and Subdivision)
4. Use Regulations
5. Signs
6. Procedures
7. Nonconformities
8. Enforcement
9. Agencies
10. Definitions / Rules of Interpretation
11. Legal Provisions
12. Submittal Requirements

The reorganized code will separate out and consolidate procedures from submittal requirements, currently scattered throughout the code and intermingled.

Tables, charts and diagrams will be included, such as creating a use table showing permitted uses, conditional uses, and supplemental use regulations. Conditional uses and special uses will be designated for those uses – or uses that exceed threshold size and intensity - where discretionary review is appropriate.

### Specific Comments and Recommendations Regarding the Land Use Code

The following comments and recommendations result from an analysis of the codes by consultants and the County Planning Department and input from the public engagement process. Subjects are:

- reorganize the code
- create a new framework of conventional zones
- create overlay zones
- replace community and neighborhood zones with conventional zones applicable to zoning any future community areas,
- revamp Planned Unit Development
- make procedures and submittal requirements distinct
- replace or reduce the number and discretion in subjective performance standards. Replace with objective standards where practical.
- clean up definitions
- clarify architectural standards or guidelines
- improve code enforcement

### Reorganize the Code

Major reorganization of provisions from the existing ordinances into a unified code will improve the consistency, readability, and clarity of the County’s land use regulations. The Code Outline, product of Task 2, shows the proposed code reorganization in detail. Some of the changes include:

- Move agency info out of Art. 1 and Definitions (Art. 2) to the rear of Land Use Code
- Modify Board of Adjustments and Planning Commission formation
- Consolidate general procedures, such as pre-application
- Consolidate submittal requirements and place in a table
- Place development standards into “general provisions” and “special provisions” and reorganize by topic
- Create/modify dimensional requirements table
- Develop illustrative graphics
- Some of appendix materials will be folded into the body of the code to reduce complexity, redundancy and potential for conflicting standards

### Create a New Framework of Conventional Zones

Conventional zoning divides a jurisdiction into districts, such as residential, commercial, industrial, and mixed use corridors. It establishes within each zone district permitted uses, prohibited uses, and conditional uses, dimensional standards (such as lot size, setbacks, building height and lot coverage) and standards for specific uses. The code update should create intent statements for zones as general guidance and include referencing of the comprehensive plan. Zoning “clearances” are not needed as a discretionary review in conventional zoning, where the zones and uses allowed within each zone are

specified. Clearances are only a sign-off that a proposal complies with zoning before an applicant submits a building permit application.

Following are the types of zones likely to be crafted in the updated code:

- Residential zones by minimum lot sizes and density, such as R-1, R-2, R-3, R-Multi-Family
  - Infrastructure is key to allowable uses other than single family houses on wells and septic systems
  - El Prado and Ranchos Historic Communities have small lots where setbacks are hard to meet
- Mixed use zones - particularly for corridors
  - Several zones may be crafted based on lot sizes, size and architectural character, and uses. One-size-fits-all will not work to guide the fine-grained nature of the communities of the county, while the goal is to create a simpler palette reflecting the commonalities of place types.
  - Consider in mixed-use corridors in rural communities: architectural standards, no drive-throughs, square feet limits, exterior light output limitations, and hours of operation
- Commercial zones
- Industrial zones
- Agricultural zone
  - The Taos County Community Conservation Plan (2017, being updated) can help in the delineation of zone districts. In those agricultural areas, purchase of development rights/conservation easements should be prioritized.

The current County Rural Area Zone (possibly renamed as the Rural Zone) will continue to exist, to apply to certain rural areas of the county lacking infrastructure. Single family residential and agriculture will be uses by right.

- Continue to allow special uses or conditional uses. Continue to have major development and/or special use review for larger projects and uses that have more significant impacts on the environment, or require rezoning.
- Encourage rezoning in the County Rural Area Zone to nonresidential zones for proposed commercial or industrial uses.
- Evaluate and revisit development standards in the Rural Area Zone, including:
  - Are maximum lot coverage %'s too high?
  - Is the general maximum height of 27' high enough? Should some zones allow for 3 stories (especially in mixed-use areas to allow for business on 1<sup>st</sup> floor and residential on higher floors)?
  - Is limiting noncommercial wind power to 27' maximum height practical for generate electricity?
  - Development standards for roads, utilities, water supply differ from Subdivision Regulations – duplicative and potentially conflicting
  - Noise – Upper LC has regulations but noise levels are not currently measured by the County
  - Dark Skies Ordinance update: volunteers are drafting an ordinance – lux, heat of light and the possibility of light zones
  - “Additional performance standards” – [vague, include catch-all for mitigation]
  - Consider reduced or flexible parking requirements for affordable housing
  - Mobile homes/manufactured homes should be treated as positive contributions to affordable housing stock – and not categorically prohibited by architectural design review.

In the subdivision regs, a mobile/manufactured home park can have more than 2 such housing units placed in one lot. If the County decides to keep the current standard of 3 homes on 1 parcel of land, this should be revised to also allow 3 mobile/manufactured homes.

- Acequia setbacks
  - Look at setback requirements for acequias. Currently setbacks are for “acequias” and “laterals,” need to include all the other parts of the acequia, including ventas
  - Consider codifying different setbacks based on the acequia board’s bylaws. There are over 100 acequias in the county.
  - Consider variation allowance if made into a significant water and landscape feature within a new community

Overlay Zones will likely be needed for architectural review and additional environmental review. A framework will make them available and optional for use where appropriate upon determining that they serve a public purpose.

#### Replace Community and Neighborhood Zones with Conventional Zones Applicable to Zoning Any Future Community Areas

- Create a set of conventional zones for new community areas
- Consider the retention of the existing Upper Las Colonias and Stagecoach Community and Neighborhood Zones as “legacy zones” with minor alterations for allowance of permitted uses, conditional uses, etc.

#### Define the Standard of Visual Compatibility

- It is a vague standard in Upper Las Colonias and Stagecoach. Potentially other communities may also desire some such standards
- No viewshed studies have been conducted
- The current Asset Mapping Project managed by the County Economic Development Department will identify physical features, cultural and outdoor recreational features, and land-based treasures. Input from this project may help identify places to safeguard and inform visual impact analysis
- Valuable views may include Taos Mountain, agricultural land/acequias, churches, such as St. Francis de Asis in Los Ranchos de Taos, and rivers
- In Upper Las Colonias neighborhood subzones, greater heights are allowed based upon increased setbacks in transition areas between zones, and are well received by residents.. This is a component of visual compatability.

#### Revamp Planned Unit Development

- PUD regulations should be enhanced with guidelines referenced in the code or illustrations and more descriptive criteria for land conservation easements, buffering, scale of projects, and possibly architectural guidelines.
  - Commercial properties in the PUD should not need to come back for a special use permit.
  - Buffer treatment should be addressed in PUD applications using such techniques as setbacks, viewlines, berms, vegetative screening, and fencing. Explanatory guidelines should be developed

- Guidance should be provided to applicants for creating architectural guidelines in covenants submitted to County. The County should consider requiring architectural standards for PUDs maybe over a certain size
- Consider a “new communities” provision for large PUDs, including fiscal impact analysis

#### Make Procedures and Submittal Requirements Distinct

- Separate out procedures from submittal requirements, currently scattered throughout the code and intermingled. Consolidate procedures (aka review processes) and consolidate submittal requirements.
- Procedures in separate sections include:
  - Sections 3.1, 3.2, 3.3.1, 4.1, 4.2.2-4.2.4, 4.4.1, 4.4.3, 4.5.1-4.5.2, 4.5.6, 4.5.10, 5.1, 5.3, and Article 6
  - Add table to clarify and simplify time frames for procedures.
- Submittal requirements
  - Submittal requirements are repeated for the various application types. The new Land Use Code should consolidate them into a table.
    - Review submittal requirements in 4.2.1, posting – B.9, 4.4.2, and in 4.5.3-4.5.5.
  - Some submittal requirements are actually standards – e.g. green infrastructure/LID in 4.4.2.H, Q (height)
    - Open space in 4.5.5.B.8 (25% open space for major development)
  - Remove Planning Department discretion on submittal requirements, such as the number of copies of materials, waiver/alter requirements. Replace with objective requirements or waiver procedure/criteria.
  - Can submittal requirements be trimmed down? All seem important and relevant in a system of case-by-case reviews. In conventional zones with specified uses-by-right, submittal requirements would be reduced. Building permit submittal requirements would still apply.
    - Consider if there be a use category of essential public facilities that includes solar farms and batteries, which is subject to a streamlined process for approval and restricts who has standing to appeal approval to those property owners within close proximity to the utilities’ property.
    - Consider expedited review for affordable housing

#### Replace or Reduce the Number and Discretion in Subjective Performance Standards. Replace with Objective Standards Where Practical.

- Performance standards that simply require compliance with federal, state and local regulations that already apply should be removed from code but included in application forms
- Development Compatibility (4.6) – [vague – needs standards, visuals]
- Why are Commercial Zoning Clearance Permits exempt from Use Compatibility?
- Environmental Impact Study threshold criteria for requiring it and statement of what’s included. Would EIS capture impacts in Geologically Unstable Areas, Wildlife Areas, Agricultural Areas, Wetlands, Archeological Sites?
- Agriculture – preserve a “significant portion” – criteria should be added to clarify “significant”
- Should RV’s (Section 4.8.12.A) be allowed as a residential use or recreational use only?

- Further research of issues and options by the Planning Department will result in additional standards proposed

#### Clean Up Definitions

- Remove standards from definitions and place into standards
  - Common area, Community (Public) Water Supply System, Manufactured Home Transport and Installation Permit (MHTIP), Major Development?, Maximum Height, Multiple Family/Multi-Family Residence, Parking Space - Off-Street, Protected Waters, Recreational Vehicle (RV), Setback, Single-Family Residence, Tiny House - IRC, Unsafe Structure – PD determination
- Remove submittal requirements from definitions and place in submittal requirements
- Update definitions
  - Some of the definitions that need to be updated include:: family, home occupation, mobile home, manufactured home, building permit, affordable housing, sign content, party, and duplex.
- Remove definitions that have a common use understanding

#### Clarify Architectural Standards or Guidelines

Stagecoach and Upper Las Colonias Community and Neighborhood Zones create architectural design review. Greater clarity is needed on what is Pueblo and Territorial architectural styles in the code, including illustrations. Design Standards Advisory Board is responsible to make recommendations to the Planning Department. It is not a decision-making body

- Architectural standards for Pueblo and Territorial in Stagecoach, Upper Las Colonias and other selected areas of the county might include:
  - Visual impacts of placement and massing of a building (determine where applicable based on whether there is a public purpose served to preserve historic, cultural or community character... not everywhere), building sightline, viewshed from a public location (not private properties), view corridor as mapped
  - Exterior materials – adobe or stucco – what about layered stone, cobblestone, brick, and metal siding (rusted or shiny)
  - Color (or not)
  - Roof style – sloping (Pueblo), flat (Pueblo), gable pitched (Northern NM), hip metal (Northern NM)
  - Fenestration – windows and doors size, shape, window framing, lintels (horizontal beam above windows)
  - Architectural details such as rounded exterior walls, brick coping (Territorial) and corbeling
  - Modulation of walls
    - Large retail (big box) design often subject to modulation of long walls
  - Walls and fences – latilla small branches or saplings (coyote fence)
  - Vigas (extended to outside)
  - Portal – covered porch or entryway (overhang)
  - Exterior lighting
  - Total square footage of building

## Improve Enforcement

- Code compliance needs teeth. Currently, a code compliance officer sends notices of violations to property owners, which are only enforceable if the case is taken to court. Change so that first offense notice sends warning and second offense notice imposes a penalty.
  - Could a hearing officer issue a penalty or, hear an appeal to a penalty, which could then be appealable to District Court?
    - Judges have complained about small offenses taking time on the docket where more serious offenses deserve the time.
  - Check with state law about having a hearing officer who is a contract attorney with land use background, in-house staff member, or the Board of Adjustments do enforcement, with opportunity to appeal to District Court. Home rule cities can do, does the county need statutory enabling for this practice?

## Specific Comments and Recommendations Regarding the Subdivision Regulations

Comments and recommendations are organized by the following subjects:

- Separate intermingled standards from submittal requirements
- Remove duplications in definitions and standards between subdivision regulations and land use code
- Reduce redundancy in standards that occurs in the body of the Subdivision Regulations, in the Appendices and in the Land Use Code
- Review standards that may be reduced for minor subdivisions and summary subdivision
- Clarify and revamp exemptions

## Separate Intermingled Standards from Submittal Requirements

- Create a separate section for subdivision standards addressing water use, water availability assessment, water conservation, water quality, liquid waste disposal, solid waste disposal, legal access, roads, utility easements, fire protection, terrain management, and cultural properties
- 4.3.1 add WUI designation, stream corridors, and critical management areas if applicable
- 4.3.4.A.1 allows up to 6 lots per well. OSE allows up to 10 houses for a total use not to exceed 3 Acre feet/Year (AFY) on a domestic well permit. County can be stricter than OSE – and there are good reasons to limit based on the concern about whether private management has the capacity to operate and maintain a small water pumping and distribution system, no County oversight on use (metering). Could be cost-saving for making affordable housing more feasible.
- 4.3.9 Adequacy of Roads – p. 114 of Land Use Code also deals with road standards.
  - Do subdivision regulations require excessive right-of-way/easement width and excessive road widths that should be reduced for minor subdivisions?
  - Type 3 subdivisions require roads to be paved. When such subdivisions come off of unpaved rural roads, the subdivision would have nicer than the county road it accesses – is this asking for an excessive level? Could be situational – where standard applies.
- 4.3.11.G. Wildland Interface Areas also dealt with in Land Use Code. Seems like it is better dealt with in subdivision, including Appendix D, very lengthy.

## Remove Duplications in Definitions and Standards between Subdivision Regulations and Land Use Code

- Minimum lot size (4.2), terrain management (4.3.12 + App. E), and Wildland Urban Interface (WUI)
- Minimum lot sizes should be in land use code and not duplicated in subdivision regulations
- Standards in Section 4.2 are based on slope, utilities and affordable housing (how delineate/deed restrict?). Interesting and may be practical for the General County Zone.

## Reduce Redundancy in Standards that Occurs in the Body of the Subdivision Regulations, in the Appendices and in the Land Use Code

- Best practice would be to state once – whether in the body of the subdivision regulations or in appendices.
- Terrain management is addressed in both subdivision regulations and land use code (zoning). The terrain management plan required under the Land Use Code for Special Use Permits and Major Development Permits should be compared to the plan required as part of Preliminary Plat with the objective of creating a single section in the code. Perhaps some standards or plan requirements should apply only to one or the other. Requirements for summary plat and for subdivision exemptions should also be determined.
- Wildland Urban Interface (WUI) is addressed in both subdivision regulations and land use code (zoning). Consider if the following should be added for residential and commercial development in designated WUI areas
  - Prohibited uses including: industrial or critical institutional uses in (areas at risk)
  - Requirement for roofs with Class A fire rating, sufficient water system availability and on-site water storage and external sprinklers (building code) *current code covers*
  - New developments if home owners associations take on the responsibility for management of community open spaces and have requirements for vegetation or landscape management on private lots
  - Storage of firewood restrictions
    1. prohibition on the storage of firewood during peak fire season (May 1 to November 1) within 30 feet of a structure unless stored within a certified flame-retardant covering. Limitations for commercial firewood storage were also included. (Summit County, CO)
    2. Firewood and combustible material shall not be stored in unenclosed spaces beneath structures, on decks, or under eaves, canopies, or other projections or overhangs. All firewood and combustible material stored in the defensible space shall be located a minimum of twenty feet (20') from structures and separated from the crown of trees by a minimum horizontal distance of fifteen feet (15') (source: Ada County, ID)
    3. Minimum lot size such as 40 acres
    4. Clustering of residential units in most defensible portion of a property (subdivision)
    5. Building envelop in most defensible portion of parcel

6. Add restrictions on decks, fencing material, liquefied petroleum gas containers located within the defensible space in accord with the applicable code as adopted by the state of New Mexico

#### Review Submittal Requirements and Standards That May Be Reduced for Summary Subdivision

- *NM Statute Section 47-6-11.M.* allows counties to adopt its own criteria for summary review, but requires at a minimum the reviews established by statute for a final plat. They include at a minimum: a map showing the subdivision and roads, affidavit, road improvements and utility installations, disclosure statement, legal access, and flood plain.
- Are there certain submittal items now required by Taos County that could be eliminated or simplified? The following submittal materials are also required for summary plats in the Taos County Subdivision Regulations: lot size, dedication of roads, advertising standards, maximum water use, fire protection, water availability, water conservation requirements, terrain management, cultural properties (reference to state statute may be sufficient), agency opinion, improvement requirements, agreement to assure completion of infrastructure (line of credit provision), and retained land.

#### Clarify and Revamp Development Standards and Holding Periods for Exempted Land Divisions

- Clarify that exempted land division and development activities must comply with certain land use code standards while exempt from the definition of subdivision
- Many family transfers legitimately create lots for use by family members. Sometimes family transfers are approved, followed by lot splits, doubling the number of lots, most or all for resale, which effectively creates a subdivision while avoiding compliance with subdivision review procedures and standards. The County should tighten up the holding periods for family transfers and lot splits, and create a provision limiting the number of family transfers and lot splits allowable within a time period (such as a 5-year hold) and create a minimum time period (such as a 5-year hold) during which a lot created out of a family transfer can be sold. Section 47-6-9.C NMSA 1978 permits counties to adopt subdivision regulations with requirements that are more stringent than the requirements set forth in the New Mexico Subdivision Act, provided that the adopted comprehensive plan specifies goals, objectives, and policies explaining the need for stricter requirements and specifically identifies the more stringent regulations.

#### Comments and Recommendations Regarding Other Land Use-Related Ordinances

##### Night Sky Ordinance

- The County Code can be more stringent than NM Night Sky Act, consider lumen/wattage limitations and specify color temperature
- An ad hoc group, with input from UNM-Taos, is developing proposed revisions to the ordinance for consideration in recrafting the ordinance. Los Alamos County recently updated their ordinance utilizing some provisions from the Model Lighting Ordinance prepared by the International Dark Sky Association (2011).
- Consider pro-active enforcement

### Short-Term Rental

- The recent ordinance written as an amendment to the Land Use Code, is best practice
- If the County allows all guest houses to be accessory dwelling units, the code should clarify that automatic grandfathering is not allowed in those ADU's as short-term rentals

### Cannabis Ordinance

- Section 12 of House Bill 2 of 2021 addresses local control of cannabis, prescribing specifically what local zoning can actually regulate, while preempting much of the typical local authority to regulate uses through zoning. Taos County Ordinance 2021-01 complies with the adopted bill, codified as Sections 26-2C-42 NMSA 1978. The county ordinance requires that commercial cannabis activity obtain an Administrative Zoning Clearance Permit, Special Use Zoning Permit or Major Development Zoning Permit.

### Excavation and Grading

- Ordinance 1995-20 was adopted as a local addition to the building code, so should not be included in the unified code. There is overlap with terrain management provisions in subdivision regulations and the land use code.

### Climate Change and Affordable Housing

The County's policy framework emphasizes the need for the land use regulations to be responsive to the impacts of climate change and to promote affordable housing. The discussion below is intended to serve as a springboard for considering measures that the County may take.

### Measures to Consider in Response to Impacts of Climate Change (Affecting Multiple Sections of the Code)

- Watershed protection
- Water conservation in homes and businesses (*building code, not development code*)
- Energy efficiency in houses and businesses (*building code, not development code*)
- Heating and cooling (*building code, not development code*)
- More walkable neighborhoods
- Planting shade trees in urban and semi-urban areas
- Bioswales to enhance treed environment and surface water infiltration
- Water conservation in agricultural practices and greater reliance on alternative water sources (e.g., acequias likely to have longer dry cycles)
- Utilities efficiency vs. domestic wells (deeper wells arguably more resilient and not affecting shallow aquifers, metering vs. unregulated well construction and water use mostly into relatively shallow aquifers)
- Off-grid development - reduced reliance on groundwater and electrical generation
- Solar, wind and other renewable energy generation and storage
  - Permitting process ease for solar farms and wind farms (where viable in county)
- Telecommunications - telephone reliability for vulnerable residents preparing for, responding to and recovering from natural disasters
- EV charging stations in major developments

- Emergency response/preparedness - fire, flooding, hillsides erosion
- Road standards adequate to support emergency response and evacuations - road width, base, connectivity
- Flood plain restrictions (*addressed in LUC and Subdivision Regulations*)
- Wetland and cienegas preservation advancing flood protection, water quality, recreational and aesthetic value (*addressed in LUC and Subdivision Regulations*)
- Economic alternatives to ski industry if snow is less dependable
- Impacts of climate change on tourism and second home market? Counter-trends: attraction to natural amenity of snow and healthy forests may decrease, while movement to higher elevations - cooler summers, relatively more rain than in lower climes - may increase
- Impervious surfaces - better ability to absorb stormwater - reduce flooding, not heat islands (*lot coverage addressed in LUC and Subdivision Regulations – standards may be reviewed*)
- Conservation easements that secure long-range agricultural lands and grazing lands, even if more land needed to produce smaller crops/meat production in anticipated climate of the future
  - Food insecurity can be partially addressed by growing more local food

#### Land Use Regulations Measures to Consider To Promote Affordable Housing in Unincorporated Taos County (Affecting Multiple Sections of the Code)

- Clarify the definition of “affordable housing” and “workforce housing”
  - The current Affordable Housing Ordinance thresholds are 50% Average Median Income (AMI), 80% AMI, and 120% AMI
- Dedicated affordable housing
  - Land use regulatory strategies to increase dedicated affordable housing can consist of:
    - Promoting and easing permitting processes for public housing, use of housing vouchers, housing built or renovated through use of Low-Income Housing Credits, housing built or renovated by private non-profit organizations, recording of deed restrictions, recording of covenants
    - Density bonus – allowing additional housing units on a parcel provided that they are dedicated to be affordable housing; allowing additional density in a PUD provided that additional units are dedicated to be affordable housing
    - Inclusionary zoning requiring a portion of new housing units restricted to being affordable and can offer alternatively fee-in-lieu contributed to a local housing trust fund to build affordable housing
    - Contribution of county land for affordable housing projects
  - Infrastructure, particularly water and sewer, is essential for small lot and multi-family housing
- Unrestricted market rate housing that is affordable or more affordable
  - Unrestricted affordable housing strategies can consist of promoting more affordable housing types such as: multi-family housing (on water and sewer), accessory dwelling units, tiny homes, mobile homes, manufactured homes, modular housing (up to fourplexes), off-grid housing and residential use of recreational vehicles.
  - Adding to the housing inventory (building new, renovations of vacant units, conversion of vacation housing to permanent housing) should have some market impact reducing rents and sales prices.

- Fast track development review (expedited permitting and shovel-ready development sites) reduces developer costs
- Systematic, streamlined, or by-right rezoning process for higher densities
- Reduce minimum lot sizes, building setbacks or increase height allowance
- Reduced or flexible parking requirements
- Infrastructure extensions, particularly water and sewer, is essential for small lot and multi-family housing

## APPENDICES

### APPENDIX 1 Policy guidance from current Comprehensive Plan (adopted in 2017) and Comprehensive Plan Update (2024-2025, in process)

Comprehensive plans provide general, long-range policy guidance and typically future land use map guidance to land use development codes. Land use regulations are the most significant tool that the county has to implement its comprehensive plan. Planners strive for consistency between comprehensive plan and land use codes, while in the state of New Mexico there is no mandate for consistency. Plans are advisory and not regulatory. The regulations adopted by ordinance are the rules.

Since the plan update is in process at this time, it overlaps with the code update and only draft materials from the comprehensive plan are available at this time. Consequently, both the adopted plan from 2017 and the draft materials of the in-process plan update have been evaluated for their relevance to the code update.

#### Taos County Comprehensive Plan (2017)

The adopted comprehensive plan policies give guidance regarding zoning and subdivision regulations in the following areas:

- Give incentives for clustered development options - through PUDs and other means
  - Promote cluster development in family transfers/exemptions
- Adopt an irrigated agriculture zone or overlay zone with incentives to set aside land not to be developed
  - Explore transfer or purchase of development rights
  - Allow for transfer of development rights and conservation easements
- Define an appropriate minimum lot size
- Amend subdivision regulations to require access to public open space, recreation and trails
- Work with neighborhood associations to prepare and adopt neighborhood-based zoning plans
- Promote “creative economy” endeavors and opportunities
- Allow for higher density residential development depending on infrastructure
- Work with domestic water and sewer associations to extend utilities
- Develop an affordable housing ordinance to incentivize development of high-density rental properties
- Allow fast tract review and permitting of affordable housing projects
- Reduce development fees for affordable housing projects
- Require inclusionary housing provisions in all subdivision developments
- Improve land-use planning and regulation of development in hazard zones such as floodplains and wildland-urban interface areas

2024/2025 Taos County Comprehensive Plan Update

The draft goals and objectives of the in-process comprehensive plan gives guidance regarding zoning and subdivision regulations as follows. These are subject to change since the plan is in process and not adopted.

- Achieve a balanced mix of land uses to accommodate new housing and business/employment opportunities in appropriate areas of Taos County
- Identify areas in unincorporated Taos County for future residential, commercial, alternative energy, light manufacturing, and parks and open space
- Ensure new commercial uses are sited appropriately in areas that are not harmful to existing residential development or the natural environment
  - Stem the market leakage and capture a greater share of consumer expenditures
  - Support economic development initiatives to expand existing businesses, attract new well-paying jobs and business opportunities, and facilitate small business development
  - Maintain and facilitate the development of home-grown businesses that are consistent with and complement the unique character of Taos County
  - Facilitate the growth of creative enterprises, small-scale manufacturing, value-added agriculture, building trades, and technology
- Protect and preserve traditional agricultural uses and the acequia systems in Taos County
- Preserve the scenic value of major highway corridors (i.e. US 285, NM 68, and the Enchanted Circle)
- Increase the housing supply in Taos County to include a diversity of housing types, unit sizes, and price ranges
  - Promote new housing development that offers a variety of housing development types
  - Encourage the development of new residential projects that are located with access to outdoor amenities, community services, and the roadway network
- Recognize the unique historic, cultural, and recreational assets within Taos County
- Manage the impact of new developments to the groundwater supply and existing supply wells and domestic wells
- Encourage the replacement of individual septic tanks and leach fields with more eco-friendly systems, where feasible

Comments from Respondents to 2024 Comprehensive Plan Community Survey Related to Land Use Regulations

An on-line and paper survey was conducted by Taos County and comprehensive plan consultants to inform the update of the County’s 2017 comprehensive plan. Members of the general public (including those living in municipalities and on Pueblo lands) were encouraged to respond during the beginning of 2024. Over 1,100 responses were received.

**Topics Relevant to the Land Use Code Update**

- Protect agriculture (in general) & irrigated land (from subdivision)
- Protect acequias
- Enforce & protect dark skies!!
- Limit blight
- Promote pueblo/ traditional arch style
- Maintain traditional architecture and appearance

- Limit billboards
- Address vacant buildings
- Address blight (trash, old cars, etc.)
- Promote affordable housing
- Penalize junked cars & blight
- Encourage sustainable building practices
- Encourage native / xeric landscaping
- Promote adaptive reuse
- Sidewalk requirements & maintenance where applicable
- Clarified zoning categories
- Address development loopholes via family transfer
- (General aversion to development that makes Taos look like “everyplace,” and aversion to development in general)
- Limit industrial uses near town (slaughter house, gravel yards)
- Water as limiting factor!!!!
- General concern/ ideas regarding second homes/ affordable housing/ housing and resources geared to rich, not locals
- There should be standards for truck stops
- Build in appropriate locations

#### ***Summary of Comments Related to Land Use Regulations***

- Development requirements have a reputation for being unenforced, too lax, non-existent, or too cumbersome.
- Overall, trash, dilapidated and vacant buildings, dumping, conditions of streets and sidewalks, affordable housing, traditional architecture, and “overdevelopment” run throughout as the most prominent consistent themes.
- Dark skies were mentioned by many respondents; enforcement of the dark skies ordinance is important to residents.
- Some concern that the Gorge Bridge or area near the rim will get commercially developed if not protected from development enough.
- Concerns for the aesthetics of new commercial development, responsible accommodation and response to growth factors, and selecting among options of sprawl or planned growth

#### ***Selected Respondents’ Comments Relevant to Land Use Regulations***

- Taos Country should develop and pass a provisional green building code which would allow local contractors to develop and use techniques which are appropriate but currently not legal per code. As time went on the building contractors familiar with these techniques would be in demand as adjacent counties and states caught up with modernizing the building code for efficiency and sustainability.
- Growth is not needed. Rather, stability, regeneration and revitalization of what's already here.
- ...It seems they should be less dependent on growth and development than simple, conscientious and responsible stewardship of existing infrastructure, business/employment, amenities, transportation, food access, healthcare, etc. Perhaps the greatest need, in terms of "growth", is affordable housing, but none of the above need always to be considered only (or primarily) through the lens of the prevailing western neoliberal concepts of economic growth and endless development that inevitably lead us to be asking all of these questions in the first place.

- ...Rather than approaching these in terms of "development" and "economic growth", maybe they should be approached in terms of simple, mindful, respectful "stewardship" of what we have, who we are, where we live, for the sake of establishing and maintaining an overall sound and equitable ecological, social and, yes, economical community of well-being.
- New developments should be clustered with a mix of low and mid-level pricing, keeping as much open land as possible.
- Please research affordable housing developments in Aspen, CO. These allow employees to rent or PURCHASE homes for an affordable price as long as they work the required number of hours per year. Price controls are in place so that they can't buy in affordably and then sell for market rate.
- Consistent application of rules and regulations concerning residential, commercial, and semi-commercial development.
- Excessive lighting of Air b and b in residential areas.
- Rules and regulations too tight even for remote areas. Please establish a "Owner Builder Opt Out"

## APPENDIX 2: Public Outreach: What We Have Heard So Far

### Summary of Guidance from the Board of County Commissioners

Following are points made by the Commissioners in public meetings on 12-4-24 (Retreat) and 1-28-25 (Regular Meeting – Presentation and Discussion).

- Predictability and objectivity in the code are high priorities.
- Need to have enough standards and rules in place to shape public input – not start from scratch that all public comments hold the same weight, whether based in fact or not, expertise or not.
- Need for the code to be easier to navigate, simplified, make development standards objective, reduce the number and vagueness of subjective standards, and reduce the prevalence of discretionary reviews.
- Concern about the community zone boards' misunderstandings and opposition to development.
- Planned Unit Developments (PUDs) are broadly misunderstood. Necessary in codes, but should not be the default way in which larger projects can occur.
- Determining conditions of approval by public boards in discretionary reviews is sometimes difficult while sitting in meetings. It requires preparation in consideration of clear guidance by the code.
- Family transfers are a major concern in the subdivision regulations. Circumventing them must be addressed.
  - They are used properly to build family compounds and help the next generation in some communities such as Penasco, not used to create speculative housing.
- Support an agriculture zone and believe farmers and others would support. Allowance of larger barns and fruit stands by right.
- Code enforcement should be strengthened.
- The creation of El Prado and El Valle de Los Ranchos de Taos historic community districts that make annexations within these areas almost impossible further dilutes the rationale for extraterritorial review and, arguably, for the Town of Taos policy to not allow hook-ups to Town utilities without annexation.
- Planning commission appointment by commission districts or at-large.
- Concerns about inclusive public outreach in the code update process.
  - Two community and neighborhood zones are affected because the boards have some authority and may be affected by change, they need to be included in the code update process.

- There are two huge issues that the code update should help address: the affordable/workforce housing crisis and the responding to the climate crisis, particularly periods of extended drought
- Appropriate density in WUI should be addressed

### Summary of Code Assessment Stakeholder Meetings Input

The following remarks are taken from notes on the 10 stakeholder meetings held December 2024 to February 2025 and public comments made to the Board of County Commissioners on January 28, 2025.

- County land use regulations should support higher density coupled with requirements for connecting to municipal or mutual domestic systems where available rather than the reliance on domestic wells.
- Protection of a set share of open space and workforce housing should be considered for large projects. The County can consider “inclusionary housing” and establishing the types of open space uses that are acceptable.
- The minimum parcel size in an agriculture zone needs to work in the context of Taos County’s existing parcel size distribution. Santa Fe County has a 40 acre minimum – this may be too large here. Family transfers are often the only way that people can pass on wealth to families- there’s a difference between subdivisions and the family transfer exemption.
  - The soil does not support smaller lot sizes though, they aren’t productive enough for intensive farming.
  - Conservation easements and purchase of development rights is a great way to preserve agricultural lands – Taos Land Trust and other groups are supporters and participants. Single easements across several properties are desirable to get the acreage up and spread the cost around for the creation of easements. There are some grants and assistance.
- Look at setback requirements for acequias.
- It may not be too late to regulate house locations (building envelopes) to avoid displacement of irrigated land – or show in guidelines.
- NM law set renewable energy targets for all utilities in NM. Local regulations should make the permitting process relatively easy and fast, such as administrative, for renewable energy projects – an essential part of electric grid.
- The cost of utility hook-ups, including electricity, is great if bringing in for 2 to 5 parcels – exceeding what can be absorbed if trying to create affordable housing.
- Lot split or family transfer holding periods hold up building housing.
- 6-9 months for special use permit for small commercial projects is hard. A 3-acre staff housing project took a year. Special use permit for reuse of a 2,000 s.f. building took 6-9 months for approval
- Summary subdivisions regulations requiring archaeological studies and historic preservation are important but costs money. Bonding for outstanding infrastructure should be streamlined. Take a long time – making permitting more expensive. If special use or request for exemptions, cost goes higher.
- The number of housing units permitted on a domestic well should be researched – can bring down costs, may also create/add to the problem of managing small systems that no governmental unit is responsible for.
- Support creating a template for conventional zones – more clarity, commercial or mixed use corridors on highways, uses by-right.
- Streamlining the code process for smaller projects would be great.
- Stumbling blocks in code are lack of clarity and lot of subjectivity.
- Need some standardization to get to affordable housing

- If, at the end of the review and approval process, conditions out of the blue are added, it is difficult to negotiate risking setting the project approval back, but it usually adds expense.
- Too many gray areas in the code regarding density, terrain, and infrastructure.
- Environmental impacts of development should be addressed, such as: land cover, water, air quality impacts (air pollution is getting worse in valley), fire threat – WUI, noise generation, light affecting dark skies.
  - What triggers a study is not standardized. Large scale housing project or a mining operation might trigger an environmental impact study. It is important to make sure professionals do environmental studies.
  - Like to avoid an EIS if possible as it can take 2-3 years and conflict with need for housing
- The Dark Sky Ordinance and Sign Code are not enforced in the County
- Need infrastructure to support affordable residential
- El Prado is only entity meeting the Abeyta Settlement with new well.
- Arroyo Hondo and Arroyo Seco have problems with wells
- County wants to talk more with the Governor’s Housing Office about best practices for rural counties to promote affordable housing.
- County should look into expedited permitting and shovel-ready development sites for affordable housing projects.
- County should consider to encourage affordable housing liberalized design standards , such as reducing building setbacks, increase height allowance and minimum lot sizes, reduced or flexible parking requirements, mixed use districts
- “Pitchfork” meetings are not productive and should be avoided.
- Staff constraints are an ongoing problem affecting review and approval time. Clear and objective regulations will decrease staff burden.
- ADUs are part of the solution to add affordable housing that can be done in rural county
  
- Mobile homes/manufactured homes should be treated as good contributions to affordable housing stock. Construction quality has improved and can be enhanced more – extra insulation, design and construction through 3D printing
- RV Parks regulations leave some ambiguity about whether residents can live in permanently or only part-time. There are safety concerns in this climate. It can contribute to affordable housing stock.
- Would like neighborhood zoning code to have less ambiguity. Make it straight forward as possible.
- Understanding that the Neighborhood design standards advisory board (DSAB) makes a recommendation to the County; in the past there were different ways of interpreting their role
- Architectural guidelines are needed to specify Pueblo and Territorial style reference in ordinance.
- Are design standards/guidelines intended to make neighborhood an exclusive enclave?
- Ambiguity of regulation of site materials left on site affecting neighbors – a greenhouse had construction materials for 15 months. Junk vehicles. Mostly comply. Protocol is first for neighbors to talk with neighbors, try to mediate before referring to the county for code compliance. Have avoiding referring to the county. Nuisances should be spelled out. If go to the county and they say no nuisance.
- Allowing guest houses to be accessory dwelling units would be ok as a by-right use in order to promote affordable housing.
- Not want a density change in Stagecoach – residents want to preserve low density.
  - 3 dwelling units/parcel is allowed elsewhere in the county.

- Highway corridor zoning with more uses by-right is a good idea; having nearby businesses serving residents is good, more efficient than driving. Community supports commercial activities, just not on top of houses (too close to s.f. neighborhoods)
- Upper Las Colonias Neighborhood Zone and subzones require a 30' setback, while the PUD ordinance allows for variation (exceptions to underlying zone development standards)
- There is a general misunderstanding of PUD which allow dimensional standards to be different, such as setback reduction allowing clustering), in exchange for better layout and other project amenities
  - Opponents to the TREV proposed PUD got their foothold in the issue of compatibility. That was the biggest factor leading to denial. If code specified elements of compatibility and means to achieve it, the proposers might have been able to demonstrate compliance. Visual compatibility is vague. Use compatibility is vague.
    - Buffer treatment – setbacks, view lines, berms, vegetative screening, fencing – if code or guidelines explained, maybe better focus would have been achieved.
- Highway corridor mixed use zone is part of the solution.
- Conventional zones with allowed uses could be useful in community areas, with overlay zones addressing design or other special considerations.
- TREV adhered to territorial and pueblo architectural styles. The proposers created architectural guidelines in covenants submitted to County.
- Need a process that encourages coherent, well thought-out developments – likely PUDs or detailed standards codified leading to better subdivisions/developments
- Does the County want to create commercial zones along the highway for people to keep youth employed, avoid pain of neighborhood associations shutting them down and costing thousands of dollars in expenses?
- In the building and design trades, it is not so much what the codes are but what builders and developers have to plan for. So having things laid out so that we don't have surprises is one of the most important things, having unpredictability is one of the worst things you can do.
- No stakeholder meeting was conducted for the Upper Las Colonias Neighborhood Association as of January 29, 2025.
- Many zoning issues are related to infrastructure and that creates a lot of question. What can handle what type of growth and where? Taos County is spread out and experiencing growth we haven't seen in years. Who is doing the infrastructure design and growth research for planning, and how is it coordinated with the code update project? Comprehensive Plan and the individual water and sanitation districts have roles.
- The clock is running out – there is a finite land supply. More land needed for low density at one unit per 1.25 acres on a domestic well. R14 density is more sustainable close to town. The longer we delay the marriage of infrastructure planning and land use the harder it is to build here.
- People are in crisis due to the lack of affordable housing. If development relies on expensive infrastructure it won't be affordable. The County should prioritize green projects. The only way to create affordable housing is to build sustainably off-grid. Take immediate steps regarding fast-track approvals of off-grid development.
- Alex Abeyta Engineering had created draft LUR/Subdivision Regulations last year with recommended road widths, easements, and other standards. Current regulations are overdesigned - excessive road widths.

- It is hard to get approval for adaptive reuse of preexisting buildings that have historic registration due to existing Land Use Code – special use permit.
- Is the County doing a complete rewrite or building on what we have? Some of both.
- Would like zoning by right and elimination of neighborhood zoning. Property owners now effectively need two special use permits – one from County and one from the neighborhood association. Stop false information from neighborhood associations. They value residential over commercial members.
- Lot split regulations; if have 5 acre lot, it is more affordable to split because subdivision is expensive to do. If have to wait 5 years to split, it becomes less affordable.
- How does the County define what is affordable housing in its land use regulations and subdivision regulations?
- It is critical to define different classes of affordability (family, individual, high density, how feed into school systems). Need workforce housing. Is that \$50k homes? Where can we build it, in what zones, and how is the new development tied into infrastructure?
- Many problems will be solved with commercial zones that attract business that can pay a living wage. At \$350k it is \$1800/month to pay a mortgage. The off-grid earthships can help.
- What is the code update going to do with the family transfer exemption to tighten the loopholes?
- Instead of making family transfers more restrictive, put in design standards. The more we restrict ability to bring lots to market, the more expensive housing becomes.
- How will the code update address the two traditional historic communities (THCs)?
- In the THC statutes, the only protection is from annexation and extraterritorial zoning.
- Would building envelopes to avoid disturbing agricultural activities be useful? Agua Fria in Santa Fe was first THC. It was an agricultural community, and when the property owners lost water rights, the easiest place to develop was previously irrigated farmland – graded, deep soil, and with water. The result is there is less available land for ag. Easiest place for developer is flat ground with some road network and utilities. There is some interest in preserving agricultural land, difficult situation, in family ownership for centuries, can't tell people what they can do with their land (some control but property rights).
- Acequia easement rights: the first line of legal defense is through district attorney. Laterals off acequias have same easement rights as the main (mother) ditch. The Los Ranchos THC set the vision for that part of valley. Not trying to stop development, just maintain.
  - Recording of easements is sometimes a problem. In warranty deed, if not made aware you have to contact State Engineer, tricky when looking at deeds.
  - Realtors often don't inform perspective buyers about water rights and acequias on property.
  - When people apply to split lots, the Planning Department encourages people to put acequia easement upfront, struggle because some surveyors don't want to put them on plats. Make them aware they can't obstruct it, alter it, etc.
  - Land Use Code could put stipulations on subdivision exemptions to include language regarding easements.
  - The code requires a minimum 20' setback but acequias/associations have different setbacks
- Under NM Constitution, anyone who owns property can get a domestic well permit. Exceptions are where municipalities can regulate and prevent a well if they serve you with water. Most domestic wells are 1 af/yr, used to be 3. Problem is that this area is a fully appropriated basin, when drilling a

well, you are appropriating a water right. During Taos-Abeyta settlement, Pueblo involved, rights are adjudicated. If get another (example) 1000 wells it is for water that doesn't exist.

- In this valley it should be municipal water. County needs to clamp down.
  - Domestic wells poorly drilled. Municipal providers have strict regulations. Every well in valley is a point source of pollution. If not properly sealed the polluted water can run down casing.
  - Domestic wells aren't metered, so we don't know how much they're pumping. But we have to offset our water.
- At one time El Prado/Town had an ET zone, town said to comply with their zoning, we did our own. Irritated when county and town abolished that. Need to know where commercial and residential areas are, now it's a mishmash. Need real zoning. Had 1-2 acre zoning, in green patch. Need zoning because always in a fight with commercial. We do need some commercial development. Always a big fight – eg a gas station they need, could get permitted with old ET Zoning, need to get back to that. S: can we get copy of old ETZ map, use regulations, pipes in ground.
  - El Prado defined the commercial you can and can't do.
  - The El Prado District needs a lot more lateral lines, El Prado has transmission lines.
  - Regarding sale of water rights: In applications to the State Engineer for sale of water rights, El Prado asked whether the seller can use water for irrigation because some of the water won't get used for years. El Prado made an arrangement to lease for agriculture until the district needs that water.
- El Prado didn't want the Town of Taos to gobble them up, wanted open land with livestock, etc. wanted irrigation to stay open, but big families there and filling up with children. Wanted less regulations than Town. People got strips under Spanish Land Grant.
- Los Ranchos Valley needs a sewage system. If not building community sewer lines, with septic need ¾ acre, but need only ¼ ac with sewer so land getting divided up there. Roads are insufficient for much additional development.
  - Developers should be paying a share for infrastructure through impact fees.
- In Santa Fe County (they're ahead of us) they did planning by bringing planners out to communities. Both traditional and contemporary communities. They get a lot of help from county. We can't afford that. It was an extensive effort to pull community plans together in Santa Fe County.
- Wrong to just allow commercial growth on Hwy 68 corridor, need input from community who are affected by growth, that would cut out the people.
- In Taos County with a highly discretionary process, a lot of good intentions for planning and development were frustrated by having to negotiate with developers, neighbors, and sometimes three generations of families that did not see it the same way. The Planning Commission and Board of County Commissioners sometimes had a difficult time saying no.
- The Town of Taos used Extraterritorial Zoning (ETZ) because it anticipated annexation. ETZ is needed for Questa and Red River. Taos Ski Valley is hemmed in by National Forest, so it is not needed.
- The County need jobs and housing because it is losing young people, traditional population leaving – nothing to do for a living and the housing stock is old. Need planned industries with ways to move products.
- Define development corridors where development by right is needed.
- Need regional approaches to planning and land use regulations - coordination and consistency

- Upper Las Colonias (ULC) had a draft revised zoning ordinance. The working group came up with commercial, light commercial, and buffer area protection of residential when next to non-residential zone.
- Nearly every proposed commercial use needs a special use permit in current zoning. Low-key businesses such as light commercial and cottage industries should be allowed as permitted uses in ULC subzone 1A. Gas stations would have been prohibited in the draft ordinance.
- Look at Stagecoach and Upper Las Colonias as a foundation for the whole set of zones
- ULC has a concern for visual and use compatibility – if take review away, what replaces it?
- Community involvement of Neighborhood Associations may be frustrating for developers, but need to retain some, not upend community’s democracy.
- Ord 2018-2 was voted in by the BOCC. Stipulation to limit public testimony to those with who had standing because live within 500’ was removed from version Ord 2018-1.
- If a single family zone in unified code has a single set of dimensional standards for a one-acre minimum parcels, can the height be less or greater setbacks to match ULC subzones? Code update will look at this to see if a variant zone can be created that preserves key standards.
- Architectural review is not a huge function of the ULC DSAB. 10 years ago DSAB was more of an architectural review board. But the subject is important to the community.
- Terrain management, including soils, slopes, vegetation and hydrology, is one of the critical subjects in the subdivision regulations. The Taos Soil and Water Conservation District (SWCD) is a key agency tasked in the subdivision ordinance to review and provide input on terrain management features of subdivision applications. The New Mexico Subdivision Act require counties to refer subdivision applications to soil and water conservation districts for review.
- Mitigation of noxious weeds, revegetation, the technical role of acequias, water use, water conservation, how to deal with vacant properties post-construction vegetation and revegetation, and air pollution need updating in the subdivision regulations.
- In addition to SWCD, the Rio Fernandez de Taos Collaborative, and Taos County Cooperative Weed Management Area (TCCWMA) are interested in subjects related to the subdivision regulations and development standards in the land use code.

### APPENDIX 3: Zoning Goals and Objectives – Taos County Planning Department

#### Why should we zone?

1. **Land Use Management:** County-wide zoning will enable Taos County to designate different areas for specific types of land use, and allow us to meet the following goals:
  - a. **Preservation of agricultural lands and protection of acequia systems** – this will simultaneously serve to preserve agricultural lands, protect our acequia culture and promote aquifer recharge, while also creating a green belt around the Town of Taos and in many other areas of the County.
  - b. **Encouragement of housing diversity** – Allowing more density, including multi-family and mixed-use development in areas where infrastructure is in place, by right, will help housing developers keep costs down so those savings can be passed onto the public.

- c. **Commercial zoning** – By allowing light commercial and commercial uses in areas where such uses are already established, and in areas where infrastructure supports such uses, we can reduce the barriers of entry for small businesses while also encouraging these uses in places where it is most appropriate and preventing these uses in more established residential neighborhoods.
  - d. **Protection of property values through buffering** – Zoning will allow Taos County to organize development patterns and prevent incompatible land uses from coexisting, thereby promoting orderly growth and protecting property values.
- 2. **Economic Development:** Creating County-wide zoning can potentially attract businesses, stimulate economic growth, and positively affect property values.
  - a. By allowing commercial and/or mixed-use development in areas where it is most appropriate (highway corridors and other major roadways, with infrastructure), we will simultaneously create job opportunities and generate tax revenue.
  - b. By providing certainty to businesses and investors about allowable land uses and development standards, Taos County can encourage investment and job creation.
  - c. Lower barrier of entry (no Special Use Permit required) will provide greater equity, allowing more individuals the opportunity to start a business.
- 3. **Housing Affordability:** Zoning can address housing affordability by allowing for the development of more diverse housing options, such as multifamily housing or accessory dwelling units (ADUs).
  - a. Relaxing requirements and allowing more types of housing by right can increase housing supply and promote affordability.
  - b. Zoning can also allow higher density in areas where there is appropriate infrastructure and not allow it in areas where there is not.
  - c. Maintain our current standard allowing up to three residential units per parcel to encourage more ADU development (housing diversity) and preserve and encourage the family commune style of development, which has been employed in New Mexico for centuries. This provides more housing options for seniors, and for youth who want to stay or come home to the community.
- 4. **Infrastructure Planning:** Zoning should play a crucial role in coordinating infrastructure planning and development.
  - a. By guiding the location and density of development, Taos County can ensure that infrastructure such as roads, utilities, and public services can adequately support the needs of residents and businesses.
- 5. **Urban Sprawl:** Zoning can help to manage urban sprawl and promote more sustainable patterns of development.

- a. By encouraging denser development in areas with infrastructure and close to municipalities, and by protecting green space and/or agricultural land, zoning can help mitigate sprawl and preserve natural resources.
6. **Aesthetic Considerations:** Zoning could include design standards and architectural guidelines aimed at preserving the visual character of communities.
    - a. By regulating building aesthetics, signage, and landscaping, Taos County can promote an attractive and cohesive rural environment.
    - b. Any consideration of these types of guidelines needs enough flexibility so as to not inadvertently prevent more barriers to the creation of affordable housing.
  7. **Community Character Preservation:** Zoning could seek to preserve the unique character and identity of communities by regulating factors such as building scale, density, and historic preservation.
    - a. By protecting culturally significant landmarks and neighborhoods, Taos County can maintain a sense of place and heritage.
  8. **Transportation Planning:** Zoning can support transportation planning goals by promoting mixed-use development and reducing reliance on cars in areas where that is possible.
    - a. By allowing for the creation of walkable, transit-oriented communities, zoning can help reduce traffic congestion and improve mobility and reduce environmental impacts.
  9. **Environmental and Agricultural Conservation:** Zoning regulations can be updated to better protect environmentally sensitive areas, such as wetlands, floodplains, or wildlife habitats.
    - a. Zoning codes should incorporate conservation measures and can help preserve natural resources and promote ecological sustainability.
    - b. One area of high priority for Taos County is the protection of agricultural lands.
  10. **Social Equity:** Zoning reform can address social equity concerns by promoting inclusive development and reducing segregation.
    - a. By allowing for the creation of affordable housing in diverse neighborhoods and removing barriers to economic opportunity like expensive Special Use Permits, zoning can help foster more equitable communities.
  11. **Adaptation to Changing Needs:** Over time, demographic shifts, technological advancements, and changing lifestyle preferences may necessitate updates to zoning regulations.
    - a. Reforming zoning codes allows counties to adapt to evolving needs and trends, ensuring that development patterns remain responsive to community priorities.
    - b. Taos County is changing and zoning gives the community the opportunity to manage that change for the benefit of all.

12. **Streamlining Regulations:** Taos County’s complex and outdated Land Use Regulations and Subdivision Regulations hinder development and create uncertainty for property owners and developers.
  - a. Our zoning reform efforts should focus on streamlining regulations, clarifying procedures, and reducing bureaucratic barriers to development.
  
13. **Community Engagement:** Zoning can provide an opportunity for community engagement and collaboration in shaping the county's future development.
  - a. By soliciting input from residents, businesses, and other stakeholders, counties can ensure that zoning regulations reflect local priorities and values.
  - b. Zoning regulations should also be connected to the elements of the Comprehensive Plan.
  
14. **Public Health and Safety:** Zoning regulations should include provisions related to public health and safety.
  - a. Provisions might include setback requirements, building height limits, and fire safety standards.
  - b. By regulating development according to these criteria, counties can minimize risks associated with hazards like fire, flooding, or pollution.

**Where should we zone?**

1. **Taos County community zones**, which are already established by Taos County Planning GIS staff.
  - a. This allows us more flexibility to tweak zoning by district and provide more precise controls for things like short-term rentals.
  - b. Community Zones bordering municipalities (Platting and zoning area around town; areas bordering Questa and Red River) - other more dense communities - Peñasco, Chamisal
  - c. Every community, eventually
  
2. **Commercial Zoning in appropriate areas**
  - a. As it stands, anyone can apply to place a commercial use on any parcel (outside of our two neighborhood zones) in the County. Zoning will allow us to encourage those uses to take place in areas with commercial zoning and to guide and encourage growth in areas where it makes the most sense.
  - b. Commercial zoning by right reduces barriers for business owners and protects more rural residential and agricultural areas from potentially incompatible uses.
  - c. Allowing mixed use in commercial zones allows business owners to live on-site in upstairs apartments or backyard casitas, creating more connected communities and providing more diversity in housing. Multi-family developments can include commercial and residential uses.

**Resources:**

- Taos County Community Conservation Plan (help identify agricultural properties)
- Taos County Comprehensive Plan

- Other County Ordinances and plans

## APPENDIX 4: Basics of Zoning and Subdivision Regulations

The primary purpose of **zoning** is to regulate land use to promote “health, safety and public welfare”. The authority for a county or municipality to zone is given by the state through enabling legislation. In the county, the authority only applies to unincorporated private property - not to land in municipal limits, Pueblo lands, or federal and state lands.

Conventional zoning divides a jurisdiction into districts, such as residential, commercial, industrial, and mixed-use corridors. It establishes within each zone district permitted uses, prohibited uses, and conditional uses, dimensional standards (such as lot size, setbacks, building height and lot coverage) and standards for specific uses.

Historically the theory has held that keeping a set of uses reasonably uniform within each zone district protects the interests of residents and businesses, promoting compatibility. Recently some mix of uses and densities is considered important to better serve communities.

All kinds of other aspects of the physical environment can be regulated through zoning, including but limited to: parking, signs, night skies, fire protection, terrain management, environmental protection, and protection of historic and cultural properties and character.

Zone districts are usually hierarchical (“Euclidean”), with the greatest deference to protect single family residential uses in urban and urbanizing areas from intense uses, and the least restrictions on manufacturing. Agricultural zoning in rural areas is usually with the largest lot sizes, intended to protect agricultural activities from uses that may intrude into farmland and tend to crowd out agriculture. Standards are often modified through zoning overlays and special use zones.

Zoning codes set the application requirements, review process steps and responsibilities of parties - typically the planning department, planning commission, body of elected officials (Board of County Commissioners).

Discretionary reviews allow for a responsible party to approve, approve with conditions or deny an application case-by-case. Conditional (or special) uses, planned unit developments and rezoning are discretionary, and provide opportunities for public input through public hearings. Subdivision approval, regulated through subdivision regulations, are also discretionary.

Zoning codes are one of the main tools that a jurisdiction has to implement the comprehensive plan. While the comprehensive plan is long-range and advisory, zoning has regulatory authority. The zoning code and subdivision regulations should be consistent with and follow the guidance of the comprehensive plan.

**Subdivision regulations** direct the process and standards for splitting properties into separate parcels. The New Mexico Subdivision Act requires each county to develop subdivision regulations and specifies some of the contents of codes. It mandates that all counties have subdivision regulations and specifies a number of provisions that must be in each county’s regulations. It specifies thirteen exemptions from the definition of subdivision, types one through five subdivisions, public hearing requirements,

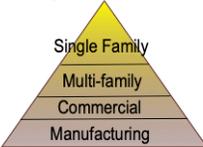
preliminary plat provisions, summary review provisions, and final plat procedures. The Act requires in each county’s regulations: proof of water, liquid waste and solid waste, terrain managements, and protection of cultural properties. It also requires a subdivider’s disclosure statement.

**Pros and Cons of Different Zoning Systems**

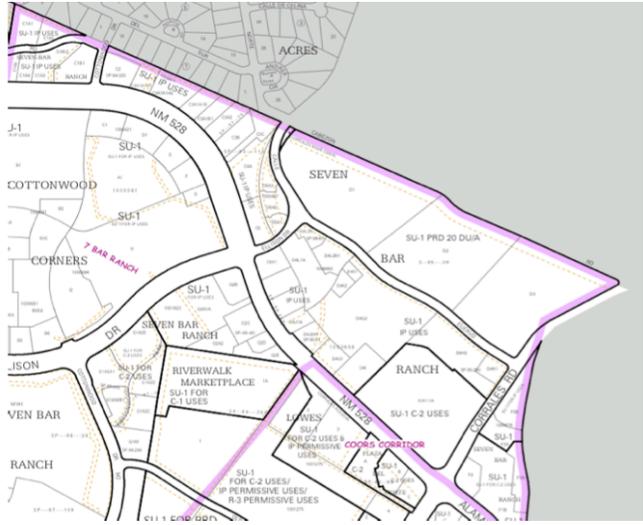
**Conventional**

As introduced above, most zoning codes for municipalities and counties are structured with zone districts that specify allowed uses, prohibited uses and conditional (or special) uses.

- **Zone districts are usually hierarchical (“Euclidean”)**



- **Standards are modified through overlays and special use zones**



**Discretionary/PUD**

In discretionary zoning systems, permission to subdivide or develop property is based on a case-by-case review process. Applicants must show that their proposals meet particular goals and standards, some of which are objective and others that may be quite subjective. Public comments are usually heavily relied upon in public meetings and hearings. Conditions are attached to most approvals, requiring the creation of records to assure they are adhered to and subject to enforcement.

Planned Unit Developments (PUDs) are largely discretionary, with the objective of allowing proposers to propose variations on dimensional requirements, density and uses in order to achieve: clustering, open space conservation (such as agricultural land preservation, public open space, private open space, trails, historic or archeological preservation), enhanced housing affordability, placemaking, architectural quality and consistency, walkability, and environmental protection.

Conventional and most other zoning systems have a mix of by-right development that is not discretionary and special uses or conditional uses that are discretionary.

**Form-based**

This is a method of regulating development to achieve a specific urban form. It is an alternative to conventional zoning in guiding physical form primarily, with a lesser focus on land use. Form-based codes address the relation between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks. These codes are

heavily graphic - using diagrams and words keyed to a “regulating plan,” designating locations where different building form standards apply. Some users can find what’s pertinent to them more easily and more readily understand the physical form intended in a form-based code compared to a conventional code.

**Performance**

This system uses performance-based or goal-oriented criteria to establish review parameters for proposed development projects. The originator of performance zoning, Lane Kendig, sought to create objective standards, measuring the impacts of development regardless of the specific use. Where standards are subjective and cannot be easily defined or measured, the performance system morphs into discretionary zoning.

Performance zoning may use a menu of compliance options where a property developer can earn points or credits for limiting environmental impacts, including affordable housing units, or providing public amenities. In addition to the menu and points system, there may be additional discretionary criteria included in the review process. Performance zoning may be applied only to a specific type of development, such as housing, and may be combined with a system of use-based (conventional) districts.

**Composite**

As already indicated in this discussion, combining systems is a common practice in order to take advantage of the benefits of different approaches. Most conventional zoning systems include conditional uses that are discretionary. Form-based codes often specify a range of permitted uses. Discretionary and performance zoning are also often combined with use tables and dimensional standards (height, setbacks, lot coverage, and so on).

The following chart weighs pros and cons of the different zoning approaches.

Approach	Conventional	PUD / Discretionary	Form-Based	Performance	Composite
Compatibility	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Predictability	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Flexibility	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Placemaking	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Familiarity	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Streamlining	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Complexity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## APPENDIX 5: New Mexico Statutes Relevant to County Land Use Regulations

The following NMSA 1978 statutes (sections) have been identified. Arguably the most important statutes are 3-21-1 et seq. (enabling zoning regulations) and 47-6-1 through 47-6-29 (New Mexico Subdivision Act requiring county subdivision regulations).

- 3-7-1.1 (traditional historic communities)
- 3-18-6 (Building construction)
- 3-18-7 (Flood-prone areas)
- 3-18-10 (Sanitary facilities)
- 3-19-1 through 3-19-12 (Planning and platting)
- 3-20-1 (Subdivisions) – applies to counties
- **3-21-1 et seq.** (Zoning Regulations – applies to both municipalities and counties)
  - 3-22-1 through 3-22-5 (historic district zoning)
- 3-29-1 (Sanitary Projects Act)
- 3-39-16 through 3-39-27 (Airport zoning)
- 3-49-1 (Streets)
- 3-53-1 through 3-53-5 (Water use and water facilities)
- 4-37-1 et seq (County ordinances)
- 4-57-1 to 4-57-3 (Planning Commission)
- 6-27-1 through 6-27-9 (Affordable Housing Act)
- 7-36-20 (Valuation of property used primarily for agricultural purposes)
- 14-8-4 Recording
- 18-6-1 through 18-6-17 (Cultural Properties Act)
- 26-2C-1 through 26-2C-42 (Cannabis Regulation Act)
- 39-3-1.1 and Rule 74 of the Rules of Civil Procedure (Appeal of final decisions by agencies to district court)
- Property Law
  - 47-3-1, et seq (Solar Rights)
  - 47-3-6 et seq (Solar Recordation Act)
  - 47-5-1 through 47-5-8 (Land subdivision)
  - **47-6-1 through 47-6-29 (New Mexico Subdivision Act)**
  - Condominium Act (47-7A-1 to 47-7D-20, in Rachel’s comments), 47-78<sup>1</sup>-2
- 53-4-1 (Water Coops)
- 66-7-401 through 66-7-416 Manufactured Homes (and Title 18, Chapter 19 Part 8 issued by the State of New Mexico Department of Public Safety)
- 71-8-1, et seq. Sustainable Development Testing Site Act
- Water Law
  - 72-1-9 (Municipal, county, member-owned community water systems, school district and state university water development plans; preservation of municipal, county and state university water supplies)

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<sup>1</sup> May be “7B” not 78.

- 72-5-1 et seq (Appropriation and Use of Surface Water)
- 72-12-1 et seq (Underground Waters)
- 73-2-5 Ditch over land of another
- 73-21-1 Water Sanitation Districts
- 74-12-1 Night Sky Protection Act<sup>2</sup>

## APPENDIX 6: Examples of Code Graphics

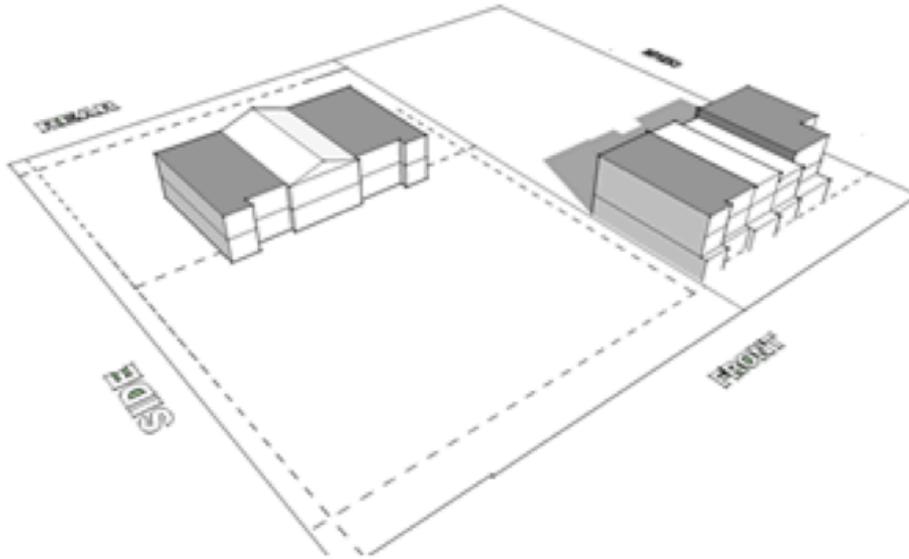
Modern development codes typically include graphics as a method to explain code language. Graphics can visually demonstrate the relationship of several code provisions. Graphics should illustrate dimensional relationships and building and site planning concepts. Graphics help explain or amplify material that is sometimes difficult for casual or non-technical users to understand or visualize.

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<sup>2</sup> The current reference is 4-12-1, which is incorrect.

**B. Dimensional Standards**

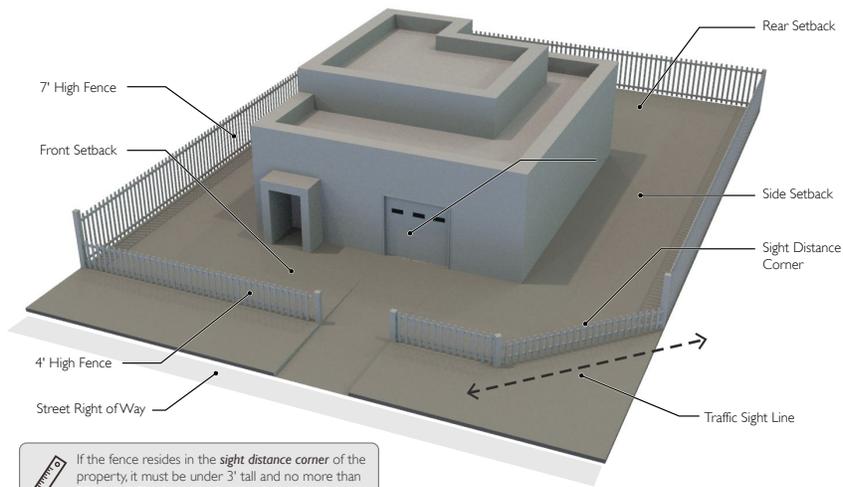
Development in the C-1 District is subject to the following dimensional standards:



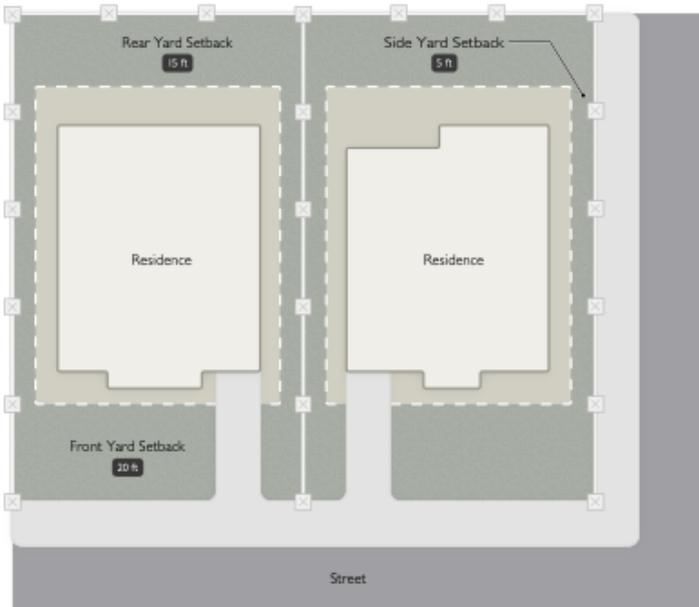
Composite Standards →	(A) Site 3 or 4-Building D or E Site 4-Building C	(B) Site 3-Building C
Maximum District Size	• 10 acres	• 40 acres
Height (maximum)	• 2 stories / 30 feet <i>That portion of buildings over 20 feet in height shall set back an additional 1 foot for every 2 feet in height.</i>	• 42 feet / 3 stories
Front yard (minimum)	• 20 feet	• n/a
Front yard (maximum)	• 150 feet	• 25 feet (applies to area within frontage buildout)
Frontage Buildout (minimum)	• 50%	• 80%
Maximum building footprint	• 15,000 sf.	• 50,000 sf.
Side yard (minimum)	• 7½ feet	• 5 feet
Rear yard (minimum)	• 7½ feet	• n/a
Civic space <i>(minimum 16 with plazas, squares, courtyards, and similar civic spaces-see § 18.20.170)</i>	• 20% of net site area	• 10% of net site area

**C. Parking Regulations for C-1 Developments**

1. No more than one hundred twenty-five (125) percent of the required parking for a use may be provided on-site.

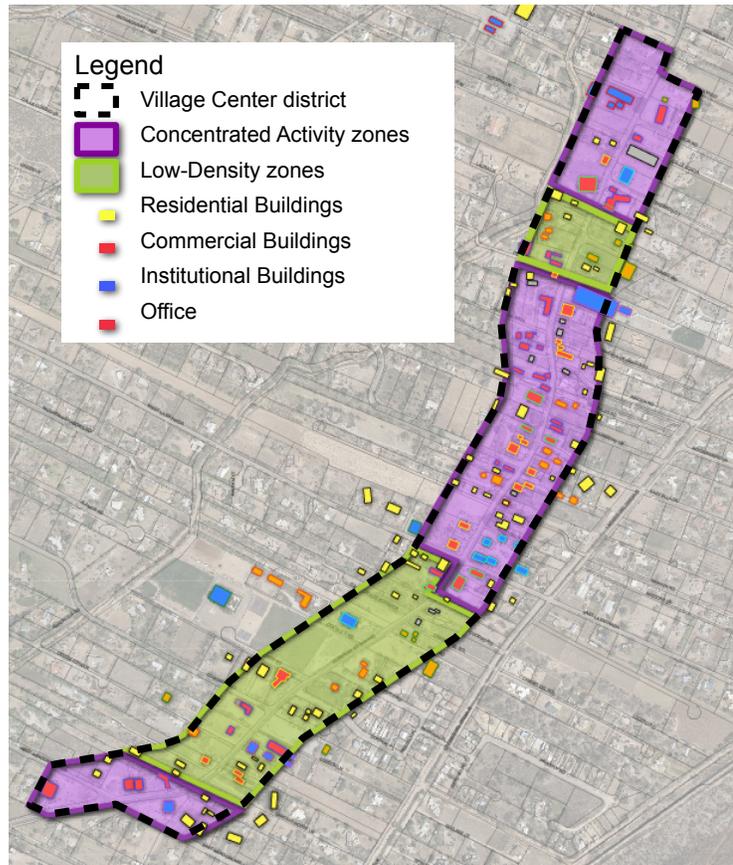


 If the fence resides in the *sight distance corner* of the property, it must be under 3' tall and no more than 30% solid. This helps ensure better traffic visibility.



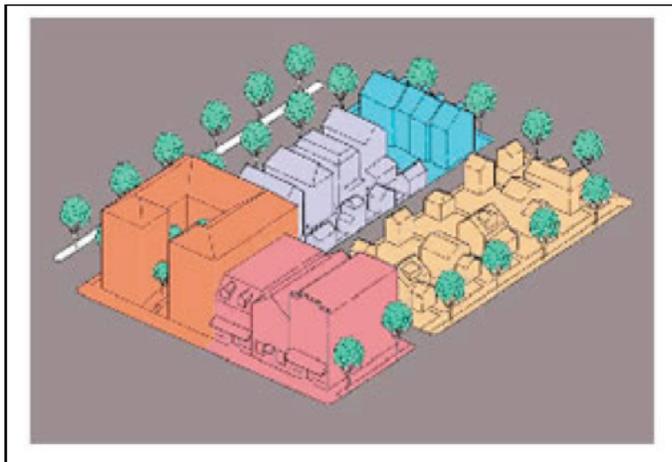
# Activity Centers and Lower Density Areas of Corridor

- ✓ Encourage higher intensity, compatible activities in activity zones/nodes
- ✓ Preserve openness and agricultural/residential character in low-density zones



1

Village of Corrales  
Form Based Code  
Workshop



Source: Virginia Tech