

## CO EMISSION TEST CALCULATIONS

COMPANY: FOSTER'S PET CREMATION SERVICE  
 SOURCE: B&L BLP 500/150 ANIMAL CREMATORY  
 TEST DATE: 03/09/2004  
 Data analyst: MG

Run No.	Average			Stack Flowrate (dscfm)	Emissions		
	CO (PPM)	O2 (%)	CO @ 7% O2 (PPM)		mg/m3	lbs/ft3	lbs/hr
1	3.08	8.0	3.3	457	3.6	2.24E-007	0.006
2	2.25	10.0	2.9	482	2.6	1.64E-007	0.005
3	5.0	10.5	6.7	501	5.8	3.63E-007	0.011
Averages	3.44	9.5	4.3	480	4.0	2.50E-007	0.007

### FORMULAS:

$$\text{CO @ 7\% O}_2 = \text{Actual CO} \times (14/(21-\%\text{O}_2))$$

$$\text{mg/m}^3 = \text{ppm} \times .041573 \times \text{molecular wt.}$$

$$\text{lb/ft}^3 = \frac{\text{mg/m}^3}{35.31 \text{ ft}^3/\text{m}^3 \times 1000 \text{ mg/g} \times 453.59 \text{ g/lb}}$$

$$\text{lb/hr} = \text{lb/ft}^3 \times \text{flowrate} \times 60 \text{ min/hr}$$

where:

$$P_{\text{std}} = 29.92 \text{ "Hg}$$

$$T_{\text{std}} = 528 \text{ deg R}$$

$$\text{Molecular Weight of CO} = 28$$

NBB-80

# SOUTHERN ENVIRONMENTAL SCIENCES, INC.

## EMISSIONS TEST CALCULATIONS

Plant: FOSTER'S PET CREMATION SERVICE  
 Unit: ANIMAL CREMATORY INCINERATOR  
 Run No: 2

Test Date: 03/09/2004  
 Data Input By: DW

$$P_{bar} = (P_{bar \text{ at barom.}}) - (\text{Elev. diff. barom. to manom., ft.}) \times (.1/100)$$

$$= 30.14 - 0 \times (0.1/100) = 30.14$$

$$P_m = P_{bar} + \frac{\Delta H}{13.6}$$

$$= 30.14 + \frac{1.041}{13.6} = 30.22$$

$$V_m(\text{std}) = (V_m) \times (Y) \times \frac{(T_{std, \text{deg R}}) \times (P_m)}{(T_m, \text{deg R}) \times (P_{std})}$$

$$= 36.308 \times 0.986 \times \frac{528 \times 30.22}{553.7 \times 29.92} = 34.476$$

$$V_w(\text{std}) = V_{lc} \times (.04715)$$

$$= 144.1 \times 0.04715 = 6.794$$

$$B_{ws} = \frac{V_w(\text{std})}{V_w(\text{std}) + V_m(\text{std})}$$

$$= \frac{6.794}{6.794 + 34.476} = 0.165$$

$$B_{ws} @ \text{saturation} = 0.99$$

$$1 - B_{ws} = 0.835$$

USE LOWER BWS

$$M_d = 0.44(\%CO_2) + .32(\%O_2) + .28(\%N_2 + \%CO)$$

$$= .44 \times 4.5 + .32 \times 10 + 0.28 \times 78$$

$$= \text{assume } 29.12$$

$$M_s = M_d(1 - B_{ws}) + 18(B_{ws})$$

$$= 29.12 \times 0.835 + 18 \times 0.165$$

$$P_s = P_{bar} + \frac{(P_{g, \text{in. H}_2\text{O}})}{13.6}$$

$$= 30.14 + \frac{-0.01}{13.6} = 30.14$$

$$V_s = 85.49 \times (C_p) \times (\text{avg sqrt delta P}) \times \text{sqrt}[(T_s, \sim R)/(P_s)(M_s)]$$

$$= 85.49 \times 0.84 \times 0.175 \times \text{sqrt } 1827.1 / 30.14 \times 27.29$$

$$= 18.68$$

$$A_n = \frac{[(\text{Nozzle diam, in.}/12)^2 \times 3.14159]}{4}$$

$$= \frac{0.611^2 / 12^2 \times 3.14159}{4} = 0.00204$$

$$\%I = \frac{(0.09450) \times (T_s, \text{deg R}) \times (V_m(\text{std}))}{(P_s) \times (V_s) \times (A_n) \times (\text{Sample Time}) \times (1 - B_{ws})}$$

$$= \frac{0.0945 \times 1827.1 \times 34.476}{30.14 \times 18.68 \times 0.0020361 \times 60 \times 0.835}$$

$$= 103.6$$

NIR-R1

# SOUTHERN ENVIRONMENTAL SCIENCES, INC.

## EMISSIONS TEST CALCULATIONS

Plant: FOSTER'S PET CREMATION SERVICE  
 Unit: ANIMAL CREMATORY INCINERATOR  
 Run No: 2

Test Date: 03/09/2004  
 Data Input By: DW

$$As = \frac{(\text{Stack Diam., ft.})^2 \times 3.14}{4} = \frac{1.5^2 \times 3.14}{4} = 1.77$$

$$As \text{ eff} = \frac{As \times (\text{total No. pts.} - \text{No. neg. pts.})}{(\text{Total No. pts.})} = \frac{1.767146 \times (24 - 0)}{24} = 1.77$$

$$Q = 60(As, \text{eff})(Vs) = 60 \times 1.77 \times 18.68 = 1.981$$

$$Qstd = \frac{(Q) \times (Tstd) \times (Ps) \times (1-B)}{(Ts, \text{degR}) \times (Pstd)} = \frac{1980.505 \times 528 \times 30.139265 \times 0.83537}{1827.125 \times 29.92} = 482$$

$$Cs = \frac{(.01543) \times (\text{mn, mg})}{Vm(\text{std})} = \frac{0.01543 \times 11.1}{34.4759} = 0.00497$$

$$PMR = \frac{(Cs)(Qstd)(6)}{7000} = \frac{0.0050 \times 481.60559 \times 60}{7000} = 0.02$$

Emissions calculations in emissions test summary may differ slightly from example calculations due to rounding of some numbers in example.

Southern Environmental Sciences, Inc.  
1204 North Wheeler Street □ Plant City, Florida 33566-2354 □ (813) 752-5014

NOMENCLATURE USED IN  
STACK SAMPLING CALCULATIONS  
(Continued)

$Q$	= Stack gas flowrate, ACFM
$Q_{std}$	= Stack gas flowrate, DSCFM
$T_m$	= Absolute average meter temperature, °R
$T_s$	= Absolute average stack gas temperature, °R
$T_{std}$	= Standard absolute temperature, 528 °R
$V_a$	= Volume of sample aliquot titrated, ml
$V_{lc}$	= Liquid collected in impingers and silica gel, grams
$V_m$	= Sample volume at meter conditions, DCF
$V_{m(std)}$	= Sample volume at standard conditions, DSCF
$V_s$	= Stack gas velocity, ft/sec
$V_{soln}$	= Total volume of solution, ml
$V_t$	= Volume of barium perchlorate titrant used for the sample, ml
$V_{tb}$	= Volume of barium perchlorate titrant used for the blank, ml
$V_{w(std)}$	= Volume of water vapor in sample corrected to standard conditions, SCF
$Y$	= Dry gas meter calibration factor
13.6	= Specific gravity of mercury

**Southern Environmental Sciences, Inc.**  
1204 North Wheeler Street □ Plant City, Florida 33566-2354 □ (813) 752-5014

**NOMENCLATURE USED IN  
STACK SAMPLING CALCULATIONS**

$A_n$	= Cross-sectional area of nozzle, $\text{ft}^2$
$A_s$	= Cross-sectional area of stack, $\text{ft}^2$
$B_{ws}$	= Water vapor in gas stream, proportion by volume
$C_p$	= Pitot coefficient
$C_s$	= Pollutant concentration, $\text{gr/DSCF}$
$F_d$	= Ratio of gas generated to heat value of fuel, $\text{DSCF/mm BTU}$
$\Delta H$	= Average pressure differential across orifice, in. $\text{H}_2\text{O}$
%I	= Isokinetic variation, %
$M_d$	= Molecular weight of dry gas
$M_n$	= Total amount of pollutant collected, $\text{mg}$
$M_s$	= Molecular weight of stack gas
N	= Normality of barium perchlorate titrant
$\sqrt{\Delta P_{\text{avg}}}$	= Average of the square roots of the velocity heads
$P_{\text{bar}}$	= Barometric pressure at the sampling site, in. Hg
$P_g$	= Stack gas static pressure, in. $\text{H}_2\text{O}$
$P_m$	= Absolute pressure at the dry gas meter, in. Hg
$P_s$	= Absolute stack pressure, in. Hg
PMR	= Pollutant mass rate, $\text{lb/hr}$
$P_{\text{std}}$	= Standard absolute pressure, 29.92 in. Hg
$\theta$	= Total sampling time, minutes



NEW MEXICO  
ENVIRONMENT DEPARTMENT

*Air Quality Bureau*

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F. DAVE MARTIN  
Cabinet Secretary  
BUTCH TONGATE  
Deputy Secretary

May 23, 2012

Rachel Tapia  
40 Vista del Monte  
Santa Fe, NM 87508

RECEIVED

MAY 24 2012

Karl Sommer & Assoc.

SCANNED

MAY 24 2012

Karl Sommer & Assoc.

Dear Ms. Tapia:

This letter is in response to your request for confirmation that that an air permit for Loving Animal Services is not required.

Currently, the Department is not requiring a permit for a crematory, however this may change in the future if the Department determines that permitting such facilities is necessary or if a Federal regulation from the Environmental Protection Agency is issued that requires such a permit.

Sincerely,

Elizabeth Bisbey-Kuehn  
Major Source Section  
Air Quality Bureau

WRR-25

TABLE 1. EMISSIONS TEST SUMMARY (con't)

Company: FOSTER'S PET CREMATION SERVICE  
 Source: Animal Crematory Incinerator

	Run 1	Run 2	Run 3	
Date of Run	3/9/04	3/9/04	3/9/04	
Process Rate (lbs/hr)	124	124	124	
Start Time (24-hr. clock)	1135	1302	1425	
End Time (24-hr. clock)	1238	1403	1528	
Oxygen (%)	8.0	10.0	10.5	
Particulate Collected (mg.)	34.0	11.1	7.4	<u>Average</u>
Particulate Emissions (gr./DSCF)	0.015	0.005	0.003	0.008
Particulate Emissions (gr./DSCF @ 7% O <sub>2</sub> )	0.016	0.006	0.004	0.009
Allowable Part. Emissions (gr./DSCF @ 7% O <sub>2</sub> )				0.080
Particulate Emissions (lb./hr.)	0.060	0.021	0.014	0.031
Allowable Part. Emissions (lb./hr.)				0.30
CO Emissions (PPM)	3.08	2.25	5.00	4.3
CO Emissions (PPM @ 7% O <sub>2</sub> )	3.3	2.9	6.7	4.3
Allowable CO Emissions (PPM @ 7% O <sub>2</sub> )				100
CO Emissions (lb./hr.)	0.006	0.005	0.011	0.007
Allowable CO Emissions (lb./hr.)				0.12

Note: Standard conditions 68°F, 29.92 in. Hg

**TITLE 20 ENVIRONMENTAL PROTECTION**  
**CHAPTER 2 AIR QUALITY (STATEWIDE)**  
**PART 61 SMOKE AND VISIBLE EMISSIONS**

**20.2.61.1 ISSUING AGENCY:** Environmental Improvement Board.  
 [11/30/95; 20.2.61.1 NMAC - Rn, 20 NMAC 2.61.100 10/31/02]

**20.2.61.2 SCOPE:** All geographic areas within the jurisdiction of the Environmental Improvement Board.  
 [11/30/95; 20.2.61.2 NMAC - Rn, 20 NMAC 2.61.101 10/31/02]

**20.2.61.3 STATUTORY AUTHORITY:** Environmental Improvement Act, NMSA 1978, section 74-1-8(A)(4) and (7), and Air Quality Control Act, NMSA 1978, sections 74-2-1 et seq., including specifically, section 74-2-5(A), (B), and (C).  
 [11/30/95; 20.2.61.3 NMAC - Rn, 20 NMAC 2.61.102 10/31/02]

**20.2.61.4 DURATION:** Permanent.  
 [11/30/95; 20.2.61.4 NMAC - Rn, 20 NMAC 2.61.103 10/31/02]

**20.2.61.5 EFFECTIVE DATE:** November 30, 1995.  
 [11/30/95; 20.2.61.5 NMAC - Rn, 20 NMAC 2.61.104 10/31/02]  
 [The latest effective date of any section in this Part is 10/31/02.]

**20.2.61.6 OBJECTIVE:** The objective of this Part is to establish controls on smoke and visible emissions from certain sources. This Part is not intended to preempt any more stringent controls on smoke and visible emissions provided in any other air quality control regulation or in any local ordinance or regulation.  
 [11/30/95; 20.2.61.6 NMAC - Rn, 20 NMAC 2.61.105 10/31/02]

**20.2.61.7 DEFINITIONS:** In addition to the terms defined in 20.2.2 NMAC (Definitions), as used in this Part:

A. "Air curtain destructor" means a combustion device or system designed to achieve controlled combustion of woodwaste and slash materials in an earthen trench or refractory-lined pit or bin through means of a fan-generated air curtain.

B. "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

C. "Part" means an air quality control regulation under Title 20, Chapter 2 of the New Mexico Administrative Code, unless otherwise noted; as adopted or amended by the Board.

D. "Stationary combustion equipment" means any stationary device or system used to oxidize solid, liquid, or gaseous materials, including fuels or wastes, and includes but is not limited to incinerators, wood-fired boilers, air curtain destructors, and stationary oil burning equipment.

E. "Visible emissions" means particulate or gaseous matter which can be detected by the human eye.  
 [11/30/95; 20.2.61.7 NMAC - Rn, 20 NMAC 2.61.107 10/31/02]

**20.2.61.8 AMENDMENT AND SUPERSESSION OF PRIOR REGULATIONS:** This Part amends and supersedes Air Quality Control Regulation ("AQCR") 401 -- Regulation to Control Smoke and Visible Emissions last filed July 15, 1986.

A. All references to AQCR 401 in any other rule shall be construed as a reference to this Part.

B. The amendment and supersession of AQCR 401 shall not affect any administrative or judicial enforcement action pending on the effective date of such amendment nor the validity of any permit issued pursuant to AQCR 401.

[11/30/95; 20.2.61.8 NMAC - Rn, 20 NMAC 2.61.106 10/31/02]

**20.2.61.9 DOCUMENTS:** Documents cited in this Part may be viewed at the New Mexico Environment Department, Air Quality Bureau, Runnels Building, 1190 Saint Francis Drive, Santa Fe, NM 87505 [2048 Galisteo St., Santa Fe, NM 87505].

[11/30/95; 20.2.61.9 NMAC - Rn, 20 NMAC 2.61.108 10/31/02]

**20.2.61.10 to 20.2.61.108 [RESERVED]**

**20.2.61.109 STATIONARY COMBUSTION EQUIPMENT:** The owner or operator of stationary combustion equipment shall not permit, cause, suffer or allow visible emissions from the stationary combustion equipment to equal or exceed an opacity of 20 percent; provided, however, stationary combustion equipment which is regulated by Parts 20.2.10

NMAC through 20.2.18 NMAC, 20.2.37 NMAC, and 20.2.42 NMAC, and any other Part of Chapter 2 which specifically limits particulate emissions is exempted from this Part.

[11/30/95; 20.2.61.109 NMAC - Rn, 20 NMAC 2.61.109 10/31/02]

**20.2.61.110 DIESEL-POWERED VEHICLE:**

A. No person shall permit, cause, suffer or allow the emission into the open air of any smoke having an opacity greater than thirty percent for any period greater than ten seconds from any diesel-powered vehicle operating below 8,000 feet (mean sea level).

B. No person shall permit, cause, suffer or allow the emission into the open air of any smoke having an opacity greater than forty percent for any period greater than ten seconds from any diesel-powered vehicle operating above 8,000 feet (mean sea level).

[11/30/95; 20.2.61.110 NMAC - Rn, 20 NMAC 2.61.110 10/31/02]

**20.2.61.111 EXCLUSIONS:** This Part does not apply to:

A. emissions from diesel-powered vehicles if the emissions are a direct result of a cold engine start-up;

B. off-highway, diesel-powered vehicles operating in non-urban areas; and

C. oil well drilling rigs and oil well servicing rigs.

D. for sources subject to the provisions of 20.2.70 NMAC (Operating Permits), emissions which result from insignificant activities as defined in 20.2.70 NMAC.

[11/30/95; 01/10/96; 20.2.61.111 NMAC - Rn, 20 NMAC 2.61.111 10/31/02]

**20.2.61.112 DIESEL-POWERED LOCOMOTIVES:**

A. No person shall permit, cause, suffer or allow the emissions into the open air of any smoke having an opacity greater than twenty percent for any period greater than ten seconds from any diesel-powered locomotive operating below 8,000 feet (mean sea level).

B. No person shall permit, cause, suffer or allow the emission into the open air of any smoke having an opacity greater than forty percent for any period greater than ten seconds from any diesel-powered locomotive:

(1) operating above 8,000 feet (mean sea level); or

(2) involved in switching and railroad yard use.

C. This Part does not apply to emissions for diesel-powered locomotives if the emissions are a direct result of a cold engine start-up.

[11/30/95; 20.2.61.112 NMAC - Rn, 20 NMAC 2.61.112 10/31/02]

**20.2.61.113 AIR CURTAIN DESTRUCTORS:** An exemption to this Part may be granted by the Department for start-up and burn-down periods of operation of air curtain destructors, if the owner or operator has demonstrated to the satisfaction of the Department that such an exemption is necessary and takes all actions necessary to minimize emissions during such periods.

[11/30/95; 20.2.61.113 NMAC - Rn, 20 NMAC 2.61.113 10/31/02]

**20.2.61.114 OPACITY DETERMINATIONS:** Opacity of emissions from equipment subject to 20.2.61.109 NMAC shall be determined consistent with the method set forth by the US EPA in 40 CFR, Part 60 Appendix A, Method 9, or any other method receiving prior approval from the Department. The minimum time period for taking opacity readings shall be ten minutes.

[11/30/95; 20.2.61.114 NMAC - Rn, 20 NMAC 2.61.114 10/31/02]

**HISTORY OF 20.2.61 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the commission of public records-state records center and archives:

HSSD 70-1, Ambient Air Quality Standards And Air Quality Control Regulations, 01/27/70;

EIB/AQCR 401, Air Quality Control Regulation 401 - Regulation To Control Smoke And Visible Emissions, 07/15/86.

**History of Repealed Material:** [RESERVED]

**Other History:**

EIB/AQCR 401, Air Quality Control Regulation 401 - Regulation To Control Smoke And Visible Emissions, filed 07/15/86 was renumbered into first version of the New Mexico Administrative Code as 20 NMAC 2.61, Smoke And Visible Emissions, filed 10/30/95.

20 NMAC 2.61, Smoke And Visible Emissions, filed 10/30/95 was renumbered, reformatted and replaced by 20.2.61 NMAC, Smoke And Visible Emissions, effective 10/31/02.



BILL RICHARDSON  
Governor

DIANE DENISH  
Lieutenant Governor

New Mexico  
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RON CURRY  
Secretary

EMILY PABILLA  
Deputy Secretary

January 17, 2008

Rachael Tapia  
40 Vista del Monte  
Santa Fe, NM 87508

SCANNED

FEB 24 2012

Karl Sommer & Assoc.

RECEIVED

FEB 24 2012

Karl Sommer & Assoc.

Dear Ms. Tapia:

This letter is in response to your request for confirmation that that an air permit for Loving Animal Services is not required.

Currently, the Department is not requiring a permit for a crematory, however this may change in the future if the Department determines that permitting such facilities is necessary or if a Federal regulation from the Environmental Protection Agency is issued that requires such a permit.

Sincerely,

Elizabeth Bisbey-Kuehn  
New Source Review  
Air Quality Bureau

NBB-89

**Jan Daniels**

**From:** Kuehn, Elizabeth, NMENV [Elizabeth.Kuehn@state.nm.us]  
**Sent:** Thursday, January 17, 2008 9:56 AM  
**To:** Jan Daniels  
**Subject:** Lovington Animal Services  
**Attachments:** No Permit Required.pdf

Jan-

Please see the attached document. The New Mexico Environment Department Air Quality Bureau has made the determination that no air quality permit is required for the Lovington Animal Services crematorium. Feel free to call if you have any questions.

Liz

Elizabeth Bisbey-Kuehn  
New Source Review  
NMED Air Quality Bureau  
1301 Siler Road - Bldg B  
Santa Fe, NM 87507-3113  
505.476.4338

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1/17/2008

NBB-90

# SOUTHERN ENVIRONMENTAL SCIENCES, INC.

1204 North Wheeler Street, Plant City, Florida 33506 (813)752-5014

## VISIBLE EMISSIONS EVALUATION

COMPANY <u>Foster's Pet Cremation Service</u>	
UNIT <u>Animal Crematory Incinerator</u>	
ADDRESS <u>1504 County Line Rd</u> <u>Spring Hill, FL</u>	
PERMIT NO. <u>1010377-002-#0</u>	COMPLIANCE? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
AIR NO. <u>1010377</u>	EU NO. <u>003</u>
PROCESS RATE <u>471 lb Batch</u> <u>124 lbs/hr</u>	PERMITTED RATE <u>500 lb Batch</u> <u>150 lbs/hr</u>
PROCESS EQUIPMENT <u>Bath 500/150 Crematory</u>	
CONTROL EQUIPMENT <u>After burner</u>	
OPERATING MODE <u>Nat. Gas Fired</u>	AMBIENT TEMP. °F START <u>70</u> STOP <u>75</u>
HEIGHT ABOVE GROUND LEVEL START <u>N/A</u> STOP <u>same</u>	HEIGHT REL. TO OBSERVER START <u>N/A</u> STOP <u>same</u>
DISTANCE FROM OBSERVER START <u>N/A</u> STOP <u>same</u>	DIRECTION FROM OBSERVER START <u>350°</u> STOP <u>350°</u>
EMISSION COLOR <u>NONE</u>	PLUME TYPE <u>N/A</u> CONTINUOUS <input type="checkbox"/> INTERMITTENT <input type="checkbox"/>
WATER DROPLETS PRESENT YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	IS WATER DROPLET PLUME <u>N/A</u> ATTACHED <input type="checkbox"/> DETACHED <input type="checkbox"/>
POINT IN THE PLUME AT WHICH OPACITY WAS DETERMINED START <u>Stack Exit</u> STOP <u>same</u>	
DESCRIBE BACKGROUND START <u>sky</u> STOP <u>same</u>	
BACKGROUND COLOR START <u>gray w/ blue</u> STOP <u>same</u>	SKY CONDITIONS START <u>scat. cl.</u> STOP <u>same</u>
WIND SPEED (MPH) START <u>3-10</u> STOP <u>same</u>	WIND DIRECTION START <u>S</u> STOP <u>S</u>
AVERAGE OPACITY FOR HIGHEST PERIOD <u>0%</u>	RANGE OF OPAC. READINGS MIN <u>0</u> MAX <u>0</u>
SOURCE LAYOUT SKETCH DRAW NORTH ARROW	
COMMENTS <u>Serial # 203-17-93</u>	
<u>#3 Incinerator</u>	

OBSERVATION DATE <u>3/9/04</u>					START TIME <u>1135</u>					STOP TIME <u>1235</u>				
SEC	0	15	30	45	SEC	0	15	30	45					
MIN					MIN									
0	0	0	0	0	30	0	0	0	0					
1	0	0	0	0	31	0	0	0	0					
2	0	0	0	0	32	0	0	0	0					
3	0	0	0	0	33	0	0	0	0					
4	0	0	0	0	34	0	0	0	0					
5	0	0	0	0	35	0	0	0	0					
6	0	0	0	0	36	0	0	0	0					
7	0	0	0	0	37	0	0	0	0					
8	0	0	0	0	38	0	0	0	0					
9	0	0	0	0	39	0	0	0	0					
10	0	0	0	0	40	0	0	0	0					
11	0	0	0	0	41	0	0	0	0					
12	0	0	0	0	42	0	0	0	0					
13	0	0	0	0	43	0	0	0	0					
14	0	0	0	0	44	0	0	0	0					
15	0	0	0	0	45	0	0	0	0					
16	0	0	0	0	46	0	0	0	0					
17	0	0	0	0	47	0	0	0	0					
18	0	0	0	0	48	0	0	0	0					
19	0	0	0	0	49	0	0	0	0					
20	0	0	0	0	50	0	0	0	0					
21	0	0	0	0	51	0	0	0	0					
22	0	0	0	0	52	0	0	0	0					
23	0	0	0	0	53	0	0	0	0					
24	0	0	0	0	54	0	0	0	0					
25	0	0	0	0	55	0	0	0	0					
26	0	0	0	0	56	0	0	0	0					
27	0	0	0	0	57	0	0	0	0					
28	0	0	0	0	58	0	0	0	0					
29	0	0	0	0	59	0	0	0	0					
Observer: <u>Mark Gierke</u>														
Certified by: <u>FMRP</u> Certified at: <u>Spring</u>														
Date Certified: <u>3/04</u> Exp. Date: <u>8/04</u>														
I certify that all data provided to the person evaluating the test was true and correct to the best of my knowledge.														
Signature: <u>Gen. Process W. S. Gierke</u>														
Title:														

NBB-91

from off-site road improvements for the first lot, the person transferring the lot shall file an affidavit as described in Article II, Section 4.3.2b.v.

- (d) Water Conservation. All lots created in accordance with Sections 2.3.1a.ii(b), (d), (f), (g) and (h), which are less than ten (10) acres in size shall be subject to water conservation covenants as set forth in Article VII, Section 6.6.2.

History. Sections 2.3 and 2.4.1 of Section 2 were amended by County Ordinance 1996-3, providing for site planning standards, required submittals and a review procedure regarding terrain management. Section 2.4.2 was amended by Ordinance 1996-8 to include summary review subdivisions, update road and access requirements, clarify provisions for family transfers and add water conservation requirements for some land divisions.

### **SECTION 3 - HOME OCCUPATIONS**

The requirements of this Section 3 of Article III apply to home occupations.

#### **3.1 Location of District**

Home occupations are allowed anywhere in the County, provided all of the requirements of the Code are met.

#### **3.2 Performance Standards**

A development permit involving a home occupation may be approved only if the following standards are met:

- 3.2.1 Not more than six (6) persons, other than members of a family residing on the premises, shall be regularly engaged in work at the site of the home occupation;
- 3.2.2 The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 50% of the floor area of the dwelling including accessory buildings shall be used in the conduct of the home occupation;
- 3.2.3 There shall be no change in the outside appearance of the building or premises, nor other visible evidence of the conduct of the home occupation, except for one (1) non-illuminated name plate sign not more than nine square feet in area;
- 3.2.4 Parking for employees and for customers or clients of the home occupation as required by Section 9 of this Article III shall be provided off the street;
- 3.2.5 No equipment or process shall be used in the home occupation which significantly interferes with the existing use of property in the adjacent area.

#### **3.3 Submittals**

The application shall be submitted on a form provided by the Code Administrator which shall include a description of:

- 3.3.1 Activities involved;
- 3.3.2 Materials and equipment used;
- 3.3.3 Methods of operation;
- 3.3.4 Number of employees;
- 3.3.5 Type of product to be produced, serviced or repaired;



- 3.3.6 Mechanical and electrical equipment necessary to the conduct of the home occupation use;
- 3.3.7 Amount, location and method of storage of supplies and/or equipment;
- 3.3.8 Location of parking;
- 3.3.9 Type and amount of traffic generated.

## SECTION 4 - COMMERCIAL AND INDUSTRIAL NON-RESIDENTIAL DISTRICTS

### 4.1 Purpose and Intent

Commercial, and industrial non-residential land uses are permitted only in zoned districts of various sizes and locations in the County of Santa Fe. Non-residential districts specifically for commercial or industrial land uses are established in order:

- 4.1.1 To permit intensive development of selected land uses at designated locations;
- 4.1.2 To avoid strip commercial and industrial patterns of development along highways, arterials, collectors, and local roads of the County;
- 4.1.3 To protect the function of the County's highways, arterials, collectors, and local roads by controlling the number of access locations to commercial and industrial use areas;
- 4.1.4 To prevent the preemption of prime areas for commercial or industrial development by residential development;
- 4.1.5 To protect existing and future residential development from encroachment of non-residential uses;
- 4.1.6 To provide the opportunity to master plan non-residential use areas, so that adequate fire and police protection may be provided and appropriate infrastructure constructed.

### 4.2 Types and Locations of Commercial or Industrial Districts

#### 4.2.1 Types of Districts and Location Criteria

- a. There are four types of commercial or industrial non-residential districts which may be established at specific qualifying intersections of various types of roads in the County:
  - 1) Regional or major center districts, which are established or may be established, shall be located at intersections of major arterials and major highways. The purpose of major center or regional districts is to concentrate extensive regional non-residential activities. Section 4.3.1 infra, defines uses which may be established.
  - 2) Community center districts, which are or may be located at intersections of arterial and/or collector roads for the purpose of concentrating community oriented commercial uses, shopping, offices and service businesses, including travelers services, light industry, research and development complexes and other similar uses. Sub-section 4.3.1, defines uses which may be established.
  - 3) Local or village center districts, which are or may be located at intersections of collector and local roads and in traditional community areas for the purpose of concentrating activities which serve such neighborhood areas for shopping, travel, and personal services. Section 4.3.2, lists suggested uses.
  - 4) Neighborhood or small scale center districts, which are or may be located at intersections of local roads or in traditional community areas. Uses similar to those which may be established in local or village center districts may be established.

for compliance with the requirements of the Code, and shall make and file a report to the County Development Review Committee evaluating the application and recommending that the County Development Review Committee approve, disapprove, or approve the application with modifications and/or conditions or recommending that the County Development Review Committee recommend the same to the Board depending on which body has final authority pursuant to Section 2.3.2e.

- 2.3.2b The Code Administrator may hold an informal conference with the applicant and any interested person at any time prior to the making of his recommendation. The Code Administrator shall give at least three (3) working days' notice, either orally or in writing, to the applicant or any interested person who has requested in writing that he receive notice of any informal conference held under this Subsection b.
- 2.3.2c At least twenty one (21) calendar days prior to any public meeting at which an application will be heard, the applicant shall post notice of the filing of the application prominently on the land, building, or other structure which is the subject of the application in such a way as to give reasonable notice to persons interested in the application and shall provide written verification of the posting of the notice to the Code Administrator.
- 2.3.2d For development other than subdivisions under the New Mexico Subdivision Act (which shall comply with the public agency review process as set forth in Article V, Section 5.3.3d.), the Code Administrator may refer an application to an appropriate agency or official of the State of New Mexico for an opinion concerning whether the application would be disapproved or approved with conditions or modifications. Unless otherwise required by law, the opinion of the state agency or official shall be advisory. The Code Administrator may delay the making and filing of his recommendation for up to sixty (60) calendar days to await the opinion if he believes that such a delay is in the public interest.
- 2.3.2e The County Development Review Committee has final approval authority on preliminary and final development plans and on appeals of the Code Administrator's decisions and has recommendation authority on variances, preliminary and final plats, and all master plans, including zoning, for which the Board shall have final approval authority. Plats for Type V subdivisions containing six (6) or more parcels go directly to the Board for review and approval, in accordance with Article V, Section 5.5.4b.

#### 2.3.4 Appeals

##### 2.3.4a Filing an Appeal

All appeals under the Code shall be filed in writing with the Code Administrator.

##### 2.3.4b Appeal of Code Administrator Decision under Section 2.3.1 to the County Development Review Committee

- i. Any person aggrieved by a decision of the Code Administrator under Section 2.3.1 may file an appeal to the County Development Review Committee within five (5) working days of the date of the Code Administrator's decision. The County Development Review Committee shall hear the appeal within sixty (60) calendar days of the date the appeal is filed. The County

Development Review Committee shall make and file its decision approving or disapproving the application or approving the application with conditions or modifications.

- ii. A decision of the County Development Review Committee on an appeal shall become final thirty (30) calendar days after the decision is filed, unless within that month an appeal of the decision has been filed by an interested person including the Code Administrator, pursuant to Section 2.3.4c of this Article or the Board on its own initiative has decided to review the decision.

**2.3.4.c Appeal of Development Review Committee Decisions to the Board**

- i. Any person aggrieved by a decision of a Development Review Committee may file an appeal in writing to the Code Administrator within thirty (30) calendar days of the date of the decision of the Development Review Committee. The Board shall hear the appeal within sixty (60) calendar days after the date the appeal is filed. The Board shall timely make and file its decision approving or disapproving the application or approving the application with conditions or modifications.
- ii. The decision of the Board shall become final on the date when the decision is filed.

**2.4 Notice and Conduct of Public Hearing**

**2.4.1 Notice by County**

Notice of a public hearing to be held by a Development Review Committee or the Board, shall be given as provided by resolution of the Board and as otherwise required by law. Copies of the public notice policies shall be posted in the Code Administrator's office. Public hearings shall be conducted as provided by policies established by the body holding the hearing or as required by law. All interested persons shall be allowed a reasonable opportunity to be heard at a public hearing held under the Code.

**2.4.2 Notice by Applicant**

2.4.2a For all zoning cases, master plans, development plans, variances, preliminary and final subdivision plats, Type V subdivisions containing six (6) or more parcels and appeals of these matters, the following public notice requirements shall be completed by the applicant at least twenty one (21) calendar days prior to the public meeting:

- i. A notice shall be published in the legal section of the daily newspaper which covers the area in which the project is located;
- ii. Certified letters, prepared by the Code Administrator, shall be mailed return receipt requested to all property owners within one hundred (100) feet (excluding rights-of-way) of the subject property;
- iii. The subject property shall be posted, in the manner outlined in Section 2.3.2c of this Article II.

2.4.2b For all summary review subdivisions containing five (5) or fewer parcels, Sections 2.4.2a.ii. and iii. Shall be completed by the applicant at least fifteen (15) calendar days prior to the administrative decision.

History. Section 2.4 was amended by Ordinance 1996-8 to include notice requirements for most projects.

## APPROVAL OF AGENDA

Chair Varela López noted that Case #MIS 07-5430 (Diane Clare Accessory Structure) and #DP 07-5500 (Apache Springs Subdivision) were tabled. Ms. Cobau corrected the Rachel Tapia Case number, which should read #APP 07-5490.

Member Romero moved approval of the agenda as modified. Member Dayton seconded the motion and it passed by unanimous voice vote. [Member Hagman was not present for this action.]

## APPROVAL OF MINUTES: December 20, 2007

Chairman Varela López offered typographical changes which were incorporated into the minutes.

Member Holian moved to approve the minutes as corrected. Member Salazar seconded and the motion carried unanimously. [Member Hagman was not present for this action.]

## LAND USE ITEMS

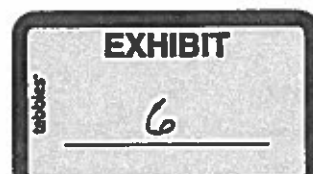
1. **CDRC CASE # APP 07-5490 Rachael Tapia Appeal.** Rachael Tapia, Appellant, is appealing the Land Use Administrator's decision to deny a home occupation business license for operation of Loving Animal Services on residential property consisting of 2.5 acres. The property is located in the Community College Subdistrict within the Valle Lindo Subdivision at 40 Vista Del Monte, within Section 25, Township 16 North, Range 8 East, (Commission District 4)

Jan Daniels gave the staff report as follows:

"The appellant is requesting an appeal of the Land Use Administrator's decision to deny an application for a Home Occupation Business License for Loving Animal Services.

"On July 25, 2007 the appellant was granted a Home Occupation Business License for Loving Animal Services to pick up departed pets and transport them to the Santa Fe Animal Shelter and to trap wildlife and relocate the animals to the Santa Fe National Forest.

"On November 5, 2007 the appellant submitted an application for the expansion of the Home Occupation, which included placement of an incinerator on the



property. This incinerator would be utilized to cremate departed pets onsite. This Application was denied by the Land Use Administrator on November 16, 2007

"The denial of the application was based upon the appellant's failure to comply with conditions set forth by Article III, Section 3.2 (Home Occupation Performance Standards) of the Land Development Code.

- Paragraph d (3) states, "There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of the home occupation, except for one (1) non-illuminated nameplate sign not more than one (1) square foot in area; construction of walls, fences, sheds, studios, or other accessory structures to provide for storage of materials and equipment are allowed, as long as the floor area limitations of fifty percent of the residence, including the accessory buildings, are met."

"The appellant states that the 20' X 20' structure will be 11' high with a four-foot roof stack and will be located 200' from any of the surrounding residences. The structure (incinerator) will be incorporated into the existing property with by a landscape plan that will add more trees and shrubs to those already existing and will resemble a garage.

- Paragraph d(4) states, "The Home Occupation shall not involve operations or structures not in keeping with the residential character of the neighborhood."

"The appellant states that the business will not create a visible change to the outside appearance of the residential area no more than would a new garage or storage. The structure will be frame and stucco finished to match the existing dwelling surrounded by landscape which is residential in nature.

- Paragraph d (8) states, "No equipment or process shall be used which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the premises."

"The appellant states that the equipment and process used will not interfere with the existing use of property in the adjacent area e.g. noise, vibration, glare, fumes, odors, or electrical interference.

- a. B&L Systems, Inc. performed an emissions test of the BLP 500/150 Animal Crematory Incinerator. The report indicates that fumes or odor are minimal to none. The emissions test includes a chart that indicates a comparative analysis of emissions from the crematorium: a home fireplace, a diesel truck, and a restaurant cooking 100 hamburgers an hour. These three comparisons greatly exceed the emissions of the crematorium.

- b. The B & L Systems report indicates that at the 54 dB reading, two people can have a normal conversation while the machine is in full operation. It further indicates that the noise outside the housed unit is virtually non-existent.
- c. The structure will be designed of frame and stucco with a non-reflective roof finished to match the existing dwelling and surrounded by trees and foliage.
- d. There will be no electrical interference.

"The 20' X 20' frame and stucco building will house an 11' long X 5' wide X 6' tall crematorium. No traffic will be generated and no parking is required.

"The appellant has met with property owners in the immediate surrounding area and states that they have no objections to the proposed animal crematory incinerator.

"Fire Marshal approval is required prior to issuance of a Home Occupation Business license."

Ms. Daniels stated that the application is not in compliance with Article III, Section 3.2 (Home Occupation Performance Standards) of the Land Development Code. Staff recommends denial of the appeal. Should the CDRC decide to reverse the Land Use Administrator's decision and approve the Application for a Home Occupation, the following conditions shall apply:

- 1. The appellant shall comply with Fire Marshal requirements.
- 2. A water-harvesting plan in accordance with Santa Fe County Regulations shall be approved administratively prior to obtaining a building permit.

Ms. Daniels distributed a letter from NMED *[Exhibit 1]* stating that an air quality permit was not required at this time. She also handed out a report from the Fire Marshal *[Exhibit 2]* which says a final inspection will be required prior to issuance of a Certificate of Occupancy.

Member Gonzales asked if this property was in the Community College District. Ms. Daniels said it was but currently that review committee has insufficient members. Member Gonzales moved to refer the case back to the CCDRC at such time it was able to hear the case. Chairman Varela López rejected the motion.

Member Holian asked if the Land Use Department was recommending denial because it's a new structure. Ms. Cobau said the reasons for denial are listed in Exhibit A in the packet. Ms. Daniels noted there were three letters of complaint.

Duly sworn, Rachel Tapia said the crematorium would benefit the city and county by providing a needed service to such agencies as Game and Fish and the Department of Transportation.

Member Holian asked if there were any other animal crematoriums in the county, and Ms. Tapia said there are two others, including the animal shelter, but they do not offer personal service and pick-up. The largest animal that can be accommodated is a pot-bellied pig, although she hopes eventually to expand the operation for larger animals such as horses.

Member Salazar asked if this required commercial zoning, and Ms. Daniels said it would unless it is approved as a home occupation.

Member Romero asked how this differed in scope from a home mechanic shop. Ms. Cobau said auto repair and towing services are not allowed as home occupation. She added that the location of the property would preclude commercial zoning.

Speaking from the public and under oath, Michael Valarde stated he lives behind the property in question. He asked if there was a guarantee there would be no pollution or smell. He said he was concerned about his property values. He presented a letter from a neighbor who was unable to attend.

Ms. Cobau reiterated staff's rationale for denial, as being the operation was not in keeping with residential character, that there would be visible changes to the neighborhood and concerns regarding noise and odors. She added the applicant did submit material in refutation.

Ms. Daniels detailed information provided by the manufacturer of the equipment.

Ms. Tapia said there had been problems with earlier models but at this point there would be no new emissions from operation and that in fact it burns cleaner than a fireplace or diesel engine.

Member Romero asked if NMED tested operation. Ms. Tapia said not to her knowledge, and Ms. Daniels referred to the letter saying no permit is required.

Ms. Cobau said there have been seven calls in opposition.

Member Gonzales noted that although it may be clean-burning and the service is needed, this is not appropriate for a home occupation. He moved to deny CDCD #APP 07-5490. Member Dayton seconded and the motion carried unanimously.

Chairman Varela López indicated Ms. Tapia could present her case to the BCC.

COMMISSIONER ANAYA: We're assuming.  
COMMISSIONER CAMPOS: We know that.  
COMMISSIONER ANAYA: I don't know that.  
CHAIRMAN SULLIVAN: Okay. Other discussion?

The motion tied by 2-2 voice vote.

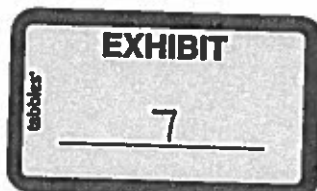
CHAIRMAN SULLIVAN: Motion ties, 2-2, and that will be taken up at the next Commission land use meeting in a month. Thank you.

- XIV. 3. CDRC Case # APP 07-5490 Rachael Tapia Appeal. Rachael Tapia Appellant, is Appealing the Land Use Administrator's Decision to Deny a Home Occupation Business License For Operation of Loving Animal Services on Residential Property Consisting of 2.5 Acres. The Property is Located in an Existing Neighborhood in the community college Subdistrict within the Valle Lindo Subdivision at 40 Vista del Monte, within Section 25, Township 16 North, Range 8 East (Commission District 5) Vicente Archuleta [Exhibit 4: Opposition Letter; Exhibit 5: Emissions Evaluation]

MR. ARCHULETA: Thank you, Mr. Chair. On January 17, 2008 the County Development Review Committee recommended denial of a home occupation business license for operation of Loving Animal Services on residential property consisting of 2.5 acres. The appellant is requesting an appeal of the CDRC's decision to support the Land Use Administrator's decision to deny an application for a home occupation business license for Loving Animal Services.

On July 25, 2007, the appellant was granted a home occupation for Loving Animal Services to pick up deceased pets and transport them to the Santa Fe Animal Shelter and to trap wildlife and relocate the animals to the Santa Fe National Forest. This business license was for the function of operating a home office for the business only. On November 5, 2007 the appellant submitted an application for the expansion of the home occupation which included placement of an incinerator on the property. This incinerator would be utilized to cremate deceased pets onsite. This application was denied by the Land Use Administrator on November 16, 2007.

The denial of the application was based upon the appellant's failure to comply with conditions set forth by Article III, Section 3.2 Home Occupation Performance Standards of the Land Development Code. Paragraph d (3) states, "There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of the home occupation, except for one (1) non-illuminated nameplate sign not more than one (1) square foot in area; construction of walls, fences, sheds, studios, or other accessory



structures to provide for storage of materials and equipment are allowed, as long as the floor area limitations of fifty percent of the residence, including the accessory buildings, are met." The appellant states that the 20 by 20" structure will be 11 feet high with a four-foot roof stack and will be located 200 feet from any surrounding residences. The structure will be incorporated into the existing property with a landscape plan that will add more trees and shrubs to those already existing and will resemble a garage.

Paragraph d (4) states, "The Home Occupation shall not involve operations or structures not in keeping with the residential character of the neighborhood."

CHAIRMAN SULLIVAN: Mr. Archuleta, do you want to just enter this into the record? We have all of that that you're reading here.

MR. ARCHULETA: I can go to the recommendation.

CHAIRMAN SULLIVAN: Okay.

MR. ARCHULETA: Recommendation: The application is not in compliance with Article III, Section 3.2 of the Land Development Code. Staff recommends denial of the appeal. Should the BCC decide to reverse the Land Use Administrator's decision and approve the application for a home occupation the following conditions shall apply. May I enter those into the record?

[The conditions are as follows:]

1. The appellant shall comply with Fire Marshal requirements.
2. A water-harvesting plan in accordance with Santa Fe County Regulations shall be approved administratively prior to obtaining a building permit.

CHAIRMAN SULLIVAN: Okay. Let's have any questions of staff by the Commission. Okay, I don't see any questions right now. Is the applicant present? Give us your name please and have the recorder swear you in.

[Duly sworn, Rachel Tapia testified as follows:]

RACHEL TAPIA: Good evening, Mr. Chair and Commissioners. My name is Rachel Tapia. Sitting behind me are my supporters. I own a business by name of Loving Animal Services and my business deals with people's pets who pass away. I recently purchased a piece of property that is 2.5 acres and at this time I'm trying to build my property so I can run a crematorium. I am trying to personalize cremations. I have a 19-year old pet of my own and I wish to cremate her when she does pass away.

The process would be as follows: If your pet passed away, I would pick up your pet from your home. I would transfer the pet to the crematorium. I would then cremate the pet, place the ashes in an urn and then return ashes to the pet owner. At the last meeting there were some concerns that came up and I would like to address those concerns if I may.

CHAIRMAN SULLIVAN: Go ahead.

MS. TAPIA: One of the concerns was emissions and odors. I do have a letter from the Environment Department. It states the New Mexico Environment Department Air Quality Bureau has made a determination that no air quality permit is

required for Loving Animal Services crematorium. In spite of the letter from the Environment Department I also have a visible emissions evaluations test that I would like to hand out to you if I may.

CHAIRMAN SULLIVAN: Sure. A copy to the recorder please.

MS. TAPIA: On this visible emissions evaluation I did highlight in green the emissions color. It does state there is none. It also states the range reading. I also says zero. All the emissions on the right hand side do state zero. I also have a source layout sketch which shows that the emissions would continue to rise north. Also another concern was the sound. Here I have a decibel chart, a decibel is how to measure sound. Of course it shows total near silence would be zero decibels. A whisper is 15 decibels. A normal conversation is 60 decibels and a lawnmower is 90 decibels. A car horn is 110. The crematorium works at 54 decibels. It would also be housed in a building so there would be virtually no sound whatsoever.

Also I have kind of made up a little bit of a chart as to the properties that are surrounding mine. This middle piece here would be my property. This large x in the middle of the property would be where the crematorium would be. I have gotten written consent from the neighbor below me and the neighbor to the right of me. The neighbor to the left has mentioned that he wishes to remain neutral and let me do as I choose on my property. Unfortunately, I do have two other neighbors who do oppose it who are here in the audience today. I am willing to make any adjustments to my property to appease the neighbors. If there's any other questions that I can address at this time.

CHAIRMAN SULLIVAN: Thank you, Ms. Tapia. Questions for the applicant? Commissioner Anaya, then Commissioner Montoya.

COMMISSIONER ANAYA: Mr. Chair, I just wanted to thank her for her brief explanation. Her presentation and charts are basic. I wish everybody else would be like you.

MS. TAPIA: Thank you.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Is that it?

COMMISSIONER ANAYA: That's it.

COMMISSIONER MONTOYA: Okay. That was a brief question too. Mr. Chair, Rachel, regarding the emissions, you say there's none. What about the smell?

MS. TAPIA: There is virtually no odor. The temperature of the crematorium, the primary chamber, is 1800 degrees Fahrenheit. Basically, in a cremation process, the definition here basically says in consideration, the process is ignited and burns solid, semi-solid or gaseous combustible waste to carbon dioxide and water vapor. So it basically takes it to those states of carbon dioxide and just water vapor. There would be virtually no scent, no visible color and no sound.

COMMISSIONER MONTOYA: So is this a different crematory than what would be used for like livestock?

MS. TAPIA: I would imagine so. The crematory that I have is rather small.

The largest animal I would assume would be maybe a 150-pound pet.

COMMISSIONER MONTOYA: Okay. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Any other questions from the Commission?

Okay. Thank you. This is a public hearing. Do we have anyone in the audience that would like to speak either in favor of or in opposition to come forward and have a seat up front if you would, whoever would like to speak. I don't know who left the black hat there, but if you need a hat, there's one.

[Duly sworn, Joe Velarde testified as follows:]

JOE VELARDE: This is my son and my neighbor. I live [inaudible] Personally, I want to apologize to these people. I know them [inaudible] However, I am opposing [inaudible] because I don't think it's a good health deal there for the neighborhood. In summer, even when people are barbecuing even if they are three or four blocks away. I don't know [inaudible] if she's got enough business she'll be cremating dogs day after day and I don't think that's a good idea and I'm opposed to it. That's my son and I have three more sons and we all agree because I told them I'd come and speak for them because I won't be here too much longer, okay? But they'll be there and [inaudible]

CHAIRMAN SULLIVAN: Thank you, sir.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Question.

COMMISSIONER ANAYA: Joe, on that map that she has, where do you live in relation to her property?

MR. J. VELARDE: We live on the left part.

COMMISSIONER ANAYA: Right down there on the bottom?

MR. J. VELARDE: Yes. [inaudible]

COMMISSIONER ANAYA: Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Velarde. I think we got the question answered. Next speaker.

[Duly sworn, Paul Crumbacher testified as follows:]

PAUL CRUMBACHER: My name is Paul Crumbacher. I've been in my property for about 14 years. Valle Lindo is a little valley, a pretty valley is what it means. When I moved there 14 years ago I didn't expect to have to cope with a residential area turning into a commercial area, so I object from that standpoint. It's not zoned commercial. So it's going to change the character of the neighborhood. And I believe there is a potential for smells and other types of aggravations, noise, etc. and I know she's done her homework. And I have nothing - I don't know this lady from Adam; I have nothing against her but I'm living in a neighborhood and someday I do want to sell. And when I sell I don't want a potential buyer saying, oh, I don't want to buy it because you have a crematorium.

Let me ask you, would you like to have a pet crematorium next to your property and I don't think any of us would say that we do. I think there will be a drop in the value

of my property. We're all homeowners. We're all paying mortgages. We don't want to see drops in our property any more than the national scene sets for us. So I think it affects my resale. I think it changes the character of the neighborhood and to a negative aspect. This is a nice little valley and all of a sudden I've got to deal with this kind of a thing which I don't think I should have to. I think it sets a precedent. Somebody else may want to come in and do other commercial types of things once the door is open and I don't think that's a good idea either. It just affects my general sensibility about where I'm living.

I know she spent money and maybe she didn't know that she couldn't do this commercially and that's somebody else's problem. It's not mine. I don't think this serves the public welfare as you were discussing with the last gentleman. This is a public welfare issue for our whole valley as far as I'm concerned. Would it affect our homeowners insurance besides? There are things here that she is not taking into account. She's just thinking about her own business and I relish her going out and setting up her own business but not in my neighborhood. I think it's a great idea and I think the concept is wonderful for people who love their pets and need pets. And I've had pets and I will probably have them in the future. So that's my statement.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Question, Commissioner Anaya.

COMMISSIONER ANAYA: Two questions. Where is Valle Lindo? I've seen it a million times.

MR. CRUMBACHER: Valle Lindo is on your way out towards the prison, just as you go past the 599 cut-off on Highway 14. It's on your left-hand side as you go down toward the south, about a tenth of a mile there's a little road. Well, there's actually three roads. There's one on the top where her property is located. I'm on the north side of the valley, and then there's another road on the south side of the valley.

COMMISSIONER ANAYA: We just paved that road.

MR. CRUMBACHER: Yes, you did. It's very nice. We appreciate it.

COMMISSIONER ANAYA: And then where do you live in regards to that map?

MR. CRUMBACHER: In regards to the map, I think I'm probably right there.

COMMISSIONER ANAYA: Okay. And those are 2.5-acre lots?

MR. CRUMBACHER: Yes, they are.

COMMISSIONER ANAYA: And do you - sorry, I've got a question for Ms. Tapia. Rachel, do you already have that set up?

MS. TAPIA: No.

COMMISSIONER ANAYA: You haven't even -

MS. TAPIA: I purchased the crematory but I've yet to place it on the lot due to this situation where we're at right now until I know that I can actually run it, I won't bring it. There was one other thing that I'd like to address if I may.

CHAIRMAN SULLIVAN: Ms. Tapia, just answer the question.

COMMISSIONER ANAYA: Let me ask another question. How many crematories – is that what you call them? Crematories?

MS. TAPIA: Yes.

COMMISSIONER ANAYA: Where do they have them in Santa Fe? Are they located in the community for human? Is there other dog or animal crematories that we don't know of, that we aren't aware of that are in the City of Santa Fe?

MS. TAPIA: There is McGee's crematorium, which is right there off by Salvador Perez Park, which is right here in town.

COMMISSIONER ANAYA: So they have one in town.

MS. TAPIA: They do have a crematorium there. There are two other crematorium sites. One would be the Santa Fe Animal Shelter, which would be off of Caja del Rio. That's where the Santa Fe Animal Shelter is now. And then there would be Braemar, where they are located is off of Old Las Vegas Highway, kind of by that Bob's Bit.

COMMISSIONER ANAYA: Oh, Bobcat Bite. Okay. Thank you.

MS. TAPIA: Is there any way I can address one –

CHAIRMAN SULLIVAN: Go ahead.

MS. TAPIA: He was mentioning –

CHAIRMAN SULLIVAN: No, we're not doing rebuttals now. You'll get a chance after the public hearing for rebuttals. Yes, sir. Step forward.

[Duly sworn, Mike Velarde testified as follows:]

MIKE VELARDE: I'm Mike Velarde. Commissioners, I just have a couple things to say. I do run a business out of my house. I just run my truck out of there. I don't run my business personally. Because that's been brought to my attention, I have a business; why can't she have one.

Another thing that was brought up is that my truck smells. I'm in the sewage business. And I welcome anybody in the county that would like to go check my truck. It doesn't smell. And I do have a permit. We've had a permit for probably 28 years with the County, since we've been in business. My only problems were it's not commercial. The properties are not commercial out there. I feel that a business like that should be in a commercial area. That's all I have to say. My dad addressed pretty much everything.

Another thing, as far as neighbors, I'd like to see a sheet of exactly what neighbors complained and were for her. Because I've been hearing all kinds of different things this week. So, everybody needs to get involved. We need to get all the neighbors here. That way everybody knows we're on the same page. Thank you.

CHAIRMAN SULLIVAN: Thank you. Is there anyone else who would like to address the Board in the public hearing? Okay, if not, I'll close the hearing. Ms. Tapia, would you like to comment?

MS. TAPIA: Mr. Crumbacher had mentioned he was worried about the depreciating of the property. I did receive a letter from my appraiser stating that this would not depreciate the values of any properties. It may increase the value if people decided that

they wanted to go commercial on their property. That would be it.

CHAIRMAN SULLIVAN: Okay. Thank you. All right. Back to questions from the Commission. I have a question. Shelley, on home occupation licenses, do those run with the land?

MS. COBAU: Mr. Chair, they run with the business.

CHAIRMAN SULLIVAN: With the business.

MS. COBAU: But if there's a permanent structure there, I guess it would run - we issue business licenses every year. So if people don't renew their business license, their business license goes away. It's not like a variance where the variance goes with the land. The home occupation business license only goes with that particular occupation.

CHAIRMAN SULLIVAN: Okay. If they moved and someone else wanted to come in and use this incinerator to incinerate animals, could they do it?

MS. COBAU: They would have to apply for a home occupation business license under their name.

CHAIRMAN SULLIVAN: Okay. And would it be approved by virtue of the fact that this crematorium already exists on the property?

MS. COBAU: I think it would make sense that we would consider it almost like a legal non-conforming business. If somebody were, for example, running an office out of their house, something simpler and someone came in and wanted to run an office we would just reissue it under a different name.

CHAIRMAN SULLIVAN: Okay, so at least potentially it could continue on.

MS. COBAU: Right. The building could stay but the kiln or the device that's used to cremate the animals could be moved.

CHAIRMAN SULLIVAN: It would have to be moved?

MS. COBAU: Well, it could be. It's not necessarily a permanent part of the structure.

CHAIRMAN SULLIVAN: The other question was the reason staff is recommending denial as I understand it is a permit has already been issued for a home office for the business and home occupation standards state that there shall be no change in the outside appearance of the building or premise or other visible evidence of the conduct of home occupation, and no signs and so forth. Is that the basic concern that staff has?

MS. COBAU: That's correct, Mr. Chair. If you look at Exhibit K in your packet there's an elevation of what this will look like and we felt that that is non-residential in nature.

MS. TAPIA: Excuse me, Mr. Chair, may I address that?

CHAIRMAN SULLIVAN: No. We're finished with the applicant's presentation and the hearing. Okay, so we have a picture of what it will look like here. Okay. That answers my questions. Any other questions from the Commission? Commissioner Anaya.

COMMISSIONER ANAYA: You have to give me a second. I can't remember it.

CHAIRMAN SULLIVAN: Take your time.

COMMISSIONER ANAYA: Question to the applicant or staff. Is there other animal crematories in Santa Fe County?

MS. COBAU: Yes. There are several. There's one that operates out beyond the Bobcat Bite at the Braemar. It's closer to Canoncito, at the intersection of Valle C de Baca Road. There's a stable there by the KOA campground, and I believe there's one there.

COMMISSIONER ANAYA: So that does what she does.

MS. COBAU: That's correct. I'm not certain what the status of their permit is. I think they came in before the current home occupation code was enacted.

COMMISSIONER ANAYA: And how many - I guess this is to the applicant. How many animals will you do a day, a year, a week?

MS. TAPIA: I would estimate no more than 20 a year, because at this point I do maybe three departed animals a year at this time.

COMMISSIONER ANAYA: And where do you do it?

MS. TAPIA: Right now I do my cremations through the Santa Fe Animal Shelter. If they do not want a cremation I do a proper disposal.

COMMISSIONER ANAYA: What is the unit made of? Does it operate on butane?

MS. TAPIA: It will operate on butane - propane.

COMMISSIONER ANAYA: I guess that's all I had. Thank you.

CHAIRMAN SULLIVAN: Thank you, Commissioner. Commissioner Campos.

COMMISSIONER CAMPOS: You're saying you're only going to do 20. How much do you charge per cremation?

MS. TAPIA: At this time I'm wanting to be more affordable for people. At this time cremations are very expensive. A large animal could cost up to \$150 so I would like to make it more affordable to people.

COMMISSIONER CAMPOS: If you're only going to do 20 a year you're not going to make very much money there are you?

MS. TAPIA: At this time that's what I'm kind of estimating. I don't think I could ever go above 70 if that.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN SULLIVAN: Okay. Other questions of staff or the applicant?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: In a way I want to support this, but then I put myself in their shoes and it seems kind of creepy. If I - Joe mentioned, Mr. Velarde about a barbecue. Right when he said that, I'm in the backyard and I'm having a barbecue and

I'm thinking, my neighbors are burning dogs, or they're - I just get a creepy feeling. And if I would see it, or wouldn't know about it maybe I'd be able to eat my hamburger a little better. But with that, I think that this probably needs to be in a different location. It's hard, because I'm a small business owner too, but this type, I think it needs to go somewhere else. I move to deny.

CHAIRMAN SULLIVAN: Motion from Commissioner Anaya. Is there a second?

COMMISSIONER CAMPOS: I second.

CHAIRMAN SULLIVAN: Motion and second. Discussion on the motion?

The motion passed by unanimous [3-0] voice vote. [Commissioner Montoya was not present for this action.]

CHAIRMAN SULLIVAN: The appeal is denied.

- XIV. 5. CDRC Case # V 07-5420 Hawkins Variance. John Hawkins, Applicant Request a Variance of Article III, Section 2.3.6b (Height Standards for Residential and Accessory Uses) of the Land Development Code to Allow a 24'-9"-Foot Residence, Which Exceeds the Allowable Height of 24'Feet. The Property is Located on Lot 1 of the Tierra Colinas Subdivision off Avenida de la Paz Road, within Section 30, Township 15 North, Range 10 East (Commission District 5) John Lovato

JOHN LOVATO (Case Planner): On January 17, 2008, the County Development Review Committee, CDRC, met and acted on this case. The decision of the CDRC was to recommend approval of the applicant's request with staff conditions.

The applicant is requesting a variance of Article III, Section 2.3.6.b, Height Standards for Residential and Accessory uses, to allow a 24'9" residential dwelling exceeding the maximum allowable height of 24 feet. The applicant is currently constructing the residential dwelling and accessory structure on the property. The applicant states that he is requesting this variance to accommodate the existing construction height of 24'9" on their residence. A residential permit and accessory permit were issued in 2000. Article III, Section 2.3.6.b states the maximum height of any dwelling or residential accessory structure shall not exceed 24 feet. The vertical depth of fill materials from the natural grade, with or without retaining walls, shall be considered as a component of the building or structure; this depth shall be included in the determination of the building height.

Article II, Section 3, Variances, of the County Code, states that "where in the case of proposed development it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other non-self-inflicted condition or that these conditions would result in

Harry B. Montoya  
Commissioner, District 1

Virginia Vigil  
Commissioner, District 2

Michael D. Anaya  
Commissioner, District 3



Paul Compos  
Commissioner, District 4

Jack Sullivan  
Commissioner, District 5

Roman Abeyta  
County Manager

SECTERK RECORDED 05/19/2008

BEFORE THE BOARD OF COUNTY  
COMMISSIONERS OF SANTA FE  
COUNTY, NEW MEXICO.

CASE NO. 07-5490  
RACHAEL TAPIA APPEAL  
RACHAEL TAPIA, APPELLANT

ORDER

THIS MATTER came before the Santa Fe County Board of County Commissioners (hereinafter referred to as "the BCC" or "the Board") for hearing on March 11, 2008, on the Application of Rachael Tapia (Appellant) seeking reversal of a decision by the Land Use Administrator to deny an Application for a Home Occupation Business License to operate "Loving Animal Services" on residential property consisting of 2.5 acres ("Application"). After conducting a public hearing on the Appeal wherein presentations were made by Staff, the Appellant, and members of the public, the BCC finds that the Application is not well-taken and should be denied and makes the following findings of fact and conclusions of law:

1. The property is located at 40 Vista Del Monte in an existing neighborhood in the Community College Subdistrict within the Valle Lindo Subdivision., within Section 25, Township 16 North, Range 8 East, (Commission District 5).
2. On July 25, 2007, the Appellant was granted a Home Occupation Business License for operation of a home office to support the Appellant's business "Loving Animal Services".



NBB-96

3. On November 5, 2007 the Appellant submitted an Application for an expansion of the home occupation, which includes placement of an incinerator on the property to cremate deceased pets.
4. On November 16, 2007, the Land Use Administrator recommended denial of a Home Occupation Business License to facilitate placement of a crematorium kiln on the subject lot.
5. On January 17, 2008, the County Development Review Committee ("CDRC") recommended denial of a Home Occupation Business License to cremate deceased pets on residential property.
6. The Appellant submitted a vicinity map and description of existing site data and a letter appealing the CDRC's decision to deny a Home Occupation Business License.
7. The Application does not comply with the following restrictions set forth by Article III, Section 3.2 (Home Occupation Performance Standards) of the Land Development Code. Paragraph d (3) states, "There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of the home occupation, except for one (1) non-illuminated nameplate sign not more than one (1) square foot in area; construction of walls, fences, sheds, studios, or other accessory structures to provide for storage of materials and equipment are allowed, as long as the floor area limitations of fifty (50%) of the residence, including the accessory buildings, are met." Paragraph d (4) states, "The Home Occupation shall not involve operations of structures not in keeping with the residential character of the neighborhood." Paragraph d (8) states, "No equipment or process shall be used which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the premises."
8. The denial of the Application is based upon the Appellant's failure to comply with conditions set forth by Article III, Section 3.2.
9. The Appellant stated that there would be no noise or odor from emissions by the

crematorium and described the structure that would house it.

10. The following members of the public spoke against the Application: Joe Velarde Sr., Paul Crumbacher, and Mike Velarde.

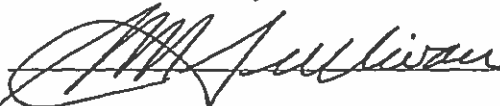
11. The evidence does not support reversal of the CDRC's denial. The Application does not comply with requirements set forth by Article III, Section 3.2 (Conditional Uses; Home Occupations) of the Land Development Code.

**IT IS THEREFORE ORDERED** that the Appeal is denied.

I certify that the above variance was denied by the Board of County Commissioners on this

13<sup>th</sup> day of May, 2008.

The Board of County Commissioners of Santa Fe County



Jack Sullivan, Chair

ATTEST:

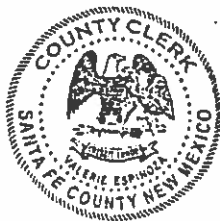


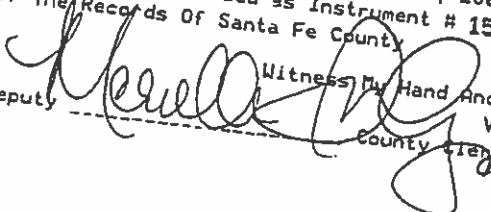
Valerie Espinoza, Santa Fe County Clerk

Approved as to form:



Stephen C. Ross, Santa Fe County Attorney



COUNTY OF SANTA FE  
STATE OF NEW MEXICO )  
) ss BCC ORDER  
PAGES: 3  
I Hereby Certify That This Instrument Was Filed for  
Record On The 19TH Day Of May, A.D., 2008 at 15:04  
And Was Duly Recorded as Instrument # 1526181  
Of The Records Of Santa Fe County  
Witness My Hand And Seal Of Office  
Valerie Espinoza  
County Clerk, Santa Fe, NM  
Deputy 



CHAMBERS OF  
**DANIEL A. SANCHEZ**  
DISTRICT JUDGE  
DIVISION VII

State of New Mexico  
**First Judicial District**

POST OFFICE BOX 2268  
SANTA FE, NEW MEXICO 87504-2268  
TELEPHONE: (505) 827-5056  
FAX: (505) 827-5055

05-13-09 09:37 AM  
*Margaret Archuleta*  
TRIAL COURT ADMINISTRATOR

June 17, 2009

John Aragon, Esq.  
523 Barela Lane  
Santa Fe, NM 87505

David Stevens, Esq.  
P. O. Box 276  
Santa Fe, NM 87504-0276

RE: **Rachael Tapia vs. The Board of County Commissioners of Santa Fe, New Mexico**  
**Case No. D-0101-CV-2008-00887**

Counsel:

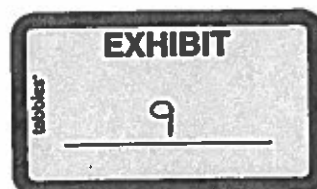
Enclosed please find an endorsed copy of the Court's Memorandum Opinion.  
Mr. Stevens, please prepare an Order consistent with the Memorandum Opinion. Thank you.

Sincerely,

*Daniel Sanchez*

Honorable Daniel Sanchez  
District Judge, Division VII

Enclosure



**FIRST JUDICIAL DISTRICT COURT  
STATE OF NEW MEXICO  
COUNTY OF SANTA FE**

**RACHAEL TAPIA,**

**Plaintiff/Appellants,**

**v.**

**THE BOARD OF COUNTY  
COMMISSIONERS OF SANTA FE  
COUNTY, NEW MEXICO,**

**Defendant/Appellee.**

**ENDORSED**  
First Judicial District Court

JUN 17 2009

Santa Fe, Rio Arriba &  
Los Alamos Counties  
PO Box 2268  
Santa Fe, NM 87504-2268

**No.D-101-CV-2008-00887**

**MEMORANDUM OPINION**

Rachael Tapia (the "Appellant"), appeals from a decision of the Board of County Commissioners of Santa Fe County of New Mexico (the "Appellee"), in denying the grant of a variance to expend the Home Occupation Business License so that she can operate a crematorium for her business on her property. Appellant operates a small business where one portion is where she picks up dead pets and animals and takes them to be disposed of properly usually through cremation. Appellants challenge the Appellee's denial of a variance to expand her Home Occupation Business License pursuant to SCRA 1986, 1-074. Having reviewed the whole record and briefing, and having heard oral arguments, this Court upholds the decision made by Appellee.

**BACKGROUND**

On July 25, 2007, Appellant was granted a Home Occupation Business License to operate a home office for her business "Loving Animal Services." *Record Proper* ("RP") at 31. One part of this business consisted of picking up deceased pets and transporting them to the Santa Fe Animal Shelter. *Id.* The other part of Appellant's business was to trap wildlife and

relocate the animals to the Santa Fe National Forest. *Id.* On November 5, 2007 Appellant submitted an application to expand her home occupation to include the placement of an incinerator, which would be used to cremate deceased pets on Appellant's property. *Id.* The Land Use Administrator denied this application on November 16, 2007. *Id.* The application was denied because Appellant failed to comply with conditions set forth in Article III, Section 3.2 of the Home Occupation Performance Standards of the Land Development Code. *Id.* Appellant was given an appeal hearing in front of Appellee on March 11, 2008, where the Appellee denied the Appellant's appeal by a vote of 3-0. Appellant then appealed to this Court the Appellee's decision from the March 11<sup>th</sup> hearing.

#### **I. Scope of Review**

This Court must affirm the decision of the Board unless it is fraudulent, arbitrary or capricious, not supported by substantial evidence, outside the scope of the agency's authority, or not in accordance with the law. *See* Rule 1-074.Q; § 39-3-1.1. Whether an agency's ruling is in accordance with the law it is reviewed de novo, and an agency's legal interpretation does not bind the reviewing court. *See Clark v. New Mexico Children, Youth and Families Dep't*, 1999-NMCA-114, ¶ 7, 128 N.M. 18, 21, 988 P.2d 888, 891. This Court will not reweigh evidence nor substitute its judgment for that of the agency with regard to factual findings if they are supported by substantial evidence on the record as a whole, although a whole record review requires the Court to consider all of the evidence, both favorable and unfavorable to the administrative decision. *See Gallegos v. New Mexico State Corrections Dep't*, 115 N.M. 797, 800, 858 P.2d 1276, 1279 (Ct. App. 1992). When a district court is acting in its appellate capacity the "scope and standard of review is limited in the same manner as any other appellate body, and the court must view the evidence in the light most favorable to the decision of the agency and must defer

to the agency's factual determinations if supported by substantial evidence.” *New Mexico State Bd. of Psychologist Examiners v. Land*, 133 N.M. 362, 364, 62 P.3d 1244, 1246. Furthermore, “[t]he district court, acting in its appellate capacity, may not substitute its judgment for that of the agency and must evaluate whether the record supports the result reached, not whether a different result could have been reached.” *Id.* at 365, 1247.

## **II. Discussion**

Appellant’s issues on appeal are whether Appellee’s findings on the following were arbitrary and capricious, supported by substantial evidence in the whole record or otherwise contrary to law:

1. That Appellant’s equipment and process would create “noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the premises;
2. That Appellant’s application is contrary to Article III, Section 3.2 ¶(d)(3), (Home Occupation Performance Standards of the Land Development Code) which proscribes visible evidence of the conduct of the home occupation; and
3. That Appellant’s application involves “operations of structures not in keeping with the residential character of the neighborhood, in violation of ¶(d)(8).

On Appellant’s issue number one Appellant argues that the crematorium would not create any “noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the premises. The Court does not agree with Appellant’s first argument. Appellant provided an Emissions Comparison from B&L Systems that stated that the crematorium would have minimal to no fumes or odor, and issued a comparative analysis with emissions from a fireplace, a diesel truck and a restaurant cooking one hundred (100) hamburgers being much

higher. The Court takes issue with this Emissions Comparison, because it was produced by the manufacturer of the equipment (as stated by Ms. Jan Daniels who provided the staff report to the Santa Fe County Development Review Committee on January 17, 2008). *See Exhibit L* of the Memorandum presented to the Appellee. The Court finds it hard to give this Emissions Comparison much evidentiary weight as it feels that this document is self-serving and cast a light more favorable to the manufacturer of the crematorium . Even if true as stated that there is minimal to no fumes or odor, there is a possibility that pollutants may be in the air, and these pollutants may be detectable to normal senses off the premises. (RP 34). The Court is not convinced by Appellant's argument that the crematorium will not create any fumes or odor that would be detectable to the senses off the premises, and as such Appellants issue number one fails.

On Appellant's issue number three Appellant argues that the operation of the structure would be in keeping with the residential character of the neighborhood in accordance with Article III, Section 3.2 ¶(d)(8) , of the Home Occupation Performance Standards of the Land Development Cod . The Court is not convinced of this argument by the Appellant. There are no other crematoriums located in this neighborhood. (RP 36, 38) As such adding a crematorium would not be in keeping with the residential character of the neighborhood. Commissioner Anaya stated that, "I think this probably needs to be in a different location." (RP 39). Commissioner Anaya also stated that it is a creepy feeling to be having a barbecue and that a neighbor is burning a dog. *Id.* With such testimony as presented this Court agrees that running a crematorium would not be in keeping with the residential character of the neighborhood, therefore the Court denies Appellant's issue number three.

This Court further finds that Appellee is in compliance with all laws specifically the power granted to them by N.M.S.A. § 3-21-1(A)(5). This section is the Zoning, authority of

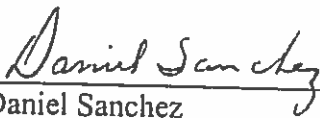
county or municipality and it states that, “[f]or the purpose of promoting health, safety, morals or the general welfare, a county or municipality is a zoning authority and may regulate and restrict within its jurisdiction the: location and use of buildings, structures and land for trade, industry, residence or other purposes.” N.M. STAT. ANN. § 3-21-1(A)(5) (2009). Accordingly, pursuant to this statute the Appellee has the authority to restrict the use of a building to promote the health, safety morals or the general welfare. *Id.* Testimony presented by Mr. Joe Velarde, who is a neighbor of Appellant, provided that he had a concern over the health of the neighborhood if Appellee was to allow such a variance for Appellant’s crematorium. (RP 34). Mr. Velarde’s testimony raises an issue regarding the health and well being of the neighborhood, and it is the duty of Appellee to regulate and restrict zoning to provide for the safety and well being of the neighborhood that is located in its county. N.M. STAT. ANN. § 3-21-1(A)(5) (2009). This court is therefore persuaded that N.M.S.A. § 3-21-1(A)(5) is applicable to the foregoing case, and that Appellee’s decision was not made contrary to law.

With regards to Appellant’s issue number two Appellant argues that the building structure to house the crematorium would not proscribe visible evidence of the home occupation in violation of Article III, Section 3.2 ¶(d)(3), of the Home Occupation Performance Standards of the Land Development Code, will not be addressed since the Court believes that the other issues stated in this Memorandum Opinion have precluded the Appellee from denying the variance requested for a crematorium were not made in an arbitrary and capricious manner, that there was substantial evidence based on the whole record, and that the decision was not contrary to law.

### **III. Conclusion**

This Court after reviewing the record as a whole determines that Appellee has properly interpreted the application of Article III, Section 3.2 of the Home Occupation Performance

Standards of the Land Development Code, and does not find that Appellee's decision is arbitrary and capricious or contrary to law, and that Appellee's decision was based on substantial evidence based on the whole record . The Court further finds that the Appellee wholly acted within its capacity as a Zoning Authority to deny the variance in accordance with N.M.S.A. § 3-21-1(A)(5). It is therefore ordered by this Court that the decision by Appellee to not grant the variance to expand Appellant's Home Occupation License to include a crematorium on her property was properly made and is hereby upheld. The appeal is DENIED.

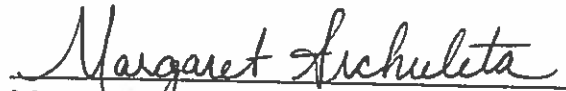
  
\_\_\_\_\_  
Daniel Sanchez  
District Judge  
Division VII

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was mailed to Counsel on this  
17th day of June, 2009.

John Aragon, Esq.  
523 Barela Lane  
Santa Fe, NM 87505

David Stevens, Esq.  
P. O. Box 276  
Santa Fe, NM 87504-0276

  
Margaret Archuleta  
Trial Court Administrative Assistant

Upon motion by Member Katz and second by Member Martin the agenda was unanimously approved 6-0.

V. APPROVAL OF MINUTES: January 16, 2014

Member Katz moved to approve the January minutes as submitted. Member Martin seconded and the motion passed by unanimous voice vote.

VI. CONSENT CALENDAR

Findings of Fact:

- A. CDRC CASE # A 13-5320 Janet Eigner Appeal. Janet Eigner, Applicant, Appealed the Land Use Administrator's Decision to Approve a Request for a Home Occupation Business Registration Allowing a Gunsmith Business Which Conducts Background Checks, Sells, Services and Repairs Firearms. The Property is Located At 74 Verano Loop, in the Eldorado Subdivision, Within Section 7, Township 15 North, Range 10 East, (Commission District 5) John M. Salazar, Case Manager (Denied 6-0)

Member Martin moved to approve the findings of fact. Member Katz seconded and the motion carried unanimously. [6-0]

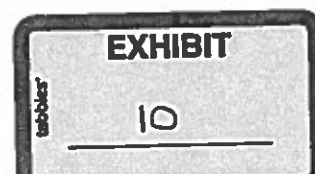
VII. NEW BUSINESS

- B. CDRC CASE #A 14-5040 Rachael Tapia Appeal. Rachael Tapia, Applicant, is appealing the Land Use Administrator's decision to deny a home occupation business registration for a pet crematorium on 2.5 acres. The property is located at 40 Vista Del Monte, within the Valle Lindo subdivision, within Section 25, Township 16 North, Range 8 East (Commission District 5) [Exhibit 1: Letter of Opposition and Petition]

Mr. Salazar read the case caption and gave the following staff report:

"In August of 2007, the Applicant submitted an application for an amendment to her existing home occupation for a home office. The Applicant requested permission to install an incinerator on her property in order to expand into a pet cremation business. Currently her business is to provide cremation services for pets where she picks up deceased animals and takes them directly to the crematorium. The cremation process takes place at the Santa Fe Animal Shelter.

"The Applicant proposed this use in order to provide clients a more personal experience with their deceased pets since it is currently possible that the client could receive not only the remains of their pet but also the remains of other animals as the Santa Fe Animal Shelter uses a community kiln in order to cremate



animals. The Land Use Administrator denied the Applicant's request. The Applicant appealed the decision to the County Development Review Committee and the Board of County Commissioners. The CDRC and BCC upheld the Land Use Administrator's decision to deny the request. The Applicant appealed to the First Judicial District Court of New Mexico in which the BCC decision was affirmed by Judge Daniel A. Sanchez. The standards upon which Judge Sanchez made his decision were based upon criteria from the Extraterritorial Zoning Ordinance which was repealed in 2009. Since these standards no longer apply, the Applicant is afforded the right to reapply under the Santa Fe County Land Development Code.

"A similar request for an amendment to the existing Home Occupation Business Registration was submitted by the Applicant in January 2012. The 2007 request proposed a separate, detached structure for the crematorium while the 2012 request had the structure attached to the dwelling. The Application was denied by the Land Use Administrator citing the decision rendered for the Applicant's 2007 submittal. Land Use staff never received notice from the Applicant or her agent regarding a desire to appeal the Land Use Administrator's decision."

Mr. Salazar stated staff recommends that the CDRC uphold the Land Use Administrator's decision. Under the SLDC, the use of a crematorium as a home occupation would be prohibited.

Member Katz asked why isn't the CDRC bound by the district court decision? Ms. Brown stated the court's decision was based on standards set forth in the EZC which are no longer in place. Member Katz asked how the Land Development Code standards differed. Mr. Salazar said those sections referring to home occupations do not appear in the code now in use. Land Use staff offered to research the matter.

Karl Sommer, appearing as counsel for the applicant stated she currently has a home occupation trapping wildlife for relocation the wild; she wants to add a service cremating dead pets. He said there are no emissions, noise, or additional traffic involved in the proposed use. She is the only employee. The only change would be a modification to the house which will not make it out of character in the neighborhood. He noted that a nearby property has porta-potty storage, a far more intrusive use.

Duly sworn, Rachel Tapia described her current business and the amendment plan. Mr. Sommer stressed there was minimal difference in the impact. He said he believed the application was denied previously because some people are "creeped out" by the idea. He pointed out human creations are performed in town, on Luisa Street.

Member Katz asked if people would be coming to the property to bring or pick up their pets. Mr. Sommer said they would not.

Member Anaya asked if the trapped animals were stored on her property and Ms. Tapia said they were relocated immediately.

Member Booth sought and received verification there would be no emissions and no smoke. Mr. Sommer said the Air Quality Bureau has no regulations for this equipment since there is no smell or particulate emissions.

In response to questions from Member Gonzales. Ms. Tapia said she has been in business since 1992 and at this location since 2000. She's had no complaints from the neighbors. She anticipates there will be around 70 cremations per year and only of small animals.

Member Katz asked Mr. Sommer about the difference between the current application and previous request. Mr. Sommer said it was his understanding that the previous attorney failed to file a notice of appeal pursuant to Rule 74 and instead filed a complaint. He said it was dismissed due to the misfiling. Ms. Brown noted the order addresses the land use standards it was applying and a misfiling is not reflected in the court order.

Member Gonzales asked if the current home occupation is in good standing and only an amendment is requested. Mr. Salazar said the original request was for a home occupation office and this is a request to amend that. Mr. Sommer said she is required to comply with other County requirements covering square footage, number of employees, etc.

Member Anaya asked if she had a fireplace at her house and Ms. Tapia said she has a wood-burning stove and two fireplaces, and the neighbors also have stoves and fireplaces.

Mr. Salazar referred to the final order, #7, which quotes the Extraterritorial Zoning Ordinance, a more detailed exposition or requirements.

There was no one from the public wishing to speak about this issue.

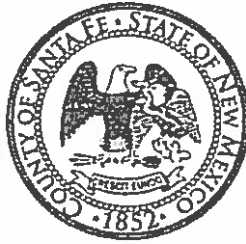
Member Katz moved to grant the appeal and overturn the previous decision, with staff recommended conditions, noting the findings of fact relied on erroneous information. Member Booth seconded and the motion carried by unanimous 6-0 voice vote.

- VII. C. **CDRC CASE # MIS 13-5390 Louie Rael Sr. Exemption.** Louie Rael Sr. and Louie Rael Jr., Applicants, request an Exemption for five year holding between Family Transfer Applications, Section 6.14.4 of Ordinance No. 2002-9, to allow a Small Lot Family Transfer Land Division of 2 lots consisting of 2.54 and 2.56 acres into four lots. The property is located at 34A Camino Montoya and 53B Paseo Martinez, within the Traditional Historic Community of La Cienega/La Cieneguilla, within Section 20 & 29 Township 16 North, Range 8 East, (Commission District 3) [Exhibit 2: Plat]

**Daniel "Danny" Mayfield**  
*Commissioner, District 1*

**Miguel M. Chavez**  
*Commissioner, District 2*

**Robert A. Anaya**  
*Commissioner, District 3*



**Kathy Holian**  
*Commissioner, District 4*

**Liz Stefanics**  
*Commissioner, District 5*

**Katherine Miller**  
*County Manager*

**CASE NO. APP 14-5040**  
**APPEAL OF LAND USE ADMINISTRATOR'S DECISION**  
**RACHAEL TAPIA, APPELLANT**

**ORDER**

**THIS MATTER** came before the County Development Review Committee (hereinafter referred to as "the CDRC") for hearing on February 20, 2014, on the appeal of Rachael Tapia (hereinafter referred to as "the Appellant"), appealing the Land Use Administrator's decision to deny a request for an amendment to her home occupation business development permit allowing an onsite pet crematorium. The CDRC, having reviewed the appeal and supplemental materials, staff reports and having conducted a public hearing on the appeal, finds that the appeal is well-taken, and the decision of the Land Use Administrator should be overturned, and makes the following findings of fact and conclusions of law:

1. The Appellant requests that the CDRC overturn the Land Use Administrator's decision to deny application #AHBL 13-4087, denying a home occupation business development permit.
2. The subject property is located at 40 Vista Del Monte, within Section 25, Township 16 North, Range 8 East.
3. On December 17, 2013 the Applicant and owner of the subject property, applied for a home occupation business development permit pursuant to the Santa Fe County Land Development Code, Ordinance 1996-10 (the Code).
4. According to Article III, Section 3.1 of the Code, "[h]ome occupations are allowed anywhere in the County, provided all of the requirements of the Code are met."

5. The requirements of Article III, Section 3 of the Code pertaining to home occupation business registrations include the following:

- “3.2.1 Not more than six (6) persons, other than members of a family residing on the premises, shall be regularly engaged in work at the site of the home occupation;
- 3.2.2 The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 50% of the floor area of the dwelling including accessory buildings shall be used in the conduct of the home occupation;
- 3.2.3 There shall be no change in the outside appearance of the building or premises, nor other visible evidence of the conduct of the home occupation, except for one (1) non-illuminated name plate sign not more than nine square feet in area;
- 3.2.4 Parking for employees and for customers or clients of the home occupation as required by Section 9 of this Article III shall be provided off the street;
- 3.2.5 No equipment or process shall be used in the home occupation which significantly interferes with the existing use of property in the adjacent area.”

6. On January 17, 2014, the Land Use Administrator determined that the application did not meet all Code requirements and denied the home occupation business development permit based on the following facts:

- a. The current application differs from the original 2007 application for the reason that the location of the crematorium has changed whereby the 2007 request had a separate structure for the crematorium while the new request has the structure attached to the dwelling;
- b. The application had not significantly changed from prior submittals made by the Appellant;
- c. The Appellant had appealed a similar request in 2007 to the CDRC, the Board of County Commissioners and First Judicial District Court in 2008 which all upheld the Land Use Administrator's decision to deny the application;
- d. The requested use of the property in the December 17, 2013 application does not comply with the Home Occupation Performance Standards set forth in Article III, Section 3.2 of the Land Development Code.

SEC CLERK RECEIVED JAN 21 2014

7. As required by Article II, Section 2.3.4b of the Code, on January 3, 2014, within five working days of the Code Administrator's decision, Appellant filed an appeal contesting the denial of an amendment to her existing home occupation business license.

8. The County Development Review Committee found that the Land Use Administrator's findings of fact relied on erroneous information.


9. After conducting a public hearing on the appeal and having heard from the Appellant, the Appellant's lawyer, and having considered all materials submitted on the matter, the County Development Review Committee hereby finds that the requested use fully complies with all five (5) of the Home Occupancy Performance Standards in Article III, Section 3.2 of the Land Development Code and grants the appeal and overturns the Land Use Administrator's denial of the application for amendment of a home occupation business development permit allowing a pet crematorium business at 40 Vista Del Monte in Santa Fe County.

**WHEREFORE** the County Development Review Committee of Santa Fe County hereby approves the appeal of the Land Use Administrator's decision to deny a request for amendment of a home occupation business development permit. The motion to approve the appeal passed by a 6-0 vote with Committee Members Gonzalez, Fry Martin, Roybal, Katz, Anaya and Drobnis voting in favor of the motion.

**IT IS SO ORDERED**

This Order was approved by the Santa Fe County Development Review Committee on this 20<sup>th</sup> day of March, 2014.

**SANTA FE COUNTY DEVELOPMENT REVIEW COMMITTEE**

By:   
Chair

Attest:

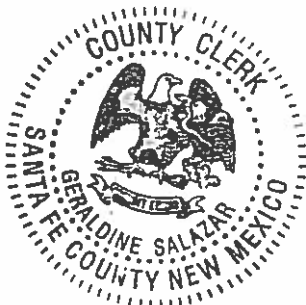
Geraldine Salazar  
Geraldine Salazar, County Clerk 3-20-2014

Approved as to form:

Stephen C. Ross  
Stephen C. Ross, County Attorney



SFC CLERK RECEIVED 3/20/2014



COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss CDRC ORDER  
PAGES: 4

I Hereby Certify That This Instrument Was Filed for  
Record On The 21ST Day Of March, 2014 at 12:19:41 PM  
And Was Duly Recorded as Instrument # 1732605  
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office  
Geraldine Salazar  
Deputy County Clerk Santa Fe, NM

Marcella Salazar

----- Forwarded message -----

From: **Patty Montes-Burks** <[artalacart@gmail.com](mailto:artalacart@gmail.com)>

Date: Fri, Mar 21, 2014 at 1:35 PM

Subject: Appeal to BCC of Animal Crematorium

To: [lstefanics@santafecountynm.gov](mailto:lstefanics@santafecountynm.gov)

Cc: John Brown <[jbrownsfs@yahoo.com](mailto:jbrownsfs@yahoo.com)>, Mike Velarde <[velardecoach@gmail.com](mailto:velardecoach@gmail.com)>

Good Morning Commissioner Stefanics-

I am concerned about the CDRC proceedings in February that resulted in the unanimous approval to allow Ms. Rachel Tapia the ability to operate an animal crematorium with a home-occupation license in our established neighborhood of Valle Lindo. After the committee's approval, the chairman commented that it would now go on to the BCC for approval. He seemed surprised when he was corrected by Vicky Lucero, that the CDRC decision is final-- unless an appeal is filed to the BCC. Where several previous county and judicial denials had protected us, we are now shouldering the burden of having to pay for all the requirements to bring an appeal to the BCC in May.

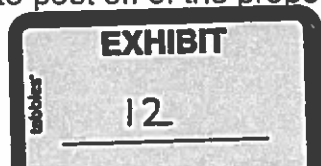
The reasons this project is wrong for our neighborhood are many and on the list is the fact that at this meeting, neither the staffer nor the chairman, made any attempt to publicly recognize the letters filed in objection to the project. This is unacceptable to ignore objections in the course of a public meeting. When the chairman asked for public comment the letters should have been made a matter of public record! When citizens are working at 4:00pm on Thursdays and care enough to take the time to submit letters for consideration to the CDRC, they should be made part of the committee discussion. When I played back the online video of the meeting, I saw that no consideration was made of our efforts. I was shocked that in absence of any discussion to the contrary, they proceeded with a final unanimous vote to approve a crematorium for our neighborhood--- operating out of Ms. Tapia's house!

Since nothing was said-to express our opposition for this type of business to be allowed as a home occupation in the minutes, it will be assumed-- when reading the minutes of this case-- that there was no public concern.

So we are put in the position of having to pay out of our pockets to appeal the CDRC's limited consideration and unfair decision. Mr. Brown has already paid the \$275.00 appeal cost to the county.

Below is staffer John Salazar's recap of additional costs that we will have to incur as private citizen's to appeal to the BCC; which does not including the cost of time and energy out of our busy lives:

"I will give you the legal notice ad for the New Mexican, which your group will have to pay for, as well as the letter that goes out certified mail, return receipt requested to all the neighbors within 100 feet of Ms. Tapia's property (which your group will also have to pay for). I will place the yellow public notice sign on Ms. Tapia's property but I will give your group an additional sign to post off of the property as she lives at the bottom of a



dead end road. I will have the legal notice ready for all of you by April 11<sup>th</sup>. The ad will need to be to the paper by April 16<sup>th</sup>, it will need to be published on April 22<sup>nd</sup>, and the letters and posters will need to be mailed out and posted up by the 22<sup>nd</sup> as well. The notice I give you on the 11<sup>th</sup> will also have all of these dates for you."

---- from John Salazar email of Mar. 20, 2014.

Respectfully Submitted,

Patty Burks  
14 Vista del Monte  
Santa Fe, New Mexico 87508  
505/471-0526

--

Patty

MontesBurksCreative  
Santa Fe, New Mexico  
505/471-0526

----- Original Message -----

On Sunday, March 23, 2014 8:30 AM, John Brown <[jbrownsfs@yahoo.com](mailto:jbrownsfs@yahoo.com)> wrote:

March 22, 2014

Commissioner Liz Stefanics  
Board of Santa Fe County Commissioners  
102 Grant Avenue  
Santa Fe, NM 87501-2061

Dear Commissioner Stefanics,

We, the residential neighbors of Rachel Tapia, CDRC Case #APP 14-5040 hereby appeal the CRDC's decision to approve the pet crematorium. We intend to appeal the approval decision to the Board of County Commissioners at the May 13, 2014 meeting. We have filed a Letter of Appeal with Mr. John Salazar of Santa Fe County Land Use Staff and the paid the appropriate fees.

We are the residents of Santa Fe Skies RV Park, it owners, neighbors in the Valle Lindo and Turquoise Trail Subdivisions comprising more than 150 occupied dwelling units with in a 1/4 mile radius of the proposed pet crematorium.

Most of us are not opposed to home-based businesses, however, the emissions and odors from the pet crematorium concern us and depending on the wind will affect our quality of life.

On another note, Santa Fe Skies RV Park is a successful tourist destination bringing \$15,000 in Lodger's Tax and \$32,000 in Gross Receipts Tax revenue in 2013. We are concerned that the odors from the pet crematorium will negatively impact this business. With today's internet blogging, a few wrinkled noses may kill our business.

Further, we find it shocking the CDRC granted unanimous approval to a project, if my facts are correct from Mr. John Salazar, was denied at the CDRC in 2008, subsequently the BCC, and by the First Judicial Court.

Please, Commissioner Stefanics, vote deny the pet crematorium.

Sincerely,  
John Brown  
37 Browncastle Ranch  
Santa Fe, NM 87508  
[505-577-7930](tel:505-577-7930)  
[jbrownsfs@yahoo.com](mailto:jbrownsfs@yahoo.com)

# SANTA FE SKIES RV PARK

***Browncastle Ranch, Inc. dba Santa Fe HydroExcavation***

14 Browncastle Ranch

Santa Fe, NM 87508

505-473-5946

E-Mail: [sfskysrv@swcp.com](mailto:sfskysrv@swcp.com)

1-877-565-0451 Toll Free

FAX (505) 471-9069

[www.santafeskiesrvpark.com](http://www.santafeskiesrvpark.com)

County Land Use Administration

102 Grant Avenue

Santa Fe, NM 87504-0276

RE: CDRC Case # APP 14-5040

The undersigned owners/residents of Santa Fe Skies RV Park and Browncastle Ranch hereby support the decision of the County Development Review Committee to deny a home occupation business license, and further deny the applicant's appeal, to Rachael Tapia for Loving Animal Services on residential property at 40 Vista Del Monte, within Section 25, Township 16 North, Range East.

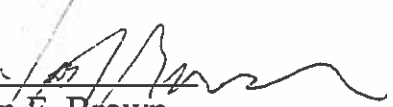
The intended use is a dog crematorium and even the best equipment used inevitably creates unacceptable air quality emissions, and odors. At a previous meeting of the County Development Review Committee, a member said that a crematorium should not be allowed in a residential neighborhood.

We agree and ask you to deny the appeal.

Santa Fe Skies RV Park by

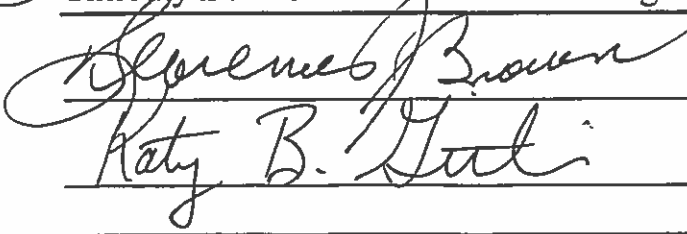
  
John H. Brown


  
Karen S. Brown

  
John F. Brown

  
Timothy B. Brown

  
Gregory A. Brown, Owners

  
Katy B. Lutz

  
WILLIAM BROWN

## ***Residents of Turquoise Trail Subdivision***

County Land Use Administration  
102 Grant Avenue  
Santa Fe, NM 87504-0276

RE: CDRC Case # APP 14-5040

The undersigned owners/residents of Turquoise Trail Subdivision hereby support the decision of the County Development Review Committee to deny a home occupation business license, and further deny the applicant's appeal, to Rachael Tapia for Loving Animal Services on residential property at 40 Vista Del Monte, within Section 25, Township 16 North, Range East.

The intended use is a dog crematorium and even the best equipment used inevitably creates unacceptable air quality emissions, and odors. At a previous meeting of the County Development Review Committee, a member said that a crematorium should not be allowed in a residential neighborhood.

We agree and ask you to deny the appeal.

Name <u>Juan Lovato</u>	Address <u>13 Carson Valley Way SF, NM 87508</u>
Name <u>John Montano</u>	Address <u>73 Carson Valley Way SF, NM 87508</u>
Name <u>Mike Montoya</u>	Address <u>74 Carson Valley Way</u>
Name <u>Patricio Esquivel</u>	Address <u>75 Carson Valley Way</u>
Name <u>Bernadette Read</u>	Address <u>72 Carson Valley Way</u>
Name <u>Maurice Read</u>	Address <u>72 Carson Valley Way</u>
Name <u>JEFF BURNHAM</u>	Address <u>69 CARSON VALLEY WAY, 87508</u>
Name <u>Hannah Harau</u>	Address <u>69 Carson Valley Way, 87508</u>
Name <u>Adam Wolff</u>	Address <u>8 Sky Ridge</u>
	<u>8 Sky Ridge</u>

John M. Salazar

---

From: Patty Montes-Burks <artalacart@gmail.com>  
Sent: Thursday, February 20, 2014 11:46 AM  
To: John M. Salazar  
Subject: CDRC DENIAL OF PET CREMATORIUM

John- Can you please give CDRC this letter instead? I made additions to the last paragraph. Thank You.

--

Patty Montes Burks  
14 Vista del Monte  
Santa Fe, New Mexico 87507  
505/471-0526

To:  
CDRC Members:

Feb. 20, 2014 Agenda Item B. CDRC CASE # A 14-5040 Rachael Tapia Appeal. Rachael Tapia, Applicant, Is Appealing The Land Use Administrator's Decision To Deny A Home Occupation Business Registration For A Pet Crematorium On 2.5-Acres. The Property Is Located At 40 Vista Del Monte, Within The Valle Lindo Subdivision, Within Section 25, Township 16 North, Range 8 East, (Commission District 5). John M. Salazar, Case Manager.

I wish to submit my objection to any appeal of a previous denial for the above case. I am advised that there have been previous denials by county boards of the use of Ms. Rachel Tapia's home to operate a PET CREMATORIUM in our Santa Fe County neighborhood (Valle Lindo Subdivision). I also understand that she has appealed in court and the court upheld the County's denial for this type of operation. This subdivision was established in the 1950-1960's and from its beginning, covenants never intended for any such type of industrial incinerator use coming from a property within our neighborhood, which is what she wants for her property. I've been a resident here since 1978 and recognize that the county has undoubtedly designated other areas as industrial areas --which would be more appropriate for Ms. Tapia's endeavor. For her to continue to bring this matter before you for approval is a waste of everybody's time and energy. She needs to realize that a bona fide home-occupation does not entail the incineration of dead animals. It is certainly not the intent of the County Land Use Plan.

We rely on you as our board for protection of our neighborhood and direct her to the areas zoned for this type of use. Aside from the most obvious reasoning as to why this should not be allowed; my additional concerns are, Vista del Monte is a local resident road that is not designed to serve the types of vehicles that would need to transport the dead animals. It is only designed and designated for local resident use. Other concerns are how she intends to manage proper waste management regulations and receive other government permits, eliminate environmental hazard, provide fire protection to neighbors and properly direct the use of heavy equipment in and out of her driveway. Please contact me if you need to,

Thank you for your consideration.







**Daniel "Danny" Mayfield**  
Commissioner, District 1

**Miguel Chavez**  
Commissioner, District 2

**Robert A. Anaya**  
Commissioner, District 3



**Kathy Holian**  
Commissioner, District 4

**Liz Stefanics**  
Commissioner, District 5

**Katherine Miller**  
County Manager

**DATE:** April 29, 2014

**TO:** Board of County Commissioners

**FROM:** Vicente Archuleta, Development Review Team Leader

**VIA:** Katherine Miller, County Manager  
Penny Ellis-Green, Growth Management Director  
Vicki Lucero, Building and Development Services Manager  
Wayne Dalton, Building and Development Services Supervisor

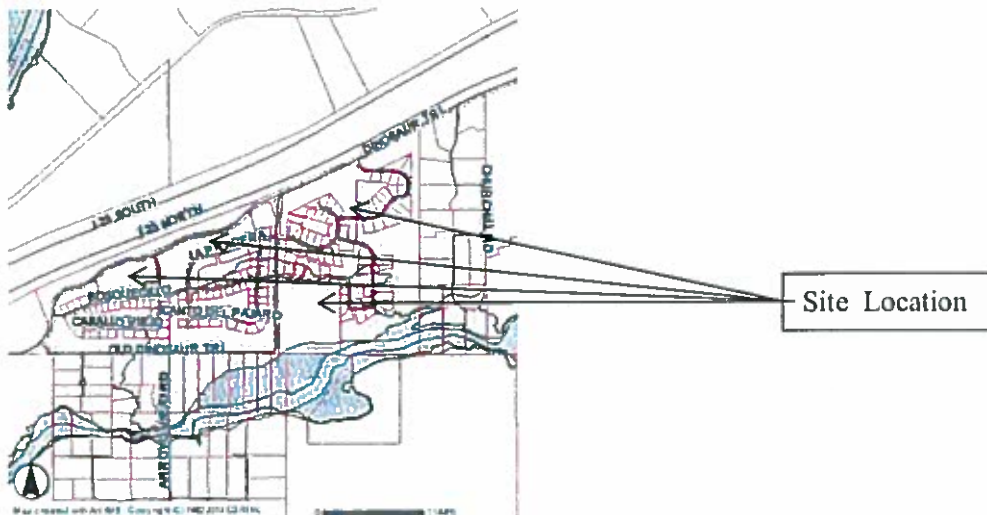
**FILE REF.:** BCC CASE MIS #02-4326 La Pradera Time Extension

**ISSUE:**

Gardner Associates and La Pradera Associates, Applicants, request a 2-year time extension of the previously approved Final Plat and Development Plan for Phases 4, 5 and 6B and the Master Plat Lots (Lots 33 and 69) in Phase 1 consisting of 72 lots of the La Pradera Subdivision.

The property is located off Dinosaur Trail, south of I-25, within the Community College District, within Section 17, Township 16 North, Range 9 East (Commission District 5).

**VICINITY MAP:**



## **SUMMARY:**

On January 28, 2003, the EZA (Extraterritorial Zoning Authority) granted Master Plan Approval for a Mixed Use Development (La Pradera) consisting of 80 residential units, 16,334 sq. ft. of commercial space and 16,334 sq. ft. of residential space on 69.2 acres. (Refer to meeting minutes attached as Exhibit "4").

On March 9, 2004, the BCC granted Final Plat/Development Plan approval for the Mixed Use Development (Refer to meeting minutes attached as Exhibit "5").

On June 30, 2005, the EZA granted approval of a Master Plan amendment to the previously approved La Pradera (Phase I) mixed use Subdivision to allow an expansion of an additional 158 residential lots (Phases 2-6) on 94 ± acres. (Refer to meeting minutes attached as Exhibit "6").

On January 31, 2006 the BCC granted Preliminary Plat/Development Plan approval for Phases 2 thru 6 and Final approval for Phases 2 and 3 (refer meeting minutes attached as Exhibit "7") consisting of 97 lots. The Final Plat for Phase 2 and 3 were recorded per this approval.

On July 10, 2007, the BCC granted Final Plat/Development Plan approval for phases 4 thru 6 of the La Pradera Subdivision which consisted of 60 lots on 28.4 acres (Refer to meeting minutes attached as Exhibit "8").

On May 10, 2011, the BCC granted authorization to proceed with a Master Plat for the creation of 21 residential (live/work) lots within Phase I of the existing La Pradera Subdivision, which does not require that a specific lot layout be defined prior to plat recordation and would grant administrative authority to create lot boundaries once buyers are identified or home construction is complete (refer to meeting minutes attached as Exhibit "9").

On September 13, 2011, the BCC granted approval of a Master Plan Amendment to allow the creation of 27 new residential lots and to allow for the previously approved 32,667 sq. ft. of commercial/residential area, parking lot and 11 condominiums to be replaced with 17 single family residential live/work lots. The request also included Preliminary and Final Plat and Development Plan approval for 27 new lots and several lot line adjustments in Phases 2-6 and 4 Master Plat lots which could be developed into a total of 17 single-family, live/work lots (16,334 sq. ft. of previously approved residential space and 11 previously approved condos converted to single family lots) in Phase I. The BCC also approved Final Plat for Phases 1, 2, 3, 6B and Master Plat lots 34 and 69A (refer to meeting minutes as Exhibit "10").

The Applicants now request a time extension of Phases 4, 5, 6B which expired in July 2009 and Master Plat Lots 33 and 69 which expired in September 2013.

Phase 6B will be recorded immediately if this request is granted, Phase 5 will likely be recorded in February 2015, Phase 4 in August 2015 and Master Plat lots 33 and 69 will likely be recorded in summer of 2014.

The Applicant states: "As you are aware market conditions slowed the home sales in our community."

Article V, Section 5.4.6 of the Code states, "An approved or conditionally approved final plat, approved after July 1, 1996 shall be recorded within twenty-four (24) months after its approval or conditional approval or the plat shall expire. Upon request by the subdivider, an additional period of no more than thirty-six (36) months may be added to the expiration date by the Board."

On December 13, 2011, the Board of County Commissioners adopted Resolution No. 2011-193 which found the existence of severe economic conditions and suspended enforcement of specified provisions of Article V of the Land Development Code that concern expiration of Master Plans, Preliminary Plats and Final Plats.

On December 13, 2011, the Board of County Commissioners also adopted Ordinance No. 2011-11, which states "the Board of County Commissioners ("the Board") may suspend provisions of Article V, Sections 5.2.7, 5.3.6, and 5.4.6 of the Code upon a finding of economic necessity, which is defined in terms of a score of 100 or less on the Conference Board's Leading Economic Index® for the United States for any quarter, and for three years following any such event, and the Board recognizes that these conditions are present and desires to temporarily suspend the enforcement of those sections of Article V that set forth expiration of Master Plans Preliminary Plats and Final Plats for two years pending an economic recovery."

As of July 10, 2009, the Final Plat and Development Plan for La Pradera Phases 4, 5 and 6B have expired. As of September 13, 2013 the Preliminary and Final Plat for the Master Plat Lots (Lots 33 and 69) in Phase 1 have also expired. As of December 2013, the Conference Board Leading Economic Index was 99.4.

This Application was submitted on March 7, 2014.

**Growth Management staff has reviewed this Application for compliance with pertinent Code requirements and finds the project is in compliance with County criteria for this type of request.**

**APPROVAL SOUGHT:** Approval of a 24-month time extension of the Preliminary and Final Plat and Development Plan in accordance with Santa Fe County Ordinance No. 2011-11.

**GROWTH MANAGEMENT AREA:** El Centro SDA-1

**HYDROLOGIC ZONE:** Basin, minimum lot size per Code is 2.5 acres per dwelling unit with water restrictive covenants.

**FIRE PROTECTION:** La Cienega Fire District

**WATER SUPPLY:** Santa Fe County Utilities

**LIQUID WASTE:** La Pradera Sewer System

**VARIANCES:** No

**AGENCY REVIEW:** None

**STAFF RECOMMENDATION:** Approval of the request for a 24-month time extension of the approved Final Plat and Development Plan for La Pradera Phases 4, 5 and 6B and the Master Plat Lots (Lots 33 and 69) in Phase 1.

**EXHIBITS:**

1. Letter of request
2. Site Plans
3. January 28, 2003 EZA Meeting Minutes
4. March 9, 2004 BCC Meeting Minutes
5. June 30, 2005 EZA Meeting Minutes
6. January 31, 2006 BCC Meeting Minutes
7. July 10, 2007 BCC Meeting Minutes
8. May 10, 2011 BCC Meeting Minutes
9. September 13, 2013 BCC Meeting Minutes
10. Article V, Section 5.4.6
11. Santa Fe County Resolution No. 2011-193
12. Santa Fe County Ordinance No. 2011-11
13. Aerial of Vicinity

# DESIGN ENGINEUITY



1421 Luisa Street Suite E, Santa Fe, New Mexico 87505  
PO Box 2758 Santa Fe, New Mexico 87504  
(505) 989-7557 FAX (505) 989-4740  
E-mail [oralynn@designenginuity.biz](mailto:oralynn@designenginuity.biz)

March 27, 2014

Santa Fe County Board of County Commissioners  
Hand Delivered

RE: La Pradera Phases 4, 5, 6B and Master Plat Lots 33 and 69 Final Plat Extension Request

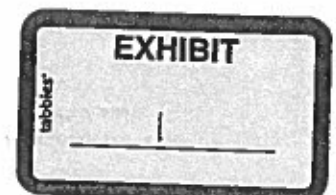
Dear Commissioners,

As the agent for La Pradera Associates and Gardner Associates, we respectfully request a 2 year extension of the recording of La Pradera Phases 4, 5, 6B and Master Plat lots 33 and 69 per Santa Fe County Ordinance 2011-11. On September 13, 2011 we received a master plan amendment to reconfigure and add 33 more lots to the La Pradera project. At that same meeting the BCC approved the final plat for Phases 1-6, including 4 master plat lots located in Phase 1. Since that time we have recorded the final plats for Phases 1, 2, 3, 6B, and master plat lots 34 and 69A. There is currently 98 occupied homes in the project and 13 homes under construction. There are 76 developer owned vacant lots remaining in the phases that have been recorded. We anticipate recording Phase 6B immediately if this request is granted. Phase 5 will likely record in February 2015. We hope to record Phase 4 in August 2015. Master Plat lots 33 and 69 will likely record in June 2014.

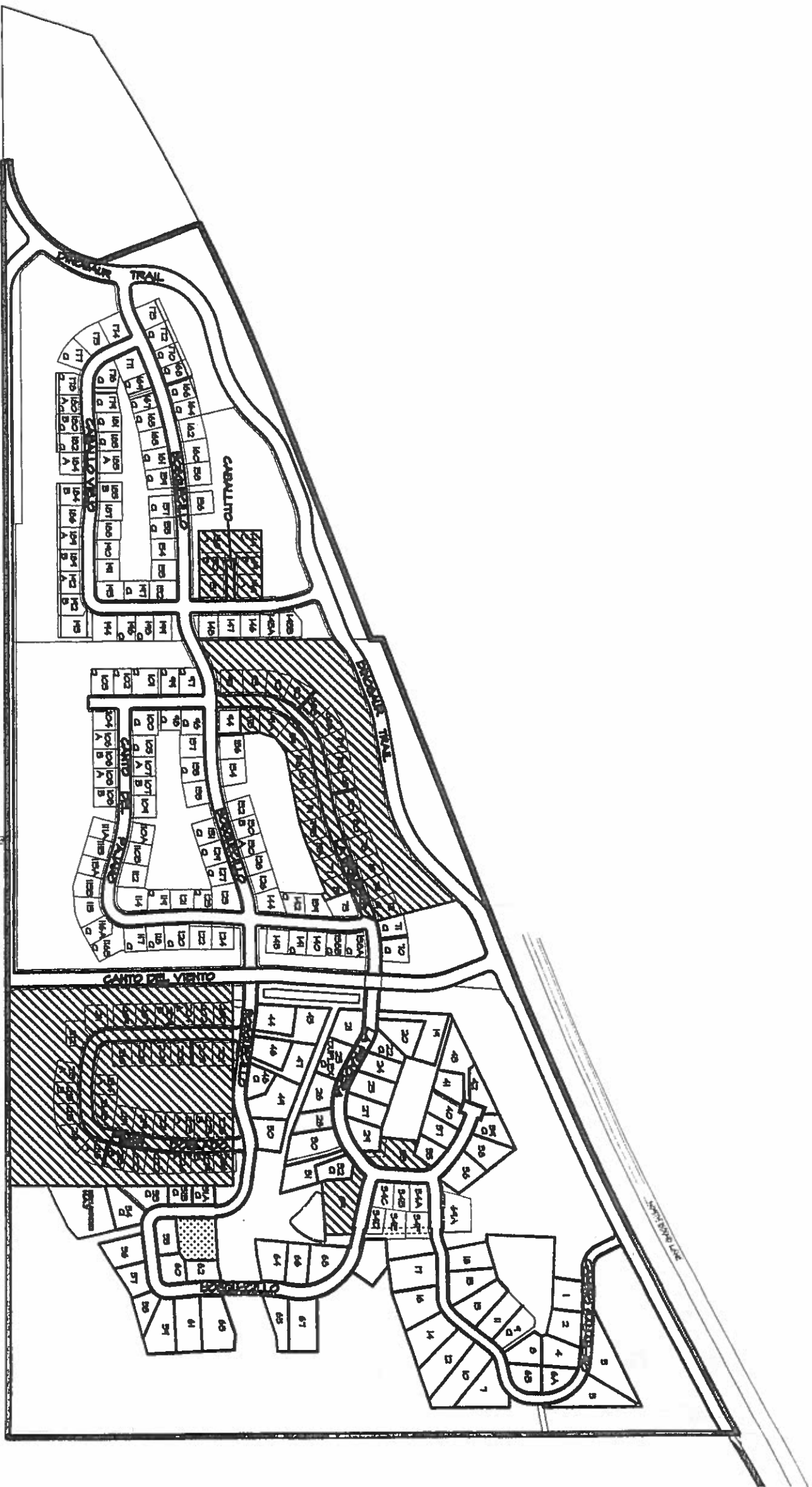
As you are well aware market conditions slowed the home sales in our community. The December 2013 Conference Board Leading Economic Index® is 99.4 and therefore we qualify under Santa Fe County Ordinance 2011-11 to request your consideration of an Final Plat extension.

Sincerely,

  
Oralynn Guerrierortiz, PE







FINAL PLAT EXTENSION REQUEST FOR  
LA PRADERA PHASE 4, 5, 6B, MASTER PLAT  
LOTS 53 & 64

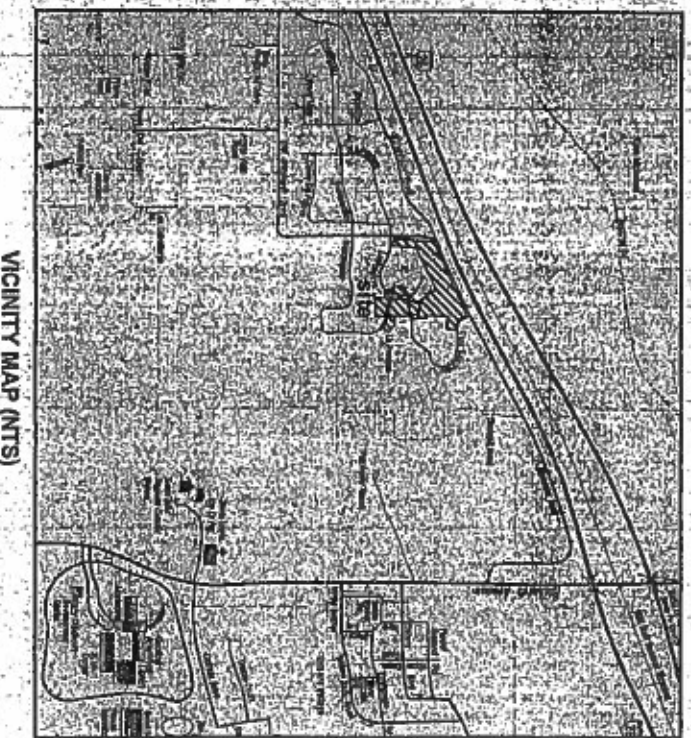
EXHIBIT

2

DESIGN ENGINEER	
LA PRADERA - FINAL PLAT EXTENSION REQUEST	
SCALE 1"=200'	DATE 02/24/2014
PROJECT NO. 1	SHEET NO. 1



Recorded Phase 1 Plat Showing Master Plat  
Lots 33 + 69



VICINITY MAP (NTS)

RESUBDIVISION, LOT LINE ADJUSTMENT AND CREATION OF 4 MASTER PLAT LOTS WITHIN LA PRADERA SUBDIVISION.

PURPOSE: THE PLAT CONVERTS 3 EXISTING COMMERCIAL LOTS AND 1 EXISTING PARKING LOT EASEMENT INTO 4 MASTER PLAT LOTS. THE BOUNDARIES OF THESE 4 LOTS HAVE BEEN ADJUSTED. THIS ALSO RELOCATES A PLAZA TRACT WITHIN EXISTING OPEN SPACE. THESE 4 MASTER PLAT LOTS MAY BE FURTHER DIVIDED ADMINISTRATIVELY INTO A TOTAL OF 17 RESIDENTIAL LOTS. THIS PLAT CREATES ONE MORE LEGAL LOT OF RECORD (L69A).

OWNER: GARDNER ASSOCIATES, LLC  
John J. McCarthy, Managing Member

By Commission Expires: 12/31/2012

The foregoing was sworn, acknowledged and subscribed before me by John J. McCarthy, Managing Member of Gardner Associates, LLC, a New Mexico LLC, at the office of the Notary Public on 8/12/2012.

Notary Public: [Signature]

COUNTY APPROVALS

Approved by the Board of County Commissioners at their meeting of September 13, 2011  
County Clerk: [Signature]  
Approved by the County Development Review Committee at their meeting of N/A  
County Development Review Committee: [Signatures]  
Approved by the County Planning Department  
County Planning Department: [Signatures]  
Approved by the County Engineering Department  
County Engineering Department: [Signatures]  
Approved by the County Health Department  
County Health Department: [Signatures]  
Approved by the County Fire Department  
County Fire Department: [Signatures]  
Approved by the County Sheriff's Office  
County Sheriff's Office: [Signatures]  
Approved by the County Auditor  
County Auditor: [Signatures]

NOTES AND CONDITIONS

1. Permitted Maximum Amount of Lot for each Master Plat Lot, Lot 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

SPECIAL BUILDING PERMIT CONDITIONS

1. THESE LOTS ARE SUBJECT TO THE SANITARY COUNTY WATER SYSTEM. SEWAGE TREATMENT LOTS ARE NOT PERMITTED.
2. THESE LOTS ARE SUBJECT TO THE SANITARY COUNTY FIRE AND RESCUE DEPARTMENT. FIRE DEPARTMENT LOTS ARE NOT PERMITTED.
3. THESE LOTS ARE SUBJECT TO THE SANITARY COUNTY PUBLIC WORKS DEPARTMENT. PUBLIC WORKS LOTS ARE NOT PERMITTED.
4. THESE LOTS ARE SUBJECT TO THE SANITARY COUNTY HEALTH DEPARTMENT. HEALTH DEPARTMENT LOTS ARE NOT PERMITTED.

By Commission Expires: 12/31/2012

Notary Public: [Signature]

- LEGEND AND NOTES
- DOWNS POINT ROAD AS NOTED
  - DOWNS POINT SET THIS SURVEY
  - DOWNS POINT CALCULATED
  - DOWNS POINT EXISTING LINE

PLAT REFERENCES

1. LA PRADERA SUBDIVISION PHASE 1, PLAT OF PLAT RECORDS NO. 10277, AND RECORDED IN PLAT BK. 672, PGS. 62-63-67.
2. LA PRADERA SUBDIVISION PHASE 2, PLAT OF PLAT RECORDS NO. 10278, AND RECORDED IN PLAT BK. 672, PGS. 64-65-69.
3. LA PRADERA SUBDIVISION PHASE 3, PLAT OF PLAT RECORDS NO. 10279, AND RECORDED IN PLAT BK. 672, PGS. 70-71-74.
4. LA PRADERA SUBDIVISION PHASE 4, PLAT OF PLAT RECORDS NO. 10280, AND RECORDED IN PLAT BK. 672, PGS. 75-76-79.
5. LA PRADERA SUBDIVISION PHASE 5, PLAT OF PLAT RECORDS NO. 10281, AND RECORDED IN PLAT BK. 672, PGS. 80-81-83.
6. LA PRADERA SUBDIVISION PHASE 6, PLAT OF PLAT RECORDS NO. 10282, AND RECORDED IN PLAT BK. 672, PGS. 84-85-87.
7. LA PRADERA SUBDIVISION PHASE 7, PLAT OF PLAT RECORDS NO. 10283, AND RECORDED IN PLAT BK. 672, PGS. 88-89-91.
8. LA PRADERA SUBDIVISION PHASE 8, PLAT OF PLAT RECORDS NO. 10284, AND RECORDED IN PLAT BK. 672, PGS. 92-93-95.
9. LA PRADERA SUBDIVISION PHASE 9, PLAT OF PLAT RECORDS NO. 10285, AND RECORDED IN PLAT BK. 672, PGS. 96-97-99.
10. LA PRADERA SUBDIVISION PHASE 10, PLAT OF PLAT RECORDS NO. 10286, AND RECORDED IN PLAT BK. 672, PGS. 100-101-103.
11. LA PRADERA SUBDIVISION PHASE 11, PLAT OF PLAT RECORDS NO. 10287, AND RECORDED IN PLAT BK. 672, PGS. 104-105-107.
12. LA PRADERA SUBDIVISION PHASE 12, PLAT OF PLAT RECORDS NO. 10288, AND RECORDED IN PLAT BK. 672, PGS. 108-109-111.
13. LA PRADERA SUBDIVISION PHASE 13, PLAT OF PLAT RECORDS NO. 10289, AND RECORDED IN PLAT BK. 672, PGS. 112-113-115.
14. LA PRADERA SUBDIVISION PHASE 14, PLAT OF PLAT RECORDS NO. 10290, AND RECORDED IN PLAT BK. 672, PGS. 116-117-119.
15. LA PRADERA SUBDIVISION PHASE 15, PLAT OF PLAT RECORDS NO. 10291, AND RECORDED IN PLAT BK. 672, PGS. 120-121-123.
16. LA PRADERA SUBDIVISION PHASE 16, PLAT OF PLAT RECORDS NO. 10292, AND RECORDED IN PLAT BK. 672, PGS. 124-125-127.
17. LA PRADERA SUBDIVISION PHASE 17, PLAT OF PLAT RECORDS NO. 10293, AND RECORDED IN PLAT BK. 672, PGS. 128-129-131.
18. LA PRADERA SUBDIVISION PHASE 18, PLAT OF PLAT RECORDS NO. 10294, AND RECORDED IN PLAT BK. 672, PGS. 132-133-135.
19. LA PRADERA SUBDIVISION PHASE 19, PLAT OF PLAT RECORDS NO. 10295, AND RECORDED IN PLAT BK. 672, PGS. 136-137-139.
20. LA PRADERA SUBDIVISION PHASE 20, PLAT OF PLAT RECORDS NO. 10296, AND RECORDED IN PLAT BK. 672, PGS. 140-141-143.
21. LA PRADERA SUBDIVISION PHASE 21, PLAT OF PLAT RECORDS NO. 10297, AND RECORDED IN PLAT BK. 672, PGS. 144-145-147.
22. LA PRADERA SUBDIVISION PHASE 22, PLAT OF PLAT RECORDS NO. 10298, AND RECORDED IN PLAT BK. 672, PGS. 148-149-151.
23. LA PRADERA SUBDIVISION PHASE 23, PLAT OF PLAT RECORDS NO. 10299, AND RECORDED IN PLAT BK. 672, PGS. 152-153-155.
24. LA PRADERA SUBDIVISION PHASE 24, PLAT OF PLAT RECORDS NO. 10300, AND RECORDED IN PLAT BK. 672, PGS. 156-157-159.
25. LA PRADERA SUBDIVISION PHASE 25, PLAT OF PLAT RECORDS NO. 10301, AND RECORDED IN PLAT BK. 672, PGS. 160-161-163.
26. LA PRADERA SUBDIVISION PHASE 26, PLAT OF PLAT RECORDS NO. 10302, AND RECORDED IN PLAT BK. 672, PGS. 164-165-167.
27. LA PRADERA SUBDIVISION PHASE 27, PLAT OF PLAT RECORDS NO. 10303, AND RECORDED IN PLAT BK. 672, PGS. 168-169-171.
28. LA PRADERA SUBDIVISION PHASE 28, PLAT OF PLAT RECORDS NO. 10304, AND RECORDED IN PLAT BK. 672, PGS. 172-173-175.
29. LA PRADERA SUBDIVISION PHASE 29, PLAT OF PLAT RECORDS NO. 10305, AND RECORDED IN PLAT BK. 672, PGS. 176-177-179.
30. LA PRADERA SUBDIVISION PHASE 30, PLAT OF PLAT RECORDS NO. 10306, AND RECORDED IN PLAT BK. 672, PGS. 180-181-183.
31. LA PRADERA SUBDIVISION PHASE 31, PLAT OF PLAT RECORDS NO. 10307, AND RECORDED IN PLAT BK. 672, PGS. 184-185-187.
32. LA PRADERA SUBDIVISION PHASE 32, PLAT OF PLAT RECORDS NO. 10308, AND RECORDED IN PLAT BK. 672, PGS. 188-189-191.
33. LA PRADERA SUBDIVISION PHASE 33, PLAT OF PLAT RECORDS NO. 10309, AND RECORDED IN PLAT BK. 672, PGS. 192-193-195.
34. LA PRADERA SUBDIVISION PHASE 34, PLAT OF PLAT RECORDS NO. 10310, AND RECORDED IN PLAT BK. 672, PGS. 196-197-199.
35. LA PRADERA SUBDIVISION PHASE 35, PLAT OF PLAT RECORDS NO. 10311, AND RECORDED IN PLAT BK. 672, PGS. 200-201-203.
36. LA PRADERA SUBDIVISION PHASE 36, PLAT OF PLAT RECORDS NO. 10312, AND RECORDED IN PLAT BK. 672, PGS. 204-205-207.
37. LA PRADERA SUBDIVISION PHASE 37, PLAT OF PLAT RECORDS NO. 10313, AND RECORDED IN PLAT BK. 672, PGS. 208-209-211.
38. LA PRADERA SUBDIVISION PHASE 38, PLAT OF PLAT RECORDS NO. 10314, AND RECORDED IN PLAT BK. 672, PGS. 212-213-215.
39. LA PRADERA SUBDIVISION PHASE 39, PLAT OF PLAT RECORDS NO. 10315, AND RECORDED IN PLAT BK. 672, PGS. 216-217-219.
40. LA PRADERA SUBDIVISION PHASE 40, PLAT OF PLAT RECORDS NO. 10316, AND RECORDED IN PLAT BK. 672, PGS. 220-221-223.
41. LA PRADERA SUBDIVISION PHASE 41, PLAT OF PLAT RECORDS NO. 10317, AND RECORDED IN PLAT BK. 672, PGS. 224-225-227.
42. LA PRADERA SUBDIVISION PHASE 42, PLAT OF PLAT RECORDS NO. 10318, AND RECORDED IN PLAT BK. 672, PGS. 228-229-231.
43. LA PRADERA SUBDIVISION PHASE 43, PLAT OF PLAT RECORDS NO. 10319, AND RECORDED IN PLAT BK. 672, PGS. 232-233-235.
44. LA PRADERA SUBDIVISION PHASE 44, PLAT OF PLAT RECORDS NO. 10320, AND RECORDED IN PLAT BK. 672, PGS. 236-237-239.
45. LA PRADERA SUBDIVISION PHASE 45, PLAT OF PLAT RECORDS NO. 10321, AND RECORDED IN PLAT BK. 672, PGS. 240-241-243.
46. LA PRADERA SUBDIVISION PHASE 46, PLAT OF PLAT RECORDS NO. 10322, AND RECORDED IN PLAT BK. 672, PGS. 244-245-247.
47. LA PRADERA SUBDIVISION PHASE 47, PLAT OF PLAT RECORDS NO. 10323, AND RECORDED IN PLAT BK. 672, PGS. 248-249-251.
48. LA PRADERA SUBDIVISION PHASE 48, PLAT OF PLAT RECORDS NO. 10324, AND RECORDED IN PLAT BK. 672, PGS. 252-253-255.
49. LA PRADERA SUBDIVISION PHASE 49, PLAT OF PLAT RECORDS NO. 10325, AND RECORDED IN PLAT BK. 672, PGS. 256-257-259.
50. LA PRADERA SUBDIVISION PHASE 50, PLAT OF PLAT RECORDS NO. 10326, AND RECORDED IN PLAT BK. 672, PGS. 260-261-263.
51. LA PRADERA SUBDIVISION PHASE 51, PLAT OF PLAT RECORDS NO. 10327, AND RECORDED IN PLAT BK. 672, PGS. 264-265-267.
52. LA PRADERA SUBDIVISION PHASE 52, PLAT OF PLAT RECORDS NO. 10328, AND RECORDED IN PLAT BK. 672, PGS. 268-269-271.
53. LA PRADERA SUBDIVISION PHASE 53, PLAT OF PLAT RECORDS NO. 10329, AND RECORDED IN PLAT BK. 672, PGS. 272-273-275.
54. LA PRADERA SUBDIVISION PHASE 54, PLAT OF PLAT RECORDS NO. 10330, AND RECORDED IN PLAT BK. 672, PGS. 276-277-279.
55. LA PRADERA SUBDIVISION PHASE 55, PLAT OF PLAT RECORDS NO. 10331, AND RECORDED IN PLAT BK. 672, PGS. 280-281-283.
56. LA PRADERA SUBDIVISION PHASE 56, PLAT OF PLAT RECORDS NO. 10332, AND RECORDED IN PLAT BK. 672, PGS. 284-285-287.
57. LA PRADERA SUBDIVISION PHASE 57, PLAT OF PLAT RECORDS NO. 10333, AND RECORDED IN PLAT BK. 672, PGS. 288-289-291.
58. LA PRADERA SUBDIVISION PHASE 58, PLAT OF PLAT RECORDS NO. 10334, AND RECORDED IN PLAT BK. 672, PGS. 292-293-295.
59. LA PRADERA SUBDIVISION PHASE 59, PLAT OF PLAT RECORDS NO. 10335, AND RECORDED IN PLAT BK. 672, PGS. 296-297-299.
60. LA PRADERA SUBDIVISION PHASE 60, PLAT OF PLAT RECORDS NO. 10336, AND RECORDED IN PLAT BK. 672, PGS. 300-301-303.
61. LA PRADERA SUBDIVISION PHASE 61, PLAT OF PLAT RECORDS NO. 10337, AND RECORDED IN PLAT BK. 672, PGS. 304-305-307.
62. LA PRADERA SUBDIVISION PHASE 62, PLAT OF PLAT RECORDS NO. 10338, AND RECORDED IN PLAT BK. 672, PGS. 308-309-311.
63. LA PRADERA SUBDIVISION PHASE 63, PLAT OF PLAT RECORDS NO. 10339, AND RECORDED IN PLAT BK. 672, PGS. 312-313-315.
64. LA PRADERA SUBDIVISION PHASE 64, PLAT OF PLAT RECORDS NO. 10340, AND RECORDED IN PLAT BK. 672, PGS. 316-317-319.
65. LA PRADERA SUBDIVISION PHASE 65, PLAT OF PLAT RECORDS NO. 10341, AND RECORDED IN PLAT BK. 672, PGS. 320-321-323.
66. LA PRADERA SUBDIVISION PHASE 66, PLAT OF PLAT RECORDS NO. 10342, AND RECORDED IN PLAT BK. 672, PGS. 324-325-327.
67. LA PRADERA SUBDIVISION PHASE 67, PLAT OF PLAT RECORDS NO. 10343, AND RECORDED IN PLAT BK. 672, PGS. 328-329-331.
68. LA PRADERA SUBDIVISION PHASE 68, PLAT OF PLAT RECORDS NO. 10344, AND RECORDED IN PLAT BK. 672, PGS. 332-333-335.
69. LA PRADERA SUBDIVISION PHASE 69, PLAT OF PLAT RECORDS NO. 10345, AND RECORDED IN PLAT BK. 672, PGS. 336-337-339.
70. LA PRADERA SUBDIVISION PHASE 70, PLAT OF PLAT RECORDS NO. 10346, AND RECORDED IN PLAT BK. 672, PGS. 340-341-343.
71. LA PRADERA SUBDIVISION PHASE 71, PLAT OF PLAT RECORDS NO. 10347, AND RECORDED IN PLAT BK. 672, PGS. 344-345-347.
72. LA PRADERA SUBDIVISION PHASE 72, PLAT OF PLAT RECORDS NO. 10348, AND RECORDED IN PLAT BK. 672, PGS. 348-349-351.
73. LA PRADERA SUBDIVISION PHASE 73, PLAT OF PLAT RECORDS NO. 10349, AND RECORDED IN PLAT BK. 672, PGS. 352-353-355.
74. LA PRADERA SUBDIVISION PHASE 74, PLAT OF PLAT RECORDS NO. 10350, AND RECORDED IN PLAT BK. 672, PGS. 356-357-359.
75. LA PRADERA SUBDIVISION PHASE 75, PLAT OF PLAT RECORDS NO. 10351, AND RECORDED IN PLAT BK. 672, PGS. 360-361-363.
76. LA PRADERA SUBDIVISION PHASE 76, PLAT OF PLAT RECORDS NO. 10352, AND RECORDED IN PLAT BK. 672, PGS. 364-365-367.
77. LA PRADERA SUBDIVISION PHASE 77, PLAT OF PLAT RECORDS NO. 10353, AND RECORDED IN PLAT BK. 672, PGS. 368-369-371.
78. LA PRADERA SUBDIVISION PHASE 78, PLAT OF PLAT RECORDS NO. 10354, AND RECORDED IN PLAT BK. 672, PGS. 372-373-375.
79. LA PRADERA SUBDIVISION PHASE 79, PLAT OF PLAT RECORDS NO. 10355, AND RECORDED IN PLAT BK. 672, PGS. 376-377-379.
80. LA PRADERA SUBDIVISION PHASE 80, PLAT OF PLAT RECORDS NO. 10356, AND RECORDED IN PLAT BK. 672, PGS. 380-381-383.
81. LA PRADERA SUBDIVISION PHASE 81, PLAT OF PLAT RECORDS NO. 10357, AND RECORDED IN PLAT BK. 672, PGS. 384-385-387.
82. LA PRADERA SUBDIVISION PHASE 82, PLAT OF PLAT RECORDS NO. 10358, AND RECORDED IN PLAT BK. 672, PGS. 388-389-391.
83. LA PRADERA SUBDIVISION PHASE 83, PLAT OF PLAT RECORDS NO. 10359, AND RECORDED IN PLAT BK. 672, PGS. 392-393-395.
84. LA PRADERA SUBDIVISION PHASE 84, PLAT OF PLAT RECORDS NO. 10360, AND RECORDED IN PLAT BK. 672, PGS. 396-397-399.
85. LA PRADERA SUBDIVISION PHASE 85, PLAT OF PLAT RECORDS NO. 10361, AND RECORDED IN PLAT BK. 672, PGS. 400-401-403.
86. LA PRADERA SUBDIVISION PHASE 86, PLAT OF PLAT RECORDS NO. 10362, AND RECORDED IN PLAT BK. 672, PGS. 404-405-407.
87. LA PRADERA SUBDIVISION PHASE 87, PLAT OF PLAT RECORDS NO. 10363, AND RECORDED IN PLAT BK. 672, PGS. 408-409-411.
88. LA PRADERA SUBDIVISION PHASE 88, PLAT OF PLAT RECORDS NO. 10364, AND RECORDED IN PLAT BK. 672, PGS. 412-413-415.
89. LA PRADERA SUBDIVISION PHASE 89, PLAT OF PLAT RECORDS NO. 10365, AND RECORDED IN PLAT BK. 672, PGS. 416-417-419.
90. LA PRADERA SUBDIVISION PHASE 90, PLAT OF PLAT RECORDS NO. 10366, AND RECORDED IN PLAT BK. 672, PGS. 420-421-423.
91. LA PRADERA SUBDIVISION PHASE 91, PLAT OF PLAT RECORDS NO. 10367, AND RECORDED IN PLAT BK. 672, PGS. 424-425-427.
92. LA PRADERA SUBDIVISION PHASE 92, PLAT OF PLAT RECORDS NO. 10368, AND RECORDED IN PLAT BK. 672, PGS. 428-429-431.
93. LA PRADERA SUBDIVISION PHASE 93, PLAT OF PLAT RECORDS NO. 10369, AND RECORDED IN PLAT BK. 672, PGS. 432-433-435.
94. LA PRADERA SUBDIVISION PHASE 94, PLAT OF PLAT RECORDS NO. 10370, AND RECORDED IN PLAT BK. 672, PGS. 436-437-439.
95. LA PRADERA SUBDIVISION PHASE 95, PLAT OF PLAT RECORDS NO. 10371, AND RECORDED IN PLAT BK. 672, PGS. 440-441-443.
96. LA PRADERA SUBDIVISION PHASE 96, PLAT OF PLAT RECORDS NO. 10372, AND RECORDED IN PLAT BK. 672, PGS. 444-445-447.
97. LA PRADERA SUBDIVISION PHASE 97, PLAT OF PLAT RECORDS NO. 10373, AND RECORDED IN PLAT BK. 672, PGS. 448-449-451.
98. LA PRADERA SUBDIVISION PHASE

759012

759012

LINE TABLE		
LINE	LENGTH	BEARING
L1	25.13	S 89° 51' 17" E
L2	39.46	S 71° 14' 57" E
L3	6.34	S 89° 51' 17" E
L4	12.22	S 89° 51' 17" E
L5	4.50	S 89° 51' 17" E
L6	23.51	S 89° 51' 17" E
L7	23.52	S 89° 51' 17" E
L8	4.50	S 89° 51' 17" E
L9	20.58	S 89° 51' 17" E
L10	14.59	S 89° 51' 17" E
L11	12.22	S 89° 51' 17" E
L12	7.63	S 89° 51' 17" E
L13	7.51	S 89° 51' 17" E
L14	25.13	S 89° 51' 17" E

CURVE TABLE			
CURVE	LENGTH	RADIUS	CHORD DIST
C1	25.13	18.00	22.83
C2	17.84	18.00	17.01
C3	858.33	11639.18	668.12
C4	24.00	18.00	27.50
C5	101.66	82.00	88.45
C6	16.54	58.00	18.46
C7	11.88	218.80	11.88
C8	44.90	218.80	44.62
C9	38.00	443.04	38.07
C10	21.39	78.50	21.39
C11	45.85	78.50	45.85
C12	66.67	78.50	66.67
C13	34.39	121.50	34.39
C14	8.87	7.50	8.87
C15	56.66	471.62	56.66
C16	30.40	378.63	30.40
C17	10.54	7.50	10.54
C18	13.82	121.50	13.82
C19	28.34	121.50	28.34
C20	11.10	7.50	11.10
C21	35.51	175.80	35.51
C22	14.70	82.00	14.69
C23	87.82	274.50	87.82

PLAT REFERENCES

- 1. "MAJOR LA PRADERA SUBDIVISION PHASE 1" BY RICHARD A. MURRES MAPS NO. 10377 AND RECORDED IN PLAT BK. 612, PGS. 024-027.
- 2. "LOT LINE ADJUSTMENT OF LOT 33 & TRACT 5 (PART) AND LOT 34 & OPEN SPACE TRACT A LA PRADERA SUBDIVISION PHASE 1" BY RICHARD A. MURRES MAPS NO. 10377 AND RECORDED IN PLAT BK. 653, PG. 018.
- 3. "LOT LINE ADJUSTMENT SURVEY PLAT PREPARED FOR CARDNER ASSOCIATES, LLC AND ADVANCE ASPHALT AND SEAL COATING, LLC" BY RICHARD A. MURRES MAPS NO. 10377 AND RECORDED IN PLAT BK. 707, PG. 004.
- 4. "FINAL SUBDIVISION PLAT FOR LA PRADERA SUBDIVISION PHASE 1" BY RICHARD A. MURRES MAPS NO. 10377 AND RECORDED IN PLAT BK. 653, PGS. 010-014.
- 5. "LOT LINE ADJUSTMENT OF LOTS 184, 188, 190, 172, 173 WITHIN PHASE 1 LA PRADERA SUBDIVISION PHASES 1 & 2" BY RICHARD A. MURRES MAPS NO. 10377 AND RECORDED IN PLAT BK. 653, PG. 014.

LEGEND AND NOTES

- DENOTES POINT FOUND AS NOTED
- DENOTES POINT SET THIS SURVEY
- DENOTES POINT CALCULATED
- DENOTES PHASE LINE
- DENOTES EASEMENT LINE

- 1. BASE OF BEARING IS FROM POINTS FOUND AS PER PLAT OF PLAT REFERENCE.
- 2. FOR ADDITIONAL SUBDIVISION INFORMATION FOR AREAS IN GRAY SCALE, (LIGHT LINE TYPE SHADING) SEE PLAT OF THIS SURVEY, LISTED, GRAY SCALE AREAS, NOT A PART OF THIS SURVEY.

ADDRESS TABLE	
LOT#	STREET
33	LA PRADERA
34	LA PRADERA
35	LA PRADERA
36	BOSQUECILLO
37	CAMINO SABANERO
38	BOSQUECILLO

COMMON OPEN SPACE  
TRACT A-1

COUNTY OF SANTA FE  
PART OF AND BEING THE  
LA PRADERA SUBDIVISION  
PHASE 1  
BY RICHARD A. MURRES  
MAPS NO. 10377  
AS SHOWN ON THE  
PLAT OF THIS SURVEY  
BEARING THE HAND AND SEAL OF OFFICE  
COUNTY CLERK, COUNTY OF SANTA FE, N.M.

AMENDED SUBDIVISION  
PLAT FOR  
LA PRADERA SUBDIVISION  
OF  
PHASE 1

LYING WITHIN SECTION 17, T.18N., R.1E., N.M.P.M., COUNTY OF  
SANTA FE, NM.

RICK CHATROOP  
PROFESSIONAL LAND SURVEYOR  
NEW MEXICO REGISTRATION NO. 11011  
(505) 470-0027 110 WAGON TRAIL DR. CERRILLOS, NM. 87019

RECORDING INFORMATION FOR THE COUNTY CLERK  
CARRIER ASSOCIATES, LLC  
JACKSON LYING WITHIN SECTION 17, T.18N., R.1E., N.M.P.M., COUNTY OF  
SANTA FE, NM.

Final Plat Phase 4 not recorded

COUNTY APPROVALS

Approved by the Board of County Commissioners at their meeting of \_\_\_\_\_

Chairperson \_\_\_\_\_ Date \_\_\_\_\_

Attested by \_\_\_\_\_ County Clerk \_\_\_\_\_ Date \_\_\_\_\_

Approved by the County Development Review Committee at their meeting of \_\_\_\_\_

County Development Permit No. \_\_\_\_\_

Approved by \_\_\_\_\_ County Land Use Administrator \_\_\_\_\_ Date \_\_\_\_\_

Approved by \_\_\_\_\_ County Fire Marshal \_\_\_\_\_ Date \_\_\_\_\_

Approved by \_\_\_\_\_ County Public Works Director \_\_\_\_\_ Date \_\_\_\_\_

Approved by \_\_\_\_\_ County Utilities Director \_\_\_\_\_ Date \_\_\_\_\_

Approved by \_\_\_\_\_ County Rural Addressing Director \_\_\_\_\_ Date \_\_\_\_\_

County Treasurer \_\_\_\_\_ Date \_\_\_\_\_

LEGEND AND NOTES

- DENOTES POINT FOUND AS NOTED
- DENOTES POINT SET THIS SURVEY
- DENOTES POINT CALCULATED
- DENOTES PHASE LINE
- DENOTES EASEMENT LINE

1. BASIS OF BEARING IS FROM POINTS FOUND AS PER PLAT OF PLAT REFERENCE #1.
2. FOR ADDITIONAL SUBDIVISION INFORMATION FOR AREAS IN GRAY SCALE (LIGHT LINE TYPE SHADING) SEE PLAT REFERENCES LISTED. GRAY SCALE AREAS NOT A PART OF THIS SURVEY.

PLAT REFERENCES

1. "PLAT SUBDIVISION PLAT FOR LA PRADERA SUBDIVISION PHASES 1 & 2, RICHARD A. CHATROOP, SURVEYOR, NO. 10277 AND RECORDED IN PLAT BK. 654, PGS. 010-016.
2. "LOT LINE ADJUSTMENT OF LOTS 164, 166, 168, 170, 172 & 173 WITHIN PHASE 3 LA PRADERA SUBDIVISION PHASES 2 & 3 BY RICHARD A. MARRAS, MAPS NO. 10277 AND RECORDED IN PLAT BK. 686, PG. 014.
3. "LOT LINE ADJUSTMENT SURVEY PLAT PREPARED FOR GARDNER ASSOCIATES, LLC AND ADVANCEMENT ASSESSMENT AND SEAL COMPANY, LLC AND RECORDED IN PLAT BK. 707, PG. 004.
4. "AMENDED LA PRADERA SUBDIVISION PHASE 1" BY RICHARD A. MARRAS, MAPS NO. 10277 AND RECORDED IN PLAT BK. 612, PGS. 024-027.
5. "LOT LINE ADJUSTMENT OF LOT 33 & TRACT D (PARK) AND LOT 34 & OPEN SPACE TRACT A, LA PRADERA SUBDIVISION PHASE 1" BY RICHARD A. MARRAS, MAPS NO. 10277 AND RECORDED IN PLAT BK. 654, PG. 026.

AMENDED SUBDIVISION  
PLAT FOR  
LA PRADERA SUBDIVISION  
OF  
PHASE 4

LIVING WITHIN SECTION 17, T.16N., R.9E., N.M.P.M., COUNTY OF SANTA FE, NM.

RICK CHATROOP  
PROFESSIONAL LAND SURVEYOR  
NEW MEXICO REGISTRATION NO. 11011  
(800) 470-0037 110 WAGON TRAIL RD. CERRILLOS, NM. 87010

PREPARED INFORMATION FOR THE COUNTY CLERK

OWNER: GARDNER ASSOCIATES, LLC  
LOCATION: LIVING WITHIN SECTION 17, T.16N., R.9E., N.M.P.M., COUNTY OF SANTA FE, NM.

Phase 4 plat  
DEDICATION AND AFFIDAVIT

Know all persons by this presents that Gardner Associates, LLC a New Mexico Limited Liability Corporation, as the owner (the "Owner") of the lands shown on this subdivision plat (the "Plat") which are located within Santa Fe County, New Mexico, containing an area of \_\_\_\_\_ acres, more or less, has caused the lands to be subdivided as shown on the plat and that said subdivision is named and shall be known as La Pradera Phase 4 (the "Subdivision"). All that appears on this plat is made with the free consent and in accordance with the desires of the Owner.

Grants of Easements:

**Roadway Right-of-Way; Grant of Easements.** The roadway rights-of-way shown hereon are hereby made subject to a non-exclusive easement for ingress, egress and utilities in favor of the La Pradera Homeowners' Association for the benefit of its members, and such rights of way are hereby made subject to an easement for public ingress, egress and utilities. Until such time as Owner shall transfer the ownership of the right-of-way to the Association, Owner shall be the record title owner of the right-of-way subject to the grants of easements in favor of the Association and the public as contained in this paragraph. The roadway improvements shall be maintained by the Association, until such time as they are accepted, by resolution, for maintenance by the Santa Fe County Board of Commissioners as provided by N.M.S.A. 1979, as amended, Section 47-6-3 or any other entity having the power and authority to accept the improvements for maintenance.

**Utility Easements.** The utility easements identified hereon, and their successors in interest are granted easements as shown hereon within the roadway rights-of-way and within 10 feet of the road right-of-way for the construction, maintenance, repair and operation of utilities in providing utility service to the Subdivision.

**Open Space Reservation.** Tracts and \_\_\_\_\_ are hereby reserved for use as open space, recreational facilities, local drainage, drainage facilities, wetlands, and other natural resources. The lands reserved shall be maintained in their natural state by the Association. The Association shall have the right to grant easements to for their use and enjoyment. The members of the Association are hereby granted the right to use these Tracts subject to the Declaration of Restrictive Covenants for La Pradera, recorded on \_\_\_\_\_ in the records of the Santa Fe County Clerk, under Instrument No. \_\_\_\_\_ the By-Laws of the Association, and any rules and regulations adopted by the Association.

**Grant of Trail Easements.** The public trail easements shown within Tract \_\_\_\_\_ are hereby granted for public use, subject to the rules and regulations adopted by the Association.

**Grant of Drainage Easements.** Drainage easements are granted as shown for the purpose of maintaining the flow of storm waters. Such easements are granted to the Association. Its members and to the adjoining lot owners whose surface drainage naturally flows through such easements. The Association is responsible for maintaining all drainage structures and easements.

**Easement Easements.** Easement easements for cut and fill slopes for all roadway improvements and related drainage structures are hereby granted to the Association and reserved by Owner, for the placement, construction, maintenance, repair and replacement of roadways and roadway opportunities including easements for road right-of-way, cut and fill slopes, drainage improvements, which easements will vary in width as shown on the plat. The easement easements shall be maintained by the Association and shall be subject to the rules and regulations adopted by Owner within the boundary of any lots or tracts shown hereon are deemed to be within the easement granted hereby.

Jurisdiction. This subdivision lies within the planning and platting jurisdiction of the County of Santa Fe, New Mexico.

OWNER:  
GARDNER ASSOCIATES, LLC  
A New Mexico LLC

John J. McCortly, Managing Member

The foregoing was sworn, acknowledged and subscribed before me by John J. McCortly, Managing Member of Gardner Associates, LLC, a New Mexico LLC, on behalf of the LLC, this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Notary Public

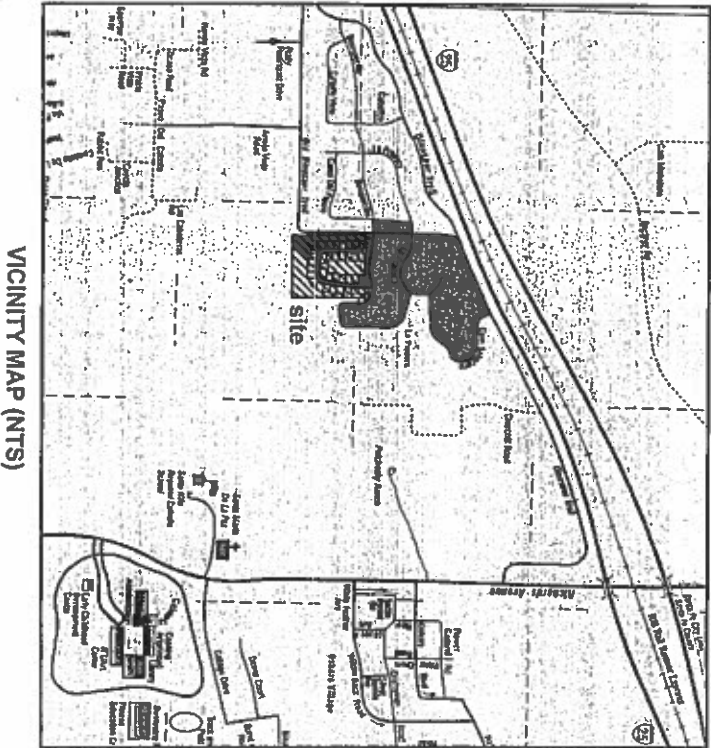
By commission expires: \_\_\_\_\_

PURPOSE: This plat creates \_\_\_\_\_ residential lots.  
NOTES AND CONDITIONS

1. Maintenance of access road, sidewalk, ramp, utility easements and drainage structures to be the responsibility of the Association. According to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) Community Panel No. (revised Flood panel city of Santa Fe) dated June 17, 2006, this property lies partially within the limits of the 100-year Special Flood Area (SFA) within Zone AE regulatory floodplain. The portion of this plat does not constitute the approval of any further development including building permits. All standard County permits and fees must be in place prior to commencement of construction activity of any kind. Development permits for building construction will not be issued until required improvements for roads, fire protection, lawn management, and drainage are complete and approved.
2. These lots must be connected to the private sewer system installed by the Owner. Sanitary sewer individual service lines within the lots shall be the responsibility of the lot owner to construct and maintain.
3. The sewer lines, manholes, treatment facility, reclaimed water infiltration gallery, and reclaimed water lines located within the road and open space areas shall be the responsibility of the Association. The Association shall be responsible for the construction, maintenance, repair and replacement of all sewer lines within the open space (this includes the park) shall be maintained by the Association.
4. No building permits shall be granted until such time as the fire hydrants have been tested and approved by the Fire Marshal and the access roads are deemed possible by the Fire Marshal.
5. All outdoor lighting shall be shielded.
6. All utility lines shall be underground.
7. All lots are subject to a 10-foot utility easement adjacent to all road right-of-way.
8. All lots are subject to a 10-foot utility easement adjacent to all road right-of-way.
9. The Association shall be responsible for the construction, maintenance, repair and replacement of all sewer lines within the open space (this includes the park) shall be maintained by the Association.
10. The Association shall be responsible for the construction, maintenance, repair and replacement of all sewer lines within the open space (this includes the park) shall be maintained by the Association.
11. The La Pradera Disclosure Statement is filed in the Office of the County Clerk and recorded as Instrument No. \_\_\_\_\_ and \_\_\_\_\_ which is filed in the Office of the County Clerk and recorded as Instrument No. \_\_\_\_\_
12. This development is subject to an Affordable Housing Agreement for Lots \_\_\_\_\_ and \_\_\_\_\_ which is filed in the Office of the County Clerk and recorded as Instrument No. \_\_\_\_\_
13. The maximum building setback from lot lines is 5' and from road easements is 10' unless the Homeowner Association Covenants provide for larger setbacks.
14. Water use on these lots is regulated by the Declaration of Restrictive Covenants for La Pradera, recorded as Instrument No. \_\_\_\_\_
15. Lot owners shall comply with County Rules and Regulations regarding requirements.
16. No buildings are permitted in the open space.

SPECIAL BUILDING PERMIT CONDITIONS

1. THESE LOTS ARE SUBJECT TO UTILIZING THE SANTA FE COUNTY WATER SYSTEM. INDIVIDUAL WELLS ARE NOT ALLOWED.
2. THESE LOTS ARE SUBJECT TO USING THE LA PRADERA SEWER SYSTEM. NO INDIVIDUAL WASTEWATER SYSTEM SHALL BE ALLOWED.
3. THESE LOTS ARE SUBJECT TO SANTA FE COUNTY FIRE AND RESCUE IMPACT FEES AT THE TIME OF APPLICATION FOR DEVELOPMENT PERMIT.
4. CUMULATED FLOODING IS PROVIDED BY THE DEVELOPER. INDIVIDUAL PONDS ARE NOT REQUIRED.



VICINITY MAP (NTS)

PUBLIC UTILITY EASEMENTS

PUBLIC UTILITY EASEMENTS shown on this plat are granted for the common and joint use of:

1. NEW MEXICO GAS COMPANY for installation, maintenance and service of natural gas lines, valves and other equipment and facilities reasonably necessary to provide natural gas.
2. PUBLIC SERVICE COMPANY OF NEW MEXICO for the installation, maintenance, and service of overhead and underground electrical lines, transformers, and other equipment, fixtures, structures and related facilities reasonably necessary to provide electrical service.
3. DNETI for installation, maintenance and service of all buried and aerial communication lines and other related equipment and facilities reasonably necessary to provide communication services, including but not limited to above ground pedestals and conduits.
4. CABLE TV for the installation, maintenance, and service of such lines, cable and other related equipment and facilities reasonably necessary to provide Cable TV services.

Included in the right to build, install, maintain, repair, replace, relocate, change, remove, modify, raise, operate and maintain facilities for the purposes described above, together with free access to, from, and over and under the right of way and easement to extend services to customers of Gaslines, and to trim and remove trees, shrubs or bushes which interfere with the purpose set forth herein. No building, sign, pool (above ground or subsurface), hot tub, concrete or wood pool decking, or other structure shall be erected or constructed on said easements, nor shall any well be drilled or operated thereon.

Disclaimer:

In approving this plat, Public Service Company of New Mexico (PNM) and New Mexico Gas Company (NMGCC) did not conduct a Title Search of the properties shown hereon. Consequently, PNM and NMGCC do not waive or release any easement or easement rights which may have been granted by prior plat, replat or other document and which are not shown on this plat.

UTILITIES APPROVAL

NEW MEXICO GAS COMPANY \_\_\_\_\_ DATE \_\_\_\_\_

PNM ELECTRIC SERVICES \_\_\_\_\_ DATE \_\_\_\_\_

QUEST \_\_\_\_\_ DATE \_\_\_\_\_

COMCAST \_\_\_\_\_ DATE \_\_\_\_\_

SURVEYORS CERTIFICATE

I, RICHARD A. CHATROOP, A NEW MEXICO PROFESSIONAL SURVEYOR, NO. 11011, DO HEREBY CERTIFY THAT THIS SURVEY PLAT AND THE ACTUAL FIELD SURVEY UPON WHICH IT IS BASED WERE PREPARED BY ME OR UNDER MY DIRECTION ON APRIL 6TH, 2011; THAT I AM RESPONSIBLE FOR THE SURVEY AND THAT IT MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO; AND THAT I HAVE MADE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

RICHARD A. CHATROOP \_\_\_\_\_ N.M.P.L.S.#11011



CANTO DEL VIENTO  
50' WIDE ACCESS  
AND UTILITY EASEMENT  
PER BK. 214 PG. 043

PHASE 2



LINE TABLE		
LINE	LENGTH	BEARING
L1	16.81	S 00° 37' 03" E
L2	8.44	N 00° 37' 03" W

CURVE TABLE				
CURVE	LENGTH	RADIUS	CHORD BRG	CHORD DIST
C1	24.60	16.00	S 47° 03' 12" W	24.84
C2	133.28	93.00	N 00° 44' 51" E	122.17
C3	27.03	857.00	N 00° 44' 51" E	27.05
C4	42.76	857.00	N 00° 44' 51" E	42.75
C5	32.28	857.00	N 00° 44' 51" E	32.26
C6	77.12	1588.07	N 00° 44' 51" E	77.11
C7	77.12	1588.07	N 00° 44' 51" E	77.11
C8	77.12	1588.07	N 00° 44' 51" E	77.11
C9	77.12	1588.07	N 00° 44' 51" E	77.11
C10	31.58	1588.07	N 00° 44' 51" E	31.58
C11	60.41	50.00	N 00° 44' 51" E	60.41
C12	27.44	692.11	N 00° 44' 51" E	27.44
C13	20.04	692.11	N 00° 44' 51" E	20.04
C14	80.66	692.11	N 00° 44' 51" E	80.66
C15	66.96	50.00	N 00° 44' 51" E	66.96
C16	17.41	457.00	N 00° 44' 51" E	17.41
C17	17.41	457.00	N 00° 44' 51" E	17.41
C18	27.56	500.00	N 00° 44' 51" E	27.56
C19	21.85	500.00	N 00° 44' 51" E	21.85
C20	5.89	500.00	N 00° 44' 51" E	5.89
C21	63.96	500.00	N 00° 44' 51" E	63.96
C22	49.72	500.00	N 00° 44' 51" E	49.72
C23	5.38	500.00	N 00° 44' 51" E	5.38
C24	56.29	735.11	N 00° 44' 51" E	56.29
C25	66.75	735.11	N 00° 44' 51" E	66.75
C26	72.00	735.11	N 00° 44' 51" E	72.00
C27	49.49	735.11	N 00° 44' 51" E	49.49
C28	20.67	850.00	N 00° 44' 51" E	20.67
C29	54.84	850.00	N 00° 44' 51" E	54.84
C30	36.84	850.00	N 00° 44' 51" E	36.84
C31	28.15	1631.07	N 00° 44' 51" E	28.15
C32	70.00	1631.07	N 00° 44' 51" E	70.00
C33	70.00	1631.07	N 00° 44' 51" E	70.00
C34	80.01	1631.07	N 00° 44' 51" E	80.01
C35	45.37	1631.07	N 00° 44' 51" E	45.37
C36	34.64	1000.00	N 00° 44' 51" E	34.64
C37	80.03	1000.00	N 00° 44' 51" E	80.03
C38	31.44	1000.00	N 00° 44' 51" E	31.44

LEGEND AND NOTES

- DENOTES POINT FOUND AS NOTED
- DENOTES POINT SET THIS SURVEY
- DENOTES POINT CALCULATED
- DENOTES PHASE LINE
- DENOTES EASEMENT LINE

- BASES OF BEARING IS FROM POINTS FOUND AS PER PLAT OF PLAT REFERENCE #1.
- FOR ADDITIONAL SUBDIVISION INFORMATION FOR AREAS IN GRAY SCALE (LIGHT LINE TYPE SHOWN) SEE PLAT OF PLAT REFERENCE #1.
- GRAY SCALE AREAS ARE NOT PART OF THIS SURVEY.

PLAT REFERENCES

- TOTAL SUBDIVISION PLAT FOR LA PRADERA SUBDIVISION PHASES 1 & 2, RECORDED IN PLAT BK. 654, PGS. 010-016.
- LOT LINE ADJUSTMENT OF LOTS 184, 185, 186, 170, 172, & 173 WITHIN PHASE 3, LA PRADERA SUBDIVISION PHASES 2 & 3, RECORDED IN PLAT BK. 689, PG. 014.
- LOT LINE ADJUSTMENT SURVEY PLAT PREPARED FOR GARNER ASSOCIATES, INC. AND ADJUSTED IN PLAT BK. 707, PG. 004.
- ADJUSTED LA PRADERA SUBDIVISION PHASE 1, RECORDED IN PLAT BK. 812, PGS. 024-027.
- LOT LINE ADJUSTMENT OF LOTS 33 & TRACT D (PARK) AND LOT 34 & OPEN SPACE, RECORDED IN PLAT BK. 854, PG. 026.

TRACT 4B  
COMMON OPEN SPACE  
5.207 AC ±

TRACT 4A  
COMMON OPEN SPACE  
1.730 AC ±

AMENDED SUBDIVISION  
PLAT FOR  
LA PRADERA SUBDIVISION  
OF  
PHASE 4

LYING WITHIN SECTION 17, T.16N., R.9E., N.M.P.M., COUNTY OF SANTA FE, NM.

COUNTY OF SANTA FE  
I, RICK CHATROOP, Surveyor, do hereby certify that this instrument was filed for record on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ m. and was duly returned in book \_\_\_\_\_ of this records at \_\_\_\_\_ of the records of \_\_\_\_\_ County, New Mexico.

Witness my hand and Seal of Office  
at Santa Fe, New Mexico  
County Clerk, Santa Fe County, N.M.

RICK CHATROOP  
PROFESSIONAL LAND SURVEYOR  
NEW MEXICO REGISTRATION NO. 11011  
(505) 470-0027 110 WAGON TRAIL RD. CERRILLOS, NM. 87010

PROCEEDING INFORMATION FOR THE COUNTY CLERK  
OWNER: GARDNER ASSOCIATES, LLC  
LOCATION: LYING WITHIN SECTION 17, T.16N., R.9E., N.M.P.M., COUNTY OF SANTA FE, NM.



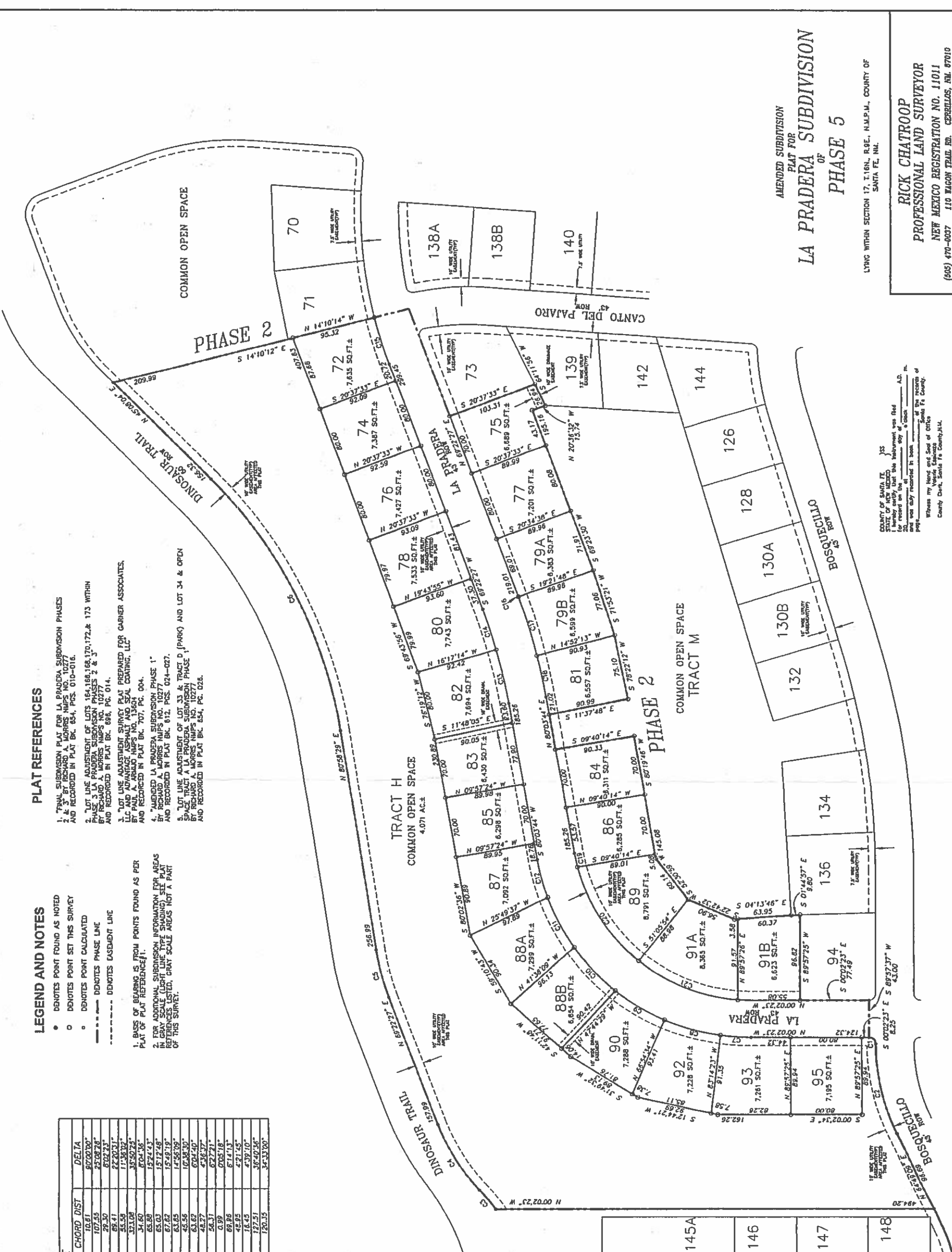
CURVE TABLE				CHORD DIST		DELTA	
CURVE	LENGTH	RADIUS	CHORD BRG				
C1	11.78	7.50	N42°57'37"E	10.61		90°00'00"	
C2	108.41	247.07	S17°23'23"W	107.55		23°08'28"	
C3	29.33	209.00	N51°03'08"E	28.30		6°02'23"	
C4	89.98	230.74	S58°12'12"W	89.41		22°20'31"	
C5	53.68	275.00	S75°10'28"W	53.59		11°38'02"	
C6	328.40	525.00	N63°03'16"E	323.08		35°50'25"	
C7	34.63	245.64	S07°58'55"W	34.60		8°04'36"	
C8	66.07	245.64	S15°44'35"W	65.86		15°24'43"	
C9	63.22	245.64	S31°03'21"W	63.03		15°12'48"	
C10	67.83	245.64	S46°34'24"W	67.62		15°48'19"	
C11	64.03	245.64	S61°57'09"W	63.85		14°58'09"	
C12	43.62	245.64	S74°44'29"W	43.56		10°38'30"	
C13	63.65	600.00	N77°01'24"E	63.62		6°04'40"	
C14	48.28	600.00	N71°40'46"E	48.27		4°36'37"	
C15	56.34	500.00	S72°38'08"W	56.31		6°22'21"	
C16	0.99	643.00	N89°28'06"E	0.99		0°05'18"	
C17	70.00	643.00	N72°34'52"E	69.96		6°14'13"	
C18	45.95	643.00	N77°25'51"E	45.95		4°21'45"	
C19	16.48	202.64	S77°44'09"W	16.45		4°39'10"	
C20	129.71	202.64	S57°04'16"W	127.51		36°40'36"	
C21	122.19	202.64	S71°27'28"W	120.35		34°33'00"	

- LEGEND AND NOTES**
- DENOTES POINT FOUND AS NOTED
  - DENOTES POINT SET THIS SURVEY
  - DENOTES POINT CALCULATED
  - DENOTES PHASE LINE
  - DENOTES EASEMENT LINE

1. BASIS OF BEARING IS FROM POINTS FOUND AS PER PLAT OF PLAT REFERENCE #1.
2. FOR ADDITIONAL SUBDIVISION INFORMATION FOR AREAS IN GRAY SCALE (LIGHT LINE TYPE SHADING) SEE PLAT REFERENCES LISTED. GRAY SCALE AREAS NOT A PART OF THIS SURVEY.

**PLAT REFERENCES**

1. FINAL SUBDIVISION PLAT FOR LA PRADERA SUBDIVISION PHASES 2 & 3 BY RICHARD A. MORRIS N.M.P.S. NO. 10277 AND RECORDED IN PLAT BK. 654, PGS. 010-016.
2. LOT LINE ADJUSTMENT OF LOTS 164, 165, 166, 170, 172, & 173 WITHIN PHASE 3 LA PRADERA SUBDIVISION PHASES 2 & 3 BY RICHARD A. MORRIS N.M.P.S. NO. 10277 AND RECORDED IN PLAT BK. 686, PG. 014.
3. LOT LINE ADJUSTMENT SURVEY PLAT PREPARED FOR GARDNER ASSOCIATES, LLC AND ADJUSTING ASPHALT AND SEAL COATING, LLC BY PAUL A. ARRIAGA N.M.P.S. NO. 13604 AND RECORDED IN PLAT BK. 707, PG. 004.
4. AMENDED LA PRADERA SUBDIVISION PHASE 1 BY RICHARD A. MORRIS N.M.P.S. NO. 10277 AND RECORDED IN PLAT BK. 612, PGS. 024-027.
5. LOT LINE ADJUSTMENT OF LOT 33 & TRACT D (PARK) AND LOT 34 & OPEN SPACE TRACT A LA PRADERA SUBDIVISION PHASE 1 BY RICHARD A. MORRIS N.M.P.S. NO. 10277 AND RECORDED IN PLAT BK. 654, PG. 026.



AMENDED SUBDIVISION  
PLAT FOR  
**LA PRADERA SUBDIVISION**  
OF  
**PHASE 5**

LYING WITHIN SECTION 17, T.16N., R.9E., N.M.P.M., COUNTY OF SANTA FE, NM.

**RICK CHATROOP**  
PROFESSIONAL LAND SURVEYOR  
NEW MEXICO REGISTRATION NO. 11011  
(505) 470-0037 110 WAGON TRAIL RD. CERRILLOS, NM. 87710

ISSUING INFORMATION FOR THE COUNTY CLERK  
OWNER: GARDNER ASSOCIATES, LLC  
LOCATION: LYING WITHIN SECTION 17, T.16N., R.9E., N.M.P.M., COUNTY OF SANTA FE, NM.

COUNTY OF SANTA FE  
STATE OF NEW MEXICO  
I hereby certify that this instrument was filed for record on the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, and was duly recorded in book \_\_\_\_\_ of the records of said County.

Witness my hand and seal of office  
County Clerk, Santa Fe County, N.M.

Deputy

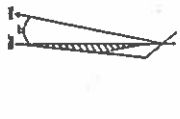


- LEGEND AND NOTES**
- DENOTES POINT FOUND AS NOTED
  - DENOTES POINT SET THIS SURVEY
  - DENOTES POINT CALCULATED
  - DENOTES PHASE LINE
  - DENOTES EASEMENT LINE

1. BASIS OF BEARING IS FROM POINTS FOUND AS PER PLAT OF PLAT REFERENCE 1.
2. FOR ADDITIONAL SUBDIVISION INFORMATION FOR AREAS IN GRAY SCALE (LIGHT LINE TYPE SHADING) SEE PLAT REFERENCES LISTED. GRAY SCALE AREAS NOT A PART OF THIS SURVEY.

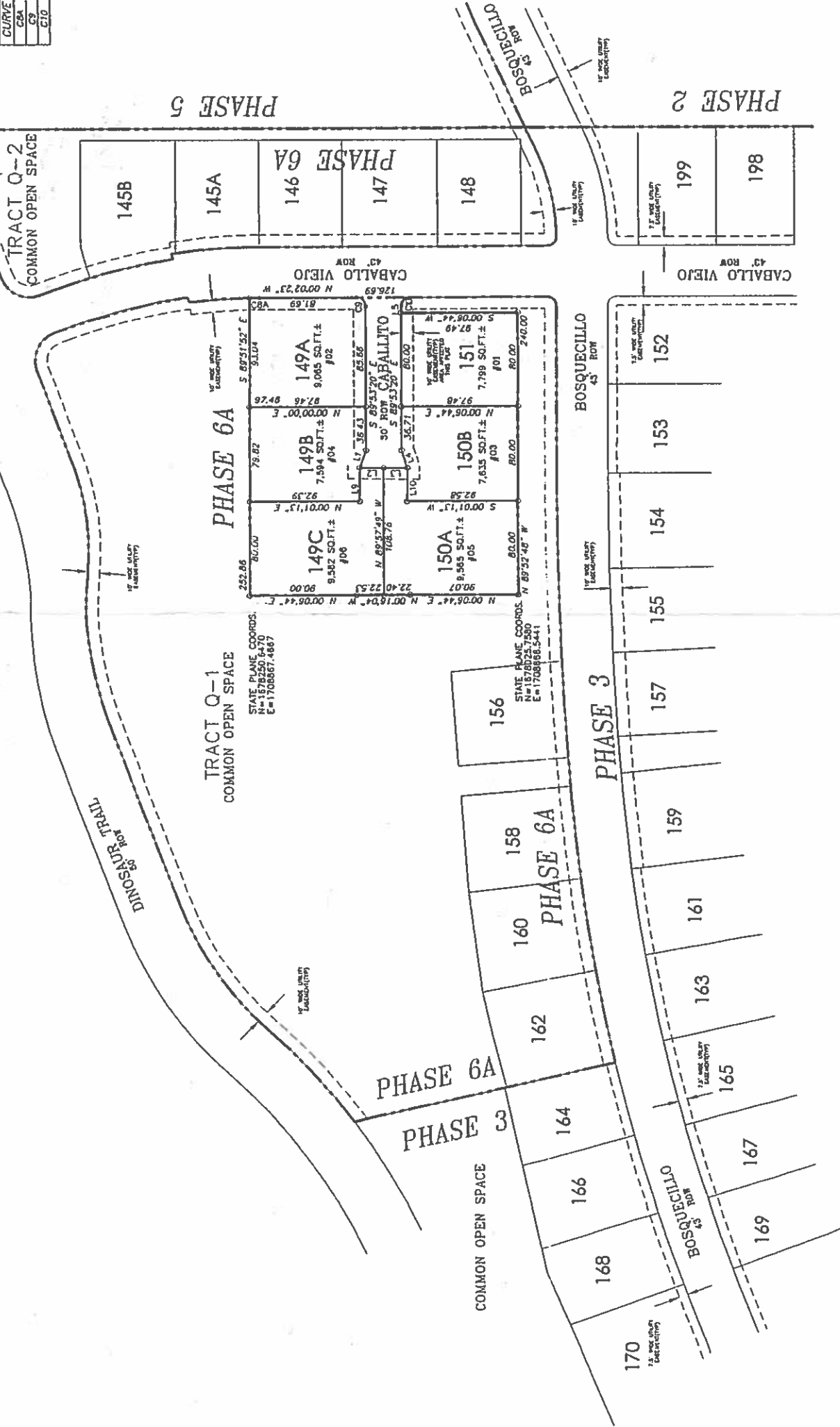
**PLAT REFERENCES**

1. FINAL SUBDIVISION PLAT FOR LA PRADERA SUBDIVISION PHASES 2 & 3 BY RICHARD A. MORRIS NPLS NO. 10277 AND RECORDED IN PLAT BK. 634, PGS. 010-016.
2. LOT LINE ADJUSTMENT OF LOTS 164, 166, 168, 170, 172 & 173 WITHIN PHASE 3 LA PRADERA SUBDIVISION PHASES 2 & 3 BY RICHARD A. MORRIS NPLS NO. 10277 AND RECORDED IN PLAT BK. 686, PG. 014.
3. LOT LINE ADJUSTMENT SURVEY PLAT PREPARED FOR GARNER ASSOCIATES, LLC AND ADVANTAGE ASPHALT AND SEAL COATING, LLC BY PAUL A. ARRIAGA NPLS NO. 13604 AND RECORDED IN PLAT BK. 707, PG. 004.
4. "AMENDED LA PRADERA SUBDIVISION PHASE 1" BY RICHARD A. MORRIS NPLS NO. 10277 AND RECORDED IN PLAT BK. 612, PGS. 024-027.
5. LOT LINE ADJUSTMENT OF LOT 33 & TRACT D (PARK) AND LOT 34 & OPEN SPACE TRACT A LA PRADERA SUBDIVISION PHASE 1 BY RICHARD A. MORRIS NPLS NO. 10277 AND RECORDED IN PLAT BK. 634, PG. 026.



LINE TABLE		
LINE	LENGTH	BEARING
L1	15.60	S89°57'49"E
L2	20.17	N00°04'48"E
L3	19.76	N00°04'48"E
L4	15.40	N72°11'24"E
L5	5.50	S89°57'49"E
L6	28.77	N88°51'00"E
L7D	28.75	N87°33'34"E

CURVE TABLE				
CURVE	LENGTH	RADIUS	CHORD BRG	CHORD DIST
C8A	8.21	437.00	S00°13'17"E	8.21
C9	11.80	2.50	N45°02'04"E	10.62
C10	11.76	2.50	N44°52'32"W	10.59
				89°50'31"



SUBDIVISION  
PLAT FOR  
**LA PRADERA SUBDIVISION**  
OF  
**PHASE 6B**

LYING WITHIN SECTION 18, T.16N., R.9E., N.M.P.M., COUNTY OF  
SANTA FE, NM.

**RICK CHATROOP**  
PROFESSIONAL LAND SURVEYOR  
NEW MEXICO REGISTRATION NO. 11011  
(505) 470-0037 110 WAGON TRAIL RD. CERRILLOS, NM 87010

INDEXING INFORMATION FOR THE COUNTY CLERK  
OWNER: LA PRADERA SUBDIVISION  
LOCATION: LYING WITHIN SECTION 18, T.16N., R.9E., N.M.P.M., COUNTY OF  
SANTA FE, NM.

COUNTY OF SANTA FE }  
STATE OF NEW MEXICO }  
I, hereby certify that this instrument was filed }  
in the office of the County Clerk of Santa Fe }  
County, New Mexico, on this 11th day of }  
August, 2011, at 1:00 PM, and was duly }  
recorded in Book \_\_\_\_\_ of the records of }  
Santa Fe County, New Mexico. }  
Witness my hand and Seal of Office }  
County Clerk, Santa Fe County, N.M. }  
County Clerk

unanimously approved as modified.

2485393

**APPROVAL OF MINUTES: December 17, 2002**

Commissioner Campos noted that there were only two members present from the last meeting. Pending legal advisement, Councilor Lopez postponed approval of the minutes. Councilor Pfeffer seconded and the motion passed without opposition.

**COMMUNICATIONS FROM THE ATTORNEY**

None were presented.

**CONSENT CALENDAR**

**A. Finding of Facts**

**1. EZ Case #S 02-4490 – Mountain Vista Subdivision (approved)**

Councilor Lopez moved to approve the finding of facts as presented. Her motion was seconded by Commissioner Anaya and passed by unanimous voice vote.

**OLD BUSINESS**

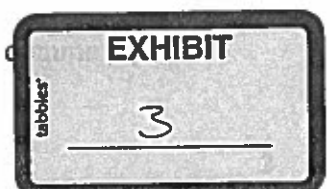
**EZ Case #MP 02-4320. Gardner Property Master Plan.** John McCarthy applicant, is requesting master plan approval for a mixed use development which would consist of residential, commercial, and community in a village zone and fringe zone, consisting of 80 residential lots and 37,000 square feet of commercial space on 69 acres. The property is located along Dinosaur Trail west off Richards Ave. and south of Interstate 25 within Section 17, Township 16 North, Range 9 East (Two-mile EZ District)

Mr. Catanach stated the case was tabled by the EZA on July 30, 2002. Since that time, the applicant has submitted a modified master plan and additional information according to the direction given at the July meeting, including letters from CID and NMED relating to the use of treated effluent. There is also a modified road layout. The development is scheduled to occur in three phases.

Additionally, there are letters from the County Hydrologist, the State Engineer and the County Water Utility.

The master plan includes 39 acres of permanent open space and 12 affordable housing units. The first phase would have 16 residential units, 3,267 square feet of commercial and use 2.3 acre-feet of water. The Richards Avenue/Dinosaur Trail intersection will be relocated and improved.

The second phase will consist of 27 residential units, 5,513 square feet of



and use 3.9 acre-feet of water. Phase 3 will have 37 residential units, 7,555 square feet of commercial and use 5.3 acre-feet of water.

Mr. Catanach stated the applicant has identified the zones based on the landscape types. He noted that the minimum residential density in a village zone is 3.5 units per acre and the applicant is proposing 4.3 units per acre. They also address the FAR (floor area ratio). Also addressed were market analysis, economic and fiscal impact as outlined in the staff report.

Water will be from the County Water Utility. Total demand is estimated at 11.58 acre-feet per year based on conservation and the use of treated wastewater for toilet flushing and harvesting. The applicant has submitted a purchase agreement for 5.5 acre-feet to be transferred to the County utility which is sufficient to serve the first phase. There will be a clustered, advanced treatment wastewater system

The suggested road alignment is in conformance with the Community College District road plan. The secondary access will be from the other end of Dinosaur Trail. At the time of the second phase there will probably be a realignment of Dinosaur Trail so that it no longer intersects with State Road 14.

The project was reviewed for terrain management, open space, landscaping and archeology. There is an open space buffer along the right-of-way. There are conceptual homeowner documents.

The EZC recommended approval subject to the following conditions:

1. Compliance with applicable review comments from the following:
  - a) State Engineer
  - b) State Environment Dept.
  - c) State Highway Dept.
  - d) Soil & Water Dist.
  - e) County Hydrologist
  - f) County Public Works
  - g) County Technical Review
  - h) County Fire Dept.
  - i) County Water Utility
  - j) Santa Fe Public School Dist.
2. Address legal use of off-site road easement connecting to Richards Avenue, and subject to a minimum width of 50 feet, including easement for realignment of Dinosaur Trail/Richards Ave. intersection.
3. District trail shall be developed in phase one with village and local trail connection to neighborhood center for each phase, and specify trails are granted for public use.
4. Conceptual homeowner covenants shall make reference to mixed use principles and objectives of the Community College Dist.
5. Primary roads will be subject to a conditional dedication to the County for future ownership and maintenance, in accordance with road circulation map (CCDO).
6. Compliance with road sections for a neighborhood or village street and alley, and each lot

shall have access to a road meeting minimum standards.

7. Address landscape concepts and recreational facilities for passive park and neighborhood park, and open space/park acreage shall not go below 50 percent for each phase based on total acres for each phase.
8. Compliance with future amendments of the affordable housing ordinance, and number of residential units for affordable housing shall not fall below 15 percent for each phase based on total number of residential units in each phase.
9. Submit updated traffic report and market/economic/fiscal analysis with development plan.
10. Notification of County Assessor and County Sheriff regarding proposed master plan.
11. Participation in an infrastructure extension policy for district wide infrastructure, improvements and operations as applicable.
12. Compliance with final adopted road plan regarding reservation of right-of-way corridors for extension of future road alignment north to interstate.

Additional conditions:

1. A fiscal impact study shall be conducted by the County for the entire Community College District. The BCC shall review and assess the fiscal impact within one year ~~prior to any preliminary development plan submittal~~ to determine whether the project is in the best interest of the County and fiscally viable in the judgement of the BCC. [Modified in discussion.]
2. Water service agreement and water budget to be approved by the County prior to final development plan approval by the BCC, and the terms and conditions of the water service agreement must be complied with prior to recording the plat.
3. The development shall be served strictly by the Santa Fe County Water System using a sustainable imported water source from the Buckman well system or a permanent San Juan/Chama water allocation or other source approved by the BCC. No on-site or other wells shall be permitted. [Modified in discussion.]
4. A demonstrated need for additional residential units during the next 20 years beyond those approved to date as determined by a revised housing projection analysis to be undertaken by Santa Fe County and adopted by the BCC as a revision to the Santa Fe County Growth Management Plan.
5. No vested rights are granted with master plan approval.

[City Conditions on file at City Planning Department]

Regarding the third additional condition, Commissioner Duran said requiring transfer to the Buckman well system may not be the most effective way to provide water to the development. He cited the diminishing rights at the Valle Vista wells. He said he preferred to leave the option open.

Rosanna Vazquez, appearing as legal counsel for the applicant, distributed plans relating to the revised master plan [Exhibit 1] and a letter from the New Mexico State Highway and Transportation Department [Exhibit 2] She stated Arunas Repecka was present to answer questions pertaining to the water system. She referred to a letter from Gary Roybal, dated November 12<sup>th</sup> which also notes the possibility of alternatives to the Buckman well fields.

Ms. Vazquez summarized the letter from Miguel Gabaldon from the Highway Department saying he recommends realigning Dinosaur Trail and working with the other property owners in order to avoid two closely spaced intersections on SR 14. Road improvements to Dinosaur Trail are not necessary for the first phase. The applicant agrees with the conditions regarding the Richards Avenue issue. She said area resident Ms. Petchesky is supportive of the project and is waiting for the legal description before dealing with the right-of-way issue. The applicant also agrees to the Oshara alignments.

Regarding density, Ms. Vazquez said that the Community College District ordinance is unique in that it gives a minimum density rather than a maximum. To address the neighbors' concerns, more open space and a greater buffer was created. With the minimum 50 percent open space, 85 units would have been possible, which is five more than are currently requested. She Dinosaur Trail will eventually become a major arterial and be dedicated to the County.

The relocation of Richards Avenue allows for an overpass, left-turn and right-turn lanes.

She reiterated that the water rights have been purchased.

The Al Pitts road study recommends removal of the underpass, and they would request the return of the easement if the alignment does not go through. They are also requesting waiving the fiscal impact study (additional condition #1) since this is a small and innovative project. As such, it could serve as a model for future developments. They also request flexibility on additional condition #3.

Councilor Pfeffer asked what they were doing to secure the additional water rights required. Ms. Vazquez said the partners are looking for rights for the subsequent phases. Councilor Pfeffer asked if water harvesting was included in the 11.5 acre-feet or if it was solely for landscaping. Ms. Vazquez said it was a method for use of water as described in the packet, viz., 3.04 acre-feet will come from roof harvesting. Covenants require cisterns.

Referring to Exhibit G in the packet, Councilor Pfeffer asked if there will be an operator for the water system. Ms. Vazquez said the Arunas system assumes a full-time operator.

Commissioner Duran asked for clarification on the Roybal letter mentioning another point of diversion. Ms. Vazquez said page 2, paragraph 2 refers to the Buckman well fields. The water service agreement leaves point of transfer open.

Commissioner Anaya asked about the distance between subdivisions. Ms. Vazquez said the separation was approximately 400 feet.

In response to Commissioner Campos' questions, Ms. Vazquez said the water rights came from Cerrillos Road with a priority date of 1948.

Duly sworn, Spencer Bryant Farr from the Rain Capture Company stated he was not affiliated with the principals. He said he approves of the creative concepts the project will be using.

It will benefit the community as a pilot project for the future.

Commissioner Duran asked if the EZA has considered water conservation measures similar to those passed by the BCC. Ms. Yuhas said she could bring such measures before the EZA.

Regarding the request to waive the diversion at Buckman and the fiscal impact study, Commissioner Campos said public interest demands that those conditions be maintained.

Commissioner Duran said insisting on the Buckman diversion was short-sighted due to the fact that the Valle Vista rights are diminishing.

Commissioner Campos stated if that was the case the policy should be changed. He said the Community College District has large implications for the entire County.

Ms. Vazquez indicated that it was her understanding that the fiscal impact analysis contract has not yet been awarded. She asked that the language be changed to delete "prior to any preliminary development plan submittal."

Legal Counsel Gonzalez suggested that "modifying the language to indicate that review would occur within one year would not run counter to that policy unless the Commission decides they want to change the policy itself. The way it currently reads it's an open-ended condition running for a one-year period beginning some indefinite time, not yet defined."

Ms. Vazquez said the original condition was imposed in August 2000 and on Sonterra and Thornburg. The time frame was debated at that time with the belief that the contract would be awarded soon. She said if it is demonstrated in the future that the development would have a deleterious effect it would be a basis for denial of the preliminary and final development plan.

Mr. Catanach said the contract for the fiscal impact study has been awarded. Judy McGowan, County Planner, said the contract was approved at the last BCC meeting. They tried to negotiate a contract that would be completed before the year time limit. The consultants are due to appear at the next Board of County Commissioners meeting.

Referring to additional condition #3, Councilor Lopez suggested it read "... using a sustainable imported water source ~~from the Buckman well system~~..." She said it should be clear they can't drill wells and they must bring water to the table.

Commissioner Campos said for consistency, the condition should read as written, with the reference to the San Juan/Chama allocation.

Commissioner Duran said he believed that in one of the previous developments there was an agreement to get water from Santa Fe County without restriction on where it came from.

Councilor Lopez offered "... from the Buckman well system or a permanent San Juan/Chama allocation, or other source approved by the BCC.

Commissioner Campos agreed to that change.

Mr. Gonzalez recommended that the word "imported" be stricken. Commissioner Campos said that is not consistent with what the Board has been doing.

Councilor Lopez moved to approve EZ Case #S 02-4320 with the change to additional condition #1 to strike "prior to any preliminary development plan submittal", a change to additional condition #3, to read "San Juan/Chama allocation or other source approved by the BCC, and with all other conditions including City conditions. Commissioner Anaya seconded.

Councilor Pfeffer thanked the developers for addressing the neighborhood concerns and for the work done on innovative water ideas. He encouraged the County to look at offsetting water use as is done in the city.

Commissioner Anaya agreed that water reuse and husbanding was the right direction.

The motion passed by unanimous voice vote.

#### NEW BUSINESS

EZ Case #MIS 02-4021. Tesuque Hills. Chuck Bryant, applicant request reconsideration of a condition that was imposed on the previously approved master plan consisting of 53 residential units on 53 acres, which states "If the applicant does not obtain water rights, this master plan will become null and void." The property is located immediately west of US Highway 84/285 north of Sangre de Cristo Estates, within Section 1, Township 17 North, Range 9 East (Two-mile EZ District)

Commissioner Duran said it was his understanding that this was a legal issue on Code interpretation and recommended focusing on that aspect rather than on the development as a whole.

Mr. Gonzalez cited a letter from County Attorney Kopelman [Exhibit 3] and read the relevant passage: *Staff has been able to research the question you raised in your letter dated July 18, 2002 regarding whether water rights are required under either the Santa Fe Extraterritorial Zoning Code or the Santa Fe Extraterritorial Subdivision Regulations for Type II subdivisions within the urban area of the Extraterritorial Zone. In our view, there is no express requirement in ordinance or regulation requiring the acquisition of water rights. Please keep in mind that Mr. Bryant apparently agreed, as a condition of master plan approval to obtain water rights for this project.*

Commissioner Duran stated there should be an amendment to the EZO clarifying the issue of water rights.

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MR. ENFIELD: Thank you very much.  
CHAIRMAN CAMPOS: Thank you.

- XIII. A. 7. EZ CASE # S 02-4321 – La Pradera Subdivision. Gardner Associates LLC. (Alexis Girard), applicant, Design Engineuity, agent, request final plat and development plan approval for a mixed use subdivision consisting of 69 lots with 80 dwelling units and 32,667 sq. ft. of commercial area on 69.2 acres. The property is located west of Richards Avenue between I-25 and the Arroyo Hondo within the Community College District, within Section 17, Township 16 North, Range 9 East (Commission District 5)

VICKI LUCERO (Review Specialist): Thank you, Mr. Chair. My name is Vicki Lucero and I'm the Development Review Supervisor for the Land Use Department.

On January 28, 2003, the EZA granted master plan approval for a mixed-use development. On December 11, 2003, the EZC met and recommended approval of this request. This request for final plat and development plan consists of the following: a fringe zone, neighborhood zone and neighborhood center, with 63 single family homes, three duplexes, 11 live-work units, 16,335 square feet of commercial space, 39 acres of open space with three neighborhood parks totaling 3.1 acres. The proposed 80 dwelling units will include 12 affordable housing units, which will be integrated within all residential types.

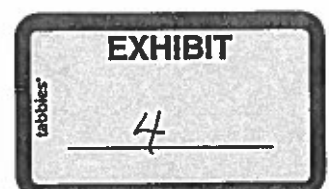
Recommendation: The proposed water budget of .34 acre-feet per year for the commercial development is only sufficient for low water use businesses such as offices. There is nothing in the disclosure statement, covenants or on the plat that will limit these types of commercial uses. The decision of the EZC was to recommend approval of this request subject to the conditions as listed below. The County Hydrologist has reviewed the water budget and recommends that no less than .16 acre-feet per dwelling feet be allocated. The applicant is in agreement with this recommendation. Therefore staff changed condition number 19 to reflect the water allocation of .16 acre-feet per unit instead of .156 as recommended by the EZC. Mr. Chair, may I enter the conditions of approval into the record?

CHAIRMAN CAMPOS: Conditions 1 through 29?

MS. LUCERO: 1 through 29, Mr. Chair, and Vicente just handed out two additional conditions that staff is recommending.

1. Water service shall be provided by Santa Fe County Water Utility in accordance with all applicable ordinance, rules and procedures.
2. The retention ponds shall be relocated or separated from the neighborhood parks.
3. All redline comments must be addressed.

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4. Final development plan and plat with appropriate signatures must be recorded with the County Clerk.
5. The grading and drainage plan must be signed and sealed by a Professional Engineer.
6. Road names and addresses must be approved by Rural Addressing.
7. Water restrictions, final homeowner's documents, and disclosure statement are subject to approval by staff.
8. All utilities must be underground.
9. A detailed signage plan must be submitted for review and approval prior to final plat recordation.
10. The applicant must submit solid waste fees as required by the subdivision regulations.
11. All lots are subject to the Santa Fe County Fire and Rescue Impact Fees. This must be clearly noted on the final plat.
12. The applicant must submit an engineer's cost estimate and financial guarantee for all required improvements (i.e. road construction, street and traffic signs, fire protection, etc.). A schedule of compliance projecting time period for completion of improvements must be included. Upon completion, the applicant must submit a certification by a registered professional engineer that improvements have been completed according to the approved development plan.
13. Compliance with applicable review comments from the following:
  - a) State Engineer's Office
  - b) State Environment Department
  - c) Soil & Water District
  - d) State Highway Department
  - e) County Hydrologist
  - f) Development Review Director
  - g) County Fire Marshal
  - h) County Public Works
  - i) County Technical Review Division
  - j) State Historic Preservation Office
14. The following note must be put on the plat:  
*Permits for building construction will not be issued until required improvements for roads, drainage, and fire protection have been completed as required by staff.*
15. The developer shall pay a fire review fee in accordance with Santa Fe County Resolution No. 2003-47, prior to the recordation of the Plat/Development Plan.
16. The applicant shall participate in a CCD wide infrastructure Extension Policy for infrastructure improvements, operations and maintenance.
17. Gardner Assoc. LLC and Emerald Alliance, Inc. shall submit an agreement regarding proportionate reimbursement for road improvements to Dinosaur Trail that were done by Emerald Alliance, Inc. at such time as provided by the County.

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18. Approved discharge permit from the Environment Department shall be submitted with final development plan and plat application.
19. Commercial uses shall be limited to low water use businesses as approved by the County Hydrologist. This shall be noted on the plat and in the disclosure statement. Water budget shall provide a minimum of 0.16 acre-feet per residential unit.
20. The applicant must submit an affordable housing agreement in conformance with Community College District Ordinance with final plat application.
21. Consent from property owners must be submitted for easement regarding realignment of Dinosaur Trail for extension to Richards Ave and realignment of Dinosaur Trail for extension to Rancho Viejo Blvd.
22. Dinosaur Trail shall be improved from the proposed subdivision to the existing asphalt pavement on the west in conformance with minimum standards for a basecourse road surface, or to the point where the road has not been improved with a basecourse road surface meeting minimum standards.
23. Centralized neighborhood park shall have at least .25 acres of property that is not within the drainage pond, and shall have adequate toddler play facilities.
24. Minimum standards must be maintained for village trail extending off district trail on east side of property. Basecourse surface may be from edge of flood fringe.
25. Road section for village street shall include on-street parking on both sides of the street, and shall be extended to three sides of the plaza site.
26. Standards for village trail along off-site portion of Dinosaur Trail shall be maintained (10 foot wide with 2 inches of asphalt over 4 inches of compacted basecourse) or suitable material for bike riding.
27. The plaza within the neighborhood center shall be a minimum of .33 acre.
28. The applicant shall provide base flood elevations for limits of the 100-year flood zone, and note that finished floor elevation shall be at least one foot above base flood elevation.
29. Building envelopes for the fringe zone lots shall be defined for the purpose of minimizing disturbance of natural slope and vegetation.
30. The applicant shall submit a development agreement addressing the proposed back-up water supply plan with restriction of sale and development of the 11 condo units.
31. A letter to serve and assignment of allocation of water for the La Pradera property shall be submitted prior to plat recordation as required by the County Utilities Department.

CHAIRMAN CAMPOS: Conditions 1 through 31 are entered of record.

MS. LUCERO: And, Mr. Chair, if I could just draw your attention to condition number 17 regarding an agreement between Gardner Properties and Emerald Alliance. I did receive a letter from the attorneys representing Emerald Alliance and it appears that they've worked out an agreement. [Exhibit 3] So the applicants have addressed condition number 17.

CHAIRMAN CAMPOS: Does it have to do with road width or easement rights

or -

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MS. LUCERO: Mr. Chair, it has to do - Emerald Alliance came in for a land division about a year ago and they were required to do some improvements and basically, this is just a reimbursement for the improvements that they've done to the road.

CHAIRMAN CAMPOS: Okay. Thank you. Any questions of Ms. Lucero. Is the representative of Gardner Associates present?

ROSANNA VAZQUEZ: Good evening, Commissioners. My name is Rosanna Vazquez and I am one of the consultants working on this project. We have here before you to answer some questions and to do the presentation Oralynn Guerrerortiz, who is the engineer on this project. She will be going through the specific details of the plan, as well as the water budget, how we arrived at our water budget, and presenting all the meter data from the County records that support our water budget. I will be briefly discussing the project, the goals and how this project meets the principles of the College District.

Behind me, I would like to introduce the principals to you. We have Mr. Bobby Lee Trujillo, Mr. John McCarthy, and Ms. Alexis Girard, who are the principals and owners of La Pradera Subdivision. I believe it's in the County plan and in the Community College District Plan that the goal of the College District was to promote growth in a graceful manner, promote growth that would be in harmony with the existing neighborhoods there and to grow in a way that you could connect infrastructure to transit, connect communities and people together in a way that people could live and work in an area that was close by, so that they didn't need to get into their vehicle and travel long distances.

With that, the result of that was the College District Plan and the area which is known as La Pradera Subdivision. We have before you, Commissioners, a development that is like no other in the College District and like no other in the county itself. It is an 80-lot subdivision. It has neighborhood parks. It's got some community centers. It's got an orchard. It's got play fields. It has trails that connect to the open space. It is one of the few developments in the College District, as will be demonstrated by Oralynn that promote all of the concepts of the Community College District and those concepts are real simple and I think Jack Kolkmeier referred to them as the four C's and the S, which was compact development, central mixed-use places, connections through trails, open space and roads, community building areas, and the key one was sustainability.

This project will use very, very little water, as is demonstrated through the water budget. It will promote the use of graywater and water reuse through a very, very specifically designed system for it. The water budget includes the use of graywater for landscaping. It includes it for toilet flushing. What isn't included in the water budget and what you should keep in mind when you're analyzing the numbers, is the water harvesting ordinance that was passed by all of you last year that requires cisterns and catchment of rainwater. That's not included in the water budget.

With that I will introduce Ms. Oralynn Guerrerortiz who will discuss our project and our water budget and our allocation request as is set out. I've got several documents to put into the record which I will do after the presentation. Thank you.

CHAIRMAN CAMPOS: Question for Mr. Ross. Does anyone have to be

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sworn in in this presentation? Okay, that's fine. Thank you.

ORALYNN GUERRORTIZ: Good evening, Commissioners. I'm.

[Duly sworn, Oralynn Guerrerortiz testified as follows:]

MS. GUERRERORTIZ: I'm with Design Enginuity at P.O. Box 2758 here in Santa Fe, New Mexico. Commissioners, as an engineer, this is the most innovative project I've ever worked on. It's extremely exciting and I'm very proud to present it to you today. The project is located south of I-25, about a half a mile west of Richards Avenue in the Community College District. It's a total of 69 acres. We have a total of 69 lots, and there are a total of 80 dwelling units. It's a mixture. It has three duplex lots, two duplexes on each of them, 11 condominiums and 63 single family homes. There are three neighborhood parks, one with a sand volleyball court, one with a frisbee golf course, another one with a tot's sandbox and also an orchard.

There are trails crisscrossing the project, extending all the way to Richard's Avenue. There's a total of 56 percent open space, a total of 39 acres. Fifteen percent of the housing is affordable and it's mixed through the duplexes, single family, and the condominiums. There's a plaza in the center. The plaza will be a mixture of the condominiums, which will be live work units and commercial development. There's one archeological site that we'll protect and make sure that no one touches it.

More interesting things, though, associated with this project is the wastewater treatment system. It's an innovative system. It's used as tertiary treatment. It will treat the water to a quality that we can re-use it for landscape irrigation and also for toilet flushing on this project. There will be no outdoor spigots on this project using potable water. All outdoor water use will be reclaimed water or will come from cisterns. The treatment plant is an advanced system. It will be connected to a telephone system, so that the operator can constantly monitor the treatment plant, 24/7. If there is a problem with the treatment plant, an alarm goes off, the operator is notified. So it will constantly be monitored. We have very large buffers around the project. This falls within the Highway Corridor Zone. We have a 265-foot no-development buffer along here, 100-foot along here. In this area there's about 300 feet.

There's a flood zone, the Arroyo Hondo flood zone down in this area. There's a 50-foot setback from the 100-year flood plain. Portions of this area are within the 500-year flood plain. These houses and the roads have all been raised two to four feet above the predicted flood elevations as determined by FEMA.

The project, the goal was not just to meet the Code, and I think you'll see that throughout this project and how it's been designed. We're going beyond the Code in that we're trying to retain as much stormwater as possible on this project and infiltrate it, recharge it locally. There will be a very large ponding area in this area. No water will escape that pond unless we have stormwater flows greater than a 25-year storm. We have areas where we're in essence damming water and sending down into infiltration areas. The water will be moving very slowly, one percent grade, with the goal of infiltrating as much water as possible. We have 240 percent more water detention than is required by Code.

In addition the developers are investigating and intend to use something called the Key-

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line system. Key-lining is an innovative technology. It doesn't seem that unusual but what it is is you in essence make little channels parallel to the contours, so as the water is coming down a hill, it stops and goes into the channel and moves off and infiltrates and stays there, rather than continuing down a hill. The process has been found to capture water, result in improving the local vegetation, the native habitat for the animals and throughout the open space we'll be instituting key-lining ideas.

In addition, there will be street trees along all of this area. I think there's a total of 107 street trees planned, and there'll be portions where - in this area there's noise coming off the highway. It's kind of a bowl. There will be sound barriers, vegetative sound barriers grown in that area. All street trees, the sound barriers will be fed with the reclaimed water. We will not be using any potable water.

The project will have all paved roads. It meets every County ordinance; there's absolutely no variance request associated with this project. Offsite, we have existing problems in this area and the developers are going to solve those problems. One of them is to the west. The existing intersection of Dinosaur Trail and State Road 14 is too close to another intersection between Rancho Viejo and State Road 14. We were lucky enough to negotiate easements with Rancho Viejo, and also [inaudible] and we are going to realign Dinosaur Trail so it no longer will intersect with State Road 14. We'll be building a new paved road. The new road will intersect at Rancho Viejo Boulevard at Bisbee Court, which is an existing intersection. This is what the State Highway Department has requested. Also, Richards Avenue, the Oshara project intends to put a new intersection in about 900 feet south of where the existing intersection is with Dinosaur Trail. Therefore we spoke with Ms. Jane Petchesky who is gracefully here tonight, and also Mr. Gillentine and were able to get easements from both so that we can - actually, it's mostly on Jane Petchesky's property. It is on Jane Petchesky's property, excuse me.

We're going to move the existing intersection 900 feet south to a safer location. And that will serve also for future development in that area. We've been asked and have agreed to put in decel lanes on Richards Avenue for a decel onto Dinosaur Trail, and a left turn bay on the northbound turning into Dinosaur Trail.

We are putting in cisterns in every single building that will supplement the reclaimed water that will be used for outdoor landscaping. The critical issue in most discussions on this project has centered around water. I'll discuss that a little bit. The intention is that no potable water will be used outdoors and no evaporative cooling will be allowed. And toilets will be flushed with reclaimed water. The water budget has been examined in four different manners by the consultants working on this project. The first one was done at the master plan stage and it used an additive approach. It used the State Engineer's guidelines on assumptions on how many flushes occur a day, how many minutes people take showers, how many dishwashing cycles occur in a home. As a result of doing an additive approach, assuming no landscaping and no toilet flushing, it came out to a .2 acre-feet per dwelling unit, half of what is standard in our County, .25. [sic]

This water budget was approved by the State Engineer's Office. When I got involved I

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looked at the water budget that was done previously and I wanted to examine it a different way. I had heard through the grapevine that Rancho Viejo, during the water restriction period had water use of .15, so I decided that it should also be examined by, starting with .15 and subtracting out toilet flushing because we wouldn't have toilets using potable water. As a result, the water budget that we submitted was a .13 acre-feet per dwelling unit. When this was examined by Stephen Wust, your County Hydrologist he had some concerns. [Exhibit 3] In his household, they don't flush the toilet as often as in my household but I have kids.

I should state also that this water budget of .13 was approved by the State Engineer's Office. So then we evaluated it again and this time we started with a more common number that we've all heard from Rancho Viejo, .18 acre-feet per year. That's a more typical year pre-water restriction. We also only assumed three flushes a year [sic] and we took some water off for evaporative coolers. It turns out I only assumed about 600 gallons a year use for an evaporative cooler but I've since learned that the State Engineer's analysis that a 1700 square foot home in our community in Santa Fe, for three people and eight-foot ceilings, uses closer to 6,000 gallons a year to serve the evaporative coolers. Rancho Viejo, 80 percent of the homes have evaporative coolers.

So this is probably too high because I didn't assume enough for the evaporative coolers. We were lucky enough in December of this year though to actually get hard data. Steve Wust had said repeatedly he'd like to see some hard data. Well, that became available. The County water data became available and what we found with the Rancho Viejo data was that there is a definite trend. In the winter months, the water use is low, and in the summer months, it peaks, directly related to irrigation of outdoor landscaping and related to evaporative coolers. So we examined the three months of the year in winter, which probably most represents the La Pradera case, because we don't have evaporative coolers and we don't have outdoor landscaping using any potable water.

So we took those three months and we averaged them, and lo and behold we came out with .127 acre-feet. Repeatedly, the numbers kept coming out at about .13, whether we did an additive approach, a subtractive approach, or whether we used County meter data. So I've feeling very comfortable, frankly, that it's realistic in our community. If you don't have outdoor landscaping, if you don't use toilets that are being flushed with potable water, and if you don't have evaporative coolers, you can expect a family to live on .127 acre-feet per year. Easily.

Now you've got to recognize, this County meter data still assumes some outdoor watering in winter. I don't know about your household but in my household we don't stop watering in winter. We still water in winter because we're not going to have our piñons die. We also flush our toilets and so do they in Rancho Viejo. So this number still has some outdoor water use and it still has toilet flushing, which we will not have in La Pradera. I still believe that .3 is a high value for the La Pradera case. Your County Hydrologist has recommended a higher number. He has suggested that .16 acre-feet per dwelling unit is more appropriate and maybe when we prove many years from now that we can actually meet .13 or lower he's willing to consider going down.

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But he's recommending something that has a little more of a safety cushion in it. He's recommending .16 for a total water allocation of 13.1 acre-feet. We agree to this number. We're hoping that today you'll consider giving us a water allocation of 13.14. We are asking though that you set the water restrictions for the homes at .13 because we think our community can do it. We think we've designed something that our community can meet. We'd like to be able to push the limit on this and actually create a new development that sets a new standard.

CHAIRMAN CAMPOS: Hold on. Any questions?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Orallynn, could you tell me a little bit more about the outdoor hydrants? You said you weren't going to have any outdoor hydrants.

MS. GUERRERORTIZ: Outdoor spigots. We will have outdoor spigots associated with cisterns. We will have subsurface irrigation done with reclaimed water. You can use you drips, which will be connected to reclaimed water lines. There will be reclaimed water pumped throughout the development. Every home will have a connection to it going to their homes, to the toilets and also to places where they can connect their drip system. Then they'll be required to have cisterns which could have outdoor spigots associated but it will be prohibited, any potable water outdoor spigots.

COMMISSIONER ANAYA: So the reclaimed water will be for flushing of the toilets and irrigation. Period.

MS. GUERRERORTIZ: Correct, sir.

COMMISSIONER ANAYA: And tell me about what kind of street trees?

MS. GUERRERORTIZ: Well, actually I don't have that memorized. I've got to look in my notes. A gentleman named Sam Sutton was kind enough to help us with that, and he laid out a laundry list of trees. They're a mixture of shade and evergreens. And I need a magnifying glass to read them, unfortunately. They're right there.

MS. VAZQUEZ: Box elder, Arizona alder, Arizona sycamore, New Mexico locust and native [inaudible] Do you want to know what the orchard will be?

COMMISSIONER ANAYA: Yes.

MS. VAZQUEZ: The orchard is going to be apples, Manchurian apricots, native palms, [inaudible], black cherry and choke cherry.

COMMISSIONER ANAYA: And all those will be on reclaimed water too?

MS. GUERRERORTIZ: Yes. Every single one of them.

COMMISSIONER ANAYA: Okay. Tell me about the intersection on State Road 14. What do you plan on doing? Where are you talking about? Do you have a map on that where you can point to?

MS. GUERRERORTIZ: I do, in the plans, and I can show it to you here. Sir, currently, Dinosaur Trail and Rancho Viejo Boulevard are separated probably by 800 or 900 feet. That's too close. It's not safe. So the existing Dinosaur Trail is actually going to be removed. This goes on to State Road 14. This is east and this is west. And we're going to build this new road. It's about 1100 feet long total. This is Rancho Viejo Boulevard. This is Bisbee

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Court, which is that new business park right here. That's the entrance to their business park, so we're going to line up with that.

COMMISSIONER ANAYA: So 14 is right here.

MS. GUERRERORTIZ: State Road 14 is up here.

COMMISSIONER ANAYA: Okay.

MS. GUERRERORTIZ: And Rancho Viejo is intending to put a traffic signal right there. It's frankly what the State Transportation would like to have us put in.

COMMISSIONER ANAYA: Okay, and who is going to enforce the evaporative coolers?

MS. GUERRERORTIZ: I'll turn that over to Rosanna.

COMMISSIONER ANAYA: And how are you going to cool those units? Or you're not? A/C. Okay. And who's going to enforce the evaporative coolers?

MS. VAZQUEZ: The covenants that were submitted, Commissioner, state that there cannot be any evaporative coolers. There will be probably a condition in the water restrictive covenants limiting, prohibiting the use of evaporative coolers as well. So it can be enforced in two different ways. It can be enforced through the covenants, which can be enforced by anybody within the subdivision, and it can be enforced through the water restrictive covenants that will be filed with the subdivision plat.

COMMISSIONER ANAYA: And then the association would enforce them?

MS. VAZQUEZ: It can be the association or any neighbor within that development.

COMMISSIONER ANAYA: Okay. Thank you, Mr. Chair. Thank you.

CHAIRMAN CAMPOS: Quick question. How are you going to cool the houses again?

MS. VAZQUEZ: A/C.

CHAIRMAN CAMPOS: Refrigerated air?

MS. VAZQUEZ: Refrigerated air, yes.

CHAIRMAN CAMPOS: Isn't there some study that shows that uses more water to generate all that electricity at some point in some place?

MS. VAZQUEZ: I'll let Oralynn answer that one.

CHAIRMAN CAMPOS: Okay. Commissioner Montoya had a question.

COMMISSIONER MONTOYA: Mr. Chair, regarding the recreation areas that were pointed out, are those going to be dirt? Grass?

MS. GUERRERORTIZ: Thank you, Commissioner Montoya. This area is going to be a combination of orchard, probably with dirt underneath it. This will be all grass fields here. This would all be grass except in the volleyball court. Hopefully, there won't be any grass growing there. This park is going to be left in a much more natural condition. It's heavily, or it's fairly densely covered with trees and shrubs now and the intention was a frisbee golf course there, although we might supplement the native grasses there.

COMMISSIONER MONTOYA: Okay. So those will all be irrigated with reclaimed water?

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MS. GUERRERORTIZ: Exactly. With all reclaimed water.

COMMISSIONER MONTOYA: And then how many units are going to be affordable housing?

MS. VAZQUEZ: The Community College District Ordinance requires 15 percent to be affordable housing, so we have 11 units within the development that will be considered - 12 units. It was like 11.5 so I guess we had to round up. Twelve units. Yes, we rounded up.

COMMISSIONER MONTOYA: Okay. Thank you.

MS. VAZQUEZ: And we have submitted to the Housing Director a draft contract for review for the affordable housing component. Oralynn mentioned as she was speaking a man by the name of Sam Sutton and I want to talk a little bit about some of the neighborhood meetings that took place, some of the meetings with staff and covenants that we drafted.

CHAIRMAN CAMPOS: Hold on one second. Mr. Abeyta, as far as affordable housing, do we still have an ordinance that might increase the 15 percent amount? Is that still in your office?

MR. ABEYTA: Mr. Chair, we're currently looking at the Community College District Ordinance and how we can extend that 15 percent or increase it to include other types of housing, because right now it's just homes on fee-simple lots. But there is a movement to try to increase that number.

CHAIRMAN CAMPOS: We've talked about that for a long time. When is it coming up?

MR. ABEYTA: Mr. Chair, hopefully we can bring something before the Board by the end of this year, but we have been working with Robert Anaya to come up with standards.

CHAIRMAN CAMPOS: Okay, Ms. Vazquez, what's the extent of your presentation?

MS. VAZQUEZ: I just have a few more points.

CHAIRMAN CAMPOS: How many speakers do you have, or a few more points or—

MS. VAZQUEZ: Oralynn and I were the only two speakers on behalf of the applicants.

COMMISSIONER DURAN: I just wanted to ask about the affordable housing. Is the City the same thing? Isn't the City at 15 percent?

MR. ABEYTA: Mr. Chair, Commissioner Duran, the City varies. They have their own HOP program, and I don't think there's a set number of 15 percent. It probably averages 15 percent but I'm not familiar enough -

COMMISSIONER DURAN: And we've talked about increasing that 15 percent? Is that what we've talked about, that Commissioner Campos just mentioned?

MR. ABEYTA: Mr. Chair, yes. We've talked about that in the Community College District and then extending it to other types of units, like condominium units, rental

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units, apartments, things like that. Because right now it just applies to fee-simple lots.

COMMISSIONER DURAN: But right now the Code is 15.

MR. ABEYTA: The Code is 15 for the Community College District.

COMMISSIONER DURAN: Thank you, Mr. Chair.

CHAIRMAN CAMPOS: And I think there was a condition placed on a lot of Community College District plans that said if the ordinance changed they would conform. Is that right?

MR. ABEYTA: Mr. Chair, yes. The master plans that were approved, there were conditions that were added that they need to comply with future changes to that section.

COMMISSIONER DURAN: At final plan.

MR. ABEYTA: Yes. If their preliminary and final came in and there were amendments, they would be subject to complying with those amendments.

COMMISSIONER DURAN: But the preliminary and final wouldn't be held up for - I'm just trying to be fair on this.

MR. ABEYTA: Right. No, they wouldn't be held up, but if they came in after amendments were done, then they would have to amend the master plan to comply with the amendments.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: The question, back on the water budget discussion, the .16 that was recommended by the County Hydrologist that's included in the conditions, number 19, then that - I just want to be sure that we're on the same page. That includes - that does not include the 20 percent lost as an accounting factor that's used by the Utilities Department. Is that your understanding?

MS. VAZQUEZ: Mr. Chair, Commissioners, that's correct. What the 20 percent includes is a safety cushion. Dr. Wust was a little concerned, was not comfortable with just three years of data so he added a safety cushion.

COMMISSIONER SULLIVAN: Right. I read his memo which says he recommends an uncertainty factor. Okay, so we just want to be clear that that doesn't include that. Now, in the calculations, looking at these winter months, which would have some watering but essentially not any watering and using that as your base line. So is what you're basing it on then is that - the assumption is that there would be, in this subdivision, no additional water use, potable water use in the summer than there would be by comparison in the winter, in the winter in Rancho Viejo.

MS. VAZQUEZ: That is correct, Mr. Chair, Commissioner Sullivan.

COMMISSIONER SULLIVAN: So in the summer, people wouldn't take more showers, they wouldn't wash their face more, they wouldn't wash their hands more or anything like that. They would be using the same amount of potable water that they used in the winter.

MS. VAZQUEZ: Mr. Chair, Commissioners, whether they take more showers I think is demonstrated in the numbers. And if you take a look at the numbers on restriction years and non-restricted years they go up significantly. This green line right here that you see,

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and you have this in your packet, is the .16 that's recommended by the County Hydrologist, that far exceeds any number in the winter months, actually exceed the fall numbers, both for restrictive years and non-restrictive years.

COMMISSIONER SULLIVAN: My question was not that the .16 is above those lines because I think we agree that it is as the Hydrologist has recommended for a safety factor or a contingency factor, but the three months that you used in the winter, so you're assuming that water usage in the summer, potable water usage, in this subdivision, will be the same as potable water usage in the winter.

MS. GUERRERORTIZ: That's correct, sir. We could go in circles on this. We did, actually, with the County Hydrologist a little bit. I do agree. People do take more, I think do take more showers in the summer and I also think I do a lot more laundry in the winter. So there's some balancing going on. That's just a fact of life. And how to make those balances work is very hard to do. We're very grateful we do have some hard data, though. That gives us an idea of what's happening.

COMMISSIONER SULLIVAN: Okay. Thank you. The issue, Ms. Guerrerortiz, that you brought up on the flood plain, in looking at your maps, those units that will be in the flood plain, and I counted about seven of them there, that you indicate will be raised up and the road will be raised up and so forth, how sure are we of that flood plain? It's fairly flat out there. There's been a great deal of development in that area. How confident – do we have any new studies that indicate that that's a pretty reliable boundary for the flood plain?

MS. GUERRERORTIZ: It's been my experience that in general, FEMA tends to be very conservative in their analysis. They did this many years ago, prior to a lot of development that's occurred upstream. But there is a very incised channel where the Arroyo Hondo is. In general, for example, the elevation here is about, call it 13. Actually, I don't have my notes right in front of me so I think it was 13, 10 and it's down to 6300 even over here. We put every single home in this area at least two feet to four feet above predicted 100-year elevation.

You're right. This is a fairly flat area through here, and that's why we went through that direction. The flood plain actually gets as wide as 700 feet. And a 700-foot width, six inches of increase in elevation of the water surface is about 350 cubic feet of additional water going through. It's not going to have the velocity that we'll have in the Arroyo Hondo during a flood. We'd probably have anywhere from 12 to 15 feet per second, but on the flatter area it will be going much slower, probably three to four feet per second, or even less in a shallower area. That's about 1400 cfs if it raises an additional six inches. So you've got two feet to go. It's got to go up incredibly dramatically, I think beyond anything that's reasonable to think of as far as the total quantity of water coming down to make it to the floor level of the homes.

COMMISSIONER SULLIVAN: What happens – there's seven homes directly to the east here in the subdivision to the east along Churchill Road, when you raise up the elevations there, which were formerly in the flood plain and could accommodate that water, what happens? Is that going to back up?

MS. GUERRERORTIZ: You're talking about a back-water effect, sir.

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COMMISSIONER SULLIVAN: Some type of a back-up into those units on the east.

MS. GUERRERORTIZ: Well, luckily, there's a fairly significant rise right about where you and your neighbors live that occurs right in this area and that's why in fact the flood zone kicks out over in here in the flatter area. These homes are very well above any flood zone. There will be no back-water effect in that area.

COMMISSIONER SULLIVAN: Okay, so it's your analysis then that if there were, which eventually, according to FEMA there will be, floodwaters in the vicinity of these seven homes -

MS. GUERRERORTIZ: There's potential for shallow flooding.

COMMISSIONER SULLIVAN: That they would not - that none of the homes in the adjacent subdivisions to the east would be affected.

MS. GUERRERORTIZ: That's correct. Neither homes in this subdivision, nor the roads to them will be affected. They'll all be above the water surface -

COMMISSIONER SULLIVAN: So when you have this back-water effect, since the other homes are beyond the 500-year level on the adjacent subdivision, when you have this back-water effect, where does the water go?

MS. GUERRERORTIZ: Back-water - are you asking about when you bring in extra dirt?

COMMISSIONER SULLIVAN: You're raising up the elevation of the flood plain to accommodate these homes -

MS. GUERRERORTIZ: There is a back-water effect.

COMMISSIONER SULLIVAN: You're constricting the floodway, and then my question is, where does that additional water, where does it go?

MS. GUERRERORTIZ: It does back up. It just doesn't back up very far, considering that we've got a fairly significant - well, for the most part three to four percent slope coming down this direction. So when you have a back-water effect, it dwindles out fairly quickly as you move to the east. And it won't leave the property.

COMMISSIONER SULLIVAN: Okay. Let me ask another question if I can. The staff report indicates that the commercial units or the commercial areas will not have any low water restrictions on them. That's what the staff report says. And then in your report, on page 9, you indicate that there won't be any restrictions on the commercial in terms of water use. You've projected, I know, a number. So I just wonder, which one of those statements is correct.

MS. VAZQUEZ: Mr. Chair, Commissioners, the covenants actually address that issue, that were drafted and submitted with this report. The only allowable uses for the commercial area will be low water users such as office space. And that is addressed in the covenants.

COMMISSIONER SULLIVAN: Okay, so the staff report would be in error on that condition then, because they indicated that there was no restriction on the commercial uses.

MS. VAZQUEZ: Mr. Chair, Commissioner, also the disclosure statement will

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also state the specific water restrictions for the residential units as well as the commercial units.

COMMISSIONER SULLIVAN: Okay. And if the subdivision residents go over .16 acre-feet, if that's the number the Commission is comfortable with, who then enforces and what do they do?

MS. VAZQUEZ: Mr. Chair, Commissioners, again, there's two ways to enforce a water restriction. One is through the covenants, which would be the neighbors could enforce it, the homeowners association could enforce it. Secondly, the County could also enforce it. So there's two different mechanisms. We don't believe that we're going to build above .16, but to give some comfort to staff and to the Commissioners, because this issue was raised, we did take a look at what it was that we could do to provide an additional safety factor beyond the 20 percent that was allocated by your Hydrologist. I'm going to submit as part of the record, a letter that I drafted dated March 1<sup>st</sup> agreeing to the conditions of approval as stated with certain conditions.

COMMISSIONER SULLIVAN: I think that's already in the packet, Ms. Vazquez.

MS. VAZQUEZ: I'm not sure if the enclosures were attached to the packet, Commissioner, so I wanted to make sure that the entire packet was submitted.

COMMISSIONER SULLIVAN: They were in mine, anyway.

MS. VAZQUEZ: This letter basically gives you a plan for how we want to deal with the concern on banking.

COMMISSIONER SULLIVAN: Before we get to banking, my question was the alternatives then, if these units are all built out, is that either the residents need to take legal action one against the other to enforce the covenants, because the County, as we know, does not enforce covenants, or the County must patrol and must enforce these covenants. Are those the two alternatives?

MS. VAZQUEZ: Well, your County analysis I'd like to explain, because it's not completely correct. What the County can do is two things. They can enforce the water restrictive covenant that will be recorded with the County. They can do that. But the second thing that it can do and it already does, Commissioner Sullivan, is when you come in for a building permit for a home, you have to get a letter from the Utility Department that says, We can serve you and this water budget, where this house is, can meet the water that you need. If you don't have enough water in that water budget because 50 percent of the homes have gone over, then that building, that home, will not be given the okay from the Utility Director or the Utility Department.

COMMISSIONER SULLIVAN: Okay, so what you're saying is that if half the houses are built out, and let's say they're all using .25 acre-feet based on the Utility records, then the Utility Department needs to coordinate with the Land Use Department and say, Red Flag. We can only issue a reduced number of permits here because they're going over their allocation. Is that what you're proposing?

MS. VAZQUEZ: Mr. Chair, that is being done right now. That is already being done as we speak. I submitted a building permit for a commercial development two weeks ago.

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That commercial building permit had to get approval from the Utility Department to make sure there was sufficient water rights under that water service agreement for this development. We were not issued a building permit from the Land Use Department until the Utility Director or the Acting Utility Director gave us a letter saying there's sufficient water in that water service agreement to serve this development. It is being done now.

COMMISSIONER SULLIVAN: Okay. So you then and your clients would not sue the County if that happened? In other words, you're looking at ultimately developing 80 units here. If the individuals out there used more than .16 and the Utility Department said based on your water allocation, you can only support 70 units, then you wouldn't seek to take any action against the County for enforcing that water restriction. Is that what you're getting at?

MS. VAZQUEZ: Mr. Chair, Commissioner, we wouldn't be able to. We've got a water use restriction on each lot that will be recorded with the Clerk's Office and will be covenanted. We would not be able to take action against the County at that point.

COMMISSIONER SULLIVAN: But that's with each lot.

MS. VAZQUEZ: We have also a total water budget that would be approved.

COMMISSIONER SULLIVAN: You have a total water budget. Okay. So my question is that, notwithstanding if your homes went over that total water budget, you would testify here that you would hold the County harmless from not being able to develop out the total 80 units.

MS. VAZQUEZ: We would have to be in compliance with the conditions of approval on this development which include an approved water budget and the water restrictive covenants. Yes, sir.

COMMISSIONER SULLIVAN: I'm not quite sure that answered my question, but you would not look to the County to let you develop out the remainder of those units. Is that correct? If you were over the total water budget.

MS. VAZQUEZ: Mr. Chair, Commissioner, we couldn't.

COMMISSIONER SULLIVAN: My question is, I understand your opinion that you couldn't. My question is, as representing the clients, would you?

MS. VAZQUEZ: We would not.

COMMISSIONER SULLIVAN: You wouldn't. Okay, that makes it very clear. We just answered the questions that way. Okay, so we have a safety valve, as it were here, that if the numbers don't add up to what everybody's computed, and we don't have actual numbers here on this development. And I can tell you everyone in the adjacent subdivision has swamp coolers, so getting people to live without swamp coolers is going to be a little difficult and getting them to use A/C units, which have a tremendous electrical usage is going to be difficult. But notwithstanding that, we have that back-up.

What you propose in this letter, which was in the packet, having to do with holding up on the construction of 11 of the condo units, is that what you were about to get at?

MS. VAZQUEZ: I was going to Mr. Chair, Commissioner.

COMMISSIONER SULLIVAN: Okay, go ahead. I have a question about that but could you go ahead and explain that to us?

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MS. VAZQUEZ: Of course. Gladly. The letter that I gave to you discusses essentially what our entire water plan is. And what it was is that we would agree to a .16 water allocation which included 20 percent cushion already added to it, and we would also agree to the following. We would agree to withhold building of the eleven condo units in this subdivision, reducing the density down to 69 units for a period of time until the Land Use Department felt comfortable that they had sufficient data to demonstrate that we met our water budget. What that does is two things. It gives you a reserve of 1.76 acre-feet from the condo units that will not be built as back-up in case somebody goes over. Adding that to the 20 percent number that Dr. Wust put in as an approved water budget, gives you approximately four acre-feet of reserve water, a safety cushion for the County to feel comfortable that if there's a problem with the water budget we've got sufficient water to cover somebody going over.

In addition, I did some research on some of the resolutions that the Commission has passed in the last few years, and you have an additional basis. You have an additional way to deal with developers who are trying to put together a subdivision that uses less water. 1999-41 is a water rights allocation policy that was put in by this Commission, and what it does is it allows you and the Utility Department that if we go over water budget, you can take a look at whether or not we can do something about it - transfer water rights to you, pay a fine that's commensurate with the ordinance that you've all passed. But it gives you also a further way to deal with the issue of going over budget, for example.

So you have a safety cushion in this development of approximately four acre-feet. That doesn't include the water harvesting that we're doing and required to do, the rain catchment that we're required to do. It doesn't include any of the toilet flushes because that was not put into the final calculation on the .16. And I think if you take a look at that and you take a look at the hard data, Rancho Viejo's numbers for those, you'll be looking at a .21 acre-foot water savings for most of those months.

So the savings we hope to show you over the next few years is great. And that's why we agree to withhold construction of the eleven condo units until the County Commission and the Land Use Department is comfortable that our water budget works.

COMMISSIONER SULLIVAN: Mr. Chair and Ms. Vazquez, then my question about that eleven units was - and I guess my initial reaction is that, given the uncertainties of the flood situation, that I think if you were going to withhold any units, I'd personally rather see them withheld in the floodplain area than I would in the higher grounds, as those are more apt to be damaged and cause some damage to the adjacent property owners. But of those eleven units that you're proposing, those condo units, I noticed that four of those are the affordable housing units, and that those four happened to be the least expensive, the zero to sixty. So if we do bank those eleven units, until they come back onto line we've lost our most affordable units. Did I analyze that correctly?

MS. VAZQUEZ: Mr. Chair, Commissioner, actually that's incorrect. And it is because if we withhold the eleven condo units, we are in essence doing a phased project. So, in essence, the Community College District rules that would apply to

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affordable housing would have to be phased. So we would phase our affordable housing units. We would, in the 69 units that will be built, put all the affordable housing that's commensurate with that. When we receive the okay from the Land Use Department that our water budget had been met, we would then continue constructing the remainder of the affordable housing units.

COMMISSIONER SULLIVAN: I guess I understand that if everything is built out and if people don't go over their water budget. But it's been our policy in the Community College District that each phase should have its commensurate level of fifteen percent affordable housing, five percent in the zero to sixty range, five percent in the sixty to eighty percent of median income, and five percent eighty and above. In your outline on page twelve of your affordable housing, your income Range One units, those are the inexpensive ones, totals four condos. So you won't have any low income - not income, but low-cost affordable housing available to lower income until you build those eleven units. Is that correct? I'm looking at page twelve of the applicant's report.

MS. VAZQUEZ: If you'll look at page twelve, the chart that you're looking at also has under income range two two-duplex units.

COMMISSIONER SULLIVAN: Right.

MS. VAZQUEZ: And we would be able to substitute the duplex units for the condos under income Range One.

COMMISSIONER SULLIVAN: Okay, but that's not your current proposal. Your current proposal is that you'll take out the condo units, and what you're saying is that you would make some changes to that.

MS. VAZQUEZ: Mr. Chair, Commissioner, our current proposal was to reduce the eleven for density purposes. With respect to affordable housing, we've always agreed that we will meet the requirements. I'm just proposing to you how we would do it. We would make the zero to sixty percent range affordable housing units the duplex units that are set out under income Range Two. And that would solve the problem.

COMMISSIONER SULLIVAN: Your current proposal that the eleven units are all the condo units. And those condo units include four. But you're saying that you would switch that around with the duplex units?

MS. VAZQUEZ: The final development plan that was submitted back in September, sir, did have that. Because our water budget at the time was submitted in a different way.

COMMISSIONER SULLIVAN: Okay, but what's submitted here? I mean, correct me if I'm wrong. Have I read this incorrectly?

MS. VAZQUEZ: Mr. Chair, Commissioner, I believe we've addressed the issue. We will agree to create in the duplex units as the affordable housing units in the zero to sixty percent range.

COMMISSIONER SULLIVAN: Okay. And how does it sound instead of with working with some of those homes that are in the floodplain and putting those at the far end of the project instead of the condo units?

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MS. VAZQUEZ: Mr. Chair, Commissioners, that would be very difficult for this development to do, and I can tell you why. First of all, from a marketing perspective, when developers come in to do a construction of this size they're looking for a certain number of units to develop. Sam Peck Homes, BT Homes, those types of developers who would be looked at a project like this want a minimum number. We're at that minimum number right now.

Secondly, one thing that we didn't go into, but it is important in this development, is the off-site improvement costs on this development are bigger than most other developments that you've seen. And as Oralynn explained, we're doing major repairs to Dinosaur Trail. We're re-aligning it on both ends. The costs of off-site improvements are approximately \$832,000.

CHAIRMAN CAMPOS: Hold on a minute. Is that responsive to your question?

COMMISSIONER SULLIVAN: Not really. Maybe I didn't make myself clear. And I understand the

off-site improvements are expensive, but of course with 80 units at \$125,000 a lot, you've got a \$10 million income. So I think my question was not eliminating them completely. My question was utilizing those thirteen or so units, and particularly the seven of which are in the floodplain, as your last phase. Not eliminating them from the project.

MS. VAZQUEZ: Mr. Chair, Commission, I believe I was trying to answer your question. It does become a question of cost and marketability.

COMMISSIONER SULLIVAN: Okay, so the developer wants to have a certain number of lots. But if you're taking out eleven lots anyway, what would be the difference where you're taking the eleven lots out?

MS. VAZQUEZ: It's not eleven lots, it's eleven units. And there is a distinction. Because people who come in to want to do this type of development will do all of the single-family dwelling units, with some duplexes. They won't do a combination of single-family dwelling units and condos. If this is going to be developed, it's going to be developed under two separate agreements with two different types of builders. A group will do the condos and the commercial space, and somebody else will do the residential. So that is why we made the distinction the way we did with the condo units.

COMMISSIONER SULLIVAN: Well, I guess I kind of lost that. I mean, a building is a building. But you're saying two different types of developers will do this, and you're giving less emphasis on the condos at the outset. Is that what you're saying?

MS. VAZQUEZ: No, I'm saying it's just two different types of buildings. There's condo units that will be probably sold to a different type of developer.

COMMISSIONER SULLIVAN: And that'll go on at the same time?

MS. VAZQUEZ: Yes. And that will be reserved for a period of time until the County feels comfortable.

COMMISSIONER SULLIVAN: Okay. But you don't plan to do the condos before you plan to do the housing or vice versa? Or do you plan to do the condos later, is

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that from a marketing standpoint?

MS. VAZQUEZ: No, we decided that the condos and giving them up would be a way to do a reserve factor for this Commission to feel comfortable with the water budget that we believe we could meet. We did it so that we would be able to promote a water system that used graywater in landscaping and toilet flushing, and also make this Commission comfortable with making a decision of promoting a subdivision that was greener than most subdivisions that you see in this county.

COMMISSIONER SULLIVAN: Let me ask a question about Dinosaur Trail.

COMMISSIONER DURAN: Commissioner Sullivan, can I ask just one question.

COMMISSIONER SULLIVAN: Sure.

COMMISSIONER DURAN: Just one question. Are all these affordable units going to be built if they withhold the eleven units? If they withhold the eleven units - they're suggesting they hold back eleven units to protect -

COMMISSIONER SULLIVAN: To protect the water.

COMMISSIONER DURAN: The water. But the big question for me is are all the affordable units going to be built? Or are some of those affordable units in those eleven units there going to be held back?

COMMISSIONER SULLIVAN: I think you'd better ask the applicant.

MS. VAZQUEZ: Some of those affordable units, Commissioner Duran, are within those units that will be reserved.

COMMISSIONER DURAN: And how many?

MS. VAZQUEZ: It appears that four of them are.

COMMISSIONER DURAN: Okay, that's what I thought. Thank you. Thank you, Commissioner.

COMMISSIONER SULLIVAN: Okay. You talked some about the road access to the west, and we didn't mention anything to the east other than the connection with the proposed development across Richards Avenue. Who will maintain Dinosaur Trail?

MS. VAZQUEZ: There is a conditional dedication on Dinosaur Trail.

COMMISSIONER SULLIVAN: What is a conditional dedication?

MS. VAZQUEZ: It's how this County requires us to do dedications of County roads. We conditionally dedicate it on the plat. It's not accepted by the County until it meets County road specs, and it is built to County standards.

COMMISSIONER SULLIVAN: Okay. That would be the portion within your development. Then what about the portion from the development to Richards Avenue? Who will maintain that?

MS. VAZQUEZ: The entire Dinosaur Trail will be dedicated to the County, because it will be entirely redone from our development all the way to Richard's Avenue.

COMMISSIONER SULLIVAN: Okay. So it'll be dedicated to the County.

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And the County needs then to accept that for maintenance purposes. So it needs to meet the County standards?

MS. VAZQUEZ: Mr. Chair, Commissioner, that is correct. And it has to meet the County standards, and it will be inspected once constructed, and then dedicated to the County fully and accepted by this Commission.

COMMISSIONER SULLIVAN: Okay. Now, that land from the east edge of your property to Richards Avenue doesn't belong to the applicant. So do you have agreements with the owners of that land, who I think are Mr. Gillentine and Ms. Petchesky, that they will turn that road over to the County.

MS. VAZQUEZ: Mr. Chair, Commissioner, I was going to during my presentation as I continued, submit to you letters from every single property owner giving us easement for the creation of Dinosaur Trail for dedication to the County.

COMMISSIONER SULLIVAN: Okay. So they will agree to have that dedicated. Then the width that I see on Dinosaur Trail seems to vary in your submittal. The right-of-way width. In the area fronting on your development to the north, I see that it has a right-of-way of fifty feet. And again, correct me if I'm wrong on these, just chime in. It has a right-of-way width of fifty feet. Then from the eastern edge of your development to Richards Avenue, it has a right-of-way width of forty feet. Of course, that end will have more traffic than yours, because that end of Dinosaur includes the traffic that comes into the Churchill Road Subdivision as well as whatever other subdivisions may develop out there. So we seem to be backwards on that. It seems, if anything, the right-of-way should be wider at the areas where there's more traffic.

MS. GUERRERORTIZ: On the Petchesky Ranch Property - Jane Petchesky's here and I'm sure she can help address this - but the intention is for a fifty foot access easement through there.

COMMISSIONER SULLIVAN: What do you mean by "access easement"? What does that mean?

MS. GUERRERORTIZ: It's a fifty-foot access and utility easement that's being granted.

COMMISSIONER SULLIVAN: And that includes the trail that you're putting in?

MS. GUERRERORTIZ: That's correct.

COMMISSIONER SULLIVAN: And the trail will be paved, right?

MS. GUERRERORTIZ: The discussions have gone back and forth on the material that the trail would be made out of. How it was left with the EZC was that it would meet the Public Works Department's requirements.

COMMISSIONER SULLIVAN: It says four inches of asphalt in here. Is that not the case?

MS. GUERRERORTIZ: No, it's not the case. It does not say four inches of asphalt. It never did. It said I think six inches - it had four inches of basecourse. But at the EZC, a condition was set that the material be changed. And the Public Works

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Department's Dan Rydburg had spoken to me about a material that Taos County had been using on their bike path. And so we left it that it was either going to be asphalt or this new material, because he says it's got lower maintenance and he's recommending it. So we were going to investigate it further with him. So we left it up in the air. It's either asphalt or this newer material.

COMMISSIONER SULLIVAN: So basically we have a forty-foot width where the road is, and then we have a ten-foot area where the trail will be.

MS. GUERRERORTIZ: That's true on the Gillentine property, sir. But on Jane Petchesky's it's fifty feet and the path will be within that fifty feet.

COMMISSIONER SULLIVAN: Will be within the fifty feet.

MS. GUERRERORTIZ: And then the Gillentine property, there was a little more flexibility, as I understand the easement being granted so that their path can meander a little more away from the road.

COMMISSIONER SULLIVAN: Right. So, but in terms of ever increasing the width of that road, we're constrained of course from the north side by the highway right-of-way, the I-25, and now on the south side by this forty feet plus the trail. And then we really don't have much opportunity to widen that road. And I guess my concern is if fifty feet is the necessary right-of-way just for the road, and correct me again if I'm wrong, because the trail is outside that fifty-foot right of way in front of La Pradera, then it seems we should be doing the same thing or better on the east portion.

And what gets me to thinking that is that the right-of-way on Churchill Road is sixty feet. And that was what the County required on Churchill, and Churchill is a dead-end road with a cul-de-sac and serves maybe fifteen homes. So it seemed to me that we'd want to at least match the right-of-way that the County required on Churchill, wouldn't we?

MS. GUERRERORTIZ: Sir, I can't imagine why Churchill was required to be sixty feet. County Code should have recommended no greater than fifty feet. So I have no idea why Churchill was sixty.

COMMISSIONER SULLIVAN: Well, it is. And so we're - it doesn't seem to be excessive. I think, and again, correct me if I'm wrong, on the other end, on the Route 14 side as you go down past the dinosaur installation place, I think the right-of-way there appears to be more than one hundred feet.

COMMISSIONER DURAN: Mr. Commissioner -

COMMISSIONER SULLIVAN: Go on. I yield.

COMMISSIONER DURAN: The fifty-foot easements, fifty or sixty-foot easements, have no bearing on the driving surface. The driving surface is never fifty or sixty feet. They're always thirty - they're not even 38 feet. So I don't understand - I know you're concerned about this, but why don't you focus on something that makes a difference? The driving surface is never fifty feet.

COMMISSIONER SULLIVAN: Well, I'm not talking about the driving surface. And that's a good point. But this road already is a main thoroughfare from Route

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14 over to Richards Avenue, because there's no frontage road. The cars come through there every day. And we're going to be required at some point, the County is, to widen this road. Because they're only proposing a 22-foot driving surface, and the traffic is eventually going to require that. And we can't go to the north. In fact, the highway is elevated to the north. So we have constraints there with ditches and back slopes. So if we're ever going to widen Dinosaur Trail in order to provide that extra width that'll be needed, and the extra shoulders, we're not going to have the right-of-way to do it.

COMMISSIONER DURAN: Well, what's your solution?

COMMISSIONER SULLIVAN: Well, my solution would be to increase the right-of-way widths to sixty feet.

COMMISSIONER DURAN: But the Code doesn't even require sixty feet. Show me in the Code that it requires sixty feet. The Code requires fifty feet.

COMMISSIONER SULLIVAN: Well, we don't even have fifty.

CHAIRMAN CAMPOS: Let's stop, and let's ask Mr. Abeyta.

COMMISSIONER DURAN: Well, ask him.

MR. ABEYTA: Mr. Chair, I don't know why the Public Works Department required sixty feet. But the Code varies on right-of-way, depending on what's required for the road. But for a typical road with two driving lanes, the Code doesn't require more than fifty feet. But again, that's just giving two driving lanes. If you include other things such as a parking area, a biking lane, a trail, then the right-of-way obviously gets a lot wider. But typically it's fifty feet.

CHAIRMAN CAMPOS: Do you have a trail? A road plus a trail?

MR. ABEYTA: This proposal has just a road and then a trail outside of the right-of-way, I believe.

MS. GUERRERORTIZ: It's both. Partly inside the right-of-way and partly adjacent.

COMMISSIONER SULLIVAN: But the right-of-way is only 40 feet. So at a minimum it would seem that we would want to make it compatible with the right-of-way that the applicant is using in front of their own property, which is 50 feet, as opposed to the forty. That's my point. I think we need to standardize along the width of Dinosaur Trail. If the County's okay with that and if we need to widen it in the future we'll have to come in and buy property.

COMMISSIONER DURAN: Is it possible to get it to 50 feet, based on the property owners?

MS. GUERRERORTIZ: Well, we in essence do have a total of 50 feet for the whole length. There's a portion where we would prefer, in an ideal world, not have a bike trail right against a road. So the way we negotiated with Mr. Gillentine who was very kind in this, is we got ten feet separated so that we could have a meandering bike path not right adjacent to the road. That, I think is a more ideal situation. And I will say that in the Community College Plan, this road was not seen as a major road, so the long term ideas on it is that you'll never need more than two lanes. And we've designed it and met all the

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requirements on that road and met every standard on it.

COMMISSIONER SULLIVAN: I think Mr. Chair and Commissioners, if it has to be four lanes in the future, that's not the applicant's responsibility. It's already a major thoroughfare between the Community College and Route 14. But I think at a minimum, 50 feet is what is being proposed on their own site and what we need, not counting the trail, no matter how it may meander, that's my personal view. Let me just ask one other question. Sorry for taking so long, but this is in my district and people have asked questions about it. In Mr. Rydberg's memorandum of November 20<sup>th</sup>, he recommends contributing, that the applicant contribute to a future signal at the intersection of Richards Avenue and Dinosaur Trail. I don't see that in the conditions. What's the status of that?

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, condition number 13 requires compliance with the recommendations from the County Public Works Department.

COMMISSIONER SULLIVAN: Okay so that, there will be some - obviously, they don't need the signal right now but they will in the future. So there'll be some amount of money set aside that the staff feels is adequate and appropriate for this particular subdivision to contribute towards that signalized intersection.

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, yes. If that's what the Public Works Department wants then they will have to comply with that.

COMMISSIONER SULLIVAN: Okay. That was in his memorandum so I assume that's what he wants. On the same issue about the conditions, I noticed that same condition 13 indicates compliance with the State Highway Department or I assume now it would read the New Mexico Department of Transportation. I noticed that one of their conditions was that the flood analysis did not meet their guidelines, that they require a 50-year retention and the applicant is proposing a 25-year retention. So how do we resolve that. Do we just simply then require the applicant to provide the 50-year retention?

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, yes, either that or they would have to go back to the Department of Transportation, work that out and get us a new letter from the Department of Transportation stating that they're okay with what's been proposed.

COMMISSIONER SULLIVAN: Okay. And I understand that things have been taken care of with Emerald Alliance and I was wondering then on condition 17 if we could just add that "as such time as provided by the County prior to plat recordation." So we would understand we have the verbal, but I don't see any letters from their attorney, who was at the EZC. So it would seem like it would be good to have that satisfied by the time we reach plat recordation. Because that was a condition that was put by the EZC.

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, we could add that language. I did receive a letter today from the attorney for Emerald Alliance. So whether we add the language or not, it's been met.

MS. VAZQUEZ: Mr. Chair, Commissioner, the agreement with Emerald Alliance does state that we'll pay them prior to plat recordation.

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COMMISSIONER SULLIVAN: Okay, so if we put that in that won't hurt anybody's feelings.

MS. VAZQUEZ: Do you have a copy of that for the record somewhere?

MR. ABEYTA: I don't know. Vicki probably does.

COMMISSIONER SULLIVAN: And I just wanted to clarify, in some of the documents, I don't see anything mentioned about the wastewater treatment system, other than constructed wetlands. But I understand that was the old process, that we're now talking about an advanced trickling filter with additional storage and treatment. Is that correct?

MS. VAZQUEZ: Mr. Chair, Commissioner, I believe you're looking at the master plan submittal on that, what was submitted at master plan. The development plan submittal submitted by Design Engenuity did have a wastewater treatment plan.

COMMISSIONER SULLIVAN: Okay.

MS. VAZQUEZ: The plans outline it as well.

COMMISSIONER SULLIVAN: Condition 22 talks about what you're going to do on Dinosaur Trail west of the subdivision, that you're going to put some gravel down there, some basecourse. There's no condition that addresses what you're going to do east, but my understanding is what you're going to do east from looking at your drawings is that you're going to basecourse and pave that to four inches of asphalt paving. Is that correct?

MS. VAZQUEZ: Mr. Chair, Commissioner, we will comply with the guidelines for basecourse, yes. From the County Public Works. And paving.

COMMISSIONER SULLIVAN: Okay, now I read four inches. Is that what you're proposing?

MS. VAZQUEZ: That's correct?

COMMISSIONER SULLIVAN: Okay, so we've got that on the record, that it will be four inches. Okay. There was no indication of the conditions as to what that would be and I just wanted to be sure it was clarified. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya?

COMMISSIONER MONTOYA: Mr. Chair, Ms. Vazquez, regarding the requirement of .16, condition number 19, correct me if I'm wrong, but did I hear Ms. Guerrerortiz say that we were looking at .13?

MS. VAZQUEZ: That is correct. We want a water restrictive covenant placed on each of these homes that will be recorded with the Clerk's office at a .13. We have accepted the water budget of .16.

COMMISSIONER MONTOYA: Oh, you have.

MS. VAZQUEZ: We have.

COMMISSIONER MONTOYA: So you're in agreement with this condition?

MS. VAZQUEZ: We are, Commissioner.

COMMISSIONER MONTOYA: Okay.

MS. VAZQUEZ: We just want to push the water use even more. We want

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to push people to use less water, and we believe that by putting a .13 water restriction we will push them to use less water.

COMMISSIONER MONTOYA: Okay. And then for staff, Ms. Lucero, regarding the information that you gave us today from the Office of State Engineer, what would you conclude in terms of their final analysis, which was: "Consequently, this office is compelled at the current time to issue a negative opinion of the water supply availability for this development."

MS. LUCERO: Mr. Chair, Commissioner Montoya, are you referencing what type of condition we would impose as far as that memo goes?

COMMISSIONER MONTOYA: Yes, would there be a recommended condition or -- what would be staff recommendation?

MS. LUCERO: Mr. Chair, Commissioner Montoya, there is a condition, I believe it's condition number 13, that requires compliance with review comments from the State Engineer's Office. So any additional requirements from the State Engineer the applicants would be required to comply with.

COMMISSIONER MONTOYA: Okay, so that would include today's correspondence.

MS. LUCERO: That's correct.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, my question is about the affordable housing. It seems like we're always pushing back affordable housing, and some developers are always saving that for the last. I think that it's important that we maybe build those units in the first 69 units. And I'd like to see that. How do you feel about that?

MS. VAZQUEZ: Mr. Chair, Commissioner, we will build what's required in that first phase of the 69 units. So I believe that's -- I gave the plan back to Oralynn. But I think it's --

COMMISSIONER ANAYA: Seven.

MS. VAZQUEZ: No, it's ten units.

COMMISSIONER ANAYA: Ten?

MS. VAZQUEZ: Yes.

COMMISSIONER ANAYA: Okay, so I was hearing earlier that there was going to be four. How many units total?

MS. VAZQUEZ: There's a total of twelve units, Commissioner.

COMMISSIONER ANAYA: Okay. So I was hearing that four units would be part of the eleven units that would be held off?

MS. VAZQUEZ: Mr. Chair, Commissioner, what Commissioner Sullivan said is that four of the affordable housing units are within those condo units that we would agree to hold off on building. But what I said to him was that we would agree to build the required affordable housing units within the 69 units. So that would be a total of ten out of the twelve units that we needed to build.

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COMMISSIONER ANAYA: Okay.

MS. VAZQUEZ: This is essentially now, because we're holding off one those condo units, a phased project. And so the rules for affordable housing on phased projects are a little different.

COMMISSIONER ANAYA: So you would build the last two if we were to give you approval, if you were underneath the water budget, you would build those last two when you do the eleven units?

MS. VAZQUEZ: Mr. Chair, Commissioner, that is correct. We would build the last two when we met our water budget and we could go forward with the construction of the condo unit.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN CAMPOS: Okay, if there is no objection -

COMMISSIONER DURAN: Sir? Can I ask a question?

CHAIRMAN CAMPOS: You have a question.

COMMISSIONER DURAN: Why won't you build all of them?

MS. VAZQUEZ: Why won't we build the entire twelve units?

COMMISSIONER DURAN: All the affordable units.

MS. VAZQUEZ: Within the 69 units? Because the requirement right now is the fifteen percent affordable. Because the zero to sixty percent range and the size of the housing meets with the condo units that we were constructing. Because it made sense to us to put some affordable housing units in the neighborhood center closer to some office space and potential jobs.

COMMISSIONER DURAN: But you really wouldn't have a problem if we required that you build all twelve immediately, would you?

MS. VAZQUEZ: If we were required to build the twelve units, that would increase the ordinance requirement of fifteen percent to seventeen percent of affordable housing units.

COMMISSIONER DURAN: Well, there's no requirement right now to give you .13 acre-feet either.

MS. VAZQUEZ: That is correct, Commissioner. There is no requirement. But we believe we've met the burden by establishing the evidence through the meter data for Rancho Viejo.

COMMISSIONER DURAN: Well, I think it's all about give and take. I think that building all twelve of them is a reasonable request to ask of you. Because the affordable housing always gets shortchanged.

COMMISSIONER ANAYA: I agree.

CHAIRMAN CAMPOS: Okay.

MS. VAZQUEZ: Mr. Chair, Commissioners, I -

CHAIRMAN CAMPOS: Can we hold on for a minute? If there's no objection from the Commission, I'd like to move to public hearing.

COMMISSIONER DURAN: That would be a good idea.

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CHAIRMAN CAMPOS: Okay. Any objection? Let's go to public hearing. Anybody in the public want to address the Commission on this particular application? Nobody?

COMMISSIONER ANAYA: One person.

CHAIRMAN CAMPOS: Come on up.

[Duly sworn, Allen Hoffman testified as follows:]

ALLEN HOFFMAN: My name is Allen Hoffman, and I live at 122 Coyote Ridge Road. I could point out initially that I own no portion of this and I am not here as an owner. But I am here in my capacity as a community founder, as I believe I'm an environmentalist, and as a father. I want to try to express to you that what you're doing here today is far more important than just approving or disapproving one community.

I do a radio show on KSFR on environmental issues, and we have had environmentalists, experts, and the public commenting. And the one issue that comes up over and over again is the only hope for the future of Santa Fe County for my children and their children is the concept of water re-use. I would like to point out that the proposal that has been made here today is revolutionary as far as Santa Fe County is concerned. It is the first time that any developer has proposed to build not only a single water system, but a second water system at enormous cost to treat the water, to filter the water, to disinfect the water, and to send it back to each home.

Now, I think this is crucially important for us to remember, because as a town founder and as a community builder, which I do, if we do not honor the people for doing the right thing, people will not do the right thing. The right thing for the future of my children is to take this concept of water re-use, which has never been done before, and to prove two things. Number one, to prove that it works, and number two, to prove that this body will honor people and will encourage people to do this. So I will make this - I will vow right now that if you can provide them an incentive, a reason to spend this extra money, to build this revolutionary system, then the next time, if there ever is a next time, or I create another community, I will also use this technology.

And I think that it is fair to say that all the other people who are developers are watching this hearing very carefully. Because if they are going to spend this extra money and take this extra risk, they need to make it financially feasible. So if I were in your place, which of course I am not, but if I was, I would look at such a noble effort as this and say, Well, maybe we will take the risk, and instead of going at .16, we'll make it .15 or even .14, which is still more than their projection of .13 or .136, however you read that data. I think that is crucially important. I think there are lots of community builders and developers out there that if they felt that the County Commission would honor these efforts, that they would do the same. And quite frankly, someday I would like to see this be the law, for every developer to have to re-use water.

Now, I could go into great detail why this is such a revolutionary system that they're proposing. It's called a partial closed loop. The water that goes through the toilets is permanently returned. It is no less than revolutionary. And even at .16 - well, at .13,

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you're taking about a forty percent, over a forty percent savings on annual water use. That almost doubles the amount of our children that can stay and live in this community.

I'll close just by saying one thing. When Cris Moore cast the vote that approved the Aldea community, a community that I helped create, one of his constituents came up to him and said, I voted for you because you were anti-growth, and now you cast a vote that approved a community. And Cris Moore looked at this man and said, If we oppose all development, only bad development will survive.

You can speak to the development community here in Santa Fe right now and say, We're willing to support this revolutionary way of approaching our water problems. And especially if we're going to start looking at wells, production wells. As the source of water for the future, conservation will be absolutely crucial. Please, make the effort. Give these folks a little extra help in making this project financially feasible, and the rest of us who are in this business will follow suit. Thank you.

CHAIRMAN CAMPOS: Thank you. Anybody else?

[Duly sworn, Lynn Canning testified as follows:]

LYNN CANNING: Hello Commissioners. My name is Lynn Canning and I'm with the Santa Fe Land Use Resource Center. And I swear to tell the truth, the whole truth, and nothing but the truth. And generally we don't speak either in favor of or in opposition to particular developments. And so I'm going to speak as the person who has spent years with many of you working on a Regional Planning Authority plan for this area.

And I guess I would like to say that my understanding of this project is that it does in fact attempt to bring together a number, if not all, of the criteria that the Regional Planning Authority is putting forward as the criteria by which we wish to direct development in the future for this community. In terms of water, in terms of affordable housing, in terms of economic development, in terms of desired development patterns, it seems to be something that attempts to bring all those together.

And so I can't be as eloquent as the previous speaker about this, and again, to me it's not so much being in favor of a particular development or opposed to others. But I know that this community needs affordable housing, and I'm grateful that you've stressed that this evening. I know that this community needs projects that will take care of our precious water resource and spread it as far as it goes. I know that this community needs jobs. And I know that Commissioner Sullivan has in fact said just permitting commercial zoning isn't going to create those jobs. But having them as part of a development, and a well done development, obviously is going to make a difference. And I know that we've all agreed that desired development patterns is also important.

So I guess I would just like to say that we've been on this road for planning for this area for a long time. The County's been on this road with the Community College District. It does happen to fall in that district. I don't feel as though it should be approved just because it does. But it also falls in the area and within the criteria that the Regional Planning Authority is putting forth. And I would hope that you would - what our dream always was, Commissioner Duran, I think was to bring our vision of land use planning and

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linking land use and water together with growth management that brought the elements that as a community we need to move into the future together. And to do that in the Regional Planning Authority so that when you have your permit and development review hats on, you've also got the regional plan in mind. And I'm just asking you to keep those things in mind this evening when you look at this. Thank you very much.

CHAIRMAN CAMPOS: Thank you. Anybody else? Okay, public hearing is closed. Any additional comments?

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER DURAN: I've known Mr. Hoffman for a long time, and I know that the last ten years he's spent working on projects that are community-minded. And I really believe that the future of this community relative to the development community - the future of the development community, developers in this community, is to bring forward socially responsible developments. I see that this represents that. It meets our Code, the Code that we approved developing the community college district. And the innovative way that they are going to recycle this water also I think represents socially responsible development. And I would like to make a motion to approve the project with all of the recommendations. And I know that Commissioner Sullivan had several that I would be willing to attach as friendly amendments, except for the fifty-foot road one. But if you insist, I would suggest that if you wanted that fifty-foot road to be continuous, that we make that a condition. And if the applicant cannot come forward with signed agreements for that widening, that they come back and we discuss it again, or that -

COMMISSIONER SULLIVAN: That's fine.

COMMISSIONER DURAN: Okay.

COMMISSIONER MONTROYA: Is that the 31 condition?

COMMISSIONER DURAN: Yes.

COMMISSIONER MONTROYA: Second.

COMMISSIONER DURAN: Did you have other amendments, Commissioner Sullivan?

COMMISSIONER SULLIVAN: Not too many. Just to clarify on the right-of-way, that the condition would be fifty feet of right-of-way both within the boundary of the subdivision as well as east of the subdivision to Richards, excluding the trail, which would be outside that.

COMMISSIONER DURAN: But I want to condition that.

COMMISSIONER SULLIVAN: I'm getting to that.

COMMISSIONER DURAN: Okay.

COMMISSIONER SULLIVAN: And that if the applicant cannot achieve that through agreements with the owner -

COMMISSIONER DURAN: Or if it becomes cost-prohibitive.

COMMISSIONER SULLIVAN: Or if it becomes cost-prohibitive, then that issue will come back for re-analysis by the Commission.

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COMMISSIONER DURAN: In master plan and final.

COMMISSIONER SULLIVAN: Well, they're at final now.

COMMISSIONER DURAN: Oh. What's your next level?

MS. VAZQUEZ: We're at final, Commissioner.

COMMISSIONER DURAN: Oh, you're done? Okay. Well then, within thirty days.

COMMISSIONER SULLIVAN: Within thirty days of the notification from the applicant that they can't achieve this agreement. How's that?

COMMISSIONER DURAN: I would say thirty days from today.

COMMISSIONER SULLIVAN: Well, they've got to have time to work it out.

COMMISSIONER DURAN: How much time would you need to try and work that out with your neighbors?

MS. VAZQUEZ: Let me understand the condition. You're looking for fifty feet of right-of-way from the boundary of the property line east to Richards?

COMMISSIONER SULLIVAN: Correct. As well as in front of the property. But that's already shown on your drawings.

MS. VAZQUEZ: Right. Not including the trail?

COMMISSIONER SULLIVAN: Not including the trail, correct. Which is also the way it's shown on your drawings in front of the property. When I say in front, I mean along the boundary of the property.

COMMISSIONER DURAN: That it conforms with what is on your property.

MS. VAZQUEZ: The reason that we got the forty feet, Commissioner Duran, on certain places is because that's what we agreed to with some of the neighbors. And when we went to Public Works, it was acceptable. We'd have to go back to them. We would be willing to go back to them, we would be willing to talk to them about doing that.

COMMISSIONER DURAN: They're both here, are they not?

MS. VAZQUEZ: Hold on just a minute.

COMMISSIONER SULLIVAN: Why don't you just go ask them?

COMMISSIONER DURAN: Then we can deal with it right now.

COMMISSIONER SULLIVAN: Then we can deal with it now. And then -

MS. VAZQUEZ: Go ahead. Because Oralynn will deal with that issue, and I can finish this.

COMMISSIONER SULLIVAN: I think I had the clarifications about the signal. That I think was taken care of. And on 17, on the agreement with Emerald Alliance, would just be prior to plat recordation. That seems to have been taken care of, but I'd like to memorialize that. And I would like, as I indicated previously, to add an amendment which you brought forward, Commissioner Duran, which is that the affordable housing be built in the first phase.

COMMISSIONER DURAN: Right.

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COMMISSIONER SULLIVAN: As amendment 32, as condition 32. And I would also ask for consideration that the withheld units be those in the floodplain as opposed to the other units further up on the property. Does that cause you a problem?

COMMISSIONER DURAN: I don't understand the infrastructure reasons why -

COMMISSIONER SULLIVAN: It seems like it would be cheaper to build them, everything within that road network at the upper end anyway. I'm just concerned that we are building in the floodplain.

COMMISSIONER DURAN: Does that create problems?

MS. GUERRERORTIZ: Yes it would, sir. The Fire Marshal likes loop roads. I'm sure he'll want that road created. We're going to have to build it. I as an engineer would want it built. At that point we're putting all the infrastructure in for the homes, and we'd have in essence a road that wouldn't be used but would have all the infrastructure.

COMMISSIONER DURAN: How long are you - what's the build-out on the project? Anticipated build-out?

MS. GUERRERORTIZ: We anticipate it to be fairly quick. I think it'll be completely built out in a couple of years.

COMMISSIONER DURAN: And how long are you asking to hold back those eleven units until proof is given to us?

MS. GUERRERORTIZ: We've actually left that up to the staff. It's basically related to however much data they need to feel comfortable. We hope it's within two to three years, but that's actually under the staff's jurisdiction. But frankly, sir, Commissioner Sullivan and I don't agree. I don't see this as a flood hazard. I don't develop homes that will be in a hazard zone. These homes will be perfectly safe, and we do want them developed all at the same time.

COMMISSIONER SULLIVAN: Arroyo Hondo's the second largest arroyo in Santa Fe next to the Arroyo Chamiso, and it's unpredictable. And if we ever get rain around here, which I'll be glad to see, I think we're going to be surprised at what it does, given the development that's occurred upstream since these reports were there. If there's some way that we can word this, I think they already have a looped road, if the issue is a looped road. I believe that's already there. But it just seems logical to me that the units that are the most problematic be the ones that be held back in the second phase.

COMMISSIONER DURAN: So you said a two year build-out?

MS. GUERRERORTIZ: Yes, sir.

COMMISSIONER DURAN: That's forty houses a year, right?

MS. GUERRERORTIZ: Yes, sir. Oh, I'm sorry. So it's 35 a year.

MS. VAZQUEZ: About 35 a year.

MS. GUERRERORTIZ: Sir, I would venture to say that we're talking about the 500-year floodplain. We're talking about an area that potentially might get flooded once in 500 years. The probability is once every 500 years it's going to happen. Holding

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back a few years isn't going to make a difference. If we held back 500 years we might see a result, but I think that's not a reasonable request at this point. And we're meeting Code. County code allows development in a 500-year floodplain.

COMMISSIONER DURAN: Okay. I think that my motion then, I'm sorry Commissioner Sullivan, is not with the holding back of those units, the holding back units being the floodplain units. I think that they're going to be able to prove that this technology works. This is the first time I've seen it. So my motion would be for everything that you attached to it excluding that.

COMMISSIONER SULLIVAN: Okay. Let me just make one other clarification or question, while we're in the discussion phase. This was something that the staff brought up. The conditions or the covenants allow 400 square feet of non-native irrigated landscaping per unit. And the Community College District Ordinance doesn't allow any non-native landscape materials. What was the need for the 400 feet? It seems like we could save some more water if we didn't allow 400 feet of Kentucky blue grass on each of these units.

MS. VAZQUEZ: Mr. Chair, Commissioner, actually the covenants prohibit non-native turf. What you're referring to is the State Engineer letter. And the State Engineer letter was concerned about the non-native turf issue. It was, I believe, there was an error in the plan submittal that we did send a letter to the State Engineer and we did cover it in the covenant that the only grass that's allowed would be native turf.

COMMISSIONER SULLIVAN: Okay. But the covenants that I read indicated a maximum of 400 square feet of non-native turf. That was written right in the covenants that are in the book here.

MS. VAZQUEZ: That's an error, sir.

COMMISSIONER SULLIVAN: You're indicating that that's an error.

MS. VAZQUEZ: Yes.

COMMISSIONER DURAN: So you'll change that?

MS. VAZQUEZ: We would agree to -

COMMISSIONER SULLIVAN: You would change that so there'll be non-native -

MS. VAZQUEZ: It's a College District Ordinance requirement.

COMMISSIONER SULLIVAN: Well, that's what I thought. And that's why -

MS. VAZQUEZ: Yes, it is.

COMMISSIONER SULLIVAN: It was brought up by the State Engineer, but I did still see it in these covenants that you submitted.

COMMISSIONER DURAN: Okay, that's my motion.

CHAIRMAN CAMPOS: Commissioner Anaya?

COMMISSIONER ANAYA: Mr. Chair, I just want to say a couple things. This is a unique development in Santa Fe County. It's the first of it's kind because of the double plumbing. I know a couple years ago we talked about it, and now we're seeing it.

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And I think that is good for Santa Fe County. We're implementing the water harvesting in this development, wastewater treatment plant, the re-use of water. We're bringing economic development back to Santa Fe County. And the affordable housing, which is very important to me - and I'm glad to see the Commissioners agree with me on bringing those twelve units up right away. It's got the park, the plaza, open space and trails, and all that to me is very important in a subdivision. So Mr. Chair, with that, thank you.

CHAIRMAN CAMPOS: Okay. Commissioner Montoya?

COMMISSIONER MONTOYA: Mr. Chair, Steven, Dr. Wust or Doug, what is the time that we are going to request of the applicant in terms of the collection of data? Is it stated in there somewhere? I probably missed it.

STEPHEN WUST (County Hydrologist): Mr. Chair, Commissioner Montoya, Steven Wust, County Hydrologist. I was telling you, it's in my letter, but basically what we talked about was two to three years of data. And the reason we've left it a little vague is that it would really depend on the data that come in. In other words, if there's a wide range and we're getting a variability and we're still seeing changes summer to winter, we'd want more data to prove it out. But if it's a nice narrow range and it's showing that it's coming in at a pretty consistent level, then we could accept it in a reduced amount of time. And so it isn't definite to say exactly.

The other reason would be how many units. If building slows down and there's only twenty units in the next year, that's probably not enough units to say there's a year's worth of data. So we tried to leave it a little vague in order to accommodate the future variability on how many houses would be in the data set and what the range of the data would be.

COMMISSIONER MONTOYA: So Mr. Chair, Stephen, would that have possibly been in your letter of March 1<sup>st</sup>?

MS. VAZQUEZ: EZC packet, the letter that was submitted, it was dated December 5, 2003. I only have the first page of it in my records, but it did have a time frame of two to three years and his rationale was basically that depending on how much data came in - it was submitted as part of the record.

COMMISSIONER DURAN: I think three years is too long.

DR. WUST: Mr. Chair, it says here if they collect a minimum of three years of water use data with a sufficient number of units, but as I expressed, that's been updated and it could change, depending on the data spread and the number of units.

COMMISSIONER DURAN: Wouldn't they have the option to come forward if they have the data sooner? They could always come in and ask, or they could come back and say we need more time.

MS. VAZQUEZ: I believe that was why the condition was written the way it was.

COMMISSIONER DURAN: That's the beauty of life; things change.

CHAIRMAN CAMPOS: That's right. Weather cycles. We have to wait for the weather cycles to show us. And what they do in fact per unit.

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COMMISSIONER DURAN: I understand. Okay. Any other comments or questions.

COMMISSIONER MONTOYA: Mr. Chair, is that letter then part of the record?

MS. VAZQUEZ: Mr. Chair, Commissioner, it is part of the record because it was submitted in the EZC packet. I do have a copy if you'd like me to add it as an additional part of the record.

COMMISSIONER DURAN: So are we saying two years?

COMMISSIONER MONTOYA: Until sufficient build-out.

COMMISSIONER SULLIVAN: That's what we did for Rancho Viejo.

COMMISSIONER MONTOYA: Yes.

COMMISSIONER SULLIVAN: Excuse me, Mr. Chair, Commissioners, is that a condition we want to add on, 32, based on three years of data?

COMMISSIONER MONTOYA: If that's okay with the maker of the motion.

COMMISSIONER DURAN: That's fine with me.

MS. VAZQUEZ: Excuse me, Mr. Chair, Commissioner, what was the result of the water issue?

COMMISSIONER DURAN: The letter that you submitted is part of the record and that's a condition.

COMMISSIONER MONTOYA: Right. It was submitted.

CHAIRMAN CAMPOS: By the way, did you have any discussions about right-of-way?

MS. VAZQUEZ: I did. I just quickly wanted to say the College District standards requires a 50-foot right-of-way, but it also gives you flexibility to divide it up. Give you 40 feet for the road and ten feet for the trails. And the reason they do that is they wanted to give people some flexibility in the design of the road and in the design of the trail and we have met that standard throughout this development and I just wanted to point that out for the record. Also, the last thing is that in dealing with the neighbors, this subdivision was really created through neighborhood effort. The neighbors wanted it, a meandering trail.

CHAIRMAN CAMPOS: The question is, you talked then about acquiring 50 feet. That's the question.

MS. VAZQUEZ: Mr. Gillentine would not agree at this time to give us the 50 feet of right-of-way.

COMMISSIONER DURAN: Then I withdraw it as a motion, as a condition, and accept your 40 feet with a meandering trail.

MS. VAZQUEZ: Thank you, Commissioner.

CHAIRMAN CAMPOS: Second?

COMMISSIONER MONTOYA: Fine.

CHAIRMAN CAMPOS: You accept that?

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COMMISSIONER MONTTOYA: Yes.

CHAIRMAN CAMPOS: What's the - what do you anticipate the sale price will be for these lots?

MS. VAZQUEZ: Mr. Chair, Commissioners, hold on.

COMMISSIONER DURAN: What does that have to do with anything?

CHAIRMAN CAMPOS: Just curious.

COMMISSIONER DURAN: You have a buyer here for one.

CHAIRMAN CAMPOS: No, no.

COMMISSIONER DURAN: It just went up \$20,000 based on all these conditions.

COMMISSIONER SULLIVAN: Mr. Chair, while they're talking, can I make a comment?

CHAIRMAN CAMPOS: Sure.

MS. VAZQUEZ: Mr. Chair, Commissioners, I don't believe my principals can answer that at this point.

COMMISSIONER SULLIVAN: I can answer it for you. I can tell you what they're selling for in that area. Mr. Chair, I think that this project has a lot of favorable components to it. I think it's a serious mistake not to have adequate right-of-way in a development. I think if we've set a standard that says that we can have this constricted right-of-way it's going to come back to haunt us and the taxpayers of Santa Fe County are going to have to pay someone to widen that right-of-way to make it safe and to carry the amount of traffic that this project is going to generate. I've come to that conclusion in discussing it with people, myself included, who live in the vicinity of the project. So I just want to make that clear, that there's a great deal of factors that make us feel that this is a good project and we hope that everything that's promised comes to be when the homes are built, but I think that we have not adequately addressed the traffic situation. If forty feet of right-of-way was adequate, the developers would have saved money and had 40 feet of right-of-way on the boundaries of their own property. So clearly, the engineer doesn't feel that it's adequate or she would have designed a 40-foot row on their property.

So I just want to make myself clear. Thank you.

CHAIRMAN CAMPOS: And Commissioner Duran, I would urge you to consider the 50-foot. I think as things change, usage changes, the County's going to have to pay for this.

COMMISSIONER DURAN: It's 40 feet and then there's still a trail for the bike, correct?

MS. VAZQUEZ: That's correct.

COMMISSIONER DURAN: And the trail for the bike is not in that 40 feet.

MS. VAZQUEZ: That is correct, Commissioner.

COMMISSIONER DURAN: Thank you. My motion stands.

The motion to approve EZ Case #S 02-4321 passed by majority [4-1] voice vote,

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with Commissioner Sullivan voting against.

ADJOURNMENT

Chairman Campos declared this meeting adjourned at approximately 8:55 p.m.

Approved by:

  
Board of County Commissioners  
Paul Campos, Chairman

Respectfully submitted:

  
Karen Farrell, Commission Reporter

ATTEST TO:

  
REBECCA BUSTAMANTE  
SANTA FE COUNTY CLERK



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The motion passed by unanimous voice vote.

**EZ Case MP 02-4323 La Pradera Subdivision, Phases 2-6:** Gardner Associates, LLC (John McCarthy, Bob Lee Trujillo), applicant is requesting a master plan amendment for expansion of the previously approved mixed-use subdivision, to permit 158 residential lots on 95.5 acres. The property is located along Dinosaur Trail in the Community College District within the two-mile Extraterritorial District.

*Exhibit 3: Applicant's Plan Amendment Packet*

*Exhibit 4: Vista Ocaso Neighborhood Association support letters*

*Exhibit 5: City Staff report [undated]*

*Exhibit 6: Maureen Cashmon's Letter 6/25/05*

Chair Lopez recited the case caption and Mr. Catanach provided his staff report as follows:

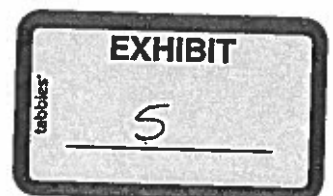
"On June 9, 2005, the EZC recommended approval of the master plan amendment. On January 28, 2003 the EZA granted master plan approval, and on March 9, 2004 the BCC granted final plat/development plan approval for a mixed-use subdivision consisting of 80 residential units and 16,335 of commercial space/live/work units on 69 acres, and identified as La Pradera, Phase 1.

"The proposed master plan amendment is for the purpose of expanding the previously approved subdivision to permit 158 lots on 95 acres to be developed in phases, including 48.25 acres of open space/parks with public trails and 23 units for affordable housing. The master plan proposes the following as a village zone neighborhood and a fringe zone neighborhood: Phase 2 – village zone neighborhood (14.7 acres), 51 residential units (8 affordable units), neighborhood park with canopy shelter and bus stop (1.2 acres); Phase 3 – village zone neighborhood (8.9 acres), 26 residential units (4 affordable units) community park (4.4 acres); Phase 4 – village zone neighborhood (7.7 acres), 27 residential units (4 affordable units), neighborhood park (1.2 acres); Phase 5 village zone neighborhood & fringe zone neighborhood (12.2 acres), 44 residential units (6 affordable units) and neighborhood park (1.6 acres); and, Phase 6 – village zone neighborhood (1.9 acres), and 10 residential units (2 affordable units).

"The proposed development is in accordance with the Community College District Ordinance for a village zone and a fringe zone based on the landscape types relevant to slope, vegetation and natural drainage. The minimum residential density that is required in a village zone is 3.5 units per acre; the applicant is proposing 3.5 units per acre. The proposal is also in conformance with gross residential density in a fringe zone with one residential unit per acre.

"The proposed master plan amendment does not include commercial for a mixed-use development. However, the zoning ordinance does allow the applicant to demonstrate in

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the proposed master plan a relationship between an existing or proposed commercial center and the proposed non-mixed-use development. The master plan must show a relationship relevant to roads, trails and open space connections. The proposed master plan amendment does demonstrate a relationship to the previously approved La Pradera, Phase One commercial neighborhood center, including a relationship with the Oshara and Rancho Viejo mixed-use developments.

"The market analysis indicates that there is a demonstrated need for the proposed development, and the economic/fiscal impact report indicates a positive gain from the proposed development.

"Water service is proposed from the Santa Fe County Water Utility. The total amount of water rights for the proposed expansion is 24 acre-feet with a water allocation of .13 acre-feet per lot. La Pradera, Phase One was approved to utilize a portion of the water service agreement from Greer Enterprises. The remaining balance of the water rights that were allowed for phase one consists of 8 acre-feet and additional water rights are committed from the Berridge water service agreement consisting of 7 acre-feet. Additional water rights will need to be acquired by the applicant and transferred to the Santa Fe County Water Utility subject to approval by the BCC. The total water budget is based on strict water conservation measures requiring use of treated wastewater and collection of roof drainage for irrigation of landscaping, and the use of low water appliances and prohibiting evaporative coolers and outdoor water spigots.

"The wastewater treatment facility in phase one will be expanded subject to approval of a discharge permit by the NMED.

"A traffic report has been submitted addressing the relevant impacts. A traffic signal will be needed at the Richards Ave./Dinosaur Tr. intersection and State Road 14/Rancho Viejo Blvd. intersection, including improvements at the Rancho Viejo Blvd./Dinosaur Tr. intersection. The proposed master plan also includes a realignment of Dinosaur Trail from the southern boundary of the property to the northern boundary along the I-25 right-of-way, and connecting back to the existing Dinosaur Trail along the interstate right-of-way. The section of Dinosaur Trail along the northern boundary will remain for use by local traffic. The internal roads will be paved with curb-gutter and sidewalks as required.

"Common drainage ponds will be utilized to control post-development drainage. The Arroyo Hondo flood zone extends through the southeast corner of the property and will be part of the open space. Permanent open space/parks will consist of 48 acres with public trails, including the required setback of 265 feet along the interstate. Treated wastewater and storage of roof drainage will be used to irrigate existing and proposed landscaping. An archaeological report was submitted and no significant archaeological sites were discovered."

Mr. Catanach reviewed the criteria for consideration of a proposed master plan within the Community College District.

- a) Conformance with the Community College Plan.
- b) Viability of the proposed phases to function as completed developments in the event that the subsequent phases of the project are not approved or completed.
- c) Conformance with the Community College District Ordinance and other applicable laws and ordinances in effect at the time of consideration, including required improvements, proposed roads and trails, community facilities, design and/or construction standards and open space standards.
- d) Impact to schools, adjacent properties or the County in general.

He said staff determined that the proposed master plan is in conformance with the Community College District Plan and Ordinance. Staff recommends approval subject to the following conditions:

1. Compliance with applicable review comments from the following:
  - a) State Engineer
  - b) State Environment Dept.
  - c) State Dept. of Trans.
  - d) Soil & Water Dist.
  - e) County Hydrologist
  - f) County Public Works
  - g) County Technical Review
  - h) County Fire Dept.
  - i) County Water Utility
  - j) Santa Fe Public School Dist.
  - k) State Historic Div.
2. Dinosaur Trail will be subject to a conditional dedication to the County for future ownership and maintenance.
3. Provide recreational facilities (playground equipment, seating) and landscaping for neighborhood park on west, and provide recreational facilities (picnic facilities, court) and landscaping for centralized community park. Each phase shall have a minimum of 50 percent of the total acres for open space/parks.
4. Provide a minimum of 24 residential units for affordable housing, and a mix of housing types is required for each phase.
5. Participation in a infrastructure extension policy for district-wide infrastructure improvements as required by the County. Credit may be given to the applicant for off-site infrastructure that they have constructed that benefits others.
6. Address phasing of village trail and local trail network.
7. Compliance with CCD Road Plan for reservation of right-of-way corridor for extension of future road alignment at the southeast corner of property.
8. Address off-site trail extending west along Dinosaur Tr. to Rancho Viejo Blvd.
9. Provide a minimum 195 foot open space/landscaped buffer along the south property boundary as presented and discussed with the Vista Ocaso neighborhood. The open space/landscape buffer will be identified on the master plan and the subdivision plat/development plan, and will be enforced by the County with the financial surety for completion of the subdivision improvements and issuance of building permits.

Referring to condition 9, Mr. Catanach said the EZC originally tabled this case and asked the applicant and the Ocaso Association to reach an agreement/compromise regarding the setback on the Old Dinosaur Road. Mr. Catanach directed the Authority to the minutes from the EZC June 9 meeting. He indicated that president of the Association, Gary Miller, documents what "appeared to be a majority consensus" regarding the 195-foot setback [Exhibit 4] and EZC based its action on that.

Mr. Naranjo said the City staff needed to clarify their previous position. He said there had been discussion at the EZC meeting as to whether the City overstepped its boundaries in the review process when the City focused on sound planning rather than compliance with the CCD Plan.

The City re-reviewed the project for compliance with the CCD plan, and it is clear to the City that "this application meets the minimum criteria established and set forth as objectives in the plan."

Mr. Naranjo said the City recommends approval with the following conditions:

1. The development must participate in the South Richards Avenue mitigation improvements. This will include funds to widen Richards Avenue.
2. The development must contribute financially to the planned improvements located at the intersection of Richards Avenue and Rodeo Road.
3. An updated traffic study must be submitted and approved by the City of Santa Fe Traffic Engineer if trips generated have changed.
4. If the proposal wishes to utilize City of Santa Fe utilities, a utility service application must be completed for water service and sewer service from the City of Santa Fe.
5. The completed utility service application must be presented through the TRT for approval prior to recordation.
6. Staff recommends density reduction to be more consistent with adjacent neighborhood.

Commissioner Sullivan asked whether the County's approval was based on .13 acre-feet. Mr. Catanach said staff recommends approval based on compliance with the County Hydrologist. Commissioner Sullivan said the Hydrologist recommended .16 acre-feet.

Commissioner Sullivan asked what prompted the City to change its recommendation. Mr. Naranjo said staff was guilty of over-planning the property as opposed to reviewing if the proposal met the conditions and intent of the Community College Plan. Commissioner Sullivan asked if he was correct in stating that the City feels the density is too high, but meets the minimum requirements of the Community College Ordinance. Mr. Naranjo responded that he couldn't say they felt the density was too high; rather it is in compliance with the CC District Plan. Commissioner Sullivan pointed out that the minimum density can be amended by variance.

Chair Lopez invited those wishing to address the Authority on this subject to stand and be placed under oath.

Rosanna Vazquez, counsel for the applicant, said she was representing a consensus from a

group of people who have reached an agreement on the development. This will not only benefit future residents of this development, but will benefit the entire area. She introduced the applicants.

Ms. Vazquez said as directed by the EZC, the project team met with the neighborhood association and reached an agreement. [Exhibit 3] The idea behind the CCD in its inception, in its plan, and in its ordinance was to create community, provide an area where people could congregate, provide a creation of linkages between areas where people could congregate so you could create a village, a place where people wanted to be. The idea of community has been basis for negotiations with neighbors, design of development, and amendments made to development as a result of neighborhood meetings.

Using a site map, Ms. Vazquez located the subdivision off Dinosaur Trail, located the different phases, Vista Ocaso neighborhood and the Rodriguez family, who created a community for their family to live. She identified the buffer, noting it was 195 feet and ranges from 300 feet to 150 feet. An "imagination" park has been included in the subdivision with a bus stop. She identified Burtram's property which is not governed by the College District and is proposed to have an average density of one dwelling unit per 2.5 acres.

Ms. Vazquez reviewed the original subdivision submission that included higher density (210 units) with Dinosaur Trail coming through subdivision. The amended subdivision has reduced the density to 158 units, realigned Dinosaur Trail and added the park and bus stop. The developer has also accepted installing traffic calming measures and has agreed to work with Vista Ocaso to develop those measures.

Ms. Vazquez said the increased buffer between Vista Ocaso and La Pradera was a "sticky" issue but they have reached resolution and 195 feet has been agreed to. There is a new gateway to the development, and provided a monument/sign to clearly identify the subdivisions. The developer made a strong commitment to provide landscaping for the buffer, trees/screening, so in addition to 195 feet there would be trees there.

Ms. Vazquez discussed the 24 affordable housing units and identified a park in the center of the subdivision to provide recreation for the smaller lots. She noted that every lot faces open space.

Ms. Vazquez closed her remarks stating she was very proud to be a part of this team.

Under oath Harmon Burtram, 8 Prairie Vista, clarified that his mother's estate owns a part of the property that is being developed. He said he developed Vista Ocaso neighborhood about 30 years ago and has lived there since 1980. There are approximately 50 houses in the area now.

Mr. Burtram said he supported the Community College District notion of cluster development with higher open space. He said he has two other parcels that lay directly between the property being developed and the Vista Ocaso neighborhood. Those parcels he elected not to place in the CCD, in order to provide some sort of buffer between existing

neighborhood and this piece of property. He remarked that Judy McGowan questioned him extensively about his decision.

Mr. Burttram said the La Pradera developers have proposed a really nice development and gone out of their way to do something with excellent standards. He said the proposal is nicer than Ocaso and has paved roads, walking paths, and open space. Mr. Burttram said he was representing his wife, and his son who lives next store and Tom Beatty, who spoke in favor of this at the EZC meeting in May: "we all support this project."

Under oath, Luke Rodriguez, 11 Rudy Rodriguez Drive which is directly across Dinosaur Trail from the proposed subdivision, said Gary Miller, president of homeowners association for Vista Ocaso, requested he read the following statement on his behalf.

"Dear EZA members, thank you for your time and service. I met with Commissioner Sullivan on Monday, June 27, 2005, to affirm support of the EZC recommendation for approval of the request for master plan amendment to La Pradera 1, with County staff and the developers' representatives present. Following my summary outline to Commissioner Sullivan, a discussion began concerning the placement of primary access roads for the new development. I explained to Commissioner Sullivan that the first presentation we received indicated that existing Dinosaur Trail would be used as a primary access road for the new development. The neighbors in Vista Ocaso opposed that idea, and suggested instead that the road be moved into the highway corridor, as reflected in the current plan recommended for approval by the EZC. The developer agreed this made sense to minimize the impact to our existing Dinosaur Trail, and re-configured the development plans. Existing Dinosaur Trail from the Berridge property into Vista Ocaso was improved, and is maintained by the Vista Ocaso neighbors.

"Commissioner Sullivan went on to suggest, as I understand it, that his preference would be to support the road re-alignment as it appears in the current plan, but with addition of crash gates in various places along the new road, effectively isolating access through and around the development while increasing traffic flow on interior high-density residential lanes. This suggestion directly opposes the wishes of the neighbors, as agreed to by the developer and documented in the current plan to minimize the impact to existing Dinosaur Trail, as it would likely force more traffic onto it. It would seem to conflict with the intent of the CCD plan, as it would effectively separate continuous access through the proposed phases, except for emergency access only.

"The main issue to the negotiations with the developer was the impact of the new development on our existing neighborhood and road. The road as proposed in the current plan and recommended for your approval by the EZC minimizes the impact of traffic to our privately maintained road, and those homeowners that would be most adversely affected nearest the road and the development site. Preserving the road placement in the current plan fulfills the CCD plan's concept of providing connecting roads while at the same time minimizing the impact of the increased traffic as a result of the development.

"I pray you'll support the agreement between the neighbors and developer on this issue, and preserve the placement of the road, with traffic calming devices, as it stands now. Thank you."

Under oath Maureen Cashmon, 20 Arroyo Viejo Road, Vista Ocaso provided the following testimony:

"As a homeowner, I am not in favor of any development which does not preserve the rural character of my existing neighborhood. I believe the proposed master plan amendment for La Pradera phases 2-6 fails to meet this standard. I Have sent each of you a detailed letter outlining my objections [Exhibit 6]. Tonight, I will just highlight main concerns.

"First, I believe this is the wrong development in the wrong location...This development might be fine on thousands of acres of developable land in a Community College District that do not abut an existing neighborhood. But wrong development for land which abuts an existing neighborhood. Why do I say this? ... Density of homes proposed for La Pradera is too high. This is not just my opinion. Until just a few minutes ago, it was also the concern of City senior planner. The City looks at protecting existing neighborhoods with adequate buffering and density levels consistent with that of adjacent neighborhoods....

"County staff tells you minimum density in CCD plan is a minimum of 3.5 dwelling units per acre, and a developer would be required to obtain a variance if a decreased density is proposed, as City staff had previously recommended...this statement by County staff is not completely accurate. CCD zoning matrix, under village zone neighborhoods fringe zone section, states: Lower density of adjacent neighborhoods is allowed. No variance is needed to allow lower density of dwelling units next to adjacent neighborhoods. Vista Ocaso is an adjacent neighborhood. Even the developers' own attorney at last EZC meeting stated, CCD Ordinance needs to be read as a whole. Surely this must also include the special provision allowed for existing neighborhoods, which are only three in the CCD plan, and not just the provisions which benefit the developer. Again, density of homes proposed for this subdivision is too high and can be reduced without seeking a variance. This is the wrong development in wrong location.

"Secondly, the proposed master plan does not preserve the rural character of existing neighborhood, and I believe violates the intent of CCD plan and its corresponding ordinance...The 50 percent open space requirement the developer must meet consists mainly of open space in a highway corridor. Although legally permissible I do not believe any of us in this room will consider taking an evening stroll along I-25...

"Why would the architects of the CCD plan allow for buffers next to existing neighborhoods, allow for lower density of housing next to adjacent neighborhoods, and highlight the need for special consideration for three existing neighborhoods in the plan if they did not intend for these provisions to be used?... Again, wrong development in

the wrong location.

"Thirdly, I have just learned of a plan to place crash gates on the re-aligned Dinosaur Trail. I believe this was never the intention of neighbors who attended many meetings with developers. It is my opinion that many of the neighbors believe this road realignment was probably the only positive thing the developer has offered to the existing neighborhood. To now route traffic back onto current Dinosaur Trail is wrong, and once again violates spirit of CCD plan, which strives to preserve existing character of rural neighborhoods.

"I share - and I believe Commissioner Sullivan and please correct me if I misquote you, but I have heard some concerns about density of traffic this new development will bring. Traffic analysis reports the developers have prepared stated the current traffic flow on Dinosaur Trail is 500 car trips per day. This new development will bring approximately 3,500 car trips per day. It's absurd to allow this volume of traffic in the Vista Ocaso neighborhood. I realize you are concerned about number of cars passing along the road, but to allow crash gates would re-route the traffic back into the Vista Ocaso neighborhood. I believe many of the homeowners, if they knew of this suggestion, would be here in force to oppose crash gates...

"Finally, the buffer issues have been most contentious part of this process. The ordinance requires an adequate buffer to be provided for an existing neighborhood. This is the law... No compromise could be worked out. You have a letter from the association, and have seen minutes of June 9 EZC meeting that Vista Ocaso Neighborhood Association would support this development if the developer would grant 195-foot buffer. I understand when an association speaks, information they present is given special consideration and weight. However, to obtain this special status, information the association presents must be accurate. This has not occurred. First, I must state this association has no legal standing...there is considerable controversy on whether homeowners in Vista Ocaso prior to June 9 EZC meeting supported the plan which proposed a 195-foot buffer. A meeting of the association took place and 31 percent of the households attended this meeting. Neighbors were notified by letter and by e-mail. Out of the 31 percent, which was only 16 households, 56 percent of the homeowners, one vote per household, said we would not support this development without a 300-foot buffer. Unfortunately, the president of association felt we needed to be more inclusive and elected to take concerns of people that did not attend the meeting. This would be fine and fair; however, unless we went back to re-canvas the total neighborhood, you cannot collectively choose which opinions you choose to hear. I volunteered to go with the president of the association to re-canvas the neighborhood; this has never occurred. Once the association said, We support it, neighbors are demoralized. They just want the process to end, and I think that's why we have a low turnout. This ordinance is tearing this neighborhood apart. Again, you must disallow the association's letter and views on this because they have no legal standing...

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"The developers' attorney has stated they have provided an adequate buffer for the existing neighborhood. The question you must answer is: what is adequate? At last EZC meeting, the developers' attorney stated two parcels of land adjacent to Vista Ocaso neighborhood were left out of the plan to allow for a buffer zone...these parcels of land were sold to individuals at least a year ago and homes have been and are being developed as we speak. Surely new landowners do not consider their property to be a buffer to this proposed new development.

"Although the developer finally agreed to 195-foot buffer, I still believe it is inadequate. After raising various legal concerns regarding the ordinance and trying to appeal EZC's decision, the County staff finally stated what the buffer size was on the south and east sides of Vista Ocaso. It fluctuates, but in the area of village zone development, excluding fringe zone, maximum size is approximately 189 feet... since the County staff has been unable to state why the law imposed a buffer on the south and east sides of Vista Ocaso, why the buffer is not uniform in measurement, and why no buffer was established for the north and west sides for the neighborhood when the County amended the ordinance to allow village zone development on land originally designated as open space and arroyo corridor.

I can only state that I believe that the buffer requirement is inconsistent, arbitrary, and capricious. The only way to resolve this discrepancy, short of amending the ordinance, is to utilize the liberal interpretation clause of the ordinance, which states: Whenever there is a discrepancy or conflict between minimum standards, the more restrictive standard to each requirement shall apply. The more restrictive standard on the Vista Ocaso buffer is approximately 388 feet...I'm sure the developers will state the liberal interpretation clause in the ordinance should not be implemented, and I would probably agree with them. However, then this master plan must be tabled until the ordinance is amended. I believe this County cannot ignore the liberal interpretation clause in this matter...

"It is likely if the County went back and look in their original staff analysis report, they would find an annotation of what the buffered size should have been and why it was granted. I believe this information would require a 300-foot buffer, based on conversations with the neighbor who worked diligently on the CCD plan, Mr. Bob Wilber. However, in absence of such documentation, the master plan should have the most restrictive standards of the liberal interpretation clause placed on it as a condition of approval, or the master plan must be tabled until the ordinance is amended.

"The developers will argue that any buffer more substantial than what they are prepared to offer the existing neighbor is unfeasible. I understand the developers' concerns in this matter. They have chosen to develop land that has highway corridor restrictions on one side of the proposed development, and has an existing neighborhood on the other side which is entitled to special consideration. However, please remember it is their choice to try to develop this land. It is up to this authority to ensure all provisions of the ordinance and accompanying plans are carried out. If the developer

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feels the profit margin would not be satisfactory to their investors if a lower density is mandated, it is the developers' right not to go further in this process...

Repeating that it is the wrong development in the wrong location, Ms. Cashmon requested that the case be tabled.

Previously sworn, Rudy Rodriguez, Jr. said his family subdivision would be impacted the most from the proposed development. He said they would prefer no development and his family supported a 200-foot buffer compromise. He said he owns three properties adjacent to the proposal. His greatest concern is that the realignment go forward because it will protect his family from traffic. He said the imagination park was also a good amenity. Mr. Rodriguez said he hoped to divide his property through the family transfer provision and give property to his children and grandchildren.

Mr. Rodriguez asked the Authority to approve the amendment as presented with the realignment to Dinosaur Road.

The applicant was invited to make a final statement.

Ms. Vazquez acknowledged that this has been a difficult project. Referring to Ms. Cashmon's June 25<sup>th</sup> letter to the Authority [*Exhibit 6*] "...I would still like a 300-foot buffer to preserve the rural character of Vista Ocaso, however, if a minimum 195-foot landscaped buffer is established for this development I feel many of the legal issues I referenced in my June 20<sup>th</sup> letter regarding the buffer will be resolved." Ms. Vazquez said the development standards developed in the Community College District Ordinance protect the rural character of the existing neighborhoods. This project not only meets the Ordinance standards but exceeds them. Agreeing that playing Frisbee along the corridor open space may not be an attractive alternative, surely runners and bike riders will want to use the paved trail. The developers were committed to working with the neighbors on the road character.

Ms. Vazquez said at the EZC meeting there were approximately 25 neighborhood members present and many stood in opposition to the proposal. Following that meeting the president of the Vista Ocaso Association sent out a letter requesting a response from those in opposition. The president received 15 e-mails/letters and 6 voice mails in support of the EZC decision. Ms. Vazquez said there was not full consensus and the developers have modified their plans to meet many of Vista Ocaso's desires.

Ms. Vazquez said they were in agreement with Dr. Wust's letter and agree to all staff-imposed conditions.

Chair Lopez said she observed members of the audience shaking their heads in disagreement with Ms. Vazquez's statements regarding the association's general consensus with the proposal. She invited Ms. Cashmon to return to the podium and address the e-mail situation. Ms. Cashmon said she did not receive a letter or e-mail from Mr. Miller and neither did Lisa Barns. She asserted that many of her neighbors did not receive the letter.

Ms. Cashmon said the association was not official.

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Commissioner Sullivan said although he was reluctant to do so, he did, at the request of the developer meet on site with the developer and Mr. Miller. Using a site map, Commissioner Sullivan identified the three roads going east and west through the development - Old Dinosaur Trail, middle road and the relocated Dinosaur Trail. The CCD Plan works to maintain a community-feel and not building traffic priority roads. Commissioner Sullivan said he fully supports Vista Ocaso's idea of creating a buffer and getting traffic off the existing Dinosaur Trail and there are a number of ways to achieve that. Commissioner Sullivan said identified proposed developments and existing neighbors along Dinosaur Trail stating they too will be impacted.

Commissioner Sullivan said within the recently approved Oshara development, staff established that roads should not be short-cuts but rather safe, low-speed integrated roads within the development. Oshara was approved with the "northeast connector" which goes through the development and will ultimately connect with St. Francis. He said the same criteria and design thoughts need to be implemented with this development.

Commissioner Sullivan assured those present that the word "crash gate" was never mentioned in the meeting with the developer and Mr. Miller.

Commissioner Sullivan said the most recent corridor plan calls for a frontage road on the north side of I-25. Therefore, making Dinosaur Trail Road into a frontage road was problematic. He suggested the traffic go through the subdivision as it does in Oshara. Another possibility is dead-ending the existing Dinosaur Trail. He questioned the credibility of the developer's statement that the northern boundary of old Dinosaur Trail will be used for local traffic.

Commissioner Sullivan said the traffic needs more analysis. The concept of moving traffic away from the existing Dinosaur Trail is valid.

Referring to the buffer, Commissioner Sullivan said he envisioned a landscaped open space that will not be built upon. The applicant's 195-foot buffer goes from the center of Old Dinosaur Trail to the edge of a building envelope. The envelope is 25 feet from the lot line and Dinosaur Trail is a 50-foot right-of-way, thus the buffer is actually 145 feet.

Commissioner Sullivan requested that as this development progresses to preliminary the applicant step beyond "as required" and provide specifics.

Commissioner Sullivan said the density causes him concern and asked the developer to be considerate of the existing 2.5-acre/lot neighborhoods.

Commissioner Vigil said she felt more input was needed on the road issues and asked Commissioner Sullivan whether he would consider granting master plan with the condition that DOT address the road issues. Commissioner Sullivan said he would with other entities also participating.

Commissioner Vigil said she is very concerned about thoroughfare traffic using

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neighborhood roads. Commissioner Vigil asked whether not approving this development based on density would be in violation of the CCD Ordinance.

Mr. Ross said there is a 3.5 dwelling units per acre minimum written in the Ordinance and suggested it would be problematic to require less without an ordinance amendment.

Responding to Commissioner Campos's question about different water use within the phases, under oath project engineer Oralynn Guerrerortiz stated that that phase 1 uses gray water back to the toilet. Apparently, there is some concern about using graywater in the toilets and left it out of the analysis for phases 2 through 6. Ms. Guerrerortiz stated that at final construction plan the concern of a broken irrigation line was considered and it was determined two reclamation water lines were necessary, one to serve lot irrigation and the other for the toilet. This doubled the reclamation cost that is underway in La Pradera 1.

Ms. Guerrerortiz said she was not involved in the project when reclaimed water was established for the toilets. The single biggest water user in the original water budget was the washing machine and if La Pradera can require lot owners to install front-load washers that amount can be reduced by half. She said the savings will more than meet the savings established with the graywater toilets.

Commissioner Campos said he had no problem with the density. As far as the road issue, he agreed with Commissioner Sullivan and wanted more analysis on that issue.

Chair Lopez asked staff what was the appropriate level to deal with the road issues. Mr. Catanach said the realignment should be addressed at master plan.

Referring to the water budget, Mr. Catanach said he understood .13 was the restriction per lot, .16 is the water right allocation. Commissioner Sullivan said that issue requires greater analysis.

Commissioner Sullivan was prepared to structure a motion providing master plan approval with direction to the applicant to incorporate the concept of reducing traffic on the existing Dinosaur Trail and maintain the community concept and avoid short-cuts in the subdivision at preliminary. Commissioner Vigil said she wanted to avoid the appearance of inviting short-cut traffic through neighbors.

Commissioner Vigil moved to approve MP 03-4323, La Pradera Phases 2 through 6, with all staff conditions, and

- Set aside the issue of Dinosaur Trail for further study
- Alternatives be presented at preliminary

Commissioner Sullivan seconded and the motion passed by unanimous voice vote.

#### PETITIONS FROM THE FLOOR

None were presented.

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CHAIRMAN MONTTOYA: Okay. Any other comments? If not, what's the pleasure of the Board? Staff recommendation is to request the publishing. Correct?

MR. GRIEGO: Mr. Chairman, that is correct.

COMMISSIONER SULLIVAN: Mr. Chairman, I was just going to move to publish with the amendment that I suggested so that it would be out there before the public for comment. If, based on the staff's recommendation it was deemed not appropriate to put it in there, then we wouldn't put it in there. I just think you want get as much as you can out in front of the public so that they can have a chance to review it.

CHAIRMAN MONTTOYA: Okay, I have a motion by Commissioner Sullivan with the amendment on page 3 on item G.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTTOYA: Second by Commissioner Campos. Any discussion?

The motion to authorize publication of title and general summary of an amendment to the Highway Corridor Ordinance passed by majority 4-1 voice vote with Commissioner Vigil voting against.

CHAIRMAN MONTTOYA: So that is going to be published, then we'll have - when is the public hearing scheduled, Robert?

MR. GRIEGO: I will plan on having a community meeting in February and then bringing it forward to the CDRC and to the Board of County Commissioners - we're looking at March and April for that.

CHAIRMAN MONTTOYA: Thank you. Appreciate it. Jack, thank you.

- XIII. B. 2. EZ Case #S 02-4324. La Pradera Subdivision Phases II-VI - Gardner Associates, LLC, (John McCarthy) Applicant, Oralynn Guererortiz, Agent, Request Preliminary Plat and Development Plan Approval for Phases II-VI of La Pradera Subdivision which will Consist of 157 Residential Lots on 94 Acres. This Request Also Includes Final Plat and Development Plan Approval for Phases II and III, which will Consist of 97 lots. The Property is Located Along Dinosaur Trail in the Community College District, within Sections 17 & 18, Township 16 North, Range 9 East (2-Mile EZ District, Commission District 5)  
**FOR DELIBERATION AND VOTE ONLY**

VICKI LUCERO (Zoning Director): Gardner Associates, LLC, (John McCarthy) applicant, Oralynn Guererortiz, agent, request preliminary plat and development plan approval for Phases II-VI of La Pradera Subdivision which will consist of 157 residential lots on 94 acres. The applicant is also requesting final plat and development plan approval for



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Phases II and III, which will consist of 97 lots. The property is located along Dinosaur Trail in the Community College District, within Sections 17 & 18, Township 16 North, Range 9 East Two-Mile EZ District, Commission District 5.

A motion was made by Commissioner Sullivan to grant preliminary plat and development plan approval for Phases II through VI with staff conditions. The vote ended in a tie, with Commissioners Sullivan and Campos voting in favor of the motion, and Commissioners Anaya and Montoya voting against the motion. Commissioner Vigil was not present. Therefore this case is being heard for deliberation and vote only.

On December 8, 2005, the EZC met and acted on this case. The decision of the EZC was to recommend preliminary plat and development plan approval for phases II through VI, and final plat and development plan approval for phases II and III. The applicant is requesting preliminary plat and development plan approval for phases II through VI consisting of 157 lots and final plat and development plan approval for phases II and III, consisting of 97 lots.

This application was reviewed for access and traffic, water, wastewater, fire protection, solid waste, terrain management, open space, landscaping and archeology.

Recommendation: Staff concludes that there are still outstanding issues regarding water allocation and water assignment. Staff also feels that the issues regarding traffic control at Rancho Viejo Boulevard and Dinosaur Trail have been addressed, and also the relocation of Dinosaur Trail was a discussion that was brought up at the BCC meeting. We were also waiting a new response from the State Engineer which I will hand that out to you in just a few minutes. *[Exhibit 5]* We feel that the issues regarding the water should be addressed prior to final development plan approval. Therefore staff recommends preliminary plat and development plan approval only for Phases II through VI, subject to the conditions are recommended by the EZC. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you, Vicki. Gerald.

MR. GONZALEZ: Mr. Chairman, members of the Commission, I need to convey the information that probably within the last half-hour or so we had hand-delivered from the representatives of the Santo Niño Regional Catholic School a proposed submission in which they're trying to ask the - at least the way I read it, ask the Commission to reopen the record to take additional evidence concerning creating a roundabout at the Dinosaur Trail and Richards Avenue intersection. Obviously, this matter is here simply for consideration based on the record that was previously made. I just wanted to let you know that that had occurred and make sure that you had all the information on your plates as you move forward with this.

The record, as far as I understand it has been closed on this proceeding, so it would take some special action on the part of the Commission to reopen the record and take this into account. The other risk, I suppose is that if you do that then maybe you have to reopen the record as a whole and that also carries with it some attendant difficulties.

CHAIRMAN MONTOYA: Okay. Thank you for that information, Gerald. Again, this is deliberation and vote only. Any discussion on this? And the previous motion which Commissioner Vigil was not present for Vicki, could you please restate that?

MS. LUCERO: Mr. Chairman, the motion that was made at the last meeting

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was to grant preliminary plat and development plan approval for Phases II through VI with staff conditions.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Ms. Lucero, is that consistent with staff recommendation?

MS. LUCERO: Mr. Chairman, Commissioner Campos, that is consistent with staff recommendation.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Vicki, has any progress been made with regard to the water service agreement and with regard to any of the outstanding issues that you had at the last meeting?

MS. LUCERO: Mr. Chairman, Commissioner Vigil, it's my understanding that the applicants are going to be coming forward in March before the BCC for a water service agreement. I don't know the specific details. The County Hydrologist might be able to expand on that.

CHAIRMAN MONTOYA: Steve, can you answer that question?

DR. WUST: Mr. Chairman, Vicki probably wasn't here when I introduced the County Hydrologist so I'm here as the Water Resources Department Director. But yes, I've been in communication with the applicant and the scheduling is to move forward with the water service agreement for Commission approval in the March administration meeting. They've also shown me the water rights they want to be utilizing for that. And the look from us is that they look pretty good and they're in-basin.

COMMISSIONER VIGIL: What are the other outstanding issues, Vicki?

MS. LUCERO: Mr. Chairman, Commissioner Vigil, I believe that was the only outstanding issue that remained to be addressed as far as staff was concerned. The Public Works Department has responded regarding the intersection at Rancho Viejo Boulevard and Dinosaur Trail. That seems to have been addressed, and as I mentioned, the State Engineer, we were awaiting a response which I have just handed out.

COMMISSIONER VIGIL: Okay. I think that's the last of my questions.

CHAIRMAN MONTOYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: I haven't had a chance to read this yet but I think my original motion is still the proper one, to accept staff's recommendation for preliminary approval. This January 9<sup>th</sup> letter from the State Engineer still states a negative recommendation. It takes them a little while to go through and see what the issues were before, the issues on the water were, that they did not have enough water rights transferred for the first two phases that they wanted final plat approval for. And we've had discussions as well about the road in the corridor. That's, I think, still an outstanding issue that should be addressed at the next stage. So I would encourage the Commission to move forward with the staff recommendation.

CHAIRMAN MONTOYA: Commissioner Anaya.

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COMMISSIONER ANAYA: Thank you, Mr. Chairman. So that I'm clear, we're leaving out the final plat and development plan approval for Phase II and III. I know that Commissioner Sullivan didn't include that in his – but that's what the applicant wanted. Correct?

MS. LUCERO: Mr. Chairman, Commissioner Anaya, that's correct. That's what the applicant was requesting.

COMMISSIONER ANAYA: And I'm sorry for not following, but tell me again – and I know one of them is the State Engineer, but tell me again why they're asking for this and why we're denying it.

MS. LUCERO: Mr. Chairman, Commissioner Anaya, the only outstanding issue remaining is water, as far as staff's review. The water rights haven't been transferred. The Utilities Director had just mentioned that everything looks good like it's in order and I know that they're on the agenda for the BCC meeting in March to have this completed, and that was the reason we were only recommending preliminary at this time.

COMMISSIONER ANAYA: Okay, so everything is in line but staff's not recommending because you don't have it with you.

MS. LUCERO: Right. Because the transfer hasn't occurred as of yet.

COMMISSIONER ANAYA: And I'm sorry. It's getting late in the evening, but Steve, you said that everything was in line and it's going to be in the next meeting?

DR. WUST: Mr. Chairman, Commissioner Anaya, it's not for the total amount of water. Out of about 18 feet – I'm off on my numbers a little bit – they're short about 3, 3.5.

COMMISSIONER ANAYA: Three and a half acres.

DR. WUST: Yes. That's what the water service agreement in March is to come forward is to finish off that total. They're already gotten assignment of most of that water.

COMMISSIONER ANAYA: It's coming back now. Thank you, Mr. Chairman.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Vigil.

COMMISSIONER VIGIL: I do believe this development is ready to move forward. There's just some last minute things that need to be done. I think I have assurances from what staff has told us that we could actually move forward with this. I would not vote with the motion that was placed there for the majority vote. I would vote against the motion, and with that I think it would die. I don't know what the procedure would be. I suppose we would have to reconsider a motion.

CHAIRMAN MONTROYA: Which we could do at this point.

COMMISSIONER VIGIL: Right.

CHAIRMAN MONTROYA: So does anyone want to make another motion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Campos.

COMMISSIONER CAMPOS: I just have a question for staff. Ms. Lucero, did

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staff change its position from the last meeting, based on information that Dr. Wust presented?

MS. LUCERO: Mr. Chairman, Commissioner Campos, staff would maintain the same recommendation.

COMMISSIONER CAMPOS: Which would be -

MS. LUCERO: Preliminary only until the water service agreement is in place.

COMMISSIONER CAMPOS: And why is that important? Do you think these agreements all have to be final before we finish this out?

MS. LUCERO: That's correct. That's common procedure.

COMMISSIONER CAMPOS: And is that a significant issue that you consider important in the public interest?

MS. LUCERO: Yes, Commissioner Campos.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Was there a motion and a second?

CHAIRMAN MONTTOYA: No.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think that Commissioner Vigil said that she wouldn't vote in favor of the motion that was on the floor at the last meeting.

CHAIRMAN MONTTOYA: Correct.

COMMISSIONER SULLIVAN: So that motion has now been reconsidered.

The agenda item is for deliberation and vote on that motion. So when we move forward and vote on that motion, that will conclude this agenda item. If Commissioner Vigil votes no, then that motion will die. The published agenda item is for deliberation and vote on that motion. So that's the motion.

MR. ROSS: Mr. Chairman, there is no motion on the table at this point. We have to have a new motion. That last motion failed under our rules of order. So we have to have a new motion no matter what it is. Even if the motion is the same motion that was made last time and failed, we still need to have a new motion at this time and have a new vote.

COMMISSIONER SULLIVAN: My understanding, Mr. Chairman, was in our rules of order, when a motion fails, that that motion is brought back to the next meeting. Now, what you're saying is different from that. So your opinion, Mr. Ross is that the whole issue, the whole development is brought back for another vote.

MR. ROSS: Mr. Chairman, all we're here to do is to vote on the evidence that was presented last time. So we would need a new motion today. The motion last time failed two-two. So it needs to come back for a new motion today, pursuant to our rules of order. If we can't get a motion through today then it's deemed denied.

COMMISSIONER SULLIVAN: Okay. I guess that's different from my recollection. I'll certainly take the opinion of our legal counsel. In the past we've always voted on the motion that was tied. I would just again remind everyone, and I think you're cognizant of, that we have an important precedent here about encroachment into the Highway Corridor.

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And if we move forward without that being resolved - and I don't know what the resolution to that is - it could be, as I said, some noise attenuation, a number of things. Without that being resolved, we've opened a door to other encroachments in the Highway Corridor and that's a concern of mine. Thank you.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I agree with Commissioner Sullivan. That's an issue that's outstanding. I'm not sure how staff would evaluate it. Staff has stayed away from that issue so far. But as a precedent-setting issue, if we started putting all our roads out on the setback - I'm not sure on that. And secondly, staff still believes that we should wait, that there's a significant issue and that we should be patient. Staff, they're our experts, so I would go along with staff. Thank you, Mr. Chairman.

CHAIRMAN MONTTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I just wanted to ask Vicki or Dolores. Is there an outstanding issue?

DOLORES VIGIL (Land Use Administrator): Mr. Chairman, Commissioner Vigil, we have made an evaluation regarding the buffer issue and Highway Corridor setback. We've been talking about it among staff. We've also forwarded our evaluation to Legal and we've come up with an evaluation stating that the open space zone allows accessory but not primary buildings. Since open space zones are crossed by existing or planned roads in a number of places in the Community College District, living, mixed or traffic priority roads are allowed to be constructed within open space. The type of road sections would be determined by its location and function relative to adjacent zones of development. In the open space standards section, the criteria for property to be considered open space for the purpose of meeting the 50 percent requirement includes setbacks required by the Highway Corridor standards or other ordinances. The land area where roads are constructed could not be counted towards 50 percent open space. The trails could be counted.

I would also like to state that we do have within the Highway Corridor Ordinance, and we have approved the east-west connection that was approved through the Oshara project, and I believe that's within the setback, in the buffer area.

CHAIRMAN MONTTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Is it your conclusion then that isn't an outstanding issue then?

MS. VIGIL: My conclusion is that it's not a building and it is a road, and it's not an accessory structure either. And if you'd like us to maybe find the section that Commissioner Sullivan has been referring to and dig further we would be more than happy to do that, but this is what we've come up with.

COMMISSIONER VIGIL: Thank you.

MS. VIGIL: You're welcome.

CHAIRMAN MONTTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, so I'm confused. So did you say

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that it's okay? Staff's opinion is that it's okay to have the road, and it's not a building?

MS. VIGIL: Yes, Commissioner Anaya, that's correct.

COMMISSIONER ANAYA: Thank you. Mr. Chairman, I move that we approve the request for preliminary plat and development plan approval for Phases II and VI for La Pradera Subdivision, which will consist of 157 residential lots on 94 acres. Also includes the final plat and development plan approval of Phases II and III, which will consist of 97 lots.

CHAIRMAN MONTOYA: Okay. So we have a motion. I'll second for discussion.

COMMISSIONER VIGIL: Discussion, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: With regard to the water service agreement, I guess I need some assurances of where we are with that. Who can give me a summary of that? Is that you, Steve?

CHAIRMAN MONTOYA: And Steve, along with that question, how much more water are we talking about?

DR. WUST: Mr. Chairman, Commissioner Vigil, the applicant is here, so they could probably give you more specific numbers. Again, it was a few acre-feet as I recall. Where we are is the applicant actually has come forward looking at getting a water service agreement. But there are several in the pipeline, so it's just one we're trying to schedule so we don't hit the Commission with a whole bunch of water service agreements at once. There's one tonight as a matter of fact, Komis. So when looking at the scheduling, we just place in on the schedule for March so we can kind of space these out. But it's going to be the standard water service agreement, the language we've been putting in that the County Attorney has worked on to get a template and so as we go along on these things, they're becoming pretty standardized. So I'm confident that certainly by the March meeting we should have a final one without any difficulty.

COMMISSIONER VIGIL: And again, Steve, how many acre-feet are we talking about?

DR. WUST: If you don't mind, Mr. Chairman, Commissioner Vigil - 2.67.

CHAIRMAN MONTOYA: 2.67 additional acre-feet?

DR. WUST: Additional. Yes. Over and above what they already have assigned.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Any other discussion? Commissioner Sullivan.

COMMISSIONER SULLIVAN: That was - there's no change from that at the last meeting and the issue that I brought up was, well, why didn't they just go final plat on Phase I and the answer was that's not what they wanted. They wanted Phase I and II. So we have an ordinance that says you have your water in place and you receive final plat approval. They haven't complied with that ordinance. So I feel that that's the reason why staff is making the recommendation.

The other issues of the corridor are still there. I think staff needs to get the response

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from Legal because I believe when they do they'll find out that the section that they're quoting with regard to buildings being not allowed in the corridor is not a part of the ordinance that applies to the Community College District. So I would like to get a legal response to the staff's response if we could. So I think those two issues still leave us at preliminary. That doesn't slow anything down as far as I know, if we're coming forward for the water service agreement next month, they can't move forward until the March water service agreement anyway.

CHAIRMAN MONTOYA: Is that a question for Legal?

COMMISSIONER SULLIVAN: No, it was just a statement.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I have a question for the applicant, whoever's representing them. Is that you, Ms. Vazquez? Ms. Vazquez, I guess I'm struggling with whether or not the applicant would be harmed if we didn't delay this until the water service agreement came before us and we were able to do the final approval then. Do you have a response to that?

ROSANNA VAZQUEZ: I do, Mr. Chairman, Commissioner. The reason we've requested final for this is a couple of reasons. First of all, we have been in line for a water service agreement for some time. We made a request a while back. This Commission was not hearing water service agreements for a long period of time, and consequently, that's why now you're getting one every month, because now you're actually hearing water service agreements. So we were scheduled to go in March, and we agreed to that March deadline way before any of this issue occurred.

Secondly, this application was submitted for amended master plan back in April of last year, you might recall. Actually, January, February of last year. We stopped the process. We worked with the neighbors. We made a bunch of changes to the amended master plan because of the concerns neighbors had, and you approved it back last year in early summer. We began construction on this development, Commissioners, and unfortunately, we were stopped. So we have had delay after delay on this project, and we're asking for this, not because we want a special favor, because we've already started the process. There's been an intent to dedicate the water rights already. The water rights are in the process now with the Office of the State Engineer. Approximately 50 acre-feet is in a joint application with the County of Santa Fe for the transfer process. So we're actually one step farther along than just getting a water service agreement.

And because of the delays on this project, I believe it's a reasonable request, Commissioner, because we cannot record this plat until this water service agreement is approved, and we cannot go forward with any further building for Phase II until all of that is done, and we should have that done by March. It faces two more months of public hearings. It faces the noticing costs. The development has very, very expensive off-site costs because of the improvements that we've agreed to do. So that's really why. We've been in the works and working very closely with staff and with the neighbors on this project.

COMMISSIONER VIGIL: I recall that, Mr. Chairman and I appreciate it. I actually used this project as a model, coming forth before the Commission, because of all the

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open space and the water recirculation and all the innovative pieces to it. Now, could you just answer for me, you mentioned that you were stopped. Why were you stopped?

MS. VAZQUEZ: Mr. Chairman, Commissioners, back in the summer of 2005 we were - there was a concern about safety with regards to the Dinosaur Trail/Richards Avenue intersection. You might recall that that was the intersection that we were required to move down, away from the I-25 interchange because of safety concerns. That was our original master plan that was approved. The plat has been recorded and the financial guarantee has been filed. There was a concern about traffic with regard to that road. And there was a request that a traffic light be put in there immediately. We were called into this meeting and we said, Well, we've got some options. We'll work with the County. We have some options. There's a letter in the file. Public Works can respond to this, or Land Use, where we said, Sure. We will either pay for the light up front. If there's such a concern, we'll pay for the light up front, but if we don't get plat approval and master plan approval for the next two phases, County, you have to reimburse us. That was the first option.

The second option was, sure, we'll give you our money up front. If there's a concern about safety, we will give you the money up front to pay for the light; you guys put it in. The third option was we'll enter into any sort of agreement you want with Oshara and with anybody and we'll put up our money. Those were the options. We were given a letter later at that point that we had to stop construction there. That was done, I believe it was in January of 2005. We had already started construction. We had acquired the easement. We had a contract with our contractor for the building of that.

CHAIRMAN MONTTOYA: Excuse me. Who stopped you?

MS. VAZQUEZ: We received a letter from the County.

CHAIRMAN MONTTOYA: From what department?

MS. VAZQUEZ: It was Public Works.

CHAIRMAN MONTTOYA: Public Works? James, can you respond to what happened there that Public Works stopped this development for 12 months?

MR. LUJAN: Mr. Chairman, members of the Commission, what we did is we stopped the intersection construction because of sight distance and we didn't want the intersection opened until we could install a traffic signal because of the sight distance. And we issued a permit in December to continue construction. They have moved it down. They are ready to proceed with the traffic signal and build that intersection.

CHAIRMAN MONTTOYA: Okay. Thank you. Commissioner Vigil, I'm sorry. You still have the floor.

COMMISSIONER VIGIL: Ms. Vazquez, did you complete your testimony on my question?

MS. VAZQUEZ: Sure. Mr. Chairman, Commissioners, just one last point. We sent the letter, we were willing to do whatever we needed to do for that traffic signal. And we did get the go-ahead order in December 2005. When we got it, our bid increased by \$60,000 just for that portion of the road. So there's been delays and there's been requests. We've come before you in good faith, tried to work with the neighbors in the county all across the way. Our

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letter saying we'd put that light in is further evidence of that, Commissioner, and we're just asking you to give us the final approval. We will not record the plat until that water service agreement is approved. It saves us two more months of hearings and the County is protected because this will not get recorded until that water service is obtained. Thank you.

COMMISSIONER VIGIL: And Mr. Chairman, Ms. Vazquez, based on the request that our County Manager just stated to us, that the Santo Niño de la Paz community is wanting to be a part of the issue on the roundabout. What is your response to that?

MS. VAZQUEZ: Mr. Chairman, Commissioner Vigil, I will call Father Jerome if I need to. Unfortunately, that condition that was put in was a condition of Phase I, which is already recorded. The intersection was what this Commission approved for Phase I and that's what was stopped early. That's where the traffic signal was going to be. But if we need to sit down and talk to them about it, we've already begun construction on it. We've submitted the plans, the guarantee. Everything is in place to go forward with it. Unfortunately, we're at a later point and I think James can talk to you a little bit more about that.

COMMISSIONER VIGIL: That's sufficient. Thank you, Mr. Chairman.

CHAIRMAN MONTOKA: Okay. Any other discussion? We do have a motion and a second on the floor. Commissioner Sullivan, on that motion.

COMMISSIONER SULLIVAN: Just a clarification, Ms. Vazquez, what you said about the 12 months of delay. On the traffic signal itself, was that not a condition of the second and future phases, the actual signal?

MS. VAZQUEZ: You're absolutely right, but we offered to do it up front.

COMMISSIONER SULLIVAN: I understand that you offered to do it up front, but in terms of the delay - you're just now requesting final plat approval for that phase, so the signal was, as I recall, a part of the conditions for master plan for the next phases, and that condition was that La Pradera would pay for and install the traffic signal. Is that correct?

MS. VAZQUEZ: Mr. Chairman, Commissioner, let me clarify that, because you're right. What we approved for -

COMMISSIONER SULLIVAN: You can't clarify it if I'm right.

MS. VAZQUEZ: What we were approved for in the original master plan was to move down Dinosaur Trail -

COMMISSIONER SULLIVAN: No, no. I'm talking about the second phases, not the original phases.

CHAIRMAN MONTOKA: Commissioner, let her finish her comment. You asked her a question.

MS. VAZQUEZ: I'm trying to answer it.

COMMISSIONER SULLIVAN: I just asked her if what I had said was right and she said, Yes, it was. That the traffic signal was a part of the second phase. I think the traffic signal is an excellent idea. I'm glad to see them moving forward with it, and I'm just clarifying that there can't be 12 months or 11 months of delay because that signal was a condition of Phase II. That's all. I'm not quite sure what the delay has to do with the issue here.

The issue is whether there are still some outstanding questions that staff needs to

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investigate. I think the water is still one and I think the road in the corridor is another. You heard Mr. Wilber talk this morning about the fact that, yes, they had met with the neighbors about moving the road, but at no time did they ever advise the neighbors that the road would be moved into the Highway Corridor. So his recommendation was that it be moved somewhere else. Now, whether that's viable or not, I don't know, but there are still some issues that need to be wrapped up on this and that's evident, I think.

CHAIRMAN MONTTOYA: Okay. We have a motion and a second. I'm going to call for a vote.

The motion to approve preliminary plat and development plan approval for Phases II-VI of La Pradera Subdivision and final plat and development plan approval for Phases II and III, passed by majority 3-2 voice vote with Commissioners Sullivan and Campos voting against.

**XIII. C. Public Works Department**

**1. Resolution 2006-18. Request Approval of a Resolution Accepting a Portion of Cerro del Alamo For County Maintenance**

ROBERT MARTINEZ (Deputy Public Works Director): Mr. Chairman, Commissioners, the residents of the C.R. Mayfield Subdivision are requesting that the BCC accept a portion of Cerro del Alamo for County maintenance. Cerro del Alamo is a dirt road beginning at the intersection of Los Pinos Road, which is County Road 54, and ending at the intersection with Sunset Road. It's a total distance of 0.6 miles.

Public Works conducted an evaluation of Cerro del Alamo and have concluded that the road does not meet County standards. There are currently \$130,000 of legislative appropriations for the paving improvements of this road. The residents have provided the subdivision plat and it has been determined that there are sufficient easements to comply with County standards. Public Works is recommending that if this road is accepted for maintenance that the paving improvements must be completed prior to Public Works assuming maintenance. I stand for questions.

CHAIRMAN MONTTOYA: Questions for Robert? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, thank you. So Robert, are you saying that with this money that they got, that the residents got through the legislators, it goes through the County, but you would contract that out, and then after the contractor was finished, then we would maintain it?

MR. MARTINEZ: Mr. Chairman, Commissioner Anaya, that is correct.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN MONTTOYA: Okay, any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Do we have a map of where this is?

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, we did not provide

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committees for the City so we have some in-house expertise on that.

CHAIR VIGIL: Okay. So we're not focused on that as future developments, I think, when we start looking at our Land Development Code we need to incorporate more information about bike trails and hopefully we won't catch you by surprise as you come before us. Thank you for the motion. We have a second. I just want to comment on the word reasonable. I actually, for the first time since this development came before us received e-mails that commended this process. It has been a long and drawn out process. There were many stages throughout the approval process that I just wasn't sure what was going to happen here.

And part of the problem is we were dealing with a new Affordable Housing Ordinance. I think that when you deal with something new you are going through your own learning curve. I think we've had a good learning curve through this process and I actually think that the proposal we have tonight is reasonable. And I think somebody can make a subjective opinion that says it's not reasonable, but in my mind it is reasonable and I'm not too sure that it's appropriate as I heard somebody's testimony, polka-dotting or interspersing, because I'm not too sure that would work for this particular development. I have reservations about that, and I do know that affordable housing has to be designed in a way that it itself works. I think we'll see. For all we know this could be a benchmark for our future developments and I'm hoping it is because we're strong advocates for affordable housing and I'm hoping that our community benefits from that and from our decision tonight. With that, if there are no other comments.

The motion passed by 3-1 voice vote with Commissioner Sullivan voting against. [Commissioner Campos was not present for this action.]

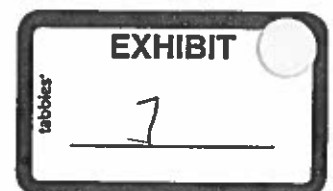
- XII. A. 11. EZ Case #S 02-4325 La Pradera Subdivision, Phases 4-6. Design Enginuity (Oralynn Guerrerortiz) Agent for Gardener Associates, LLC (John McCarthy), Applicant, is Requesting Final Plat/Development Plan Approval for 60 Residential Lots on 29 Acres. The Property is Located Along Dinosaur Trail Within Sections 17, 18, Township 16 North, Range 9, East (2-Mile EZ, District 5)

CHAIR VIGIL: Can we get a sense of how long everyone's testimony is going to take, just so that I can assure my Commissioners and keep a quorum? How long is your presentation going to be, Joe?

MR. CATANACH: Madam Chair, I can get through the staff report in five minutes.

CHAIR VIGIL: Thank you. Please proceed.

MR. CATANACH: Thank you. The summary, just to outline



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some of the previous approvals. March 2004, BCC granted approval for a mixed-use development which was 80 residential units, 16,335 square feet of commercial space on 69 acres. That was phase 1. Then June 2005 EZA granted a master plan amendment for expansion of the subdivision to allow an additional 158 lots on 94 acres as phases 2 through 6. So in January 2006 the BCC granted preliminary plat/development plan approval for phases 2 through 6 and final approval for phases 2 and 3. I included the minutes of that January 2006 meeting and that consisted of 97 lots.

On May 10, 2007 the EZC recommended final approval of phases 4 through 6, which is the current request, final approval for phases 4 through 6. The applicant is requesting final approval for phases 4 through 6 consisting of 60 lots on 28.4 acres, which includes nine lots for affordable housing within a village zone neighborhood. I broke down the phasing. Phase 4 is 27 lots. Phase 5, 22 lots, Phase 6 is 11 lots. Lots range in size from 5,426 square feet to 12,809 square feet, with 15.2 acres of common open space with public trails.

Madam Chair, traffic impact analysis was submitted. This has been reviewed regarding Dinosaur Trail and the intersections. As part of phase 1 development plan offsite road improvements have been completed for Dinosaur Trail regarding asphalt pavement and the connecting intersection at Richards Avenue and Rancho Viejo Boulevard. Traffic lights are in place at the State Road 14-Rancho Viejo Boulevard intersection and the Richards Avenue-Dinosaur Trail intersection. The onsite section of Dinosaur Trail will be realigned and will extend parallel with Interstate 25 within the required setback.

That realignment of Dinosaur Trail is part of the phases 2 and 3 development plan, which has been recorded and they are building that out at this time. Dinosaur Trail is subject to a conditional dedication to the County for future ownership and maintenance at such time the County accepts the dedication. The internal subdivision roads will be paved with curb and gutter and sidewalks and will provide for on-street parking.

Water service will be provided from the Santa Fe County water utility based on a water service agreement previously approved by the BCC. Water rights have been transferred to the County. The water utility will provide .19 acre-foot for each lot which includes 20 percent line loss and .126 acre-foot water restriction will be imposed on each lot. The .19 acre-foot water rights allocation will be required until such time it can be demonstrated that the subdivision will not exceed the .126 acre-foot water restriction. Existing wastewater treatment facility will be expanded and utilized.

The staff report addresses terrain management, open space, landscaping, archeology. There's an existing homeowners association with covenants.

Recommendation: The proposed subdivision is in accordance with the Community College District Ordinance and the Extraterritorial Subdivision Regulations. The BCC granted preliminary approval subject to conditions. The EZC has now recommended final approval. The applicant has addressed the conditions. Staff recommends final approval of phases 4 through 6 and staff would enter the conditions into the record, Madam Chair.

[The conditions are as follows:]

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1. Submit final affordable housing agreement subject to approval by staff.
2. Submit solid waste fees as required by the extraterritorial subdivision regulations.
2. Cost estimate and financial surety for completion of required subdivision Improvements as approved by staff.
3. Compliance with applicable review comments from the following:
  - A) State Engineer
  - B) State Environment Department
  - C) Soil & Water District
  - D) State Department of Transportation
  - E) County Water Resources Department
  - F) County Fire Marshal
  - G) County Public Works
  - H) County Technical Review
  - I) State Historic Div.
  - J) Santa Fe Public School District
  - K) County Open Space, Parks & Trails Division
4. Final development plan submittals shall include the following:
  - A) No more than two project signs for the entire subdivision (including phase 1) with a maximum sign area of 20 square feet and a height of 5 feet.
5. Bus stop shall include a pull-out lane.

CHAIR VIGIL: Thank you. Those conditions will be entered. Are there any questions of staff? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Joe, where is the affordable housing plan?

MR. CATANACH: The affordable housing plan, in this packet - okay, I have the review memo from Duncan Sill regarding the affordable housing agreement and let's see if I can -

COMMISSIONER SULLIVAN: Where's the plan?

MR. CATANACH: It's going to be in the section - the first part of the packet is the applicant's letters and report, and that goes all the way - you can go through the packet and that would be the applicant's development report. That development report has a page 12. The applicant's development report is paged up to page 12, and after page 12 there's a letter that was submitted notifying the public school district of the proposed development. After that is a letter from the Environment Department regarding discharge permit, and right after the letter from the Environment Department regarding discharge permit is the affordable housing material.

COMMISSIONER SULLIVAN: I still haven't found it. Maybe you could show me what it - show me where it is.

MR. CATANACH: I can do that.

COMMISSIONER SULLIVAN: I see a little thing, Section 12 in the

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applicant's thing. Is that what you're talking about? Okay, but let me just clarify. Mr. Sill's review says he's reviewed the draft agreement about the affordable housing, which is the boilerplate agreement. I believe that our ordinance requires at final approval that we review the affordable housing plan and that that plan show the dispersion of the homes, just like we reviewed here for the Suerte Development.

MR. CATANACH: Commissioner Sullivan, I can only refer you to the documents in the packet. Any explanation of the affordable housing review I would have to refer you to Duncan.

COMMISSIONER SULLIVAN: Okay. Well, we have Duncan's letter here. It says he's reviewed the draft agreement and finds the contents consistent and acceptable with the plan, but just as we've done with all developments at this stage, just as we finished doing here ten minutes ago, we have a document in front of us that shows the designation of the lots for affordable housing. We've done it on every approval for Rancho Viejo. We've spent at least three hearings doing it for Suerte and that's the document I'm looking for here. All we have - and I see on page 11 of the applicant's report regarding affordable housing - it says that they'll have four income range 1 and two income range 2 and two income range 3 for a total of eight type A's and so forth and so on.

MR. CATANACH: If you look at the last page of the agreement it breaks down the number of lots within phase 4, phase 5, phase 6, and the level 1, level 2, level 3 categories.

COMMISSIONER SULLIVAN: I know, but that's not what I'm looking for; I'm looking for the plan. Where are those lots? That's what's required by the ordinance, a plan.

MR. CATANACH: This applicant - the site plan that's in your packet is reduced and it's hard to read but I believe that site plan identifies where the affordable lots are within those phases.

COMMISSIONER SULLIVAN: Could you point out where that site plan is? Is that Exhibit C?

MR. CATANACH: It is Exhibit C, yes.

COMMISSIONER SULLIVAN: And which are - what is the identification of the affordable lots?

MR. CATANACH: There's a legend there that identifies the affordable lots and again, this applicant should be able to provide you with a full-sized copy of that but there's a legend that identifies the affordable lots with an A.

CHAIR VIGIL: Perhaps your question will be clarified when we get a chance to speak with the applicant.

MR. CATANACH: That reduced copy, you'll never read that copy.

COMMISSIONER SULLIVAN: Let me make a recommendation that we be provided with copies that we can read.

CHAIR VIGIL: I think what staff is saying is that we were provided, it's just they're unreadable.

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COMMISSIONER SULLIVAN: We can't read it. Okay. We have an affordable housing plan but we can't read it. Okay. Thank you, Madam Chair. That's all the questions I have.

CHAIR VIGIL: Are there any further questions for staff? Seeing, hearing none, is the applicant here?

ROSANNA VAZQUEZ: We are. Good evening. My name's Rosanna Vazquez and I'm here with some of the owners of La Pradera and Oralynn Guerrerortiz, our engineer. We are in agreement with all the conditions of approval, Madam Chair, and I stand for questions if you have any.

CHAIR VIGIL: Okay. Do you want to explain the affordable housing allocation. Which particular lots will be affordable housing lots?

MS. VAZQUEZ: A couple things I want to put into the record, when we recorded the affordable housing plan for phases 2 and 3 we listed all of the affordable units for the entire development. It is a recorded document now. The affordable units that are in these phases - this is phase 4 here, and this is 5 and 6 up here. They are denoted with an A as affordable. So there are four in a row here. There's one here. There's three in a row here. One here. Two at Lot 72 and 71, Lot 146 is an affordable unit, Lots 90 and 99 are affordable units. 198.

COMMISSIONER SULLIVAN: Okay. So they're designated on a map that somebody in Santa Fe County can read, although not the County Commission. So we have somewhere a document that describes what -

MR. CATANACH: Duncan Sill looked at a map when he put his memo together. Yes, sir.

COMMISSIONER SULLIVAN: I appreciate that but I'd like to look at one too. On this map that Shelley x-ed out for us I see eight affordable housing units. Is that all the affordable housing units in 4, 5 and 6?

MR. CATANACH: Nine.

MS. VAZQUEZ: There should be nine.

COMMISSIONER SULLIVAN: You're right. I can't count this late. There is nine. There are nine. And that's at the 15 percent. This is under the old ordinance, correct?

MS. VAZQUEZ: Madam Chair, Commissioners, that's correct.

COMMISSIONER SULLIVAN: Then I guess one other question for the applicant then, Madam Chair, would be are you still building your road in the highway corridor where no building is allowed.

MS. VAZQUEZ: Yes, we're building the road in accordance with the approval that we received.

COMMISSIONER SULLIVAN: Okay, but just to remind the Commission that this is in the highway corridor that no construction is permitted.

CHAIR VIGIL: Okay. Any further questions? This is a public hearing. Is there anyone out there who would like to address the Commission on this item? Please

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come forward. Seeing none, I'll close the public hearing and ask the Commission what is their pleasure.

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: Move for approval with staff conditions.

CHAIR VIGIL: There's a motion. Is there a second?

COMMISSIONER ANAYA: Motion and second for approval with all staff conditions. The applicant has testified that they agree with them. Does this include a bike trail?

MS. VAZQUEZ: Madam Chair, there is a trail.

CHAIR VIGIL: Okay, will that trail be inclusive for bikes or walkers or what is the intent?

MS. VAZQUEZ: Madam Chair, it would suffice for both. It's a ten-foot village trail.

CHAIR VIGIL: Okay. And will you be providing connectivity and/or access to other developments?

MS. VAZQUEZ: Madam Chair, we're trying to do that on the side by Rancho Viejo. The trail that goes down towards Richards Avenue hits the intersection of Dinosaur Trail and Richards. That will be connected eventually when Oshara and the rest of the development is done.

CHAIR VIGIL: Okay. So Rosanna, is it your understanding that based on the fact that this affordable housing component was under the old ordinance, the 15 percent ordinance, that the appropriate review has been applied to this?

MS. VAZQUEZ: Madam Chair, Commissioners, I do. Duncan and I have met when we submitted for preliminary and the entire plan for phases 2 through 6. He saw where they were going to be located. He has seen the type of housing that is being constructed currently. He reviewed the plan that was submitted in the preliminary development plan approval as well as this one. We've worked on the last contract that was recorded for phases 2 and 3, and we're on the last step now for phases 4, 5 and 6. I feel very comfortable that if there was an issue the County would come to us and let us know what it was and we would be able to work that out. We have met the requirements and further I think that if there's anything that happens that we need to deal with in the future I think we can deal with it because we have a very long-standing working relationship on this project.

CHAIR VIGIL: Okay. Thank you.

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: In the discussion, I just want to be sure that we have it in the record that the Santa Fe County Highway Corridor Ordinance, 2000-01, says there will be no development in the highway corridor, period. That's what it says. It doesn't show pictures of houses. It doesn't show little drawings that some other

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ordinances do that don't apply to the Community College District. That's the only Highway Corridor Ordinance that applies to the Community College District. This development does not comply with the Santa Fe County Highway Corridor Ordinance. So I can't support it for that reason, and I want to be sure that it's clear in the record that there is an ordinance and that we are looking at a development that is building its onsite roads within the highway corridor, thus giving it more developable land in the balance of the subdivision, and that's not at all the intention of the Highway Corridor, because the Highway Corridor was based on the noise zones and the intent was to move everything back to a given noise contour. If you put a road in that open space in the highway corridor you're adding more noise so obviously you can't meet the noise contour requirements.

I want to be very clear that if the Commission decides to move forward on this, to approve this application that it's doing so in contravention of the Highway Corridor Ordinance and if you feel that that's appropriate then I think the best way to do it is to change the ordinance, go through that process. Thank you.

CHAIR VIGIL: Could I ask staff to just give us a history of that for the record. We obviously have approved this previously. Based on Commissioner Sullivan's statements, I'm concerned about the posturing of those statements because they're actually challenging us to go against an ordinance and I think we've already been at a place where we've reviewed this development and it's up to us for final development review. I don't want to be finalized with this statement of challenge that we as a Commission will be approving something against the Highway Corridor Ordinance. We have previously approved this, correct?

MR. CATANACH: Yes, Madam Chair. There's been a master plan - that issue was discussed substantially when the master plan was approved, the master plan amendment to allow expansion of the subdivision for additional lots and additional acreage. That issue was discussed as part of that master plan amendment. It may have come up again when final approval was granted for phases 2 and 3 and I could let you know what some of the discussion was that we talked about.

CHAIR VIGIL: But it's all part of the record, Mr. Catanach. Is this the development that worked with many of the neighbors in the Highway 14 area and the recommendation for that road came from those neighborhood hearings. Is that correct? If I'm recalling this project.

MR. CATANACH: This applicant, this developer worked with a neighborhood association. There's an existing subdivision there. I think it's called Vista Ocaso. This applicant worked on that issue. I'm not exactly sure how the issue of realigning the road came up. It may have come up through both working with the neighbors and the applicant but this applicant did work with those neighbors and as I understand, that was part of the consensus with those neighbors was realignment of the road.

CHAIR VIGIL: And I think part of the reason, if I'm correct, Mr. Catanach, is they wanted that road there because it provided the buffering for the

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neighborhoods around there and I'm not sure I'm recalling this correctly but is that your understanding?

MR. CATANACH: The consensus with the neighborhood came about obviously where the neighborhood felt that they had an opportunity so they wouldn't have so much traffic going in front of their houses to realign that road.

CHAIR VIGIL: Okay, so it was more for traffic purposes than buffering. Okay. Thank you for clarifying that. Any further comments?

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Yes, what the neighbors requested was that they didn't want the main access road to be next to their houses, just as Mr. Catanach has stated. They didn't request that the road be put into the highway corridor. They just didn't want it running next to their houses. The applicant could have put the road outside the highway corridor and achieved the same purpose, but that would have given them less developable lots. So that's what happened. There was no, I think from my recollection and dealing with the neighborhood, insistence that the road be put in the highway corridor they just didn't want it in their backyard and so the developer moved it. And I stand by my research of the ordinance, which I have researched in detail, and that is the ordinance. That is the requirement. Thank you.

CHAIR VIGIL: I do believe we have a motion and a second.

The motion passed by 3-1 voice vote with Commissioner Sullivan voting against. [Commissioner Campos was not present for this action.]

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~~CHAIR VIGIL: Thank you.~~

~~COMMISSIONER STEFANICS: Madam Chair.~~

~~CHAIR VIGIL: Commissioner Stefanics.~~

~~COMMISSIONER STEFANICS: I am moving for the extension for the previously approved master plan, and I'd like to just comment that since it is only an extension, and it is in the Community College District, which is identified for projects of this nature.~~

~~COMMISSIONER HOLIAN: Second. And I would like to make the comment that this is one of the projects that I think is a model for the kind of development that we do want to do in the future in Santa Fe County and so even though it's been extended a number of times I think that this is a good kind of development.~~

~~COMMISSIONER STEFANICS: With the conditions.~~

~~COMMISSIONER HOLIAN: Yes. With conditions. I agree.~~

~~CHAIR VIGIL: Okay. There's a motion with conditions and it's been seconded. Any further discussion? Commissioner Anaya and Commissioner Mayfield?~~

The motion passed by unanimous [5-0] voice vote.

- XV. A. 9. BCC CASE # MIS 02-4325 La Pradera Master Plat Authorization.  
Gardner Associates LLC and La Pradera Associates LLC (Alexis Girard), Applicants, request authorization to proceed with a Master Plat for the creation of 22 residential (live/work) lots on approximately 2.27 acres within the existing La Pradera Subdivision (Phase I), which is located within the Community College District. The property is located west of Richards Avenue between I-25 and the Arroyo Hondo, within Sections 17 & 18, Township 16 North, Range 9 East (Commission District 5) [Exhibit 2: Opposition Letters]

VICKI LUCERO (Residential Development Case Manager): Thank you, Madam Chair. On January 28, 2003, the EZA granted Master Plan Approval for a mixed-use development, La Pradera, consisting of 80 residential units and 16,335 square feet of commercial space on 69.2 acres. On March 9, 2004, the BCC granted Final Plat and Development Plan approval for the mixed-use subdivision. On June 30, 2005, the EZA granted approval of a Master Plan amendment to the previously approved La Pradera, Phase I, mixed-use subdivision to allow an expansion of an additional 158 residential lots, Phases 2-6, on 94 ± acres.

On January 31, 2006 the BCC granted Preliminary Plat and Development Plan approval for Phases II through VI and final approval for Phases II and III consisting of 97 lots. On July 10, 2007, the BCC granted final plat and development plan approval for phases 4 thru 6 of the La Pradera which consisted of 60 lots on 28.4 acres.

The Applicants have submitted an application for a Master Plan Amendment for the La Pradera Subdivision in order to create an additional 37 residential lots. Twenty-seven of the proposed lots will be created by adjusting lot lines of existing lots to reduce the size of some of the oversized lots in Phases II-VI. The Applicant states that these smaller lot sizes

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are dictated by the significant changes to our economy and the market demand for entry-level housing. The other ten proposed lots will be combined with 12 previously approved units from Phase I to create a village concept which will have the potential of being live/work units, and will be replacing the previously approved 32,667 square foot commercial area.

For clarification, at this time the BCC is not taking action on the Master Plan Amendment which will later determine the zoning and density of the project. The BCC is being asked to make a decision as to whether or not the applicants may proceed with the development under the Master Plat process as defined in the County Land Development Code which would not require that a specific lot layout be defined prior to plat recordation and would grant administrative authority to create lot boundaries once buyers are identified or home construction is complete.

Article V, Section 5.6.1 of the Code states, "In commercial, industrial or high density residential subdivisions which are to be developed in phases or in cases where a condominium proposes to convert to a subdivision, the Board may delegate authority to the Land Use Administrator to administratively approve a specific lot layout plan when it determines that due to the size, scale or marketing requirements that approval of a plat with a specific lot layout is in the best interest of the County and developer."

Before seeking Master Plat approval, the developer must file a petition with the Board requesting that it be permitted to obtain approval pursuant to this section. If the Board approves the petition, the Application will be reviewed by the CDRC and the Board for Preliminary and Final Plat approval which will then be referred to as the Master Plat.

The Applicants are requesting authorization to proceed with a Master Plat for 10 of the proposed lots and 12 of the previously approved residential lots/units in Phase I for a total of 22 master planned lots. The Applicants state that the reason for the request to proceed under a Master Plat is that by creating a village concept with relatively small building footprints, lot-lines cannot be pre-determined. The ultimate lot lines will be very irregular and cannot be identified and finalized until after home construction is complete.

Recommendation: Staff has reviewed this Application and has found the following facts to support this submittal: authorization of the Master Plat shall delegate authority to the Land Use Administrator to approve plat amendments establishing new lots; the CDRC and BCC shall establish development standards applicable to the subdivision as authorized by the Code; the CDRC and BCC may approve both the Preliminary and Final Plat which will be known and designated as a Master Plat.

Staff has established findings that this Application is in compliance with Article V, Section 5.6, Administrative Approval of Lot Layout. Staff recommends approval of the Applicant's petition to obtain Master Plat Authorization to create 22 lots on 2.27 acres. And again, Madam Chair, I just wanted to reiterate because it can be somewhat confusing, that tonight the BCC will only be asking as to whether or not the applicants can proceed with their request under the master plat guidelines, so it's basically a procedural request at this point. If the BCC says yes, you can proceed in that fashion then the master plan amendment will go back to the CDRC for recommendation and come back to the BCC for approval at a later date, at which time that's when the BCC will say yes or no to the increase in density.

CHAIR VIGIL: Okay. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. Could you explain a little bit

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about the – I'm confused about the administrative approval and the CDRC and the BCC? Because I think there's some concern that we're going to lose touch with the plans that are going to happen in this community. So I'd like to understand and I'd like the audience to understand what does administrative approval mean and what will be coming in front of us finally before anything would get approved.

MS. LUCERO: Madam Chair, Commissioner Stefanics, the applicants are requesting to have administrative approval of these 22 lots around the village area that they're proposing. But before we even get to that the applicants will need to request a master plan amendment and preliminary and final subdivision plat approval in order to be able to increase the density. That application will come before the CDRC and the Board within the next two or three months. If that gets approved then what that means for the purposes of these 22 master planned lots is that as the applicants obtain buyers for the lots then all that will be required is that they go back to the Land Use Administrator to create those 22 lots. So that will be the administrative process.

COMMISSIONER STEFANICS: So after tonight, if this were approved, the next step would be for the developers to do what?

MS. LUCERO: To proceed with their request for master plan amendment.

COMMISSIONER STEFANICS: To?

MS. LUCERO: To the CDRC and then ultimately to the Board of County Commissioners. So there'll be an opportunity for two more public hearings before anything is finalized.

COMMISSIONER STEFANICS: Thank you, Madam Chair.

CHAIR VIGIL: But to underscore that, the 22 lot split division would not come to us. That would be identified by administrative approval?

MS. LUCERO: Madam Chair, that's correct. The 22 lots that they're requesting would be the maximum number of lots that could be created but those 22 lots, they would come through the administrative process to create those lots.

CHAIR VIGIL: Okay. So when those lots got approval from the administrative process, or not, whatever, the outcome would be it would still go to the CDRC. The CDRC can approve or deny that?

MS. LUCERO: Madam Chair, the CDRC and the Board would have an opportunity to see the master plan amendment, which is the next step. So that would be when you would actually be deciding as to whether or not you're going to allow this project to increase the density, which includes the master plan lots and then additional lots that they're proposing to create. And if the Board approves that then the lot creation of the 22 lots will be administrative, so it won't come back to the BCC or the CDRC.

CHAIR VIGIL: Okay. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. Could you give us an example of some other development or project that has 22 lots on 2.27 acres? So that we have a point of comparison.

MS. LUCERO: Madam Chair, Commissioner Stefanics, it would have to be one of the projects within the Community College District because that's the only area that would allow densities of this magnitude.

COMMISSIONER STEFANICS: So Madam Chair, I'm asking does Rancho

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Viejo have a section that has 22 lots on 2.27 acres?

MS. LUCERO: Madam Chair, Commissioner Stefanics, I can't answer that with total confidence. I don't know if Jack or Shelley might have some insight to that.

COMMISSIONER STEFANICS: I think, Madam Chair, I'm asking this because we need some perspective on the size of the land and number of lots in comparison to something else we've seen.

SHELLEY COBAU (building & Development Manager): Madam Chair, the Village Center at Rancho Viejo has very, very tight densities. They have townhomes, small lots, cluster housing. Lots may be 8,000 square feet in size, many of them.

COMMISSIONER STEFANICS: So many of those are town homes or homes with connecting walls.

MS. COBAU: That's correct.

COMMISSIONER STEFANICS: Thank you.

CHAIR VIGIL: Is another development Aldea that might fit into that category?

MS. COBAU: Madam Chair, that's correct. Aldea has a mixture of housing – townhomes, live/work units, single-family homes on very small lots.

COMMISSIONER HOLIAN: Madam Chair.

CHAIR VIGIL: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. So Vicki, when this master plat comes before the CDRC and the BCC my understanding is they will be considering just the density; they will not actually see the lot lines. Is that correct?

MS. LUCERO: Madam Chair, Commissioner Holian, they won't see the lot lines for the 22 proposed master plat lots. There's a proposal for additional lots as part of the master plan amendment, so you will see some lots that are actually laid out but not these 22. They're just going to be designated as an area where 22 future lots will be created.

COMMISSIONER HOLIAN: So we would see the actual outline of where the 22 lots will be but not the interior lot lines. Is that correct?

COMMISSIONER STEFANICS: Not the interior lot lines. That's correct.

COMMISSIONER HOLIAN: Okay. Thank you, Vicki.

CHAIR VIGIL: Okay. Any other questions for staff? Is the applicant here? Is there anything the applicant would like to add?

[Duly sworn, Alexis Girard testified as follows:]

ALEXIS GIRARD: Alexis Girard. Madam Chair and Commissioners, thank you for hearing us this evening. We're doing this in several parts. I'm going to go through a few of the items and then my partners and some consultants will speak as well. First of all I would just like to say that there is a lot of misinformation going around and so hopefully through this presentation we will let you know that we are good stewards of this development and we have worked very hard to make it a livable, viable community that we hope will thrive. So thank you for your consideration.

Phase I La Pradera approvals provide for already 11 condos or live/work units. It also provides for 32,667 square feet of commercial area, of which up to 16,335 square feet may be residential. So when you're considering this master plat there's already – there's an outline of where the development can occur and what we're proposing. And it's more of a trade-off of

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the commercial to add additional residential. We wish to create a small, residential village at the heart of La Pradera in place of the commercial zoning currently in place. We would have no condos or multi-family dwellings, nor would we have attached housing; these would all be detached. We would speak to the original commercial idea in that these homes would have separate entrances for home office application.

Because of the nature of the village design these units will be small and closely integrated. We have a good idea of the product that we want to market but we want the flexibility to allow buyers to make design changes, for example, to add a room or to move a patio. Though we know the maximum number of homes that will be developed we do not know their final configuration, thus we want to have the flexibility to finalize lot lines after the homes have their finalized design and are sited. This is possible under the master plat provisions of the County Land Development Code, Section 5.6. We do not want the condo regime with in the La Pradera Homeowners Association because there's a double dues that's created in that instance and we're trying to prevent that from happening.

Some of this is repeating, so I'm sorry. We would convert the 11 approved condos to single-family detached units. We will establish discrete signed covenants to the live/work aspect. There will be two-story homes. We will work with surrounding homeowners to site homes with respect to view corridors as much as possible. There is one neighbor here tonight who is concerned about a lot, Lot 35, next to his being used for 2.5 units rather than the original one unit that was designated for that lot when he first purchased it. We've agreed to work with him and have that remain a single-family lot.

The revised La Pradera traffic impact analysis shows that there will be no significant impact on surrounding roadways. We are not seeking any variances through this request. We are zoned for what we are proposing to do. Next, I would like to have Vahid speak to the village concept.

[Duly sworn, Vahid Mojarab testified as follows:]

VAHID MOJARRAB: Vahid Mojarab, 926 Shoofly, 87505. Thank you, Madam Chair, Commissioners, again, this proposal has two sections on this master plan. One is the village area that we are proposing that would have ambiguous lot lines the staff was describing to you, and the other portion of it is the 27 additional lots in phases II through VI, which we are actually achieving through the lot line adjustment. So I just want to emphasize the open space calculation that was proposed originally on this master plan is still the same. We are not encroaching or taking away any open space through this master plan amendment.

So on the left-hand side of the board you see the approved existing master plan which includes this commercial area over here and lots 33 and 69. And as we described before, this illustration includes also the Lot 35, which we're taking out of the equation, so it's a little bit deceiving, but it shows the concept of the village area which we are trying to promote more of the home occupation. We have discovered most of our clients are small users, maybe take tutorial math or music and they just need a small space to run their business and they don't need a big commercial space. So we're just providing more of that flavor of residential that they would have a separate entry to their units with a guest parking so they don't have to have a secondary commercial space to support their income.

And this is resembling much of what you see on the East Side, the compound area which is condensed but all the open spaces contribute to the other ones so that's why we

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didn't want to put any lot lines or hard lines on these tracts at the moment to preserve some of that flexibility for our buyers and think about a little bit more carefully on how we're going to place some of these units and how they're going to play with each other, both in the sense of the open space and in the view corridors.

So I don't know if you have any questions, but I'm just going to describe this area and pass it along to John McCarthy.

CHAIR VIGIL: Mr. McCarthy, please proceed.

[Duly sworn, John McCarthy testified as follows:]

JOHN MCCARTHY: I'm John McCarthy. I reside at 825 Allendale. I'm a member of the development entity. Although the specific action requested tonight is very narrow in terms of which procedural process we follow I feel it's very necessary to clear the air on certain issues and inferences so that not only the Commission but our homeowners and neighbors can make value judgments and decisions based on the correct facts.

The predominant theme of most of the letters and comments that have been submitted to you and to staff and mentioned to us in our meeting with the homeowners concern density. And this map here in front of you right now shows the La Pradera phase I through VI. This is Phase I. This is where the commercial master plan request is located, and our neighbors to the south here in Vista Ocasá, you can see perhaps the lot line showing their 2.5 to 5-acre lots that they have. In the process of our original Phase II through VI master plan amendment we negotiated with our neighbors here, the Vista Ocasá neighbors for a buffer which in this case along this area is 125 feet as measured from the center of Dinosaur Trail up to the building structure, and in this area which is Phase II we provided a 175-foot setback and a little less in this area here.

So having used up our land in that fashion we made a decision as the development team to go ahead and supersize these lots on the southern tier that interface with the buffer and Vista Ocasá. And what I mean by supersize is that our standard lot is about 7,500 square feet on average. It's a 75-foot frontage which allows us to do a two- and in some cases three-car garage. So with this current situation the predominant area that we're affecting or requesting to affect lot line adjustments is in this area that we refer to as our estate lots. So mostly the lot line adjustments take lots that in some cases are 13,500 square feet, plus or minus, and reduce those overall to approximately 7,000 to 7,500 square feet, which is very close to our average, standard lot throughout Phases II through VI.

So there's been a lot of concern that increased density means really, really small lots and therefore will further devalue the lots and the homes in addition to what's happened because of our economics.

So just to clarify the situation that in Phase II through VI, through these lot line adjustments we'll end up with 27 additional lots which are scattered through Phases CC through VI. Now, Phases II and III have been completed. Phases IV, V and VI have not. So out of the 27 requested increased lots that's not going to happen immediately. It will probably be over the next four years that those lots will actually be built. Currently we have enough inventory to last in Phases II and III for the next 2 ½ years.

So the other concern that's been expressed is that because we've changed these lots to 7,000 or 7,500 square feet we will down-size the size of our homes and correspondingly add a negative impact on existing homeowners. The fact of the matter is in Phase I most of those

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lots are very, very large lots and as I said, the average lot in Phase II through VI is 7,600 square feet.

So the 27 lots in Phase II through VI will have a minimal impact in any event because we can build the same house on a 15,000 square foot lot that we can on one of these standard lots. So the market's the one that tells us what size home to build. Now, we have always, even with our affordable homes, built homes with two-car garages so that the streetscape shows very well and there's not much differentiation between an affordable home and a market rate home. As a matter of fact we build market rate homes and allow the buyers to go ahead and force their own financing and supplement from the different agencies in town. But in many cases it's difficult to tell the difference between a market rate house and an affordable house.

So these houses that we are building now range from \$239,000 to \$425,000 and this is well within the current range of the existing market. So there is -- I'd like to take the opportunity at this time as well so that we can have everyone share the same information, the same correct information in their respective decision making processes. So of particular concern was some of the letters that we and the staff and you as Commissioners have received and it may be that you have not had time to review those letters, but I'd like to hit a few of the high points because we take this extremely seriously and we don't want our neighbors to get any further upset because they have the incorrect information.

So there's one letter that we received from one of our homeowners, Matthew Cooke, that has been referred to in other letters two or three times. And his letter is dated April 28<sup>th</sup>, and our concern is that there is a lot of inferred points made and actually non sequiturs or out of context comments made that are, in our opinion, not only in some cases incorrect but at the very least very misleading. And if you had those package of letters in your package I will quickly highlight some corrections for the benefit of the Commission, staff and our homeowners and neighbors. But in his letter dated April 28<sup>th</sup> there is the first paragraph refers to water treatment issues in terms of reclaimed water and I'd like to just point out that there was a third amendment to our declaration of protective covenants filed in May of 2010, which was not even a lateral move by the developer but was based on a vote by the homeowners of which we participated, and that document was recorded May 6, 2010 in the County records.

He also states that we chose to delay the development of affordable housing against the Commission's desire. That's an incorrect statement. The discussion had to do with Jack Sullivan, a Commissioner the time, asking us to hold off the development of the 11 condos until we proved up our water budget, which we have done. Again, the next paragraph talks about us not meeting four of our requirements. There are only four conditions that "have not been met" and states there is no mention of their lack of compliance. Actually, those four issues were conditions of approval and findings of fact that we had to provide a water service agreement, which we did. We had to correct the redlines, which we did. We had to demonstrate that we had our discharge permit, which we got, and provide a financial guarantee.

These were all conditions contained in the findings of fact without which we couldn't have recorded the subdivision. But the innuendo here is that we don't do what we say we're going to do and that we've misled people and that's not the case.

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