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Commissioner, District 1

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Commissioner, District 2

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Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

**CDRC CASE # Z 13-5380 ELEVATION
VEDURA RESIDENTIAL OPERATING, LLC, APPLICANT**

ORDER

THIS MATTER came before the Board of County Commissioners (BCC) of Santa Fe County (sometimes, "County") for hearing on July 8, 2014, and September 9, 2014, on the Application of Vedula Residential Operating, LLC (Applicant) for Master Plan Zoning approval in accordance with Santa Fe County Ordinance 1996-10, the Santa Fe County Land Development Code (Code), as amended by the Santa Fe County Ordinance 2000-12, the Community College District Ordinance (CCDO), to allow a multi-family residential apartment community consisting of 214 residential units on 22 ± acres. The BCC, having reviewed the Application, supplemental materials, staff reports, and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted, subject to conditions, and makes the following findings of fact and conclusions of law:

I. Background

1. The Applicant requests Master Plan Zoning approval for a 214 unit multifamily residential apartment community, referred to as Elevation, on a 22± acre site (the Property).

2. The Property is located on the north side of College Drive and east of Burnt Water Road in the Community College District, within Section 21, Township 16 North, Range 9 East.

3. "All development within th[e] Community College District is required to submit a Master Plan" Code, Article XV, Section 4.

4. Uninvest-Rancho Viejo, LLC acquired the Property by warranty deed, recorded on December 23, 2010, as instrument 1621125 in the Santa Fe County Clerk's records. At the time of the hearing, the Applicant was in the process of purchasing the Property.

5. The property owner and Applicant authorized Jenkins/Gavin Design & Development, Inc. to act on their behalf in making application for the proposed development, as evidenced by the written authorization contained in the record.

6. The Applicant is proposing approximately 9.7 dwelling units per acre, a density which complies with the CCDO. The development will include one, two, and three bedroom units, for a total of 214 units. There will be approximately 480 parking spaces on site. College Drive will be the access road to the development. The development is proposed to receive water service from the Santa Fe County water utility, and will connect to and receive wastewater treatment services from Ranchland Utility Company, Inc. (Ranchland Utility). The development will have a series of dumpsters that will be screened and gated. Weekly collection of waste will be contracted with a local waste collection company. Amenities of the development are anticipated to include a community pool, and a community work-out facility.

II. History of Zoning and Master Planning of the Property

7. In 1989, the Rancho Viejo de Santa Fe Master Plan was adopted, a master plan which included 570 multi-family units on 55 acres, or approximately 10 dwelling units per acre. That Master Plan specifically identified an area in close proximity to the Property, at the corner of College Drive and Richards Avenue, for high-density multi-family development. The Property was within that portion of the Rancho Viejo de Santa Fe Master Plan that was never developed and expired.

8. The Property was next included in the 1997 College North Master Plan, which proposed single family dwelling units on the Property. Although portions of the College North Master Plan were developed and are now referred to as College Heights, the portion of the Master Plan applicable to the Property expired and has not been developed.

9. The CCDO was adopted on December 11, 2000. The CCDO establishes comprehensive zoning for and governs development in the Community College District, which is Santa Fe County's designated growth area and includes the Property. The Community College District is the only area within Santa Fe County that encourages high density through zoning, and is therefore the only area in the County where development of apartments is feasible without seeking a density variance.¹ The CCDO is intended to ensure a variety of housing types for County residents, including multifamily development.

¹ Article III, Section 10, of the Code, establishes permissible densities outside of the Community College District. As explained by the County Land Use Administrator at the public hearing, densities available outside of the Community College District Ordinance are too low to make multifamily apartment complexes feasible.

10. The CCDO Land Use Zoning Map, adopted in 2000, designated the Property as part of a Village Zone. The uses permitted in the Village Zone include multifamily residential developments such as that described in the Application. Density within a Village Zone *is a minimum of 3.5 dwelling units per acre*. Community Development Plan, adopted by Resolution No. 2000-136, § E(1)(c)(1).

III. The Public Hearing Process and Evidence of Compliance with the Code

11. The Applicant complied with the notice requirements of Article II, Section 2.4.2 of the Code. In advance of a hearing on the Application, the Applicant provided a certification of posting of notice of the hearing and confirmed that public notice posting regarding the Application was made for twenty one days on the property, beginning on June 17, 2014. Additionally, notice of the hearing was published in the legal notice section of the Santa Fe New Mexican on June 17, 2014, as evidenced by a copy of that legal notice contained in the record. Receipts for certified mailing of notices of the hearing were also contained in the record for all adjacent property owners and Home Owners Associations. Additionally, the Applicant held multiple community meetings to inform the community about the contemplated development and, after learning of the desire of the community to have the development moved east of its proposed location; the Applicant accommodated that request in the Application.

12. The Applicant undertook a market study to determine if multifamily housing was needed in the area. That study confirmed a significant demand for multifamily rental properties.

13. Elevation will be accessible from College Drive. The County Public Works Department supported the project subject to specific conditions.

14. The Applicant provided a traffic study which confirmed the need to evaluate the level of service at adjacent intersections prior to development plan approval in order to determine what road improvements would be necessary to attain adequate traffic flow. If the project develops without the benefit of an anticipated road project called the Southeast Connector, a traffic analysis will be required to evaluate necessary improvements on Richards Avenue, such as a slip lane, and how much development Richards Avenue, with or without improvements, can support. The Applicant confirmed that off-site road improvements provided by the Applicant could be required as part of the preliminary and final development plan approval process for the project.

15. In accordance with the Code, on May 15, 2014, the County Development Review Committee (CDRC) held a public hearing on the Application and recommended denial of the Application.

16. On July 8, 2014, the BCC held a public hearing on the Application. A staff report was presented to the BCC, the Applicant's agent made a presentation in support of the Application, and 22 members of the public provided testimony in opposition to the Application. The staff report recommending conditional approval of the Application included materials and plans submitted by the Applicant, Code requirements, reviewing agency comments and letters of concern from the public, among other material.

17. Following the extensive public hearing, the BCC went into closed executive session to deliberate on the application as allowed by NMSA 1978, § 10-15-1-H(3). Following executive session, the BCC tabled the case until the September 9, 2014 BCC meeting. The BCC identified three specific issues to be addressed at the September

9 meeting. Specifically, the BCC directed staff to obtain additional information regarding:

a. The basis for the concerns of the New Mexico Environmental Department (NMED) regarding the proposed wastewater treatment provider, Ranchland Utility, as reflected in NMED's report of a compliance evaluation inspection conducted on or about February 25, 2014;

b. The availability of water for the project; and

c. The status of the design, survey, easements and construction timeline associated with the Southeast Connector.

18. On September 9, 2014, the BCC continued the public hearing with respect to the three items, and then acted to approve the Application for Master Plan zoning approval.

19. The following was established during the continued public hearing on September 9, 2014:

a. As confirmed by NMED, a compliance evaluation inspection of the Ranchland Utility wastewater facility was conducted on February 25, 2014. The facility is regulated under the United States Environmental Protection Agency (USEPA), National Pollutant Discharge Elimination System (NPDES) permit program. NMED's Surface Water Quality Bureau conducts compliance evaluation inspections on behalf of the USEPA. The purpose of the inspections is to provide the USEPA with information to evaluate compliance with the NPDES permit. According to NMED, as of the time of hearing, all findings from the inspection report were addressed sufficiently by Ranchland Utility.

b. The Santa Fe County Utilities staff reviewed the Ranchland Utility NPDES inspection report dated March 6, 2014. Based on the information provided, the wastewater facility has capacity to serve the proposed multifamily development.

c. In response to the inquiry regarding availability of water for the project, it was noted that Santa Fe County Utilities had issued a “ready, willing, and able” letter to the Applicant, which provide that water right acquisition costs will be recovered from projects at time of meter installation. Santa Fe County Resolution 2006-57, Resolution Adopting A Santa Fe County Water Resources Dept. Line Extension And Water Service Policy, states that new water service applicants “may be required to deposit or dedicate water rights with the County to match against expected deliveries, pay the County to acquire water rights to match against deliveries that are sought, pay a significant initial service fee, or pay other fees to the County to assist the County to provide a permanent and perpetual water supply.” Since water rights and water allocations have been dedicated to the County under the original Rancho Viejo Master Plan Applicants may be able to take credit for those contributions for this development. The Applicants may need to pay a water right acquisition fee at the time of meter installation. These water rights issues are to be resolved prior to preliminary and final development plan approval pursuant to Resolution 2006-57. To address concerns regarding the water budget and water availability for the development, the Utilities Department suggested and the Applicant agreed to certain conditions on master plan approval.

d. The Southeast Connector is currently at the stage of an alignment study. This study evaluates the best alignment for the proposed road. Once the alignment

study is complete, the County may need to acquire rights-of-way for the road project. The road will then need to be designed, and constructed. Based on the best information available at this time, the estimated schedule for this road project is: alignment study completed – February 2015; Right-of-Way acquired – November 2015; design completed – November 2016; and, construction completed – July 2017.

20. Affordable housing requirements set forth in County ordinances only apply to single family dwelling units on individual lots, and thus do not govern development of the proposed multi-family apartment development.

21. The archaeological review presented no obstacles to granting Master Plan Approval, and the Applicants will note a non-disturbance easement on the Development Plan submittal or survey.

22. The Property is not located within a FEMA designated 100 year flood zone. Floodplain and terrain management were adequately addressed by the Application.

23. The Application proposed two monument signs at the entrance to the development, which was not in conformance with the Code. The Preliminary Development Plan will have to reflect a single sign. Similarly, the 25 foot lighting proposal will have to be reduced to a maximum of 24 feet in height for the Preliminary Development Plan. Neither defect is sufficient to serve as a basis for denial of the Application, which is simply for approval of the Master Plan.

24. Fire protection was sufficient as proposed.

25. The Master Plan contained the mandatory 50% minimum open space and accommodates planned district trails.

26. No objection to the Application was identified by the Office of the State Engineer, New Mexico Environment Department, New Mexico Department of Transportation, and Santa Fe Public Schools.

27. Santa Fe Community College, one of the largest employers in New Mexico, is located adjacent to the proposed development, and across the street from the development is the College Park. Also in the area are: Amy Biehl School, the ATC Charter School, the Institute of American Indian Arts (IAIA), and La Entrada Commerce Park, which is currently home to Bicycle Technologies International (BTI). The proximity of these employers to the Property illustrates the potential customer base for the development. Not all residents seek home ownership, and the multi-family development will offer residents an alternative to home ownership. A housing needs assessment conducted by Santa Fe County confirmed that employers felt that access to housing was one of the most important needs to address in the community; a need which is partially addressed by development of multi-family housing.²

28. Elevation includes a community pool, which is permitted under the CCDO Land Use Table and Santa Fe County Ordinance No. 2007-1.

29. The water budget for the project is estimated as 30-34 acre feet per year, which will be equivalent to approximately .14 to .16 acre feet per dwelling unit. The Applicants confirmed that at the time of preliminary and final development plan approval they would either prove entitlement to utilize water rights already dedicated to the County, acquire sufficient water rights for transfer to the County, or pay the County for

² The conclusion of the Housing Needs Assessment was the subject of testimony at the public hearing. In addition, the BCC may properly take administrative notice of the County's own Housing Needs Assessment.

any water rights required for the development. The determination of how water rights will be provided by the developer to the County is governed by Resolution 2006-57 and is not required for master plan approval.

30. The Applicants' engineer testified in support of the Application in regards to the sewer line and waste water treatment facility proposed for the development. Her expert opinion was that the sewer line and waste water treatment facility, components of which are to be installed and components of which already exist, would be adequate to accommodate the demands of Elevation. She described a three inch low pressure sewer line that runs from College Hills Drive to Richards Avenue, down Richards Avenue to Avenida del Sur and into a manhole that flows to the Rancho Viejo treatment plant. The three inch line has capacity for more than 400 units. NMED also reviewed the Application and did not indicate any basis for rejecting the Application as a result of the Rancho Viejo wastewater treatment facility. NMED Ground Water Quality Bureau determined that the proposal fit within the current conditions of Rancho Viejo's Ground Water Discharge Permit and no further permitting would be required.

IV. Opposition to the Application

31. Twenty-two members of the public, including those representing homeowners associations and groups of area residents, testified against the Application.

32. The basis for opposition to the project presented from members of the public can generally be characterized as follows:

a. Concern over the adequacy of the existing wastewater infrastructure which would serve the development;

b. Concern that renters living in Elevation would not be compatible with the home owners in the community and that Elevation may bring an increase in crime to the area;

c. Frustration that what was once master-planned as 73 single-family residences had been partially built out with 22 single-family residences and that the Property was now being master planned for multifamily development;

d. Concern about the increased traffic generated by the development;

e. Concern regarding the visual impact of a multifamily development;

f. The impact of multifamily development on property values;

g. Failure to include all property in the village zone owned by Univest-Rancho Viejo, LLC in the Application;

h. Failure to ensure a transitional buffer between the multifamily development proposed and the existing single-family development to the east;

i. Concerns that the Property had been de-annexed from the private covenants governing property within the Rancho Viejo development, which means the Property does not have to pay dues into the homeowners association or support the trails and open space in Rancho Viejo.

33. With regard to generalized concerns regarding compatibility between renters living in Elevation and home owners in the community, crime allegedly associated with apartment complexes, the impact of Elevation on property values, and concerns about the visual impact of Elevation, the BCC specifically finds that these

general concerns were unsupported by substantial evidence, in the form of testimony from individuals qualified to render an expert opinion or other competent evidence.³

34. The Southeast Connector is intended to provide an improved traffic network within the Community College District, thereby relieving traffic congestion on Richards Avenue. The Southeast Connector, if constructed, will be a Santa Fe County road. The road, if installed as described during the public hearing on this matter, would run between the existing single family residential area known as College Heights and the Property. Applicant has confirmed that the location of the apartment buildings on the subject property may be moved once the final alignment of the Southeast Connector is determined.

35. Reviewing agencies and County staff confirmed that the Application was in compliance with all relevant requirements contained in the Code and the CCDO.

36. The information provided at the September 9, 2014 public hearing confirmed, and the BCC hereby finds, as follows:

- a. The wastewater requirements for the proposed development can be adequately met by Ranchland Utilities and existing and proposed infrastructure;
- b. The Applicant has met the Master Plan requirements of the Code and the CCDO pertaining to water; and
- c. That traffic concerns are appropriately addressed at the time of preliminary and final development plan approval.

³ For example, some opponents to the Application, area residents not qualified as expert witnesses, speculated about the demographics of potential residents of Elevation apartments and made assumptions about the likely behavior of those residents based upon those assumed demographics.

V. Conclusions of Law

37. Any finding or conclusion set forth above that may be construed to constitute a conclusion of law is hereby incorporated as such to the same extent as if it was expressly denominated as a conclusion of law.

38. The Application is comprehensive in establishing the scope of the project.

39. The Master Plan conforms to the eligible use and density allowed under the CCDO and the Community College District Plan.

40. The Application satisfied the relevant submittal requirements.

41. The Application does not request a rezoning of the Property. Rather, the CCDO establishes comprehensive zoning for the entire Community College District, including the Property. Allowable uses for the Property include multifamily residential developments of over four units, since the Property is within a Village Zone. CCDO, Community College District Land Use Zoning Map and Exhibit 2. In other words, the Property is already zoned for multifamily residential developments of over four units (as well as other uses). *E.g.*, Code, Article XV, Section 4(B)(1)(b) ("All lands within the Community College District are zoned for the uses allowed in the Land Use Table."). Consequently, the change or mistake rule established by the New Mexico Supreme Court in such cases as *Miller v. City of Albuquerque*, 1976 -NMSC- 052, 89 N.M. 503 (N.M. 1976) does not apply to the Application.

42. There is no specific buffer requirement in the Code or CCDO between single family developments and multifamily developments. The Application complies with all applicable buffering and open space requirements.

43. With regard to general principles, the Sustainable Growth Management Plan (SGMP), adopted by Resolution Nos. 2010-210 and 2010-225, recognizes that “that when a use is authorized in a base or planned district zone, the use itself is deemed compatible with the adjoining area.” SGMP, § 2.2.4.5. As indicated above, the Property is zoned for multifamily residential development of over four units, meaning that the BCC has previously determined that multifamily residential development is compatible with the adjoining area. This general compatibility is demonstrated when College Heights and the Property are put in context: They are both in close proximity to large scale, mixed uses (e.g., the Community College, Santa Maria de la Paz Church, and BTI).

44. With regard to development specific compatibility issues, the SGMP establishes as a goal “the protection of residential areas through open space and buffering site design” and emphasizes that “[s]ite design plays the most significant role in assuring land use compatibility.” Here, the Application proposes to maintain 50% of the Property as open space, as required by the Code, Article XV, Section 6(H)(2)A). This includes open space between all property boundaries and buildings on the Property. In addition, the landscape plan for Elevation includes vegetation between the buildings and property boundaries. These conceptual site design elements are consistent with the general policy goal of the SGMP of using open space and site design to ensure land use compatibility.

45. The BCC does not have jurisdiction over the following matters: (i) the legality of the de-annexation of the Property from the First Amended and Restated Declaration Covenants, Conditions and Restrictions, including any alleged inequity arising from the multifamily development being exempt from homeowners association dues, and (ii) whether the Elevation development proposed in the Application should be

enjoined because it is inconsistent with the marketing material used to sell lots in College Heights. *E.g., Singleterry v. City of Albuquerque*, 1981 -NMSC- 037, ¶¶ 6-10, 96 N.M. 468 (N.M. 1981). These issues are for the courts to resolve in litigation brought by and between appropriate parties.

46. The Application does not violate Code, Article XV, Section 4(B(2)(a), which provides that “[t]he minimum area which must be included within a master plan shall be an entire Village Zone, Employment Center Zone or Institutional Campus Zone, or that portion of such zone owned by the applicant.” The Application includes all of the land within the Village Zone that the Applicant is in the process of acquiring. There is no evidence in the record that the sale to the Applicant is a non-bona fide transaction or that Univest-Rancho Viejo, LLC is otherwise engaging in activity designed to avoid master planning all of the property within the village zone it owns, which evidence, if present, might justify an interpretation of Article XV, Section 4(B(2)(a) that would require Univest-Rancho Viejo, LLC to master plan all of the property it owns in the applicable zone.

47. Master plan approval means that “that the development concept is acceptable and that further approvals are likely unless the detailed development plans cannot meet the requirements of applicable law and County ordinances in effect at that time.” Code, Article V, § 5.2.6(a).

48. Article III, Section 4.4.1.5(b) of the Code requires that when a “development will increase the burden on inadequate public roads, utilities or other services, the use may be denied, or the developer may be required to undertake the full cost of improvements to the public road or other services in order to meet the test of

adequacy.” As the Applicant acknowledged at the public hearing, traffic impact from the proposed development and the adequacy of public roads must be addressed prior to preliminary or final development plan approval. Depending upon the then current level of service on Richards Avenue and College Drive as well as the status of the Southeast Connector, Applicant may be required to undertake the full cost of improvements necessary to provide adequate service and/or limit the size of the proposed development to a level that can be adequately served.

49. Subject to the conditions noted below, the application should be approved based upon the criteria established in Code, Article XV, Section 4(B)(3), as follows:

a. The Application conforms to the Santa Fe County Growth Management Plan, as amended by the Community College District Plan, and SGMP. Without limiting the generality of the foregoing conclusion, the Community College District Plan and SGMP call for higher densities and growth in the Community College District, specifically establish the goal of encouraging multifamily, rental housing developments, and specifically recognize the desirability of diverse housing opportunities near work, transit infrastructure, commercial areas, and community services. *E.g.*, Community College District Plan, adopted by Resolution No. 2000-136, § D(9), § E(1)(c), and § (E)(8); SGMP, Policy 8.2, Policy 8.3, Critical Finding 13.2.1 and § 14-2.1.2 (recognizing community plans adopted by the BCC as amendments to the SGMP).

b. The Application does not propose phasing.

c. At the conceptual level required for master plan approval, the Application conforms to the CCDO and other applicable law and ordinances in effect at the time of consideration.

d. There will be no impact to schools, as demonstrated by the January 21, 2014 letter from Shirley McDougall, Santa Fe Public Schools, Property & Asset Management, which states, in part, that “current capacities at assigned schools . . . will be adequate to serve the anticipated student population from this development.” Opponents to the Application failed to establish through substantial evidence that the Application would negatively impact their land to a degree sufficient to justify denial of the Application. With respect to impacts to Santa Fe County, Elevation will address an identified goal of providing multifamily residential development, as established above in the paragraph concerning conformity with the Community College District Plan and SGMP. In terms of potential impacts upon the adequacy of public roads, as previously indicated, traffic impacts will be evaluated and addressed at preliminary and final development plan approval.

50. The following conditions of approval shall be applicable and have been agreed to by Applicants:

a. The Applicants shall comply with all review agency comments and conditions, as per Code, Article V, § 7.1.3.c.

b. Conditions shall be noted on the recorded Master Plan. The Master Plan with appropriate signatures shall be recorded with the County Clerk, as per Code, Article V, § 5.2.5.

c. A revised traffic impact analysis, showing current road conditions, shall be submitted based on the Southeast Connector at the time of submission of the Application for Preliminary Development Plan. Code, Article III, § 4.4.1.5.c.

d. Prior to submittal for Preliminary Development Plan Approval, the Applicant is required to submit a proposed water budget that meets County code requirements and incorporates Santa Fe County conservation ordinances and resolutions. Upon approval, Utilities will add 20% to the development's water budget for line losses per Resolution 2006-57 and submit the water budget to the BCC for a water allocation.

e. Prior to submittal for Preliminary Development Plan Approval, the Applicant must have a BCC-approved water allocation in the amount needed for the development's water budget.

f. Prior to Final Development Plan Approval, Elevation may provide the County Rio Grande surface water rights or Rancho Viejo water commitments. Otherwise, a water right acquisition fee will be added to the meter installation fee for each dwelling unit, which will be metered separately per Santa Fe County Resolution 2012-88, Customer Service Policy 15.

WHEREFORE, the BCC hereby approves the request for Master Plan Zoning approval to allow a multifamily residential apartment community consisting of 214 residential units on 22 ± acres, subject to the conditions set forth in Paragraph 50 above. The motion to approve the Application passed by a 3-2 vote, with Commissioners Anaya, Holian, and Chavez voting in favor of the motion. Commissioners Stefanics and Mayfield opposed the motion.

IT IS SO ORDERED.

This Order was approved by the Santa Fe County Board of County Commissioners on this 13th day of January, 2015.

SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS

By: _____
Robert A. Anaya, Chair

Attest:

Geraldine Salazar, County Clerk

Approved as to form:



Gregory S. Shaffer, County Attorney

- VII. A. 3. **CDRC CASE # Z 13-5380 Elevation. Vedura Residential Operating, LLC, Applicants, JenkinsGavin, Agents, Request a Master Plan in Conformance with the Community College District Ordinance to Allow a Multi-Family Residential Community Consisting of 214 Residential Units on 22+ Acres. The Site is Located on the North Side of College Drive and East of Burnt Water Road within the Community College District, within Section 21, Township 16 North, Range 9 East (Commission District 5) [Exhibit 2: Land Use Table; Exhibit 3: Letters in Opposition and NMED Reports; Exhibit 4: Land Use Zoning Map; Exhibit 5: Elevation Presentation; Exhibit 6: Graeser Material; Exhibit 7: Page 15 from the Growth Management Plan; Exhibit 8: Letter from Bruce Keller; Exhibit 9: Excerpt from Vedura Website; Exhibit 10: Letter from Teri Buhl; Exhibit 11: Letter from Glenn Smerage]**

JOSE E. LARRAÑAGA (Case Manager): Thank you, Mr. Chair. I'd just like to clarify, the Vedura Residential Operating is the applicant and Rancho Viejo Uninvest is the owner of the property. On May 15, 2014 the County Development Review Committee met and acted on this case. The decision of the CDRC was to recommend denial of the applicant request. This case was on the March 20, 2014 CDRC agenda as a master plan amendment to the College North master plan. This case was tabled from the agenda at the request of the applicant.

During the review process staff determined that the College North master plan had expired. The College North master plan allowed for 73 single family lots on 90.75 acres, was approved by the Extraterritorial Zoning Authority in 1997, and phase 1 of the master plan was developed in 1999 as a 20-lot subdivision known as the College Heights Subdivision on 33.84 acres.

The applicant is requesting master plan approval in conformance with the Community College District Ordinance. The CCDO was adopted on December 11, 2000. The CCDO land use zoning map designates this site as a village zone within a new community center which allows for multifamily residential use. The master plan would allow a 214-unit multi-family residential apartment community on a 22-acre site, which is defined as an eligible use in the CCDO land use table. Density allowed in this area is a minimum of 3.5 dwelling units per acre. The applicant is proposing approximately 9.7 dwelling units per acre and is in conformance with the CCDO.

The applicant has refined their plans to relocate the proposed site of the apartments in accordance with the alignment of the proposed southeast connector. The exact alignment of the southeast connector has not been established therefore the actual building site of the apartments may change to coincide with the alignment once it is finalized by the County.

Building and Development Services staff have reviewed this project for compliance with the pertinent code requirements and have found that the facts presented support this request: the application is comprehensive in establishing the scope of the project; the master

plan conforms to the eligible use and density allowed under a new community center; the application satisfies the submittal requirements set forth in the Land Development Code.

The review comments from state agencies and County staff have established findings that this application is in compliance with state requirements, County Ordinance No. 2000-12, Community College District, and Article V, Section 5, Master Plan Procedures of the Land Development Code. Under this section, under this page under zone, it is a village zone. It's not within a community center district, it's just the zone is the village zone.

Staff recommendation: Staff recommendation is conditional approval for a master plan in conformance with the Community College District Ordinance to allow a multi-family residential community consisting of 214 residential units on 22 acres subject to the following staff conditions:

1. The applicants shall comply with all review agency comments and conditions, as per Article V, § 7.1.3.c. Conditions shall be noted on the recorded master plan.
2. Master plan with appropriate signatures shall be recorded with the County Clerk, as per Article V, § 5.2.5.
3. A revised Traffic Impact Analysis, showing current road conditions, shall be submitted based on the southeast connector at Preliminary Development Plan. Article III, § 4.4.1.5.c.

Mr. Chair, I stand for any questions.

CHAIR MAYFIELD: Are there any questions? Commissioner Chavez, please.

COMMISSIONER CHAVEZ: yes, Mr. Larrañaga, having to do with density.

You stated and the memo states that the density allowed in this area is a minimum of 3.5 dwelling units per acre. The applicant is proposing approximately 9.7 dwelling units per acre. Would that be the maximum density allowed or is there a different number that would be the maximum allowable density?

MR. LARRAÑAGA: Mr. Chair, Commissioner Chavez, there is no maximum on this, on the multi-family.

COMMISSIONER CHAVEZ: So then how did the applicant arrive at the 9.7 dwelling units per acre that they're requesting?

MR. LARRAÑAGA: That would be the density that they're requesting through the apartments. The size of the lot and how many apartments they're putting on the 22 acres, would be at that.

COMMISSIONER CHAVEZ: So then they could ask for ten units per acre or 12 units per acre?

MR. LARRAÑAGA: That's correct.

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

CHAIR MAYFIELD: Thank you. Let me ask a question. Why don't we have a cap? Is there a reason?

PENNY ELLIS-GREEN (Growth Management Director): Mr. Chair, Commissioners, the Community College District is our major growth area in the county and so unlike other areas where you've got a maximum density of maybe one unit per 2.5 acres, in the village zone areas, which are the yellow areas on the zoning map there, we had that approved at being at least three dwelling units per acre to be able to preserve the area that's a

fringe and in the arroyos and to allow higher density in the village zones. It also would be one of the only areas so far in the county that would be allowed to have multi-family, just due to the existing density throughout the county, that really, when you're looking at a multi-family apartment complex it's not going to be feasible if you need to have one dwelling unit per 2.5 acres or per 12.5 acres.

And so that's really the reason, when we wrote the Community College District Ordinance it was to allow for some of that protection, the open space at 50 percent, which hadn't been required anywhere else in the county, and then to allow higher density in those village zones.

CHAIR MAYFIELD: Thank you. And Ms. Ellis-Green, what's the height maximum?

MS. ELLIS-GREEN: I believe it's 36 feet.

CHAIR MAYFIELD: Thank you. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair, just on your point and it's the more general question. Did I just hear you say that nowhere else in the county do we allow multi-family units?

MS. ELLIS-GREEN: We don't not allow them, it's just when you start looking at the density requirements throughout the county, if you needed to have one dwelling unit for every 2.5 acres, it's not really feasible. Then you would need hundreds of acres in order to get a 100-unit apartment complex. Whereas in the Community College District, because the density is so much higher, then what you look at is the area of land you've got, you've got enough land for your parking, for your retention ponding, your landscaping and any of the other requirements.

COMMISSIONER STEFANICS: Mr. Chair, I'm asking – you made a general comment. So if somewhere else in the county wanted to do a multi-family, once we would pass the new zoning. They would have to come in or request a variance?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Stefanics, no. Once we've passed the new zoning, the new zoning has multi-family zoning allowed in certain districts.

COMMISSIONER STEFANICS: So currently, you're saying that the Community College District is the only area that has in their plan ordinance a multi-family component?

MS. ELLIS-GREEN: The Community College District does allow multi-family and I guess if I clarify my statement it's the area that it's feasible to do multi-family at the moment, until the Sustainable Land Development Code comes into effect. And then there are other areas that have a multi-family density.

COMMISSIONER STEFANICS: So, Mr. Chair, Penny, the Community College District is what area to what area? Does it start further up? Is Mission Viejo in the Community College District?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Stefanics, I believe it's in your Exhibit 12, is the land use zoning map, and it is up on the screen. So from I-25 to State Road 14 to just south of where the Santa Fe Studios is, and it runs all the way over to the northern area of Eldorado.

COMMISSIONER STEFANICS: Thank you very much, Mr. Chair.

CHAIR MAYFIELD: Thank you. On that, I'm just going to ask a general question. So based on this map that we have, how does – if you can't do it visually that's fine. But where would the SDA-1 overlay fall within this?

MS. ELLIS-GREEN: Mr. Chair, I don't actually have the SDA boundary here, but I believe the Community College District is within SDA-1.

CHAIR MAYFIELD: So that whole area.

MS. ELLIS-GREEN: That whole area.

CHAIR MAYFIELD: SDA-1.

MS. ELLIS-GREEN: Correct.

CHAIR MAYFIELD: And again, could you just cite for everybody here in the audience listening what an SDA-1 area is please.

MS. ELLIS-GREEN: That is under our growth management plan. Our Sustainable Growth Management Plan identified sustainable development areas, and SDA-1 is the primary growth area.

CHAIR MAYFIELD: We're talking about infrastructure, transportation, resources there.

MS. ELLIS-GREEN: Correct. And it's kind of a timing element that – where we would see infrastructure come forth.

CHAIR MAYFIELD: Okay. Thank you, Ms. Ellis-Green. Any other questions for staff, Commissioners? Seeing none, Mr. Larrañaga, do you have anything else to add?

MR. LARRAÑAGA: No, Mr. Chair. Thank you.

CHAIR MAYFIELD: Thank you. Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: I did realize – the southeast connector is planned right now east or west of this request?

MR. LARRAÑAGA: Mr. Chair, Commissioner Stefanics, it would be on the west side of this 22 acres, and there is –

COMMISSIONER STEFANICS: A diagram?

MR. LARRAÑAGA: Yes, it should be – oh, it's up on the screen actually. So the white dotted line – 14, I believe.

COMMISSIONER STEFANICS: So my question is, it's on the west side, so is it actually a dividing line between the houses that are there and the proposed development?

MR. LARRAÑAGA: Mr. Chair, Commissioner Stefanics, yes.

COMMISSIONER STEFANICS: Okay.

CHAIR MAYFIELD: Mr. Larrañaga, and I'll get to it a little later, but who's providing water out to this proposed master plan area?

MR. LARRAÑAGA: Mr. Chair, the County.

CHAIR MAYFIELD: Based on that discussion we just had with the master meter a little earlier, so we already have a master meter out to that area, correct?

MR. LARRAÑAGA: Yes. And this was reviewed by the County Utilities Department for water.

CHAIR MAYFIELD: Thank you. I'm just going to really quick, I'll go to the applicants, but just by a show of hands, who is here to comment on this case tonight? Okay. Great. And we will now – we'll go to the public hearing in one second but we'll go to our

applicant first please. And I'm going to be here. I just have to go down and sign some documents.

[Duly sworn, Jennifer Jenkins testified as follows:]

JENNIFER JENKINS: Good evening, Chairman and Commissioners. My name is Jennifer Jenkins and this is Colleen Gavin and we are JenkinsGavin Design and Development here this evening on behalf of Vedula Residential in request for master plan approval for a 214-unit multi-family community in the Community College District. I have a couple of brief introductions and then we will proceed with our presentation.

Sitting behind Colleen is Oralynn Guerterortiz with Design Enginuity who is a civil engineering consultant on the project who is here to stand for any questions, and also sitting next to Oralynn is Jason O'Clare and Bruce Hart of Vedula Residential.

So as Jose mentioned in the staff report and if you turn to the first page, we passed over the slide show for you so you could reference it easily at your seat. We have the location of the subject property, which is Tract 1-B, which is 22 acres, and you can see its location there, just northeast of the Santa Fe Community College. And what you have there too on the left-hand side of the image there is Richards Avenue, and then coming east down College Drive on the north side of the Community College Campus you have the College Heights neighborhood, the 20-lot neighborhood there, then there's a 19-acre vacant parcel that is being created, and then we have the subject property.

So this is the Community College District zoning map, and this is the entire area, and let's go to the next slide and we are zoomed in on the subject property there. It's right in the middle, kind of above the Santa Fe where it says Community College. The yellow is the village zone. The village zone, per the Community College District is a mixed-use zoning designation that contemplates a variety of types of residential and non-residential uses as well as multi-family as evidenced by the following land use table.

So the village zone is highlighted there at the top and you can show that multi-family is a permissible and permitted use. And this is an important element I want to address on the next slide is this is language taken straight out of the Community College District. It states this property is already zoned. We already have zoning that permits multi-family. It was done in 2000. The master plan process that is before you today is a little different than what you might see master plans as they occur in other parts of Santa Fe County. In other parts of Santa Fe County master plans have historically been used as vehicles to establish zoning. With the adoption of the new SLDC and the zoning map that process is going to go away.

But the Community College District is also different. They established zoning and the master plan is just intended, as it says here, to just provide specific information about the project itself prior to moving forward through the development plan stage.

So this, going back in history even a little further than the Community College District Ordinance, this is the Rancho Viejo – this is an excerpt. We kind of wanted to zoom in on the project area, and if you look at the upper right-hand corner there you can see at the top of the page there's the intersection of Richards Avenue and College Drive. You can see the Community College and then our subject property there just to the northeast of the campus.

The Rancho Viejo master plan was adopted in 1989. The Rancho Viejo master plan contemplated 570 multi-family units on 55 acres, which works out to a density of around 10

dwelling units per acre. As you can see, up at the northeast corner of College Drive and Richards Avenue it was contemplating multi-family in that location. Across the street, you can see directly across the street from the Community College was another location identified for multi-family, and then as you move further south down Richards along the future extension of Avenida del Sur, south of the Community College, more sites identified for potential multi-family development.

It's very clear that in 1989, 25 years ago, there was an understanding that with the proximity to the business park that you see identified here, the proximity to the Santa Fe Community College that multi-family development was appropriate and likely necessary, and should be encouraged. This project is, as was discussed previously regarding the density, we're at about 9.7 dwelling units per acre, 50 percent open space provided on site. We're completely consistent with what was contemplated when the Rancho Viejo master plan was approved by the Board of County Commissioners in 1989.

This is the first opportunity for a multi-family project in the Community College District and in Rancho Viejo. It's the first one. It's very clear that the Community College District Ordinance, the intent was to encourage a variety of housing types, mixed uses and a variety of densities so we can serve all the people in this community of ours.

So this is the site plan overlaid on an aerial of the vicinity. And we have been working closely with Santa Fe County Public Works Department as they've been engaged in the location study for the new southeast connector. The southeast connector will come off Rabbit Road prior to Rabbit Road moving into Oshara and it will move south, kind of running parallel to Richards Avenue, with the intent to provide relief to Richards Avenue. We have worked closely with Santa Fe County on the current preferred alignment which is reflected here. The County is engaged in surveys and topographical mapping and archeological analysis of this alignment and so the project has morphed a little bit over the last year and a half as we have been engaging with the County on this very important public improvement.

Originally, when we first reached out to our neighboring community the project was slated to be on the other side of the southeast connector, on that parcel, and through the process again it has been moved significantly east to be on the east side of the southeast connector. With this project the necessary right-of-way for this facility is donated to Santa Fe County to facilitate the construction of the southeast connector.

So there have been questions. Well, what is the project going to look like? What is it going to be? And that's an important question because Santa Fe County is less accustomed to multi-family communities than potentially projects that have been built in the City of Santa Fe. So we are fortunate that we have a very high quality development organization who has come to Santa Fe and is interested in providing this in this market.

This is just an image that shows the entire length of the southeast connector. I think move of you have probably seen this before. We can go back to that if necessary. So this is the site plan. Again, 50 percent open space, all of the access is via College Drive and on this site plan again, the southeast connector would be right there on the west boundary. There are significant amenities with respect to swimming pool, workout facilities and pedestrian pathways through the landscaped areas, and multiple buildings so we don't have just a few very large buildings. We break them up so we have more smaller buildings which creates a more attractive experience of the property.

So these are pictures of actual projects that Vedula has developed in other municipalities. They focus on very high quality, high amenity projects. And we can go ahead and just scroll through these and they're in your packet as well. These are the interiors of some units. Again, spacious, attractive and one thing that I think is important to recognize is not everyone is a homeowner. Not everyone wants to be a homeowner. So we're talking about providing a diverse selection of housing opportunities in Santa Fe County. And that is a critical element to any economic development effort.

Santa Fe County, you just adopted your economic development plan and in your economic development plan it's interesting because if you look at the next slide on the next page there, so why here? Why this location? Santa Fe Community College is the largest employer in Santa Fe County. Santa Fe Community College is the 19th largest employer in the state of New Mexico. It is a key economic driver for this community. Across the street from the Community College we have a designated employment center which is the La Entrada Commerce Park. The very first facility in that commerce park is Bicycle Technologies International, BTI, something everybody is very proud of. It is specifically mentioned in your economic development plan as something that is a recent success, and the hope is that BTI as the first user in this key economic area will attract more users.

I can speak about economic development with some authority because I am the current chair of the Regional Economic Development Corporation which is an economic development non-profit focusing on northern New Mexico. And I can tell you that housing in proximity to employment is key, and it is critical. As a matter of fact, when the County did their housing needs assessment they surveyed employers about what were the concerns that some of the more significant employers had. Sixty percent of them said housing was one of the most critical issues. So it's about providing a diverse opportunity for different types of housing, not just one type in Santa Fe County, proximate to, within walking distance or biking distance I dare say, to the significant – do you know how many institutions are in this area? We have Amy Biehl School, we have the ATC Charter School, we have IAIA, there are people working there. There are people studying there, and this is really, frankly, a golden opportunity to serve those institutions with a mix of housing that is currently unavailable in Santa Fe County.

And lastly, I want to mention also some interesting statistics that came out of the County housing needs assessment that of all the people in Santa Fe County that rent housing, that is their preference. They are renters; they are not homeowners, 40 percent of them, their income puts them in that market rate category. As far as area median income, they are market rate renters. But of all the rental housing that's available in Santa Fe County only 13 percent of those units are market rate. So what that does is it creates competition for the less expensive housing. So the people that really need it are competing against people who don't, but they have no choice because there's not as much supply in the market rate housing. And so that's what this project hopes to address. And with that, I would be happy to stand for any questions. Thank you for your time.

COMMISSIONER STEFANICS: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. Could you review for us any of the community meetings or negotiations that you've had over this project?

MS. JENKINS: Sure. Absolutely. Chairman, Commissioners, we've had a series of three community meetings. Our first community meeting was in November of 2012, which was our first kind of kickoff. We had a follow-up meeting in the following January. And then with the southeast connector coming on line and everything we kind of put the brakes on at that point and that's when we really started engaging with the County as far as the alignment and how that was all going to work. And then we went back to the community in March of this year. And one piece of feedback that we received early on was moving the project further east. Moving it further down College Drive. And that is something that has occurred in order to provide more separation and more buffer. Next to College Heights there's a 19-acre undeveloped piece of property, and then there'll be the southeast connector, and then there will be us.

You'll probably hear some of these same comments this evening about concern that it would just be student housing and it would be a party palace. We have no commitment or relationship with the Community College as far as providing student housing. Of course some students may choose to live there, which would be actually wonderful so people could walk to school. Of even people that are working people that maybe attend classes there in the evening and it's convenient for them. And so those were some of the comments that we received. But again, we made a concerted effort to move the project further east to provide a more significant buffer.

COMMISSIONER STEFANICS: So, Mr. Chair, some of the letters of concern that have come in identify issues in surrounding communities with the sewer lines and they're concerned about the impact of a large number of people and how it will interface. So could you address some of that concern?

MS. JENKINS: Yes. Absolutely. I'm actually going to have Oralynn from Design Enginuity, she designed the conceptual sewer plant, so I'm going to have her address that if that's all right.

[Previously sworn, Oralynn Guerrortiz testified as follows:]

ORALYNN GUERRERORTIZ: Good evening, Commissioner Stefanics. The sewer line in this area is a low pressure sewer line. It's a three-inch line that actually goes from College Hills Drive to Richards Avenue, down Richards Avenue to - I forget the name of it. Avenida del Sur? Avenida del Sur, and then goes into a manhole and flows on to the Rancho Viejo treatment plant. A three-inch line has capacity of more than 400 units, so I don't believe there's any kind of concern. It's a three-inch low pressure sewer line. There's no concern for capacity in that main line going towards the treatment plant.

COMMISSIONER STEFANICS: Mr. Chair, do we have staff here who can address the sewer plant? Do we have anybody from our water utility? I can wait.

COMMISSIONER ANAYA: Mr. Chair, Ms. Guerrerortiz, clarify for me - I've been doing a little bit of research in more detail on sewer systems lately. But the state of New Mexico through the Environment Department provides for standards associated with the general outcome for lack of a better word, for what a sewer system has to meet.

MS. GUERRERORTIZ: That's correct.

COMMISSIONER ANAYA: But ultimately the responsibility for design does not fall with the state of New Mexico EID it falls within each respective development. Is that correct?

MS. GUERRERORTIZ: That's correct. ED does review plans and sets standards. The PUC also is involved because Rancho Viejo is regulated by the PUC, so there are standards set by them with regards to capacity and capabilities of the plant and their facilities.

COMMISSIONER ANAYA: Mr. Chair, Ms. Guerrierortiz, if I could, Commissioner Stefanics, the sizing of piping is based on the number of facilities within, the number of apartments, houses, water flow, those types of things.

MS. GUERRERORTIZ: That's correct. And also in the case of this situation where it's a low pressure system you get into statistics also, because it's assumed that not every low pressure grinder pump is operating at the same time. So there's a lot of different things that we have to look at and we always, as engineers, are incredibly conservative. Now, frankly, this kind of system could probably handle 600, maybe 800 homes. We cut it off much lower than that to provide a safety margin that gives us the confidence and we can all sleep at night, night after night for 40 years or whatever this will be in operation before they replace that line with a newer one.

I think there has been some confusion in the past. I've heard it at another public hearing that they thought that the lift station further to the west of this property was involved and that's a lift station that's on the Santo Nino property. And that lift station is not involved at all in this line. Our line goes along Richards Avenue, due south. So it's another issue all together.

COMMISSIONER ANAYA: Thank you, Mr. Chair. Thank you, Commissioner Stefanics.

CHAIR MAYFIELD: Claudia, will you come up for Commissioner Stefanics and then we'll go to Commissioner Chavez, please.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. Claudia, who actually reviewed the plans for this project?

MS. BORCHERT: Chair, Commissioner Stefanics, we – I was just handed by Jose a letter that was written by our department, Rich Silva at the time, January 2013, so the answer is yes, we did review those plans a year and a half ago.

COMMISSIONER STEFANICS: Have you reviewed the plans?

MS. BORCHERT: Me personally? No, I have not, Commissioner.

COMMISSIONER STEFANICS: Okay. Thank you very much.

CHAIR MAYFIELD: Thank you, Commissioner. Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair. So Oralynn, on the sewer system, you mention that it's a low pressure sewer system. Is it gravity fed?

MS. GUERRERORTIZ: There are parts of it that could certainly operate by gravity but actually Richards Avenue goes up and down a little bit so for the bulk of it it is all under pressure. And when I say low pressure, it's about 60 psi is the operating pressure.

COMMISSIONER CHAVEZ: But then you also mentioned lift stations and lift stations usually involve grinder pumps.

MS. GUERRERORTIZ: Every home in College Heights has an individual grinder pump. Usually it's an E-1 system and those individual pumps take wastewater from individual homes and pump it into the system. The project that we're building will have a series of grinder pumps. They'll be duplex stations and I can't remember the number. I think

there are ten total, and so we'll have some of the units draining to a combined system, a larger system that is typically used in a house and those will go and connect into the line that's in College Drive itself.

We originally designed it so it would connect at a location now that has a stub in the existing subdivision but what we've heard at the last public hearing is that that made some people nervous and it is no more additional expense to go ahead and bring it to College Drive. So we're going to run our lines to College Drive and not connect to where originally it had been designed to have a future connection.

COMMISSIONER CHAVEZ: So the grinder pumps are going to require maintenance and replacement in the future. Who is responsible for that?

MS. GUERRERORTIZ: In the case of our project it would be the owners of the apartment complex, of Vedula, or the Vedula organization.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair.

COMMISSIONER ANAYA: I'm going to wait on my comments. I'm going to make them later. Thank you, Mr. Chair.

CHAIR MAYFIELD: [inaudible]

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I just had some questions for Jennifer. Are pools allowed in the Community College District?

MS. JENKINS: You know it -- I don't know if there's a specific prohibition in the Community College District. I can tell you that in the Santa Fe County rules these types of community type pools, that are not individual pools are permitted with certain limitations. They have to be covered during the off-season and there are certain rules about that but community type pools are permitted. But I don't believe the Community College District specifically address it. Land Use staff may be able to speak to that better than I.

COMMISSIONER HOLIAN: And what is the water budget for this development?

MS. JENKINS: The water budget is -- I did look that up, so I'd have it on the top of my head from the last discussion. Mr. Chair, Commissioner Holian, the water budget is going to be around 30 to 34 acre-feet per year for the entire project.

COMMISSIONER HOLIAN: Which amounts to how much per unit?

MS. JENKINS: It's going to be between .14 to .16 acre-feet per year.

COMMISSIONER HOLIAN: Great. Another question I have is on covenants. Would this development actually be part of any residents association or would it be its own?

MS. JENKINS: That is a really good question. I'm glad you brought that up. The property -- when the College North master plan was originally approved for this whole kind of area north of College Drive back in 1997, that property was annexed in to the Rancho Viejo Association, annexed into the covenants. And when that master plan expired many, many years later -- that master plan at this point is 17 years old, the Rancho Viejo covenants permit for adding property to the covenants and for removing property to the covenants. It's very explicit. And so with the expiration of that master plan the vacant property, of which this is a part was de-annexed from those covenants. And one of the things that is still to be worked out -- this is just master plan so as we move forward through the master plan process one element that we will be working directly with Rancho Viejo on is how does this community participate -- whether it be trail maintenance, open space, those kinds of shared

amenities – so that is yet to be worked out but we will definitely be engaging in that and we will be able to – there will be documentation generated to address that.

COMMISSIONER HOLIAN: And in fact that was my next question, which was whether this development would make any contributions to open space and trails.

MS. JENKINS: Sure. There's obviously important contributions to that. Yes.

COMMISSIONER HOLIAN: And another thing is would the construction be built to HERS 70 home energy rating system?

MS. JENKINS: You know, that's a good question. If I may, Mr. Chair, Commissioner Holian, Commissioners, I would like to confer with my client and maybe – I have a feeling I might be up here again I would be happy to answer that again.

COMMISSIONER HOLIAN: Maybe it's too early to even answer that if they haven't actually done the design.

MS. JENKINS: It is, but they build and operate these projects so I think they're pretty knowledgeable about what the intent is, so I can definitely speak to them about that.

COMMISSIONER HOLIAN: I would be interested. And finally, has the developer actually done a real market study as to what the demand is?

MS. JENKINS: Yes, they have. This is the market analysis that the developer had done. It's very, very thorough, and in a nutshell it determined that there is significant pent-up demand for this type of housing in Santa Fe County. And we see this within the city but we definitely also see it in the county. There's actually great information here about employment growth that has occurred and this is – yes, so they would not be here without this. Definitely.

COMMISSIONER HOLIAN: Thank you. Thank you, Mr. Chair.

MS. JENKINS: Yes, sir.

CHAIR MAYFIELD: As far as – it says luxury apartments. It looks really nice what you provided to us, but what would we be looking at? I guess it's easier to say now than later, price per square foot? For rental. Would there be any homes for sale in any of these?

MS. JENKINS: The unit mix here – these homes would be all for rent. This is 100 percent rental. The sizes of the units – there's probably going to be three: one bedroom/one bath, two bedroom/two bath, and then some three-bedroom units as well. And the price points are going to range from high eights, low nines, up to like \$1,300 a month for the large three-bedroom units.

CHAIR MAYFIELD: Okay. And no studios. You stated that.

MS. JENKINS: No studios. All just one bedroom/one bath would be the smallest.

CHAIR MAYFIELD: And then, I think Commissioner Holian asked this but would there be any association fees? Clubhouse fees?

MS. JENKINS: No, it's all in the rent. All those amenities and everything are part of the monthly rent so the residents here don't have to pay extra for the fitness center or the pool or those types of amenities that are onsite.

CHAIR MAYFIELD: Would you be using electrical? Gas? Natural gas on these?

MS. JENKINS: Yes. Natural gas as well as electric. But the heat and the cooking would be natural gas.

CHAIR MAYFIELD: Thank you, and I'm going to defer to staff really quick, a couple of questions and I don't know if it's our Utility staff or Public Works staff, and I'm going to go to my County Attorney if I'm going somewhere where I shouldn't, please tell me. But we had a similar area, Oshara Village, that was built and Commissioner Stefanics asked this question. Does Utility staff look at the design and the follow-up of design of construction that's going into the ground. I believe that there might have been an issue with their sewer system where it wasn't sized appropriately? Or that it wasn't monitored? That it wasn't constructed properly? I could be wrong, but I'm just trying to recall from memory of what came in front of us. So how do we assure that this would never happen in the future? Is it CID that takes care of this? Is it our County staff who takes care of this?

MS. BORCHERT: Mr. Chair, members of the Commission, I would have to confess that I do not know. I've seen plans come through that we have reviewed, even if we are not responsible for the wastewater or the water, we review the system to make sure it's being built to County standards. But your question really is going to the question of how do we know that after we approve the design standards that it's being put in the ground according to the designs that we reviewed, and I'm afraid – I will be happy to get back to you but I don't know the answer to that question.

CHAIR MAYFIELD: Fair enough, Claudia. I think one thing I brought up in the past code approval and I don't know if it's there or not. I just asked our County Attorney on the side bar. What are our bonding requirements on something like this? Let's say the facility is not completely sold out? It's 20 years down the line. Somebody says, look, County bail us out. Take over the system for us?

MS. ELLIS-GREEN: Mr. Chair, in this case I believe that the liquid waste is going to an existing community sewer system, but certainly for the line that's being built and any other improvements they need to do they will need to bond for that. And then it's a case of bonding for that and that bond not being released until all those improvements are in place.

CHAIR MAYFIELD: And Penny, if you know right now, how long do we hold onto those bonds? That may have been an issue in the past.

MS. ELLIS-GREEN: Mr. Chair, Commissioners, I believe the bonds are usually for 18 months but they can be removed. We as staff would not release those bonds, or should not release the bonds until the improvements have taken place. One exception to that is we would keep the landscaping or reseeding bond until the landscaping has actually taken. We wouldn't release it immediately.

CHAIR MAYFIELD: Thank you, Ms. Ellis-Green. And aside from maybe impact fees and knowing that we would receive some GRT and property tax dollars out of this that provides for public safety protection out there, is it going to be the County that is going to provide local law enforcement, fire protection? Would it be the developer?

MS. ELLIS-GREEN: Mr. Chair, Commissioners, this would be in Santa Fe County so it would be the Sheriff's Office and the County Fire Department. There is a requirement when you're developing that you provide not only a water supply but a fire protection supply, so I imagine there would be fire hydrants on the property.

CHAIR MAYFIELD: On that, and again knowing that we receive future dollars, but does this analysis ever need to go through our Sheriff's Department, saying, look, we may need to have x-amount more patrol cars out in this area if we're looking at bringing in 400 additional people, 400 families? Same thing with fire protection? Is there any review that goes through our Sheriff's Department as such?

MS. ELLIS-GREEN: Mr. Chair, on individual subdivisions and individual developments we don't usually send those to the Sheriff's Department, though I do know that when we wrote the Community College District Ordinance and the Sustainable Growth Management Plan, both of which show this as a growth area, there were discussions with the Sheriff's Department.

CHAIR MAYFIELD: And then, Ms. Ellis-Green, you may or may not have the answer to this, but I think La Pradera, and I may be pronouncing that wrong, there was an issue with the sewer system out there. I believe there were complaints that came to us. Is this the same sewer system? Is it a different sewer system that would be –

MS. ELLIS-GREEN: Mr. Chair, I believe La Pradera is on a different sewer system though I believe Oralynn may be better –

CHAIR MAYFIELD: No, I see a lot of heads nodding back there so I'm okay with that.

MS. ELLIS-GREEN: This is on the Rancho Viejo system.

CHAIR MAYFIELD: And there's no issue with the Rancho Viejo sewer system as far as staff knows?

MS. ELLIS-GREEN: I believe there's a letter in your packet. Page 37 in your packet is from the underground – the Environment Department Groundwater Quality Bureau and they do state that the current conditions for Rancho Viejo groundwater discharge permit, that this application is in accordance with that.

CHAIR MAYFIELD: Thank you, Ms. Ellis-Green. Commissioners, any other questions of staff? Applicant, do you have anything else at this time to add? Okay, then we are going to move on to our public hearing. And I see that we may have counsel representing the public so that's okay. So let me do this again. A show of hands who counsel is not here for providing testimony for. Who would like to still comment? Okay. Great. I will just ask that when you all come up – well, why don't we just do this? Unless it's already been done. Everybody stand up and be sworn in at one time, those that need to be. We've got a lot of speakers.

[Those wishing to speak were administered the oath.]

CHAIR MAYFIELD: So if I could just ask this also for those who will be coming up. If you hear something already addressed or presented to this Commission, if you could just bring up new thoughts or new positions that something that somebody previously went and stated. Please.

CHRISTOPHER GRAESER: Thank you, Mr. Chair. Christopher Graeser. I'm an attorney under oath. My address is 316 East Marcy. This case is very different from other zoning approvals you get. What makes it different is this property was already master planned. It was master planned for 73 single-family residences. It was partially built out with 20, 22, single-family residences and the homeowner who live there now bought in with the understanding that it had been approved at 73 single-family residences. So this isn't a

stereotypical vacant field that somebody buys in and there's a vacant field next to them and they're just shocked when someone wants to develop it, and they just made an assumption that was an erroneous assumption.

Here folks made an assumption that was a reasonable fact-based assumption that the rest of their subdivision would be built out the same way as where they bought in. And the developer made these commitments. The developer made commitments to build a 73-lot subdivision and the folks who bought in relied on those commitments when they bought it. So now we're going from .8 to 9.7 DU per acre. So from under one unit to almost ten units per acre.

Up front, because I know this is always an issue, this Commission does have the discretion to deny this application. You're under no obligation to approve it. It's a master plan request, discretionary master plan request. The code, the plan, has you review it for impacts, for both conformance to Santa Fe County growth management plan and for impact to schools as well as adjacent lands, as my clients are, and the county in general. And please listen when all the homeowners and residents nearby stand up and talk about those impacts, because that's the substantial evidence that supports the denial by this Commission. Please listen to what they have to say. Please listen to what the Rancho Viejo Homeowners Association leadership has to say when it sends you a letter asking you to deny it, and while there certainly was a representation, and I'm sure the developers have all intent to work with Rancho Viejo on trails, this is what the homeowners association is saying. And please listen to what the CDRC says when they recommend denial after a full hearing.

As far as your discretion, I know I've cited this to you all before, but when you look at the case law, what the courts look at is does your code impose significant substantive restrictions on your power of review? And the answer is no, it does not. In fact it grants you discretion in your power of review. Does the developer have a legitimate expectation of approval and the answer is again, no. Under the code the developer understands, should understand that you are going to look at the impacts on the neighbors, the impacts on the community as a whole.

The bottom line really is what's the point of having a code that says you can review it for impacts on the adjacent properties, impacts on the community if you don't have any discretion to deny it based on substantial evidence of those impacts.

As I cited the Community College District Ordinance requires an analysis of schools, adjacent lands, the county in general, and the applicant offers no analysis whatsoever. Doesn't even talk about the impacts on adjacent properties and there will be impacts. This is a ten-fold increase in density. It's going to be a more transient, less ownership-focused population. There's going to be more traffic. It's going to be more visually intrusive. It's going to destabilize property values because at this point now no one can buy a house in reliance of what things look like now because that can change.

And I want to be clear. There's nothing wrong with living in an apartment, whether by choice or by necessity but it's a very different mode of living than single-family residential and living in that mode should be by choice, not forced on you. It doesn't have to happen here. You were shown the map you have in your packet. All the yellow in the Community College District is where you can put multi-family residential and there will be more when we adopt the SLDC. There are any number of places Vedula can find to build multi-family

residential that don't require pulling a switcharoo on the neighbors who have already bought houses on reliance that that's what was going to go in in the future.

And it's – to have a code requirement that you analyze impacts on adjacent properties and then completely ignore those adjacent properties is really kind of a slap in the face of those neighbors.

There's a lot of concern with this project. There's also a lot of concern with what was termed a 19-acre vacant lot in the middle. And the code unambiguously requires you to plan out all your property, master plan all your property. The minimum area, which must be included within a master plan shall be an entire village zone, employment zone or institutional campus zone or that portion of such zone owned by the applicant. Now we're looking at a 19-acre vacant lot. I'm pretty sure the applicant is not going to stand here and commit to not doing anything with that vacant lot. My guess is they're not going to stand here and commit to just building out that 19 acres as originally master planned, single-family residential, so there's a big elephant on the room there, and that's why the code requires you to plan out, master plan all your property so we can look at it as a whole and know what the impact is going to be as a whole and try to get back to some sort of settled expectations of land use. But that's not what they're doing.

Just yesterday, Judge Singleton ruled in a case that's been kicking around for a number of years at this point, and her language is this: To allow a developer to divide land so as to engage in a perfunctory count and slide in under a number that would otherwise require the developer to provide a big picture via master plan would thwart the act's objective. That is to ignore the retained land over ten acres in size and not count it as a parcel would allow piecemeal development without submission and scrutiny of a master plan that was envisioned for larger developments. And that was Judge Singleton looking at Santa Fe County development. So this is a live issue and this is piecemeal development.

CHAIR MAYFIELD: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, Mr. Graeser, where is that parcel you just cited from Judge Singleton?

MR. GRAESER: That was with regard to the Saddleback Ranch down in Galisteo.

COMMISSIONER ANAYA: Saddleback Ranch.

MR. GRAESER: Yes.

COMMISSIONER ANAYA: Not the Community College District.

MR. GRAESER: No, Mr. Chair, Commissioner Anaya. I was simply pointing to Judge Singleton's analysis of not only the benefits but the necessity for master planning.

In sum, just homeowners who bought in, who had a concept of what this neighborhood and this development was going to look like, the County planners did too. The Community College development plan was adopted assuming there would be 73 homes. I give you information in there. And subsequently I was reading the Community College District plan, after I made my submittal and I gave you this handout too, and there was a very clear commitment. Existing subdivisions will be respected. Page 15, Community College District plan. So it's County staff who was also assuming that this issue had been settled.

As far as the de-annexation, when this went in front of the CDRC, we pointed out that the developer was bound by their covenants that prohibited this very development that they're

proposing so their response is we'll file a declaration of de-annexation. Okay. No longer have anything to do with Rancho Viejo in an attempt to get out from under those commitments. But that process – and this isn't something you have to decide. If that de-annexation process is legal unsound it's subject to challenge in a different forum and that's a little bit for another day but relevant to the Commission is again – we had settled expectations; we had covenants; we're just going to ignore them now.

The Community College District plan requires a transition zone. This is tab 4 if you want to follow along with me, but for land use compatibility – I'm sorry. This is the SGMP – land use compatibility. Factors must include transitioning between land uses intensity and densities using buffer areas and floor ratios. So when this came in front of the then EZA in 1996 the planner on the project at that time, Mr. Siebert said the College North is a transitional area between the rural densities and the Community College, and the maps you've shown show that. What the developer originally represented both to the community and to the zoning authority to get approval was you've got a dense institutional use, you have rural beyond that, we're a single-family residential transition zone. That's no longer true if this gets approved.

There are several structural issues with the application. First, the recommendation is for approval subject to correcting the traffic impact analysis. My question is shouldn't a correct traffic analysis be in place for you to rely on in making a decision to adopt the proposal? And a TIA isn't just helpful for determining improvements and looking at levels of service. A TIA is also helpful for looking at impacts on a community, impacts on adjacent lands. And you don't have that.

The State Engineer says the water supply doesn't comply. This is Exhibit 3 in your packet. It should be noted that this analysis does not fulfill the ready and willing letter that is required by Section 6.4.4.A of the code. So if the State Engineer is saying it doesn't comply that's at least a question.

The project has new planners now. It has new owners, but they're still obligated by the original commitments. There's a document in your packet which is the acceptance of the declarant status. The current owner accepted all rights and obligations from Rancho Viejo. So if they have declarant status they have the right to de-annex because they've stepped into the original developer's shoes then they have the obligation to meet the original developer's commitments as well.

Under tab 8 of my materials I've given you a copy of the disclosure statement which says it's intended to provide the buyer with enough information to permit them to make an informed decision and they should carefully read all the information beside deciding to buy. And it says there's going to be 73 lots. I've also given you a handout from the Rancho Viejo master association at the time it was controlled by the developer and they say rest assured the design and feel of the community will remain the same as what initially prompted you to purchase there. A 214-unit apartment complex next door is not what initially prompted the residents of College Heights to purchase there and you're going to hear a lot from them about that tonight.

The bottom line, houses were sold with certain representations. Owners reasonably expected and relied on the development of single-family homes. What they're being offered now – I include a picture. You saw other pictures. I don't have a better word other than

Phoenixification of Santa Fe. The Phoenixification of the neighborhood. This looks very, very different than what was previously approved, and again, this is not we're just coming in for a new master plan on a property that really had no uses before. There was an approved master plan, partially built out and sold.

As far as the Rancho Viejo master plan from 25 years ago, I think the more relevant one is the one from 14 years ago that all the folks who bought houses in Rancho Viejo relied on when they bought houses. As far as economic development, again, there's lots of yellow places. There will be more under the new code where multi-family residential can go and will go that doesn't require unsettling settled expectations. No one's arguing against economic development. Mr. Krasnow, one of my clients here, he's the business beat columnist for the *New Mexican*. Who better understands economic development in this community?

He was a little – there was a question – I feel like I just need to bring this up. There was a question about the sewer treatment plant. They say they're ready, willing and able to serve. I know you all should have in your packet the most recent formal inspection review that called it unsatisfactory and marginal. And I would stand for questions with that.

CHAIR MAYFIELD: Thank you. Who are you all representing tonight?

MR. GRAESER: It might be easier for me to submit a list. A dozen or 15 folks. I probably can't give you all the names correct off the top of my head, Mr. Chair. All individuals, Mr. Chair. Individual residents of College Heights.

CHAIR MAYFIELD: Is there anybody here tonight you're representing?

MR. GRAESER: Yes.

CHAIR MAYFIELD: Okay, so we're going to allow everybody else Mr. Graeser doesn't represent to speak first, please, then I'm going to ask people to limit themselves to three minutes. However, if you need to provide additional comment you can go back to the end of everybody who has something to state, come back up and present.

MR. GRAESER: Thank you, Mr. Chair.

CHAIR MAYFIELD: Commissioner Anaya, please.

COMMISSIONER ANAYA: I just have a question. Mr. Graeser, at the end you made a comment about somebody stating the system was marginal. Who did you say said that it was marginal? The State of New Mexico? Who was it exactly?

MR. GRAESER: Mr. Chair, I'm sure there's folks here that could better speak to this because this is certainly not my forte. I'm looking at a compliance evaluation inspection of Ranchland Utilities Water Reclamation Facility, dated February 25, 2014.

COMMISSIONER ANAYA: Slow down. Slow down. Are you speaking of a facility that's similar to this? Are you speaking of this facility and these plans for this particular apartment complex? That's what I'm asking?

MR. GRAESER: Mr. Chair, Commissioner Anaya, I think someone else could better speak to it. This is the Ranchland Utilities Water Reclamation Facility, which I understand this project will be using. The cover letter is from the New Mexico Environment Department.

COMMISSIONER ANAYA: You're talking about the Ranchland facility that this project will access and utilize, and the State of New Mexico said it was inadequate? Is that what you're saying?

MR. GRAESER: Mr. Chair, I could just simply submit this letter, Commissioner Anaya, if you want that.

COMMISSIONER ANAYA: I just want to make sure I'm hearing the facts right, so I just want to clarify, is that what you're saying?

MR. GRAESER: Mr. Chair, Commissioner Anaya, I'm simply reading from this letter dated March 6, 2014.

COMMISSIONER ANAYA: Marks, and who was that letter addressed to?

MR. GRAESER: Mr. Warren Thompson, president, Ranchland Water Utility, and it's discussing an inspection by Raquel Douglas of the US Environmental Protection Agency and Bruce Yurdon of the New Mexico Environment Department.

COMMISSIONER ANAYA: Okay. Thank you.

MR. GRAESER: Thank you, Mr. Chair, Commissioner Anaya.

CHAIR MAYFIELD: I have a question of staff. Was staff apprised of that letter? Are they aware of that letter? Do they have any comments to that letter?

MR. LARRAÑAGA: Mr. Chair, I believe the letter Mr. Graeser is referring to was part of your handout that Vicki handed out. We got this letter and I did send it to the Utilities Department and back to Environmental but we just got this. I just got it last Thursday and I did get an email from Environmental just saying that they had reviewed this already and have this letter from Groundwater in the packet.

CHAIR MAYFIELD: Do you have anything you'd like to add, staff's response from Utility?

MS. BORCHERT: Mr. Chair, members of the Commission, I need to have some time to look at this. I can say that when the Environment Department and EPA comes out to inspect a facility we have had that experience with our own wastewater treatment plant, they usually tell you in what ways you're inadequate and they give you time to fix it. So that's just the usual process that any regulator would go through inspecting your facility. So I'd have to see what kinds of concerns they had with the facilities before I'd be prepared to make a comment.

CHAIR MAYFIELD: Could you find that out and get back to the Commission please?

MS. BORCHERT: Sure. And what form would you like that? Would you like that as an email or would you like that -

CHAIR MAYFIELD: I'd like it for the record [inaudible]

MS. BORCHERT: Are you saying you want for me to just look at this right now and then come back later tonight?

CHAIR MAYFIELD: You're going to have to consult with some folks from Environment and they're not -

MS. BORCHERT: And with my own staff, so just in a few days get back to you via email? Is that your preference, Mr. Chair?

CHAIR MAYFIELD: I'd like you to go through Mr. Shaffer for it to go to the record and the others push that off, probably cc it would probably be sufficient, Mr. Shaffer?

MS. BORCHERT: All right. Will do.

MR. SHAFFER: We can discuss that and get back to you, Mr. Chair.

CHAIR MAYFIELD: Thank you. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I just want to make a comment, a general comment. Santa Fe County, when they approve a development or a subdivision of land, we do not provide the construction standards nor the permitting associated with those projects. The State of New Mexico is responsible for permitting the construction on the construction aspect. The Environment Department is responsible for the permitting and oversight on water and wastewater facilities. We do not provide approvals of those facilities. We forego those responsibilities to the experts at the State Construction Industries Division as well as the Environment Department. So I just want to make that clear, not just for this potential project but any project that the County approves, any division of land.

There have been proposals and discussions to ask the County to take on construction standard inspection review and other reviews but we do not do those reviews. We do the land use approvals. Those construction approvals move on to the appropriate state agencies; they are responsible for reviewing overall plan sets. They're responsible for construction inspections and compliance therein. Thank you, Mr. Chair.

CHAIR MAYFIELD: Thank you. So now we're going to go to this portion of public comment. Again, as previously stated, anybody who was represented by Mr. Graeser, I hope I have that right, please wait to provide comment after everyone else comes up. Mr. Padilla.

[Previously sworn, Al Padilla testified as follows:]

AL PADILLA: Mr. Chair, my name is Al Padilla. I live at 8 Dean's Court in College Heights. Good evening. Buenas tardes. We've been involved with this proposal for almost a year and a half, first as a plan for over 440 apartment units by Rancho Viejo developer Warren Thompson, and now as a 200 unit-plus complex on a parcel recently de-annexed by Rancho Viejo and being sold to an Arizona company, which has no knowledge of the promises and commitments made to the adjacent homeowners via the covenants that run with the land in Rancho Viejo.

If you approve this project you might as well close down your long-range planning department. The covenants not only call for this property to be part of Rancho Viejo North but for it to pay dues into the homeowners association and to support the trails and open space. Warren Thompson and his Arizona partners are now trying to pull a fast one, to end-run all this history and all these promises. Please don't let them. Imagine if the developer of Eldorado or Casa Solana decided unilaterally to withdraw property from the chartered association and build high-density apartments. Promises made must be promises kept.

If you look at a list of those who were involved in creating the Community College District plan years ago you will see that the Rancho Viejo developers were well represented. Our neighborhood remembers talking with them and others helped forge the planning document. This planning process led to a plan with College Heights being designated a single-family subdivision with a legal plat filed with the County Clerk for 73 single-family homes. Not only did the Rancho Viejo owners and developers sign off on that plan but the County signed off as well, and not only did the County sign off, the County has required that the College Heights plan showing single-family homes be included in all disclosure documents for each and every property owner who purchases homes at College Heights, and that was still true when two homes recently changed hands in 2013. The disclosure makes it clear to everyone what kind of community new buyers can and should expect.

The state and the County have long held the position that these disclosures do matter and courts and communities across the United States have held the same thing. These disclosures do matter. Promises made must be promises kept.

CHAIR MAYFIELD: Mr. Padilla. You've gone a little over three minutes, but you can come back and restate –

MR. PADILLA: One last statement. This project does not do that. We can do better. Thank you.

CHAIR MAYFIELD: Thank you, Mr. Padilla. Please, whoever would like to come up. If you all haven't been sworn in when we asked to do it earlier just let us know. Thank you.

[Previously sworn, Evelyn Spiker testified as follows:]

EVELYN SPIKER: My name is Evelyn Spiker and I am under oath. I live at 7-A Dean's Court, College Heights, Phase 1. I am very concerned about the impact on our community that this proposed complex will have. I'm an 11-year homeowner in Rancho Viejo and have served on the architectural review committee for ten years. I believe in the importance of enforcing covenants and restrictions. What we are faced with here is an egregious deviation from any adherence to the CC&Rs that are part of our community. I'm also a realtor.

All homeowners were presented with and agreed to the CC&Rs when they purchased their property and each of us made a conscious decision to live in a community where there are extensive covenants and restrictions. The developer's declaration of de-annexation filed in March of this year states the property is no longer subject to any covenants and restrictions but it's not that simple and it should not be that simple. According to the declaration of covenants and restrictions filed in 1999 these covenants shall run with the land upon sale or transfer. You have a copy of that. I'll just read the one paragraph.

Now therefore declare and hereby declares that the real property described in Exhibit A and attached hereto, known as College Heights shall be held, sold, transferred, conveyed, occupied, and used subject to the covenants. And the declarant shall hereafter record a separate and individual tract declaration concerning the development of the lots within College Heights. The proposed development is in College Heights. College Heights is more than the homes that exist currently.

We have hundreds of homeowner signatures protesting the proposed complex and the support of our homeowners association. In closing I would like to read a letter from our homeowners association board, which you also have a copy of.

The Rancho Viejo North Community Association board of directors submits this letter on behalf of the homeowners of Rancho Viejo North, particularly those in College Heights. The board strongly opposes the requested master plan amendment to allow the construction of 214 apartment units. The proposed apartments are inconsistent with the existing residential neighborhood at College Heights. At the time the residents of College Heights bought their homes there were representations made that future development phases would continue the single-family residential character. Residents are now concerned that an apartment complex will negatively impact current home values in this area. The Rancho Viejo North Community Association board requests that this master plan amendment be denied.

We have the support of our entire community. Thank you.

CHAIR MAYFIELD: Thank you, ma'am. Whoever's next please.

DAVID VIGIL: I have not been sworn. I was a little tardy tonight.

CHAIR MAYFIELD: Whoever would like to present please come up and sit on the front bench please. Please sir

[Duly sworn, David Vigil testified as follows:]

MR. VIGIL: Mr. Chair and members of the County Commission and staff. My name is David Vigil and I live at 6-A Dean's Court. I first of all want to say that I live Santa Fe. It's my home. It's where I was born and raised, actually on the border of Commissioner Stefanics and Commissioner Anaya's districts. So as you know, I'm used to open space and I'm used to seeing great lights, stars at night. I really didn't come prepared with a speech tonight but what I did want to really point out is me personally, I'm not completely opposed to the idea of an apartment complex. I'm just strongly opposed to the proposed location of the apartment complex.

When we recently purchased our home there in the community, I remember reading specifically in my closing documents that this was going to be slated for single-family homes. So I want you all to just take a moment and imagine a point in your life or a time in your life when you were sold something or you bought something, and it really wasn't what you were sold or what you expected. And I want you all to just take a moment and think about how that made you feel.

Now I realize life is tough and complicated and it throws you a lot of curve balls and sometimes as a human race we're tough and we're resilient and we get through that, but I really think tonight you have a really good opportunity to do what's right. The people in this room - I love my neighbors. I love my community. I love the fact that I have been given the opportunity to come back to Santa Fe. I left for ten years. I left to go to college and work for a big corporation but that was not me. I wanted to move back. I'm proud to say that I own a business that employs 17 New Mexicans, three veterans, that we do projects all over Santa Fe that benefit our community. And the reason I say this is because I just want you to know who we are and what we're about. We're not radical, stick 'em up here and protest, we just want and deserve a quality of life in which we were sold, in which we are currently living right now. And we just want that to be sustained. We want the opportunity for that to just continue to grow in the vision that was originally sold to us and that was originally sold to the County. Thank you, Commissioner Mayfield.

CHAIR MAYFIELD: Again, anybody can come back after everybody's made their statements.

[Previously sworn, Jerry Wells testified as follows:]

JERRY WELLS: My name is Jerry Wells. I live at 14-A Dean's Court. Mr. Chair, Commissioners, I'm here to address our concerns over the traffic impact of this apartment complex upon the neighborhood, Santa Fe Community College and Rancho Viejo proper. This complex will consist of an estimated population of between 500 and 600 individuals. While this project was presented to the residents of the area as a resort level luxury apartment complex it is not located in a resort setting, but is rather better suited for student housing at Santa Fe Community College. If this is in fact the outcome of these apartments, the population of the apartment complex will be more realistically estimated at

650 to 750 residents. The project will add an additional volume of traffic to the already failing College Drive roundabout off of Richards Avenue. If College Drive is tied into the southeast connector as planned the traffic on College Drive will also increase from the east and it will create traffic congestion on College Drive as students enter and exit the north entrance to Santa Fe Community College.

We have traffic issues daily from cars failing to stop for oncoming traffic at the north entrance. Drivers on Richards drive above posted limits and tailgate so as to block merging traffic from College Drive. As currently proposed the southeast connector does not provide an east side entrance to Santa Fe Community College. This defeats the entire purpose of the southeast connector as initially proposed to alleviate congestion on Richards Avenue. Santa Fe Community College has stated they have no objection to an east side entrance. We have met with Santa Fe Community College board who have expressed their opposition to the current proposed alignment of the southeast connector as it would require students to cross the southeast connector to access their rope course used by local elementary, middle school and high school students.

Any construction prior to the completion of the southeast connector adds substantial amount of construction equipment into the traffic mix on Richards, College Drive and the College Drive roundabout which will create additional safety issues. As currently planned the College Heights neighborhood has one exit for all of the houses on Dean's Court and Meter Lane, and that exist is on College Drive. It will be very difficult for the families living in the area to evacuate onto College Drive if the apartment complex is built before the southeast connector is completed. The connection to the southeast connector from Meter Lane would provide a secondary exit for this neighborhood.

If this project is approved it must not be allowed until the southeast connector is completed and an east entrance into Santa Fe Community College has been built.

CHAIR MAYFIELD: Thank you. You've gone a little over three minutes.
Thank you.

[Previously sworn, Charles O'Donnell testified as follows:]

CHARLES O'DONNELL: Good evening, Commissioners. My name is Charles O'Donnell. I live at 2-B Dean's Court in College Heights. I'm an original homeowner there. I'm going to talk about the morphing that Ms. Jenkins talked about earlier. Yes, we did have some neighborhood meetings. The initial meeting was in November of 2012. At that point it was discussed that there was going to be a 400-apartment unit complex there and actually took the whole parcel. At that meeting Mr. Thompson actually said that he knew that there was going to be issues with the College Height and Rancho Viejo community.

Then in early 2013 there was the second meeting that was announced in November. At that meeting there was over 200 Rancho Viejo community members that showed up at that meeting. They had changed the plan. At that point the plan was ten houses and then a transition period to where the apartment complex would be. Then our County Commissioner had heard wind of issues with the community out there and set up a meeting and everybody came out. It was not just the apartment complex but there were concerns about the commercial properties that were going to go into place. Mr. Thompson, at his credit, actually went and got a mediator to come in and talk to the community on that. Unfortunately, when I

received that letter it said the apartment complex was not part of the mediation. I don't know if you know that or not.

Then further, they finally put in a formal development application in late 2013. Again, a new neighborhood meeting was set up and we learned that Vedula was the sole developer and not a partner. Then in April, the CDRC meeting we learned that Univest still owns the land and that they had de-annexed it to conform with some legality issues. Again, Mr. Thompson and Vedula have control over the entire parcel of land, all which is adjacent to our neighborhood. Will there be 214 apartments? We know that there is 19 acres that aren't in the plan. In my opinion, after they get the apartment complex approved there's no reason they can't come back and put another apartment complex in that parcel.

CHAIR MAYFIELD: Thank you, sir.

[Previously sworn, Chris Furlanetto testified as follows:]

CHRIS FURLANETTO: Mr. Chair, Commissioners, my name is Chris Furlanetto. I'm speaking tonight as a resident of Rancho Viejo South. I live at 6 Redondo Peak, which is probably as far as you can get from the proposed development and still be in Rancho Viejo. I am opposed to this proposal. As a resident of the community of Rancho Viejo I think that allowing a high-density complex such as this in our community will adversely affect the quality of life of everyone who lives in Rancho Viejo.

The proposed development will provide absolutely no benefit to the hundreds of residents who are already in Rancho Viejo and the possibility of it becoming even larger with additional apartments at a later date would only exacerbate the negative effects in this current application.

So I ask that the board act in the spirit of the Sustainable Land Development Code that you adopted in December of 2013. I know the code doesn't actually take effect until the zoning map is approved and we wait 30 days but I would ask you to make any development decisions of this scope, keeping in mind the principles of the new code and also the principles of the Sustainable Growth Management Plan. That said, should you decide to approve this application, I strongly believe that first, no development should be allowed until the southeast connector is built. Proceeding with construction with no additional access roadways will result in a traffic nightmare for everyone who lives in Rancho Viejo, who commutes to the Community College, or who attends any of the schools or churches in our neighborhood.

And second, an outdoor pool should not be permitted under any circumstances given the severe water issues here in Santa Fe County. Thank you for your consideration of my views.

CHAIR MAYFIELD: Whoever's next please.

[Previously sworn, Nancy Armstrong testified as follows:]

NANCY ARMSTRONG: My name is Nancy Armstrong. I live at 2 Pincushion Place. I do not live in College Heights but I'm here to support the people in College Heights and also to let you know that I've been a resident of Rancho Viejo since 2003 and I love our community. When I purchased my home, similar to many of the folks here, I was shown maps of the future of the master plan and never once was anybody told that they were planning at some point to build an apartment complex in our covenanted community. When they did the de-annexation I think I felt bamboozled and shocked, probably like everybody else. We got no notification and we'd gone to a year and a half of

meetings, thinking that maybe we were making some progress and then suddenly we were told that it was de-annexed and they were going to go in a completely – same direction but without the developer involved.

For a year and a half we were told this was going to be high-end apartments. The people building the apartment complex have changed the – what they've told us about the development of the apartment complex so many times. First it was going to be a high-end apartment complex. Now it's going to be housing for students and also, in Rancho Viejo we are very concerned about water and all of our homes, when we do our landscaping we do low-water landscaping and every time I see the picture of the pool for the apartment complex it goes against all of the things, reasons that many people bought out there. We wanted to be very conscious of the community.

Again, thank you so much. I'm speaking from my heart. I'm standing in for a friend of mine who lives in College Heights who couldn't be here this evening because of an illness. So thank you very much for your time. Thank you.

CHAIR MAYFIELD: Whoever's next.

[Previously sworn, Susan McGrew testified as follows:]

SUSAN MCGREW: Susan McGrew, 3-B Dean's Court. Tonight and at one of the three CDRC meetings on this issue that we've attended the developer's representative praised the high quality of the Elevation apartment complex, that its occupants will be checked to determine if they have a job and can pay the high rents and that the complex will be maintained at the highest level. However, the Vedula website states, and I quote, "Our company strategy is simple. Never pay more than replacement cost. We buy below replacement cost when markets dip, build and markets improve and sell at the peaks." Therefore, they will eventually sell this complex to someone else whose level of maintenance and upkeep is unknown. We also do not know the level of conduct they will require of the residents but it certainly will not align with our covenants.

The great unknown of who will eventually own this property puts the stability, security and property values of our neighborhood at risk.

Another concern is Vedula's practice to use the same architectural plan for every complex. We don't want a cloned Phoenix in Santa Fe. That is not part of the Rancho Viejo architecture and style. And should we be allowing out of state corporations to build here when we have many local developers? Wouldn't our developers be more likely to use local employees?

Mr. Thompson and Vedula can still build their apartments and make their profits but in more appropriate areas of Rancho Viejo. The area by the fire station is undeveloped, has plenty of space and has better access to major roads like Route 14 and I-25 without adding density and traffic to already developed areas. The commercially zoned area on Richards next to the Santa Maria de la Paz Church is another possible site and would provide access to cafes and businesses for the apartment residents in addition to access to the Community College. And as we see tonight there are other areas where apartment complexes could be built.

So we therefore respectfully ask you to send this project back to Univest and Vedula and ask them to relocate it and redesign it. Thank you.

[Previously sworn, Pat Parent testified as follows:]

PAT PARENT: Honorable Commissioners, if the Elevation is built near Rancho Viejo what will it be like? Pat Parent, 10 Dean's Court. On my vacation in June I visited Arizona Elevations in Chandler and Flagstaff. Big bars. Lots of mirrors. Bright paint. Lots of offices for leasing agents and big swimming pools with no one in them, even though the days were hot. Exercise room, no covered parking. No elevators in the Elevation, and thus seniors would have to be frisky to live on the second floor. The average age of a Rancho Viejo resident is 55. Could Community College students or the college teachers, most of whom only work part time afford this? Not really.

No one around no weekdays when I was there because these units are really designed for young professionals. Perfect for Arizona or Texas. Lots of superficial glitter but no soul. Shall we follow the money? Lots of charges. There's charges for admission fees, charges for pets, charges for views. Charges, charges, charges. I sent you all this in the mail and Mr. Anaya, I also sent you a complete package on the Ranchland Utility inspection so you either - you probably aren't getting your mail. Okay?

The development is all about bilking the tenant. Vedula is a pump and dump operation. Money goes to Scottsdale. Gray Star leasing was doing the leasing for both developments. Bunch of good old boys from Houston now headquartered in South Carolina. So if you want to build the Elevation you can be sure that it's going to procreate to 415 units on that buffer piece of land right next to us and the money is gone.

[Previously sworn, Gayle Evezich testified as follows:]

GAYLE EVEZICH: Good evening. My name is Gayle Evezich. I live at 6-B Dean's Court and I have been sworn in. So, Dear County Commissioners. Thank you for the opportunity to be here and share our opinion with you. I am here to respectfully urge you to deny this application. As you've heard, the proposed development places 214 apartments on the eastern end of 22 acres that was originally planned and platted for 50 single-family homes. When Rancho Viejo and Warren Thompson first proposed apartments they promised an extended Dean's Court with 10 single-family homes as a buffer zone. However, the current proposal places the apartment complex a quarter mile east of Burnt Water without any plans for the buffer zone. Contrary to the assertion that the neighbors requested this move east we actually did not and we are unequivocally opposed to this apartment complex in this location.

The specific concern I'm talking about tonight is the lack of planning for that transition space, the 19 acres that are vacant at this time. The County's grown management plan, on page 42 to be specific, does state that requires transitioning between land use types, intensities and densities using buffer zones and floor area ratios. Property value protection is actually listed as part of the rationale for these buffer zones. The current proposal indicates that this 19-acre vacant space is slated for future development and does not leave us a buffer zone, which puts our property values at risk. The developer has not revealed their plans for this space, resulting in further piecemeal development, which does go against the general plan of the County.

The developer's representative stated at an April CDRC meeting that the required buffer space is not the responsibility of the developer but of the County, so we are asking you to not allow this piecemeal development but to send this back with the developers with a plan for the entire space. Thank you very much.

[Previously sworn, Bruce Krasnow testified as follows:]

BRUCE KRASNOW: Bruce Krasnow, 3 Dean's Court. I know these meeting packets can be voluminous and neighbor groups don't always appreciate the time you put into preparations so I want to thank you for your hard work and your preparation for this meeting. But perhaps indicative of the flaws of this project is that the CDRC vote was 5-1 against this development. Even the one CDRC member who voted to approve the master plan change for Vedula had concerns about the sewer infrastructure. He was prepared to make an amendment on the issue but the motion he put forward to approve that change did not receive a second. The five CDRC members that voted against the master plan change were not shy about publicly stating their objects.

Susan Frye Martin commented on the lack of adequate transition zone and proper infrastructure and said the proposed apartment project was not compatible with Rancho Viejo neighborhoods. In response to testimony from the HOA president of Oshara Village, Ms. Martin said it's not just the traffic issue; it's a traffic crisis out there. Bette Booth cited some of the same promises made to property owners in College Heights and raised questions about whether the de-annexation and spot zoning of this project could be legally justified, and Louis Gonzales, who volunteered he was a contractor and developer himself had concerns about how this process had moved forward, saying it reflects poorly on all developers.

These are members of the community you appointed so please listen to their concerns.

The other issue I wanted to touch on is the one on diversity of housing raised by Ms. Jenkins. I am willing to bet that Rancho Viejo is not just the most diverse single-family community in Santa Fe County but in all of New Mexico. I know of college students renting rooms for \$300 a month. I know of a family renting a townhome for \$900 a month. As of this morning there was a three-bedroom, two-bath house, 1,440 square feet listed for sale at \$177,000. We already have a diversity of housing.

Even during the recession, and all of you know because you were serving in public office, building permits continued to be issued for construction in Rancho Viejo. And that's because it is a desirable community with a variety of housing choices, a place where all types of people want to live.

My HOA has a million dollar reserve fund to pay for roads, landscaping, maintenance services. The County spends zero on roads within Rancho Viejo. They spend zero on snow plowing, zero on graffiti, zero on weed removal and illegal dumping. We pay for this. The residents pay for it with monthly dues. You want a sustainable community? You want sustainable land use? Here we are. We're Rancho Viejo. Don't kill the goose that lays the golden egg. If it's not broke don't fix it. Thank you.

[Previously sworn, Lance Tunick testified as follows:]

LANCE TUNICK: My name is Lance Tunick. 14-B Dean's Court. I've been sworn in. Good evening. I'm here to briefly sum up what my neighbors have said. What are the issues here? First is no piecemeal zoning. There's a big empty lot in between the proposed complex and where we live. You've got to do it all at one time.

Number two. Good faith matters. Promises and covenants and declarations matter, and you have the discretion by your decision tonight to say that, that they do matter. That developers just can't bamboozle people and tell them one thing and then de-annex - great word.

Number three. Infrastructure. Infrastructure first, then development. We've all lived through the debacle of Richards Avenue. Let's not repeat that. Let's not make it worse.

Lastly, the word that comes to mind is ramrod. If I understand things correctly, we have a new zoning ordinance coming into effect this July and we're trying to squeeze this decision into what we have now and that new ordinance? That doesn't make sense. Please, exercise your discretion. Don't approve this. Thank you.

[Previously sworn, Chris Schatzman testified as follows:]

CHRIS SCHATZMAN: My name's Chris Schatzman. I live at 13 Withers Peak in Rancho Viejo South. I have been sworn in. The gentleman immediately preceding me mentioning the debacle of Richards Road has addressed most of what I wanted to say. The issues of the zoning, the community development plan, have all been well discussed. The traffic has been discussed but only insofar as the failed traffic circle at College Drive and all the problems coming from all the directions there. The traffic circle at the Community College in times of heavy traffic is frankly not much better and Oshara Drive is not much better either. There's only three ways in and out of Rancho Viejo and they're all two-lane roads. And unless you can increase the capacity of those roads, particularly Rabbit Road and Richards Road you can't handle the people that are being dumped in there.

If this project is developed exactly as planned, meets the demographics as planned, it's still going to add several hundred cars to those roads and the southeast connector will not alleviate that problem. I just retired as an attorney. Before I did that I was in real estate finance – commercial projects, financing large commercial projects including apartments. One of the things I learned is over the years of doing that, before becoming a lawyer is the projections oftentimes vary considerably from what happens and traffic inevitably is heavier than people project, whether it's apartment projects or office projects. If they're successful there's more traffic than planned. You have two-lane roads. Just this evening, driving in here up Rabbit Road a winding, rolling two-lane road, I watched somebody on the winding, rolling part pass somebody illegally. That's not the first time I've seen that. You will have more and more of that.

The County ultimately, if there is a bad accident, will find out what the lawsuit is like, not just for the bad driver but for the County permitting inadequately designed transportation facilities like the traffic circles. Some lawyer will attempt to find liability for an inadequately designed facility and burden the County with that. The people who have spoken before me have given very good reasons why the project should not be developed. Infrastructure is yet one more. You're just adding more problems to a community that has no other way out and somehow magically, we're supposed to believe if you build it no one will come and there will be no more traffic problems. That's not accurate.

CHAIR MAYFIELD: Thank you, sir.

[Previously sworn, Glenn Smerage testified as follows:]

GLENN SMERAGE: Ladies and gentlemen, I'm Glenn Smerage, 187 East Chili Line Road. I'm here tonight to speak, perhaps as a representative, a voice, from the bulk of Rancho Viejo, the non-College Heights part, and to try to indicate to you that what happens in this small portion of Rancho Viejo is of concern to what will happen elsewhere in the community. I implore you to do three things as you resolve this issue. First, reject the proposed apartments on the specified land in Rancho Viejo. Second, require Uninvest to have

a more true utilization of the Community College District and the Sustainable Land Development Code. And three, suggest to Univest that it return to you in the future with a plan for approving reinstallation of the College North master plan.

Considering the unacceptable and disingenuous behavior of Univest over the past two years it is time for Univest to be given a resounding no. Residents for over a year have been telling Univest no, we do not want the apartment complex in your proposal. It is time now for you, our representatives as County Commissioners to tell Univest no, what you're trying to do is in conflict with what we want to do in the Community College District and the Sustainable Land Use Plan.

Let me try to mention a few of these unsuitable and even disingenuous activities or behaviors of Univest. Going back to the late 90s we had the owners of 2,500 acres had a great vision that over the next 12 years was realized as the wonderful community, Rancho Viejo, consisting now of over 1,300 residential units with diverse and interesting, pleasing architecture.

CHAIR MAYFIELD: Mr. Smerage, you've run longer than three minutes so we're going to allow you to speak after everybody else has an opportunity. Sir, we'll let everybody else speak first and then Mr. Smerage can come back after. Thank you, Mr. Smerage.

MR. SMERAGE: Will do that then. There are -

CHAIR MAYFIELD: We'll allow the lady behind you to present now.

MR. SMERAGE: I can't tell what you're saying. Would you use your microphone too?

CHAIR MAYFIELD: Mr. Smerage, we're going to allow the lady to present now behind you. Then you can come back up in a while.

MR. SMERAGE: That was a fast three minutes.

CHAIR MAYFIELD: Thank you.

[Previously sworn, Vicki Schneider testified as follows:]

VICKI SCHNEIDER: Commissioners, Mr. Chair, thank you for the opportunity to address you. My name is Vicki Schneider and I live in the newest part of Rancho Viejo, La Entrada, under construction big time right now and I am foregoing all prepared remarks because you've gotten a very good overall picture. I think our residents and homeowners have more than adequately said everything that I might have said in my prepared remarks. I do want to just put in a word for the fact that there's a huge group of people who are considering themselves Concerned Residents for Smart Development, and as Glenn just mentioned, we have already - we have a high growth area. We buy into the high growth area. We want development in our area, but we want appropriate placement of the appropriate growth. You're going to hear more from us overall about the commercial zoning and the zoning issues that are coming up for us too.

We have a huge big picture. You're being asked to make a decision on a very small, piecemeal part. I would really like you to know that we all look at a very big picture. We will look at a bigger picture as homeowners in Rancho Viejo. And we know it's a high growth area but we already have a grown area. Our area has grown. We live in it. As Glenn mentioned, 1,300 homes. I think it's even more than that. So we are a very big part of the consideration, hopefully for you that the impacts of all the new development, including I

believe it's 100 acres – someone can correct me. They have just leveled 100 acres near us in La Entrada. Absolutely bare bones, flat earth. It's going to have an awful lot of building there. A lot of homes. A lot more people, so those people are buying into a vision and I guarantee has to do, the same as with us. Fifty percent open space.

I have to personally tell you I think that overall, Rancho Viejo is getting awfully close to that 50 percent open space. I know that they're going to put 50 percent open space in the 214 apartment – 214 units, but that really and truly, I think the open space issue is going to come up as a very big item for us. We need to look at the overall, completed Rancho Viejo that's already grown, and make sure that we are in fact having real open space there. It's starting to get beyond dense in some ways.

And I haven't said nearly all the things that you could consider and hopefully you'll do the right thing and thank you for giving us time.

[Previously sworn, Eunice Vellon testified as follows:]

EUNICE VELLON: My name is Eunice Vellon. I live at 85 Villa Orilla Dorada in Rancho Viejo. Mr. Chair, Commissioners, thank you very much for letting us speak tonight. During the presentation there was slide that the applicant's agent did not show the Board, and that's the one that designates the acreage east of the projected development. That is already designated as reserved for future multi-family development. So in addition to the space that is now designated the buffer zone there is also another space on the other side of the proposed development that is already designated for multi-family development. So in lieu of the 214 apartments that you're asking to be approved tonight, we're probably looking at 600 apartments when the developer is through.

There's another project at St. Francis and Rabbit Road that's being proposed that will include 650 dwelling units and 760,000 square feet of non-residential space. We were told that the traffic issues were being addressed. Even if you could limit the number of cars to two per residential unit and one car to each 500 square feet of non-residential space, which you cannot, you're still talking about another 2,820 cars. The so-called employment center within Rancho Viejo and the build-out of the rest of the residential units within Rancho Viejo will add even more density and traffic congestion. I wish I could give you a number but that seems to be an ever-changing target as well. And these are just two developments that we're aware of.

None of these concerns are being adequately addressed because the whole picture is never presented. The developers are attempting to break the various projects into small increments so that the total impact is not apparent. But somebody needs to look at all the projects, not only in Rancho Viejo but nearby in the county, and evaluate each project within the context of that whole. That's the idea behind a master plan, whether it's a single development or a whole district.

The Community College District may be the area that the County represented as designated for development but that development has to be done responsibly and with a view to maximizing not only tax revenues but the benefits accrued by the residents of the county, present and future. We have great respect and appreciation for all the people that work with and for the County, paid and unpaid. You represent all of it in trying to ensure that our best interests are served and that the codes are adhered to. When new applications for development are presented to the County there are requirements like traffic and

environmental impact studies, archeological evaluations, etc. How can you adequately evaluate a project unless the environmental impact studies include other proposed and approved projects within the environment?

CHAIR MAYFIELD: Ma'am, you've gone a little longer than three minutes, but we'll allow you to come back.

MS. FALLON: Thank you.

CHAIR MAYFIELD: Thank you.

[Previously sworn, Beth Detwiler testified as follows:]

BETH DETWILER: My name is Beth Detwiler. I live at 11 Craftsman Road in Oshara Village in Santa Fe County. I have been sworn. We've heard so many insightful comments from my Rancho Viejo neighbors I would just like to add that the community of Oshara Village is asking you to reject this proposal because of the traffic issues involved and not to give your approval for a project like this until the northeast and southeast connectors have been completed, and there's been enough time to evaluate how their completion affects the traffic patterns to make sure that the infrastructure that we're looking at really does have the desired effect of relieving the traffic problems on Rabbit Road and Richards Avenue, and of course through Oshara Village.

I shudder to think of the effect of hundreds and hundreds more cars going through our narrow and fragile roads, not to mention the construction traffic, which would include a huge number of land-moving equipment, dump trucks, construction equipment coming in, construction vans of two by fours and cinder blocks, and not to mention the hundreds of trucks coming through carrying concrete that it's going to take to build that swimming pool. So thank you very much for your patience and we rely on your good judgment. Thank you.

[Previously sworn, Robert Carson testified as follows:]

ROBERT CARSON: Mr. Chair, Commissioners, my name is Robert Carson. I live at 175 East Chili Line Road in Rancho Viejo. I've been there seven years now after 35 years in central Florida. So I came to the wonderful city of Santa Fe and acquired a property. This is a one-acre lot, which has a setback I discovered later, which helps provide 50 percent of the 50 percent that we have of open space. I cannot build on 60 percent of my land. I follow the covenants. I cannot build a swimming pool. Okay? I cannot build a casita for a mother-in-law. I cannot do any of those things.

Now, I'm a retire physics professor so I could perhaps really dazzle you with a lot of things about hydrodynamics of sewer effluent. I could also maybe run a Monte Carlo computer analysis of traffic. All these things. There's a lot of things we could do on that. So if I don't have that, what do I have? I have a heart. I know you do too. There are some things in life which can be done but should they be done? I think that's very important.

One of the reasons I came to Santa Fe was this whole feeling, which I've been very satisfied with, of community. These are people. These are neighbors. I live like one of the other people that just talked earlier here, I live fairly far away from this apartment building if it were to be built. So why should I worry about it? Because they're my neighbors. This is part of it. This is part of actually having a home and being a homeowner and having responsibility.

I've lived in apartments before. Oh, by the way, you've probably heard of a small, fledgling university back, started around 1970 in Central Florida. It's called the University of

Central Florida. It is now the second largest university in Florida after the University of Florida. I had personal friends that lived near that rather small place at first and of course, as it grew and grew and grew, they had to have housing. And the housing did appear. And my friends had to leave; it was just too much. It was just too much.

So what I would leave you with is please remember besides statistics, numbers and all these other things that are involved, that what it really comes down to is the people that make up a community, and those people that will be staying in a community and providing things. Thank you very much.

CHAIR MAYFIELD: Thank you, sir.

[Previously sworn, Lisa Rawlings testified as follows:]

LISA RAWLINGS: Hello, my name is Lisa Rawlings. I've been sworn in. I'm a resident of Rancho Viejo South on Johnson Mesa and I appreciate all the people that have kept us abreast of this, those of us that are very busy with children. I appreciate all of you listening to us. That's not a given everywhere.

Because I have children, when I first moved to Rancho Viejo in 2005 my instincts worried about Richards Avenue, the limited ways out in case of an emergency. The things that have come up, the way that the street has been changed, it's working now, but I just want to say, I'm a single mother, my children's father is involved and I work very hard. I bust butt to work very hard to afford that home and the association fees. My children's father does too. When it is my time with the children, which is the majority of the time, I work 30 minutes from my home in another corner of Santa Fe. I run a legitimate, licensed business in Rancho Viejo also, in the typical Santa Fe way, some of us have two jobs.

Because I work hard I don't qualify for certain assistance and that's fine, but it's not anyone here's problem or responsibility that I run things so tightly time-wise but my children attend school in Rancho Viejo and I wonder, with this development if it will impede me, if I had to rush from work to come for my children, and being able to arrive. It's just a concern. I appreciate seeing two women being innovative and strong and I think that apartments are fine. I worry about growth in Santa Fe in general, without being an expert about it, especially explosive growth. If that's too strong of a word I apologize, but in general in life with most of us if we do things incrementally it's better able to be handled or assimilated.

This type of thing, I don't know. I worry about the water. We have cisterns under our homes to collect water. My children and I conserve water at the sink. I'm not a teetotaler but a swimming pool just doesn't mesh with that. I had lots of other things to say but I can't remember and thank you again for your time.

CHAIR MAYFIELD: Whoever's next, please.

[Previously sworn, Paul Wren testified as follows:]

PAUL WREN: My name is Paul Wren. I live in Rancho Viejo South. I've been sworn in. I've been a resident for nine years. I'd just like to kind of put my take on summarizing a situation. Starting with the initial attorney, you've seen overwhelming evidence that what has been proposed here has perhaps left out a lot of the facts, a lot of the legal requirements, and brushed over a lot of the involvement of various people. We know now that the original single-family commitment has been kind of like skated over. The de-annexation was an attempt to avoid having to hold those commitments and obviously is not what the law says.

One of the things I'd like to comment on is there was also very little comment from the developer about the way the residents feel about this, and not only the College Park residents but everyone throughout Rancho Viejo is concerned about there being apartments in Rancho Viejo. I personally, along with several dozen individuals have met at times with the developer where he said he wanted to talk to us about alternatives, but the only alternatives that he offered were the same proposal. We said to him we would accept at other locations, just not here, and he would just repeat the same proposal.

So that you will know, the board, you may remember had some concern about his interaction with the residents and he did hire a well respected mediator. However, the residents weren't consulted on the mediator. The mediator is paid by the developer. The developer sets the wording of the topics that are being discussed and they're not open-ended. Fortunately, so far there hasn't been a whole lot of interest from residents because I think they see that there really isn't any interest in them listening to us. Therefore, what I would like for you to do is not to table this, as this has been through many postponements before, reject it. And keep in mind that the residents of Rancho Viejo don't want it in College Park. They certainly don't want the developer to try to slip it in somewhere in the existing Rancho Viejo South, La Entrada or North, but we don't have any objection to it being somewhere else, because we're trying to live up to our responsibilities as citizens; we want the developer to live up to his. Thank you.

CHAIR MAYFIELD: Anybody next? Mr. Smerage, do you want to come back up to finish what you were stating?

MR. SMERAGE: Glenn Smerage again. I was trying to list a few of those unacceptable behaviors of Univest the last couple years, and one is that its original fine vision as it is now a re-incorporated unit, Univest, as opposed to the original corporation. It now has a new vision of chaotic development for taking care of its self-interest. A particular thing it has done, objectionably, is to do the classic bait and switch on the residents of College Heights as it has abandoned the College North master plan.

Univest is snubbing its nose and attempting to ride roughshod on you, our Commissioners, on residents of Rancho Viejo and on the Community College District and Sustainable Land Development Codes by several things. First was the de-annexation of the land in question right here, which doesn't seem quite a right thing to do as good citizen or person or institution in the community. That de-annexation shows that Univest can break and in the future will try to break again the integrity of Rancho Viejo as a community and the integrity of planned unit development, and of course the CCD and SLD Codes.

It is in the project pursuing piecemeal development on a relatively small piece of land where the total land, roughly 57 acres should receive a total planned development and not just piecemeal.

In adding more commercial property to Rancho Viejo it is pursuing unrestricted, unorganized development under a property owner's association. So this isn't right either, compared to three homeowner associations existing in Rancho Viejo. And you have my letter there, a couple other things there. I guess I'll quit. Thank you.

CHAIR MAYFIELD: Thank you, Mr. Smerage. Is there anybody that hasn't commented that would still like to comment. Ma'am. Mr. Smerage, this other lady is going to come up and comment. We have copies of your letter. Thank you.

LINDA WESTON: I got here late so I'm not sworn in. Can I speak?

CHAIR MAYFIELD: You can be sworn in please.

[Duly sworn, Linda Weston testified as follows:]

MS. WESTON: Linda Weston. Hi. I've lived in Rancho Viejo for 5 ½ years. I purchased my home through Homewise. At the time I was purchasing I had two options. One was Tierra Contenta. The other one was Rancho Viejo. So I went to speak with Patrick in the office and I looked at the master plan. I studied it with my children and it was very appealing because of the way that it was planned as a planned community, and I feel that it is not right to have this de-annexed and changed so substantially from what the original plan, that I ask you all to please reject this and to listen to the community of Rancho Viejo, that it is not what we want. It is not what we signed up for. I don't think that any of the thousands of households that purchased a home many – throughout the past. I'm not sure how long the development has been going on, envisioned that this would be what our community would become. So thank you for your consideration.

CHAIR MAYFIELD: Thank you, ma'am. Anybody who I limited to time, would they need to finish any of their statements. Seeing none, anybody else wishing to provide public comment? Seeing none, this portion of our public hearing is closed. I'll go back to the applicant, please.

MS. JENKINS: Thank you, Mr. Chair and Commissioners. I'll be as brief as possible but there are a few really key points that bear addressing. I would like to refer you to the beginning of you packet, I forget what page it is, but to the Rancho Viejo master plan. The Rancho Viejo master plan is the initial, original, guiding document for development on this particular piece of property. The Rancho Viejo master plan contemplates, projected, 570 multi-family units on 55 acres. This is the first project to come forward asking for master plan approval in accordance with that. This is a public record. This is available to everyone who chooses to avail themselves of this information.

What's the next guiding document? The next guiding document that is currently still valid is the Community College District Ordinance which zoned this property in 2000 as a village zone contemplating –

CHAIR MAYFIELD: A Commissioner has a question on your latest point.

MS. JENKINS: Yes, please sir.

COMMISSIONER ANAYA: If I could, on your previous comment relative to the initial master plan, you're stating revealed all of the potential uses? Is that what you said?

MS. JENKINS: It does. The master plan, it's a very big-picture document, and so it talks about clustered development, single-family development, commercial development, industrial development, multi-family development, institutional. It talks about all those uses that we see examples of now in Rancho Viejo except for the multi-family component.

COMMISSIONER ANAYA: Just a specific question. It was referenced throughout the public hearing to some people said closing documents and referenced master plans. If you could just speak to that point.

MS. JENKINS: I'd be happy to.

COMMISSIONER ANAYA: Were there vacant parcels on those closing documents and what's your feedback to that?

MS. JENKINS: Colleen, let's go to the aerial with the site plan. Let's just go to – this is good enough. So in 1997 a master plan was approved by the County for what was called College North, and it's all of the real estate that is north of College Drive within Rancho Viejo. All of that real estate was master-planned as College North. And you've heard mention contemplating 73 single-family dwellings on the 59 acres there. And that was approved in 1997. That's a 17-year-old master plan. They did develop the initial phase of that master plan which is the College Heights neighborhood, which you see there, north of College Drive just east of Richards Avenue.

That master plan has since expired. It is no longer valid and so now there is a request before you for a fresh master plan. Santa Fe County has evolved a lot in the last – I would say the last 30 years. A lot has changed. Some evolution has just been organic and some evolution has been very deliberate. I would offer you that the Community College District Ordinance was a very aggressive, very smart planning tool that this County worked very, very hard on and created. And they have created out of that their primary growth area and the key economic driver in Santa Fe County. That has what has come out of that. Huge economic development, wonderful neighborhood and communities for Santa Fe County residents. It's evolution.

And the County now is embarking on kind of a next phase of evolution in terms of the Sustainable Land Development Code and actually creating zoning for Santa Fe County. And so that's where we are not. Evolution is hard. It's not always easy. It's not always comfortable. And so we are – and I completely empathize with – change is hard. I completely get that. But we are faced with guiding documents. The Sustainable Growth Management Plan is the other guiding document that is still valid today. There are only three. Rancho Viejo master plan, Community College District Ordinance and the Sustainable Growth Management Plan, which identifies this area not only as Sustainable Development Area-1 in the priority growth area, but also as mixed-use residential. The entire Community College District is designated as mixed use residential, which talks about a mix of land uses, a mix of densities, and making sure that there is appropriate densities near services, near employment. Where alternative means of transportation are available – walking and biking. Bus route at the Community College. That is why this location makes so much sense.

This is not haphazard. This was very carefully thought out in terms of what is ideal for creating a vibrant community and creating a vibrant addition to an existing community. And let's go ahead – a couple other points I want to address then I'll wrap up. I want to direct you to the last sheet in your packet which is the subdivision plat, and I want to talk a little bit about the master-planning process and questions that arose about that. So this is the property that – so we have lots 1-A, 1-B and 1-C. This plat has already moved through the County review process. So how it typically works with master plan is you identify the real estate you wish to master plan. Sometimes that real estate is already its own separate parcel, but sometimes it's not.

So Vedula Residential said this is the area where we're interested in. We only need about 20 acres, 22 acres for the project, and of course the site location has been a moving target a little bit, based upon discussions regarding the future southeast connector and all of that. So now, for the moment, we've settled on this Tract 1-B. Typically, what happens is you create the parcel, but that parcel, that plat is recorded commensurate with the master plan. It

doesn't make any sense to do it in advance but as you can see, the subdivision plat has already been created, it's already moved through the process, so prior to that master plan actually becoming valid and effective, the subdivision plat will be recorded first. And so we are master planning the Vedula property that they are in the process of acquiring, which is Lot 1-B, which is the 22 acres. So I think I just wanted to clarify that.

With respect to the transitional zone that is called out for in the Sustainable Growth Management Plan, we absolutely recognize that, and when Lot 1-A, which is the 19 acres that sits between the existing College Heights neighborhood and the southeast connector, when that project is developed than the transitional nature of that is going to have to be taken into account, depending on what that proposed land use is there, obviously. But currently, until that's developed, I think it's safe to say there's a really big transition, but when a proposal comes forward then, yes, appropriate transitional zone from different land use types is going to have to be addressed as part of that project.

And lastly, I would like to just clarify with respect to the traffic impact analysis that was conducted for the project, that the traffic impact analysis has been reviewed by the Santa Fe County Public Works Department. We've worked closely with them. As the location study process for the southeast connector winds down this year they will be making their modeling data available to us and to the public in general. Because we have not had that data available to us to inform our own traffic impact analysis. So prior to moving forward with the development plan stage we just all have to remember this is just master plan right now. And prior to moving forward with the development plan the Public Works Department said, you know, we're going to make this data available, then we want you to rerun your analysis based upon that information, and we thought that was a great idea.

Because right now we have some parallel paths that are happening right now. We're a portion of that parallel path and the southeast connector is the other portion of that. So I just wanted to clarify that. There's no corrections that need to be done but there is going to be more information that's going to become available that we can use to inform that analysis as we move forward. So with that, I would be happy to stand for any questions. Thank you very much.

CHAIR MAYFIELD: [inaudible] Mr. Shaffer, so based on a lot of statements that were made tonight, even the applicant now, help me to understand. We have an initial master plan on file with the County even if it was approved back in 1997 and there was some build-out done? I'm assuming or presuming under that master plan that was approved by a former, by a prior Board, and now time's out because they have not completed that development under that master plan? Because I've heard that now they've tried to de-annex, or we have a whole new master plan in front of us today, a request for a new master plan. So could just help me with some understanding of that, on the time-out of a prior approved master plan and/or a new master plan in front of us.

MR. SHAFFER: Mr. Chair, I think I heard two different ideas in your question. With respect to the master plans themselves, the current existing County code imposes an automatic expiration period on the master plans if steps aren't taken to implement and further them by going through the preliminary plat, final plat process, and then there's I believe a provision - I'm paraphrasing - that allows the applicant to request certain extensions. So the master plans under the existing code are in fact - have an express

expiration period on them and that's stated in the code.

Secondly I think you asked for questions about the de-annexation. That's not the Board's jurisdiction over that process and whether it's valid, whether it complies with legal restrictions in the document itself, that's a matter between the declarant and the individual property owners. That's not the Board's domain. If there are challenges to that that would be resolved through a judicial process.

CHAIR MAYFIELD: Thank you for that. So going back to the master plan that was approved in 97 – I don't believe you were here in 97, but was there preliminary approval given to that and final approval for the build-out, or am I just hearing something different from what I've been hearing from the community tonight? Or was it just a master plan that timed out over so many years?

MR. LARRAÑAGA: Mr. Chair, I believe in your packet, in my report it kind of outlined the steps in the master plan, but it was created in 1997 and they got platting for the first phase. Phase 2 and 3 eventually, there's a five-year period when it expires and there wasn't any further platting or an application for a two-year extension for that master plan, so therefore it expires.

CHAIR MAYFIELD: And I recall reading that and I guess that's what I want to get at. So at a certain time it can expire and then I guess the applicant or a new applicant, they can sell the parcels, can come back and ask for a whole new preliminary? Because I heard bait and switch a little bit tonight. And I also heard economic conditions, the need for different changes, for over 20 years almost. But it does seem like a lot of these individuals, when they purchased this land, based on some statements were stated this on a conceptual drawing of what would happen. That's just what I'm trying to understand now, because that timed out. We just totally forego with that prior master plan, preliminary approval and just look at a whole new master plan tonight.

MR. LARRAÑAGA: Mr. Chair, the master plan, again, expired, and that was prior to the Community College District Ordinance. Now we have the Community College District Ordinance that falls under the village zone. And so they're asking for the master plan under the village zone for multi-family residential.

CHAIR MAYFIELD: Okay. I think that answers it. Thank you. Ms. Jenkins, let me ask a question, because this came up also tonight. So you provided us with a letter of March 26, 2014, and in that letter – I don't know where I read it but I'd like to read it in here. There were community meetings. As a matter of fact what I read in this letter, but again, I don't want to say it's contrary to what I heard but I believe it is, that – and you've made concessions to move this location but I think I heard a statement tonight that that wasn't afforded discussing the – I'm just going to call it the apartment complex. But I believe I read that in your letter.

MS. JENKINS: Yes. There was never what I would say a clear consensus in terms of we're asking for A, B, and C. There were obviously a lot of discussions, a lot of different concerns addressed, but we absolutely heard from quite a few homeowners that, well, if you could slide it further east.

CHAIR MAYFIELD: Come on. She has the floor. I'm asking her right now please.

MS. JENKINS: So was there ever a clear consensus where we got

communication from everybody that, yes, this is what we want? No. But we did hear that feedback and we took that to heart and we moved it, and then we moved it even further in response to the southeast connector alignment.

CHAIR MAYFIELD: So then where was the initial proposal development planned for?

MS. JENKINS: Right at the corner of Burnt Water and College Drive.

CHAIR MAYFIELD: Okay. And then looking at the map that's on the screen, Lot 1-A, why was that not a proposed site?

MS. JENKINS: That was - Lot 1-A was the initial proposal and we slid it down, and then through the process of engaging with Santa Fe County on the southeast connector alignment, it got moved even further in response to that.

CHAIR MAYFIELD: Thank you. And I'm just going to jump to staff and ask maybe a question. Has there ever been - I believe there was a long time ago, a proposed on or off ramp off of I-25 to Richards Avenue? Are you guys familiar with that or not familiar with that? I don't know if the Highway Department has ever had that conceptually? I don't know if there are Commissioners that are on the MPO, that they were thinking of an off ramp or an on ramp off of I-25 to Richards Avenue. Is that still in the works or not in the works?

COMMISSIONER STEFANICS: Mr. Chair, that was something that the Department of Transportation and the Transportation Commission considered many years ago and thought they had the funding for it. It's when Senator Roman Maes went from being in the Senate to being on the Transportation Commission, and the community was totally divided on that, so the Transportation Commission decided not to invest any state or federal dollars in that project. It is on the MPO wish list at this time to the tune of about \$14 million and it would require a separate congressional appropriation so it's not prioritize.

CHAIR MAYFIELD: Thank you, Commissioner Stefanics. That's all I have, Commissioners. Any other questions of staff? Commissioner Anaya, please.

COMMISSIONER ANAYA: Mr. Chair, I move that we go into executive session to deliberate on this administrative adjudicatory preceding as allowed by Section 10-15-1-H (3) of the Open Meetings Act. This is separate from the Matters of the County Attorney agenda item. This session will be limited to this application.

COMMISSIONER HOLIAN: Second.

CHAIR MAYFIELD: So we have a motion and a second.

The motion to go into executive session pursuant to NMSA Section 10-15-1-H (3) passed upon unanimous roll call vote:

Commissioner Mayfield	Aye
Commissioner Anaya	Aye
Commissioner Stefanics	Aye
Commissioner Holian	Aye
Commissioner Chavez	Aye

CHAIR MAYFIELD: I have a procedural question of staff before we break though. Can we go into, still, knowing that we're going in on this matter and coming out, can

we still go into executive – I believe we needed 20 minutes, 30 minutes to discuss other executive matters. We'd have to break, come out, and then go back in if approved.

MR. SHAFFER: Mr. Chair, that's correct. This session would be limited to this specific administrative adjudicatory matter. We'd break from that and then at that point in time the Board could consider whether it wants to move forward with that agenda item, Matters from the County Attorney.

CHAIR MAYFIELD: So we can't take all of our executive matters today. So how much time are we looking at, Commissioners? A half hour? Ten minutes? You all are welcome to wait. You're welcome to go get a cup of coffee. You'd be safe.

[The Commission met in closed session from 7:55 to 9:10.]

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR MAYFIELD: Commissioner Stefanics.

COMMISSIONER STEFANICS: I move that we come out of executive session where we only discussed the land use case in front of us. Present were our County Attorney, our Deputy County Attorney, our Land Use Administrator and the five Commissioners.

COMMISSIONER CHAVEZ: Second.

CHAIR MAYFIELD: We have a motion and a second.

The motion passed by unanimous [5-0] voice vote.

CHAIR MAYFIELD: We are now back to the case that we were deliberating, CDRC Case #Z 13-5380, Elevation. Commissioners.

COMMISSIONER ANAYA: Mr. Chair.

CHAIR MAYFIELD: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, first and foremost, thank you to the many members of the audience that came to provide input this evening. I'm going to go ahead and make a motion to table this item for three specific areas of consideration, to the September land use meetings. So we would table and continue this process and this hearing at the September land use meeting. And three specific things, based on information we've reviewed in our packets and some input we've taken from the public.

I'd like to ask for staff to contact and receive some additional information from the New Mexico Environment Department relative to sewer concerns that were raised and items disclosed to us in our packets, via information that we've received at the County. I'd request that we have staff communicate with our Public Works Department relative to the status of the design, including survey and easements and design and construction timeline associated with the southeast connector. And also several of the Commissioners brought up water and the availability of water. What does the County have available? With it, I think I brought that up as a request for follow-up information.

So I would table with those three specific items to be addressed, between now and that September land use meeting.

COMMISSIONER HOLIAN: I'll second that.

CHAIR MAYFIELD: Commissioners, there's a motion to table and a second.

The motion passed by unanimous [5-0] voice vote.

CHAIR MAYFIELD: Commissioners, we are not on to a need for executive session from our County Attorney. Mr. Shaffer it's late. Is there a need to go into executive session?

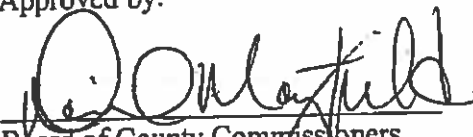
MR. SHAFFER: Mr. Chair, Commissioners, I don't believe that there was anything of critical urgency that couldn't be discussed and direction given at the next Board meeting.

VIII. CONCLUDING BUSINESS

- A. Announcements
- B. Adjournment

Having completed the agenda and with no further business to come before this body, Chair Mayfield declared this meeting adjourned at 9:15 p.m.

Approved by:


Board of County Commissioners
Daniel W. Mayfield, Chair


ATTEST TO:


GERALDINE SALAZAR
SANTA FE COUNTY CLERK

8-12-2014



Respectfully submitted:


Karen Farrell, Wordswork
453 Cerrillos Road
Santa Fe, NM 87501

VII. PUBLIC HEARINGS

A. Land Use Cases

1. CDRC CASE # V 14-5200 Rita Madril Variance. (TABLED)
4. CDRC CASE # Z 13-5380 Elevation. Vedula Residential Operating, LLC, Applicants, JenkinsGavin, Agents, Request a Master Plan in Conformance with the Community College District Ordinance to allow a Multi-Family Residential Community Consisting of 214 Residential Units on 22+ acres. The Site is located on the North Side of College Drive and East of Burnt Water Road within the Community College District, within Section 21, Township 16 North, Range 9 East (Commission District 5) [Exhibit 6: Additional Public Comment]

CHAIR MAYFIELD: So, Commissioners, and for out County Attorney, Mr. Shaffer, I believe this came back to the Commission some time ago but there were some specific questions that the Commission asked of staff and/or the applicant to provide information back. I believe those answers were answered to us, at least in written form and Mr. Larrañaga's here with us. The reason I'm bringing that up is because I will go back to public comment but I will ask that again, all you who have been sworn in in the past, we would ask that you be re-sworn in, but if you have provided testimony in the past as far as the general parameters of everything that was in front of us but now we are just on some specific questions that we asked of staff and/or the applicant, so when I go to public comment I would just ask you to limit your comments to those specifics. Thank you.

JOSE E. LARRAÑAGA (Case Manager): Thank you, Mr. Chair. On July 8, 2014, the Board of County Commissioners met on the above referenced case. Staff presented a staff report with exhibits to the BCC. The agents for the applicant presented material and testified in support of the application and the BCC heard testimony from the public. The BCC tabled this case until the September 9th public hearing. The BCC identified three specific issues to be addressed and directed staff to obtain additional information on those issues. Those issues are identified below along with response by staff.

One, provide additional information from the New Mexico Environmental Department relative to sewer concerns that were raised. Staff contacted the New Mexico Environmental Department Surface Water Quality Bureau for comment on the Ranchland Utilities inspection report. The New Mexico Environment Department Surface Water Quality Bureau responded to this request with the following comments:

A compliance evaluation inspection was conducted on February 25, 2014. This facility is regulated under the United States Environmental Protection Agency, National Pollutant Discharge Elimination Systems permit program. The New Mexico Environment Department Surface Water Quality Bureau conducts compliance evaluation inspections on behalf of the US EPA.

SFC CLERK RECORDED 10/15/2014

The purpose of this inspection is to provide the US EPA with information to evaluate their compliance with NPDES permit. The report had findings regarding recordkeeping, reporting, operation and maintenance and self-monitoring. The finding for recordkeeping and reporting is regarding a requirement in the permit for Ranchland Utilities to keep EPA informed of their progress regarding a compliance schedule for bio-monitoring. The permit has a requirement for submission of progress reports on January, April, July and October. Ranchland Utilities did not submit their progress reports. This has since been corrected and reports will be submitted in October.

The findings for operations and maintenance are in relation to the number of operators on site. Currently Ranchland Utilities has one certified operator and they plan on hiring another certified operator. This finding has also been addressed by Ranchland Utilities.

There are other findings such as the fine bubble diffuser is inoperable, no inventory list, automatic dial alarm system in operable, generator does not provide power to the entire facility. These findings have all been addressed as well. Ranchland Utilities has since corrected the fine bubble diffusers and an inventory list has now been established and the alarm system to the lift station is functioning. The generator still only provides limited electrical supply, however, and Ranchland Utilities may rent a generator in the event of a power failure.

Self-monitoring findings are in relation to the requirements of Title 40 of the code of federal regulations, part 136. Ranchland Utilities was using an outdated edition of the standard methods of monitoring water and wastewater. They have since corrected this. Also there was a finding for not doing duplicate sampling which is required to be done on 10 percent of the samples. The operator, Mr. Quintana, has stated the samples will be duplicated from this point on.

The findings from this inspection report was addressed sufficiently by Ranchland Utilities. The inspections are typically done on a biannual schedule for minor facilities. However, EPA has been known to do inspections more frequently in response to issues at the site.

The Santa Fe County Utility staff reviewed the Ranchland Utility National Pollutant Discharge Elimination System inspection report dated March 6, 2014. Based on the information provided the wastewater facility appears to have capacity to serve Elevation. The review finds that the report raises no issues that warrant the County taking a position that Ranchland Utility cannot provide adequate wastewater service to Elevation.

Two, provide information on the water availability for this project. In order for the County to provide a sustainable and viable water supply and water service, the County needs three things: adequate physical infrastructure, water rights, and actual wet water. The letter written from Utilities to the applicant's agent, Oralynn Guerrierortiz on January 30, 2013, identifies general water delivery infrastructure requirements for the project. Utilities cannot find documentation that addressed source infrastructure or water rights for the project. Recent Utilities practices recognized adequacy of upstream infrastructure and water rights and issued ready, willing and able letters to development projects providing that water right acquisition costs would be recovered from the projects

SFC CLERK RECORDED 10/15/2014

at time of meter installation. Some projects, however, which had previously dedicated water rights to the County and/or had been given County water allocation via a water service agreement were provided service under different provisions.

Resolution 2006-75, a resolution adopting a Santa Fe County water resource department line extension and water service policy states that the new water service applicants may be required to deposit or dedicate water rights with the County to match against expected deliveries, pay the County to acquire water rights to match against deliveries that are sought, a significant initial service fee, or pay other fees to the County to assist the County to provide a permanent and perpetual water supply.

Because Rancho Viejo has contributed a combination of water rights and water allocations towards the phased development of the Ranchland master plan, and because Elevation is a development occurring within the Rancho Viejo master plan area, the applicant has not specified whether Elevation falls under Rancho Viejo's dedicated water rights allocations or whether Elevation will need to pay a water right acquisition fee at the time of meter installation.

As a condition of master plan approval the Utilities requires that Elevation meet the following water service conditions:

1. Prior to submittal for preliminary development plan approval Elevation is required to submit a proposed water budget that meets County code requirements and incorporates Santa Fe County conservation ordinances and resolutions. Upon approval Utilities will add 20 percent to the development's water budget for line losses per Resolution 2006-57, and submit the water budget to the BCC for a water allocation.
2. Prior to submittal for preliminary development plan approval Elevation must have a BCC approved water allocation in the amount needed for the development's water budget.
3. Prior to final development plan approval, Elevation may provide the County Rio Grande surface water rights or Rancho Viejo water commitments. Otherwise, a water right acquisition fee will be added to the meter installation fee for each dwelling unit which will be metered separately per Resolution 2012-88, Customer Service Policy 15.

The third item is provide information from Public Works on the status of the design, survey, easements, and construction timeline associated with the southeast connector. The southeast connector is currently at the stage of an alignment study. The study evaluates the best alignment for the proposed road. Once the alignment study is complete, the appropriate right-of-way will need to be acquired by the County. The road will then need to be designed and then finally constructed. Assuming that the right-of-way is acquired in a timely fashion, a rough overall schedule can be sketched out as follows: Alignment study completed – February 2015; right-of-way acquired – November 2015; design completed – November 2016; construction completed – July 2017.

Recommendations: The County Development Review Committee recommended denial of the applicant's request for zoning approval to allow a multi-family residential community consisting of 214 residential units on 22 acres by a 5-1 voice vote.

Staff recommendation: Conditional approval for a master plan in conformance

with the Community College District Ordinance to allow a multi-family residential community consisting of 214 residential units on 22 acres subject to the following conditions:

1. The applicants shall comply with all review agency comments and conditions, as per Article V, § 7.1.3.c. Conditions shall be noted on the recorded master plan.
2. Master plan with appropriate signatures shall be recorded with the County Clerk, as per Article V, § 5.2.5.
3. A revised Traffic Impact Analysis, showing current road conditions, shall be submitted based on the southeast connector at Preliminary Development Plan. Article III, § 4.4.1.5.c.

Mr. Chair, I'd like to add the application before you is for a master plan, a conceptual plan to allow a proposed 214-unit multi-family residential apartment community on a 22-acre site. A master plan is comprehensive in establishing the scope of a project, yet it is less detailed than a development plan. It provides a means for the County Development Review Committee and the Board to review projects and the subdivider to obtain concept approval for a proposed development without the necessity of expending large sums of money for the submittal required for a preliminary and final plat approval. Master plan submittal requirements include a conceptual liquid waste disposal plan, a conceptual water plan, and a preliminary traffic report.

Prior to approval of preliminary and/or final development plan the applicant shall meet all conditions imposed on the master plan. The development plan report shall include all submittals pursuant to Article III, Section 4 of the code which includes a traffic generation report. Mr. Chair, I stand for any questions.

CHAIR MAYFIELD: Thank you, Mr. Larrañaga. Commissioners, any questions of Jose? Commissioner Chavez.

COMMISSIONER CHAVEZ: I had one question, Jose or staff. Would this project have to comply with the affordable housing requirement if there is one?

MS. LUCERO: Mr. Chair, Commissioner Chavez, the affordable housing ordinance only applies to fee-simple lots, so this wouldn't fall under the jurisdiction of the affordable housing ordinance.

COMMISSIONER CHAVEZ: I just had to ask. Thank you.

COMMISSIONER HOLIAN: Mr. Chair.

CHAIR MAYFIELD: Commissioner Holian.

COMMISSIONER HOLIAN: Jose, I have a question about the third condition under the staff recommendations, in which it's requiring that a revised traffic impact analysis be submitted based on the timing and availability of the southeast connector. Does that mean that construction couldn't begin on this project until the southeast connector were built?

MR. LARRAÑAGA: Mr. Chair, Commissioner Holian, if the traffic impact analysis, if the southeast connector isn't built and the traffic analysis comes back that they would increase the traffic on the roads to a point where the intersections would be failing, yes. They couldn't build the apartments until they had the proper roads in place.

COMMISSIONER HOLIAN: Thank you, Jose.

CHAIR MAYFIELD: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. So the southeast connector is in a study phase, and the southeast connector might not happen. So there's a northeast connector project that's being looked at and a southeast connector project. And if the southeast connector project is not funded by the County it won't happen and if there's no consensus from the community it won't happen. So what would it do this project? And Mr. Chair, I'm bringing that up because there's no promise that there will be a southeast connector and we should just put that on the table.

[Jennifer Jenkins sworn, testified as follows:]

JENNIFER JENKINS: Good evening, Chairman, Commissioners. I'm Jenifer Jenkins with JenkinsGavin Design and Development.

COMMISSIONER STEFANICS: Mr. Chair, I asked a question of staff; I didn't ask a question of the developer.

MS. ELLIS-GREEN: Mr. Chair, Commissioners, if the southeast connector was not built the applicant could either wait until it is built or they would have the right to front the infrastructure costs themselves.

COMMISSIONER STEFANICS: Thank you very much.

CHAIR MAYFIELD: Thank you, Commissioners. I also will have some questions on the southeast connector but I can wait. I'm going to go to the applicant now. So you're done with your presentation, correct? Please proceed.

MS. JENKINS: When we did our original impact analysis, Chairman and Commissioners, for the master plan submittal, the traffic impact analysis was not based upon an assumption that the southeast connector would be in place. We didn't have the modeling data of what the impact of that would be, so as with any project, if there are any level of service issues at any adjacent impacted intersections – because the traffic is based upon level of service.

MR. SHAFFER: Mr. Chair and the applicant, I'm sorry to interrupt and I very much apologize for that, but since this is a land use case and the applicant's representative is not an attorney I think it would be appropriate to re-swear her in as well as the other members.

MS. JENKINS: I was sworn a moment ago. We did it kind of lightly over here.

MR. SHAFFER: Were you? Okay. If you would state that for the record I would appreciate it. Thank you.

CHAIR MAYFIELD: Let's get you sworn in again.

MS. JENKINS: Sure.

[Duly sworn, Jennifer Jenkins testified as follows:]

MS. JENKINS: So the traffic impact is analyzed based upon the level of service, how much delay is there at adjacent intersections? And we analyzed all the intersections along Richards Avenue. So our original analysis – we weren't in a position to analyze the southeast connector as a potential adjacent roadway that we would be accessing. So what our traffic engineer did, as with any project is they said in order to achieve acceptable levels of service at this intersection, at this intersection, there were

recommended improvements to those intersections, in terms of improving the roundabout, adding slip lanes, adding an additional southbound lane. There is kind of a menu of things that could be done to achieve acceptable levels of service.

So, like I said, the reason we're being asked to update our traffic impact analysis prior to moving forward with our development plan is based upon what is the status of the southeast connector. The County has done a significant amount of traffic modeling as part of the alignment study and so when we can avail ourselves of that data we can incorporate that into the bigger picture of a revision and an update to our analysis. But the original analysis that we submitted did not assume the southeast connector, but it did say we do have some delay issues at a couple intersections and here's how we can fix that. So that would be our option to say, if we decide to move forward.

And this project doesn't get built over night. We've got a few years ahead of us in terms of approvals and design and construction. So I hope that clarifies that for you.

CHAIR MAYFIELD: Anything else?

MS. JENKINS: I have really nothing to add at this point. I'd be happy to stand for any additional questions regarding the items that you asked staff to update you on.

CHAIR MAYFIELD: Well, let me ask this then, and I don't know if you or Ms. Oralynn Guerrerortiz, but as far as information we requested on the water availability for this project, I just want to talk about that a little more.

MS. JENKINS: Sure. Absolutely. We received a water availability letter from Santa Fe County back in January of 2013. And so you asked for a follow-up, just understanding – because I know there's been a lot of discussion with staff regarding the status of the County's water resources. So staff came back – and we are pleased with the answer that, yes, we are willing and able and ready to serve this project and there was kind of a menu of options in terms of how the water rights issue can be addressed. And so there was either bringing new rights or Rancho Viejo rights or a fee-based approach in order to compensate the County for those rights. And so we are comfortable with that and I feel comfortable moving forward under those conditions.

CHAIR MAYFIELD: So do you all have any water rights you can transfer over right now? I see something in here that says Elevation falls under Rancho Viejo's water rights allocations on whether Elevation will need to pay water right or acquisition fee. So is this Elevation's water rights or Rancho Viejo's that are going to be transferred?

MS. JENKINS: Well, right now, Rancho Viejo already has an allotment of water rights that's already kind of sitting at the County for their project. Like I said, we're at master plan stage right now, so that's why I think staff kind of laid out that there's more than one way to skin the cat in terms of as we move forward with the development plan. And so we may just be writing a check to the County to compensate them for rights, or we may take a portion of what's already been allocated for Rancho Viejo. So we have a couple options.

CHAIR MAYFIELD: Thank you. Commissioners?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIR MAYFIELD: Commissioner Holian.

COMMISSIONER HOLIAN: I have a question for staff. This is a request

for master plan approval which is conceptual in nature. So would this come back to the BCC before there was preliminary development approval? Would there be a request for that then?

MR. LARRAÑAGA: Mr. Chair, Commissioner Holian, the preliminary and final development plan would go in front of the CDRC.

COMMISSIONER HOLIAN: Would go to the CDRC.

MR. LARRAÑAGA: For final approval.

COMMISSIONER HOLIAN: And then it could come back to the BCC?

MR. LARRAÑAGA: Final approval would come from CDRC.

COMMISSIONER HOLIAN: Unless it were appealed, correct? The decision were appealed.

MR. LARRAÑAGA: Correct.

COMMISSIONER HOLIAN: Thank you, Jose.

CHAIR MAYFIELD: And Mr. Shaffer, along those questions, would this be under the current code or the new code? If we get the zoning map done and a fee schedule ever done.

MR. SHAFFER: Mr. Chair, I think there are a couple different variables there that we don't know for certain. It would depend upon the timing of the adoption of the SLDC's zoning map and thus the effectiveness of the SLDC, as well as any particular grandfathering provisions that may ultimately be included in the text of the SLDC itself. So the short answer is depends upon a couple of variables that are not known at this time.

CHAIR MAYFIELD: Okay. Thank you. So I guess the question as far as the southeast connector as it pertains to this potential development or not, what is the status of the southeast? I've heard the Community College has asked us to make some significant changes that could cost us a pretty big penny on the County's side. Somebody just update me on what's going on with that southeast connector please.

MR. LEIGLAND: Mr. Chair, Commission, as you heard earlier in the staff report, we are currently in the process of the alignment study and so as I suggest, we're actually trying to identify the preferred alignment as following an FHWA and State DOT mandated process. We are negotiating with the Community College. The optimally preferred alignment hasn't been nailed down. We met with them last week but included also in the alignment study are archeological studies and environmental studies so we currently expect to have the entire alignment study wrapped up by the end of February, beginning of March of next year. That's on schedule; that contract is on schedule.

CHAIR MAYFIELD: And Adam, I was on the MPO a while back, but the MPO helped – the state helped fund the study, but the County would be kind of on – would incur the expense for this if it comes to be, would it? Or would there be state funding for this also?

MR. LEIGLAND: Mr. Chair, you are correct. This was a project of regional significance which meant that the MPO was tracking it and it was on the STIP. And the alignment study – it's a \$500,000 study and it was a very large federal cost-share with a small County share to do the alignment study. In 2012 the Commission, because

they felt this was an important project and because if it had stayed on the MPO's project list it was felt that it would be too far in the future. So the Commission opted to put County funds to the construction of it.

And so the County currently has earmarked some general obligation bond funds for the construction of it, so yes. One of the goals of the alignment study is to make sure that the ultimate project that's built is eligible for future federal and state operations and maintenance money, and that's one reason why we were taking such care in following the mandated alignment studies to make sure that when we build we can get future state and federal money for operations and maintenance and upgrades and whatnot.

CHAIR MAYFIELD: So Adam, just help me here please. So with that being said, how much money have we incurred to date on the alignment study and were there other entities that said, no, we don't agree with this alignment study, where now we'd have to re-invest staff time and additional monies and/or potential developers? Are they going to contribute any money towards this?

MR. LEIGLAND: Well, Mr. Chair, the alignment study – off the top of my head, the County share is about \$178,000 and the remainder was the federal cost-share, so that's about \$400,000, a little over. \$412,000 or so if my math is right. But that's about how it worked out. So that's what the County's spent so far. Of course there's been staff time managing it. So we're following the process. So far it hasn't been derailed, but we do want to make sure that what the ultimate alignment does meets everybody's needs.

CHAIR MAYFIELD: And if it comes to be, Adam, Mr. Leigland, excuse me, what would be – I guess, give me a number, the build-out cost of this?

MR. LEIGLAND: Well, Mr. Chair, it's impossible to say at this point because the alignment study will determine that. So for instance, one of the things the alignment study looks at is are there any archeological sites that need to be addressed? And so obviously, if one of the goals is to minimize capital costs you want to avoid that but another goal of the alignment study is to have as straight an alignment as possible to make it safe. A couple of the alignments cross arroyos and arroyo crossings and as you well know are very expensive. So we don't really have a good idea of what the ultimate build-out costs could be. Also, depending on how far east or west it is would determine how much improvements need to be done to the existing College and Avenida del Sur, because they would have to be tied in and we'd have to accommodate that as well. And then also if it ties into Rabbit.

So it's impossible to say. That's one of the things, once we get – and then also we don't know what right-of-way would look like. Because if it turns out we have to purchase the entire right-of-way, that's one cost. If it's all donated, that's another cost. So I'm not trying to be squirrely but it's hard to say. The County has earmarked \$5 million in 2012 general obligation bond money, so that's I guess a rough idea of what it would be like.

CHAIR MAYFIELD: Thank you, Mr. Leigland. Anything else from the applicants? This is a public hearing so all of you who would like to speak on this if you just stand up at once and be sworn in, that would be a lot easier I think. Okay, there will

only be one person speaking on it. Thank you. And if you could make your way up, and if you could again just comment on the availability of the water budget and/or the alignment study, please.

[Duly sworn, Bruce Krasnow testified as follows:]

BRUCE KRASNOW: Thank you, Commissioners. What a fun-filled meeting. Bloggers and tweeters here this afternoon. So I appreciate you reopening the public hearing. Bruce Krasnow, 3B Deans Court. I want to just answer Commissioner Holian's question about this is not a small step. This is master plan approval and on your current land use code approval of the master plan is intended to demonstrate that the development concept is acceptable and that further approvals are likely. So I guess we disagree that tonight really doesn't make a difference. Tonight is the whole ballgame as far as we're concerned. So onto the other issues.

I'm not a planner or an engineer, so maybe I'm missing something here but this doesn't seem like a close call. The infrastructure to support this project is not in place. I know how much you work on the CIP plans and all the public hearings and lobbying to get capital outlay dollars for our community. I see how you work for roads and waterlines and fire stations and rail trail parking lots and libraries and senior centers, and some of that happened this afternoon, and I appreciate all the time you spend on that. It's not an easy process.

At the July meeting Jennifer Jenkins said it sometimes takes political courage to do the right thing. On that, she and I agree. Every community planning document calls for infrastructure. The Community College Plan calls for having the needed infrastructure to properly support new development. What sometimes takes courage is sticking by that plan and telling business owners to come back when we have the capacity to support your project because existing neighborhoods matter. Commissioner Anaya, you talked this afternoon about existing homeowners and the role they play in the community.

To say a new apartment residence can use College Drive and Richards, which is what your Public Works Director says, if the connector is not in place is a slap in the face, not just to Rancho Viejo but to all the people up and down the Richards corridor. Isn't that the mistake we made with Oshara Village by promising roads that were never built? How much time, energy and money has the County spent trying to go back and make that problem right? Commissioner Stefanics, how many letters and emails have you gotten trying to make that problem right?

Isn't that the mistake we made with Santo Nino School, which has 500 students, some as young as age 5 landlocked in a wildfire zone with no emergency access? One member of the CDRC who voted against this project said you don't have a traffic problem on Richards; you have a traffic crisis.

To say this project is supported by the Community College District is looking at just one page of that document. One list, while ignoring 200 other pages that talk about adjacent property owners, transition zones, neighborhood planning, and yes, most of all, infrastructure. Heck, we don't even have a master plan in College Heights. It's expired. How many other communities would you move forward on a large and complicated project without a community planning process? My guess is none.

SFC CLERK RECORDED 10/15/2014

With regards to Ranchland Utility, the first pre-development meeting for this project was November 1, 2012. They've had almost two years to fix these violations. And speaking of things not being right, this application was filed with the County on December 6, 2013, listing Vedula Residential as the developer. The company is still not registered to do business in New Mexico. Yet an email sent by Jennifer Jenkins in January of 2014 to the County regarding this project says that Warren Thompson is her client. This case was advertised as an MPA, master plan amendment, before it case number and now it's showing up with a Z before the case number. That seemingly happened by administrative fiat without any public notice.

This is not a lot split or a guesthouse or a B&B, it's the largest apartment project ever proposed in the unincorporated area. This has to be done right. We ask that you vote this down tonight so the applicant can come back when the paperwork is in order, when the infrastructure is in place, and when the roadways are working as they were designed. Thank you.

There's a letter from Terry Buhl which did not make the file so I would like to pass that out. *[Exhibit 7]*

CHAIR MAYFIELD: Just hand it to Ms. Lucero or Mr. Larrañaga please.

MR. KRASNOW: She asked that I submit that to you. And then there's the emails I talk about in my presentation which I want you to have a copy of. Thank you very much, Commissioners.

CHAIR MAYFIELD: Thank you. Whoever's next please come on up.

[Previously sworn, Lance Tunick testified as follows:]

LANCE TUNICK: Good evening. My name is Lance Tunick. I live at 14B Deans Court. I'll be very brief. I want to thank you this evening. You asked the right questions this evening. You really did. And I appreciate that. I'm not sure you got answers to your questions this evening, but you asked the right question, particularly with respect to the connector. And in my view, the connector seems to be presenting a catch-22, between construction, no construction, route, no route, this apartment complex. It seems to be going in vicious circles. And I think the Board needs to step in and resolve that situation.

The second point about the connector is the idea of not funding it and not building it all the way to Avenida del Sur to me really seems absurd. If you look at a map of Santa Fe County and you look at the roads south of the interstate and how many of those roads dead-end, we can't do another one like that. We got to build it to Avenida del Sur so it ties into Rancho Viejo Boulevard and there's some sort of a loop. Again, thank you. You asked the right questions this evening.

[Previously sworn, Jerry Wells testified as follows:]

JERRY WELLS: My name is Jerry Wells, 14A Deans Court. Again, I have real concerns about the southeast connector with this apartment complex. As the previous speaker mentioned, as it was presented to us recently it would end at College Drive. It has to go all the way through to Avenida del Sur, otherwise it's not a relief to Richards Avenue. And to relieve Richards Avenue there has to be an east side connection

directly into Santa Fe Community College.

The projected traffic study that they've done, I don't think includes the traffic analysis for College Drive on the north connector to College, and the Burnt Water connection to College Drive. If it does, it's probably inadequate considering there'd be 214 units of apartments. There will be college students coming in using that. There'll be elementary school parents using that. So there's some very worrying issues about the traffic congestion in that area. And I think you need to take into consideration either not funding the southeast connector, if that isn't addressed and put all the way through to Avenida del Sur, or complete it as it should be, properly, all the way through. Thank you.

CHAIR MAYFIELD: Thank you, sir.

[Previously sworn, Pat Perrin testified as follows:]

PAT PERRIN: My name is Pat Perrin and I live at 10 Deans Court. When I was handing out the signs for this meeting on our mailboxes I ran into a contractor and he said to me – I explained everything and he said these types of developments never fail to destroy a community when placed in or near it. And I got to thinking, it was interesting, the Flagstaff Elevation is right next to a shopping mall. The Phoenix Elevation is in an area of high-rise apartment buildings that was formerly farmers' fields and is not kind of developing into sort of an apartment complex area.

Neither of these buildings were approved near a community that is master planned like Rancho Viejo. This land is much more beautiful than what you see above you there and one of the things we were concerned about was would it spoil the view? And they told us no, it's going to be tucked down into a pocket. But if you look at the plans –

CHAIR MAYFIELD: Let me stop you for one second, ma'am. We're asking if you could please provide the comments on the wastewater, the water or the southeast connector right now.

MS. PERRIN: Oh. Just simply that?

CHAIR MAYFIELD: Yes, that's the additional questions the Commission had for the applicant. We afforded comment a little earlier.

MS. PERRIN: All right. I just want to tell you, if you say no, they can build it in a much more appropriate place. They have all the land they need for that. Thank you.

CHAIR MAYFIELD: Thank you for your understanding.

[Previously sworn, Linda Weston testified as follows:]

LINDA WESTON: Hello. My name is Linda Weston. I live at 57 Via Sagrada in La Entrada in Rancho Viejo. And I just want to mention a few things. One, I don't know much at all about water rights or anything like that, but certainly things need to be taken into consideration that we're facing a drought. It could be a very long-term drought that we all need to consider how our water is being used.

Secondly, I want to mention regarding the traffic studies that have been done, I don't know when all the studies have been done but members of my household personally have observed some of these traffic studies being done, not even during peak times. Not when school's in session, not when there's the most amount of traffic on

Richards Avenue. Certainly, as Commissioner Stefanics mentioned, the southeast connector is not a given and therefore where are all the cars going to be -- how are they going to be moving along the road? I think it needs to be taken into consideration that the Community College presumably is going to be growing. Enrollment will be growing, and all of these things need to be taken into consideration. I'm against the development as are every single one of my neighbors that I've talked to. Thank you.

[Previously sworn, Eileen Gorman testified as follows:]

EILEEN GORMAN: My name is Eileen Gorman and I live at 3 Fire Hearth Place in the Village of Rancho Viejo. Yesterday, we had another opportunity to see what happens when there's only one exit from the Community College, which is essentially what the situation is now and that's on Richards. They had to close the college because of a power failure, because of some mechanical failure in the buildings. I believe it was -- I forget what it was. In any case, they closed the college at noon. And the traffic on Richards going north was literally backed up from the campus to Rodeo Road.

Now fortunately there wasn't a fire. There wasn't another -- there wasn't a shooting. There wasn't some other catastrophe happening. They just needed to evacuate the campus. Because there's no other means of transportation for vehicles besides Rodeo Road.

The infrastructure in the area is wildly underdeveloped at this point. As Bruce already mentioned there are 500 kids at the Catholic Church there. There also are other schools in the area that requires more infrastructure. This is a very serious deficit that the County has allowed to happen and it's time to step up and do something about it before we allow other massive development that's going to put more people on the roads.

The plans for the southeast connector are moving ahead. However, it's not going to be in place, at best, until 2018 as we understand, and many of us have been attending the planning meetings, the public meetings. There seems to be a lot of contention about the placement of the road and hopefully those will be worked out. But there is definitely a deficit in the infrastructure in that part of the county, which is the high density development area that the County has designated and it's time for the infrastructure in that part of the county to catch up with the development. And as a result, approving this master plan development at this point is inappropriate and we need to put the brakes on especially for an even more high dense development than we have now with homes at this point than has been moving forward in other requests. Thank you.

[Previously sworn, Vicki Schneider testified as follows:]

VICKI SCHNEIDER: Thank you for an opportunity to address you. My name is Vicki Schneider. I live at 99 Via Orilla Dorada in Rancho Viejo. I actually have very little to say to you but I did want to stand up and commend you for what I now can recognize as a very thoughtful process that you're going through. And we were very concerned that you take a very thoughtful look at this. And I want to remind you, because I do have -- I have access to an email list of over 400 households that cross our homeowners associations and so forth, and we are still rated as the best on-time taxpayers. We are the one and only FireWise community in our county, and we have the highest percentage of voters in our county.

So we're really concerned, involved residents and owners in Rancho Viejo. And therefore I'm very pleased to – or I'm very anxious for you to know that with all the communication and all the intent we have as volunteer people and not paid people, to attend everything, to try to stay on top of everything, try to learn all these things, that it is really important for us to feel that you're really listening and taking us as a kind of priority because we're among the 1,500 or so households that used to be just an idea on paper. And now, we're real people and we really see what goes on around us and we live there and it's the vision that we bought into.

Having said that, I just want to tell you that this last week, there was a water leak that went on for over a week in our developed neighborhood. Ranchland Utility's waterline. It wasn't our City connection waterlines or anything. It was a leak that was right across the street from my house that I was made aware of, and I have no idea, because I haven't studied the study that the staff presented on water usage, etc. for Ranchland and what their deficiencies are. But the people came out from landscaping and from development and everything to try to stop this leak. Again, I tell you the leak went on for almost a week and everybody had their hair on fire that was trying to deal with this because there was no map. There was no ability to know where the on-off switches were. There's no documentation of how this whole Ranchland infrastructure is.

So to tie in a very unpopular – we've had not one person ever tell us that they want these apartments in that location. So to take a very unpopular idea, concept, and tie it into Ranchland Utility that we live with, seems way premature if it should ever happen. I hope I've not rambled on too much but again, my main issue is to thank you for really tackling this and not making an instant decision or even a slow decision that perhaps is a detrimental decision. I do not think you should approve this master plan. Thank you.

CHAIR MAYFIELD: Thank you.

[Previously sworn, David Burrell testified as follows:]

DAVID BURRELL: Good evening, Commissioners. My name is David Burrell. I live at 191 East Chili Line Road. I don't think you have to look far, only about 60 miles down the road to see a similar situation. And I just want to read you something that was published in the Albuquerque Journal about two weeks ago. And I'm going to tie this in at the end – just bear with me – about the access to this Elevation. I don't know if you're aware of an apartment complex down there called the Cottages. It's a complex built across from UNM. And just bear in mind this opened on the 16th. The article in the paper on the 24th, the headline says Brawl leads to shooting at new housing for UNM students.

It has hosted a 700-person party that was broken up by police one week and a brawl that ended in gunfire the next.

CHAIR MAYFIELD: Sir, honestly, I don't know what this has to do with the southeast connector.

MR. BURRELL: This has to do with access, sir. The police are responding every day. There's blotter reports every day responding out to this complex, and that's the same thing that's going to happen in this apartment complex because we all know who's going to be living in this apartment complex.

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CHAIR MAYFIELD: I don't know who'll be living in that apartment complex.

MR. BURRELL: It's right across from the college.

CHAIR MAYFIELD: Again, I'm not going to there. Do you have anything as far as the water, the wastewater, the southeast connector you'd like to speak about? Commissioner Anaya.

COMMISSIONER ANAYA: I'd actually like to hear where he's going to go. Where are you going to go with that, Mr. Chair and sir? What do you mean, we all know? Explain yourself.

MR. BURRELL: It's going to be built right across from the university.

COMMISSIONER ANAYA: Okay.

MR. BURRELL: It's going to be a huge complex and it's going to have easy access to the college. So it's probably pretty fair to say there's going to be a lot of students living there.

COMMISSIONER ANAYA: Okay. Go ahead.

MR. BURRELL: Right. And I'm just reading a similar situation that's going on down in Albuquerque where you have 18- to 24-year olds and we know how all they act. Right?

COMMISSIONER ANAYA: Okay. How's that, sir? How all 18- to 24-year-olds that go to college?

MR. BURRELL: I'm not going to say all of them, but I was 18-24 at that time and I was in a college time, and I was one of them.

COMMISSIONER ANAYA: and Mr. Chair, if I could, every complex you've ever been around had a similar situation as the cottages, that happened in your experience that you visited or had access to? The all had parties like what you're insinuating at this complex?

MR. BURRELL: Every one I've been in sir, that age group and students.

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

CHAIR MAYFIELD: Sir, again, the southeast connector, if you care to talk about that or the water budgets.

MR. BURRELL: I'm finished with my statements, Commissioner.

CHAIR MAYFIELD: Thank you, sir. Whoever else. Mr. Smerage. One second please. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I'm going to make a general comment here. We take in public comment and feedback, but none of us here subscribe to the politics of intimidation or fear in any way. We're going to evaluate this project on the merits of the application, on the basis of law and the ordinances, that we have to evaluate them by. And I take offense, frankly, to anybody getting up here and implying in any way that apartment living individuals, regardless of their age are in some way or somehow substandard or lower than anyone else. So please keep that in mind.

[Previously sworn, Glenn Smerage testified as follows:]

GLENN SMERAGE: I could, but I won't give you a lecture on the problems of university towns with off-campus student housing. Anyway, in reviewing this past week the history of this issue I concluded that your most important decision tonight will not be whether to approve or disapprove the apartments, but whether you abide and uphold scheming, distortion, deception and dishonesty. For those words characterize the behavior of Univest over the past 1.5 years as it has pursued these apartments. I would give you just six of many examples of that Univest behavior.

CHAIR MAYFIELD: Mr. Smerage, again, I'm going to ask – the Commission asked specific questions of the applicant. We provided ample time for public comment at prior meetings, and I have opened up public comment again tonight. But again, for the specific questions that the Commission asked of staff. I'm going to read these questions in again, and that's where I would ask you to preface your comments please. One is to provide additional information from the New Mexico Environment Department relative to sewer concerns that were raised. Also, provide information on the water availability for this project. And the third was to provide information from Public Works on the status of the design survey easement and construction timelines associated with the southeast connector. So if I could please ask you to limit your time to those questions.

MR. SMERAGE: I would ask the representative of the applicant and staff if they find honesty and so forth in representing to the public over the past 14 years potential buyers and actual buyers in College Heights and the rest of Rancho Viejo, and then the 57 acres we're talking about would be developed in single-family residential units, and then coming forward with this mega-apartment proposal. Have they been honest and morally and ethically behaved in de-annexing this land to remove it from the context and control of Rancho Viejo, the community and to assume their self-interest legally outside of Rancho Viejo, but de facto within Rancho Viejo.

I believe they are trying to slide this development through well in advance of finding the final corridor for the southeast connector and settling other traffic issues presented by the Community College for the most part, and actually looking far downstream for the whole general area, and this is much to the detriment of the county. I have two or three other points that question honesty, morality, ethics and so forth being involved here, but I guess I should sit down.

CHAIR MAYFIELD: Thank you, Mr. Smerage. Commissioner Chavez, please.

COMMISSIONER CHAVEZ: I'd like to ask for some clarification on this concept of de-annexation. Was there in fact de-annexation done or was this just removed from the original master plan for Rancho Viejo?

CHAIR MAYFIELD: Asking staff.

MS. LUCERO: Mr. Chair, Commissioner Chavez, the de-annexation that was spoken about has to do with the restrictive covenants, not necessarily with the master plan, but they were de-annexed from the restrictive covenants.

COMMISSIONER CHAVEZ: So is de-annexed the proper term for that action that was taken? I don't think so, but I'm just questioning the terminology that's

used in this case.

MS. LUCERO: Mr. Chair, Commissioner Chavez, I believe that the document itself did call it de-annexation. I'm not sure if that's the appropriate terminology.

COMMISSIONER CHAVEZ: Okay. I just wanted to raise that question now and maybe it's just food for thought. So what they did is they removed the covenants from this proposed development, is really what's been done.

MS. LUCERO: Mr. Chair, Commissioner Chavez, yes. They removed the covenants from this portion that they're proposing to develop.

COMMISSIONER CHAVEZ: So I don't see that as de-annexation but that's all I'll say about that. Thank you, Mr. Chair.

CHAIR MAYFIELD: Ms. Lucero, along that point though, so when this master plan or the preliminary plan and the final development plan was approved for the Rancho Viejo area, that's something the County considered at that time that was inclusive of this land that they're now asking – where they have de-annexed. Correct? Let me ask it this way. When the initial application was done and the final plat approval was given, back whatever that timeline was. I'm going to say Rancho Viejo and I may have to be corrected. Was there ever an inclusion of a housing complex such as this? An apartment complex?

MS. LUCERO: Mr. Chair, the prior proposal did not include a proposal for apartment units.

CHAIR MAYFIELD: And again, at that time, when that final plat and every other juncture they went through, would have been inclusive of whatever road conditions, whatever infrastructure was in place or what was needed to support the housing out there. Correct?

MS. LUCERO: At that time, Mr. Chair, yes, that's correct.

CHAIR MAYFIELD: Thank you. This is a public hearing. I'm going to go back to the public right now. Thank you. Then I'll come back to the applicant. Yes, sir. Please.

[Previously sworn, Ken Vellon testified as follows:]

KEN VELLON: My name is Ken Vellon. I'm at Rancho Viejo. And I did attend the connector meeting and Commissioner Stefanics was there, and it really opened our eyes to how long this is going to take to get the southeast connector. So I'll just make a couple of points that were presented by our consultants, who the County is paying for. They did not include in the traffic study the potential of these apartments. Neither did they include the big development that's going on on St. Francis Road and Rabbit Road, potential. So those are not even included in the traffic study, which I think is horrible but that's the way it is.

The second point they made is that the \$5 million, if and when the southeast connector gets through all these approvals, will only get the road to College Drive, if College Drive is punched through. It won't get it to Avenida del Sur, which is craziness.

And then the third thing I would like to ask, if you let these people go build their

apartments and we don't have a southeast connector what road are they going to take to get to Richards? Thank you.

CHAIR MAYFIELD: Thank you, sir. Sir, I'm going to let everyone else speak. Sir, you've already had an opportunity. Let's let everybody else speak and then you can come back up please.

[Previously sworn, Eunice Vellon testified as follows:]

EUNICE VELLON: My name is Eunice Vellon and I live at 95 Via Orilla Dorada in Rancho Viejo. I wonder if I could just bring to your attention that when the southeast connector was originally proposed it was to go all the way south to connect to 599. Somehow that's gotten lost, and they talk about taking it to Avenida del Sur as if that's going to solve the problem. But Avenida del Sur doesn't go anywhere. So the only way to get out of Rancho Viejo is to go Rancho Viejo Boulevard, which is a two-lane twisting road that is no better than College Avenue in terms of traffic.

We already have truck traffic on that road. We can't handle – that doesn't solve the problem of Richards. It's either going to dump traffic right back on to Richards again at Avenida del Sur, or it's going to dump traffic on to two-lane, twisting Rancho Viejo Boulevard. If we're going to do the southeast connector it needs to be done right. It needs to solve the problem, and that means it has to go all the way south to connect to 599, not just dump it right back into Avenida del Sur and Rancho Viejo. Thank you very much.

CHAIR MAYFIELD: Thank you. Anybody else who hasn't had the opportunity to speak and wishes to speak at this time. Seeing none, sir, do you want to come up?

MR. BURRELL: Just to answer Commissioner Chavez' question. This was a big deal with the CDRC. Until March, six months ago, this property was part of Rancho Viejo, part of the College Heights, covered by our covenants. So when we say there was an expectation of single-family homes, we're not talking ten years ago. We're talking six months ago, it was removed from the community association. Thank you.

CHAIR MAYFIELD: Thank you.

COMMISSIONER CHAVEZ: So those were covenants in a private homeowners association that said there will be no multi-family apartments in that entire development?

CHAIR MAYFIELD: Let's go to staff first to answer. We still might ask you but – Ms. Lucero or if anybody has that answer?

MS. LUCERO: I'm sorry, Mr. Chair. Can you repeat the question?

CHAIR MAYFIELD: Sure. Commissioner Chavez, please.

COMMISSIONER CHAVEZ: Well, what I'm understanding is that the covenants for Rancho Viejo excluded the possibility for any future single-family residential apartment units in that entire Rancho Viejo development. Their covenants, from what I'm hearing excluded all of that. And it's been pointed out to me, and I knew this, but the County does not, is not able to enforce private homeowners covenants. That's not something that we do.

MS. LUCERO: Mr. Chair, that is correct. We don't enforce private

covenants.

COMMISSIONER CHAVEZ: So I'm just trying to understand where that covenant was placed and by who, and it seems to be the Rancho Viejo Homeowners Association has that in their covenants, and that's the de-annexation I guess that's been talked about.

MS. LUCERO: Mr. Chair, Commissioner Chavez, I believe that's correct. It was part of the original restrictive covenants that was the focus of the de-annexation. That's what they were de-annexed from.

COMMISSIONER CHAVEZ: Okay. Thank you.

MS. LUCERO: Mr. Chair, if I could make just one clarification as far as the question that was brought up earlier on the master plan, whether or not multi-family was contemplated. The original Rancho Viejo master plan, which was done back in the eighties contemplated multi-family residential in that area. But subsequently there was another master plan, College Heights which was submitted in the early 2000s. So that master plan basically superseded the original master plan and that second master plan is what did not contemplate multi-family.

CHAIR MAYFIELD: Ms. Lucero, let me ask this question. Just help me visually please. We don't have an easel or anything up but that's okay. The Community College District plat, how big is that? Does it encompass all these properties?

MS. LUCERO: Mr. Chair, yes, it does.

CHAIR MAYFIELD: So, again, understanding we don't have any say under covenants but what does the Community College District Plan say about multi-use housing?

MS. LUCERO: Mr. Chair, the Community College District, and we actually reviewed this application under that ordinance, and it does allow for multi-family residential uses within this area.

CHAIR MAYFIELD: Thank you. So I'm going to back to the public, before I close this public hearing. Is there anybody else from the public wishing to comment? Please, you may have to be sworn in. I don't know if you were sworn in previously.

[Duly Sworn, Evelyn Spiker sworn, testified as follows:]

EVELYN SPIKER: I live in College Heights. I just want to clarify the de-annexation area. That area that they're proposing to put the apartments in was part of our covenanted community. The de-annexed it to avoid having to comply with our covenants. Does that help clarify?

COMMISSIONER CHAVEZ: It clarifies it a little bit more.

MS. SPIKER: So we all bought into a covenanted community, which means that the homeowners association is responsible for enforcing those covenants. We can no longer do that because of the de-annexation.

CHAIR MAYFIELD: Thank you. Again, last call for public hearing. Seeing none, this portion of our public hearing is closed. I'll go back to our applicant please.

MS. JENKINS: Thank you, Chairman, Commissioners. I have a few points of clarification that I think may be helpful, if I may. As Vicki said, the original Rancho Viejo master plan contemplated 570 multi-family dwelling units that would be spread over six different sites for a total of 55 acres. That translates to about ten dwellings per acre, which is actually a very low density for multi-family. Typically, for example, in the City of Santa Fe, multi-family you would typically see at anywhere from 18 to 21 dwelling units per acre, and for example in the SLDC, multi-family density is the permissible multi-family density under the SLDC will be 20 units per acre, which is pretty common for multi-family development. What we're proposing is 9.7 dwelling units per acre, which is consistent with the Rancho Viejo master plan.

So the Rancho Viejo master plan, which governs everything in the Rancho Viejo area absolutely contemplated multi family. This is our first opportunity to realize this element of a mixed-use community. That's what Rancho Viejo was created to be. That's what it's been touted as, and it was the predecessor and the inspiration for the Community College District. The property is zoned in the Community College District as a village zone which also permits multi-family housing. It's all already in place. We're not asking for new zoning. We're asking to build something that is consistent with the governing documents that are in place.

The documents that govern this tract of land is the Rancho Viejo master plan, the Community College District Ordinance and the Sustainable Growth Management Plan. Those are the three documents adopted by this body over the years that govern development on this property. So I hope that that is helpful to explain that.

And with respect to the southeast connector, as I said before in my earlier comments, we did a traffic impact analysis, did not assume the southeast connector would be in place. We were not in a position to make that sort of assumption. We did study the intersections at the morning peak hour, what we call morning rush hour, and afternoon rush hour. There are two intersections where we have delays that create a level of service that is not acceptable. The two intersections are Richards Avenue and Willowback Road, which is the road into Oshara, and Richards Avenue and College Drive. AS with any project, Santa Fe County, your staff, will not allow a project to move forward unless that project can demonstrate with their development that there are acceptable levels of service on the adjacent roadways. They won't. It's a requirement.

So as Penny Ellis-Green mentioned earlier, if something happens and for some reason the southeast connector is not constructed, then the apartment developer has an option. Because we're required, after this process is complete, we have to update our traffic study before we move forward with anything. We have to demonstrate acceptable levels of service. So we have to, on our nickel, have to do whatever the requisite infrastructure roadway improvements are necessary to create that. And for example, at Richards Avenue and College Drive in the morning there is an overall delay of a minute and ten seconds. In the afternoon, it's about 40 seconds.

These are quantifiable, measurable realities. At Richards Avenue and Willowback Road we have – in the morning we have an overall delay at the intersection of 33 seconds. In the afternoon the overall delay is 29 seconds. These are fixable things. Yes,

SFC CLERK RECORDED 10/15/2014

the southeast connector likely is going to fix those delays but there are other ways to fix them in terms of improving those roundabouts to improve the traffic flow. That is our burden as the developer of the project to ensure the adequate infrastructure is in place.

As part of that, as part of this project, the right-of-way for the southeast connector is being donated to Santa Fe County. We've already committed to doing that. Another element is a pretty big chunk of College Drive is going to be constructed as part of that as well. So we are a participant in that effort for what we all agree, and the residents here agree, that it's an important improvement.

So I just think it's important, because like I said, these are quantifiable realities and so I thought it would be helpful to express that. But after tonight, with a master plan, all it allows us to do is to keep working and to actually design this project. What we have now is a conceptual level. We get to look at the traffic again, based upon whatever data and information we get from the County as part of the alignment study to incorporate that in our study. And we get to come back and say this is how we're going to do it. This is how we're going to make sure that the adjacent infrastructure is adequate to serve this project. That is our burden. And if we can't do it, we don't get to move forward.

This is just a master plan. This is just saying, yes, the Rancho Viejo master plan says multi-family. Yes, the Community College District in Ordinance in your primary growth area, next to the largest employer in northern New Mexico. Five institutions with family and staff and faculty. Santa Fe County has said this is where growth should happen. We cannot provide housing for somebody, a young person working at BTI across the street who doesn't want to live in a single-family house. We can't do that. This is an economic development opportunity for Santa Fe County to say to employers. We've been working with BTI and Rancho Viejo about attracting other outdoor industries in Santa Fe County to create a campus for these outdoor industries. It is perfectly situated. And can we say to future employers come to Santa Fe County? We have housing options. We have more than one kind of place that your employees can live. This is what this opportunity means.

Every governing document in place right now says yes. Every document this body has adopted says yes. Making sure the infrastructure is in place isn't your job; it's our job. So is Santa Fe County going to be a community of diversity and economic vitality? That's what the question is before you this evening. So I thank you for your time and I'm happy to stand for any further questions. Thank you.

CHAIR MAYFIELD: Thank you. Commissioners? Yes, the public hearing is closed and our applicants have concluded. Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, I would just like to let the Commission know a couple facts. I was recently invited to a Rancho Viejo retreat and upon the advice of our County Attorney I did not attend. We did send a staff person to talk about the Community College District Plan and what that means, as well as our growth management plan and potential code. Another point of disclosure is I've been very involved in the southeast connector discussions and if at any time you feel I should recuse myself from the vote I will, but otherwise I've stayed away from discussion about the Elevation project.

CHAIR MAYFIELD: Thank you, Commissioner. Commissioners?
Commissioner Stefanics, care to make a motion? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I move for approval of the master plan with staff conditions.

COMMISSIONER CHAVEZ: Second.

CHAIR MAYFIELD: We have a motion and a second. Is there any further discussion?

The motion passed by majority [3-2] voice vote, with Commissioners Anaya, Chavez and Holian voting in favor and Commissioners Stefanics and Mayfield voting against.

CHAIR MAYFIELD: So folks, we're going to move on to our next case. We'll just ask please for courtesy. It is a deliberative process and thank you for your participation.

VII. A. 2. CDRC CASE #V14-5080 Jason Mohamed Variance. Jason Mohamed, Applicant, (Knutson Law PC) Knutson C. Knutson, Agent, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow Two Dwelling Units on 2.5 acres. The Property is located at 11 Virginia Lane, within Section 24, Township 15 North, Range 8 East (Commission District 5)

MS. LUSERO: Thank you, Mr. Chair. I'll be presenting for Mr. Romero here tonight. The Applicant requests a variance of Article III, Section 10, Lot Size Requirements, of the Land Development Code to allow two dwelling units on 2.5 acres. The subject lot was created in 1984 via Family Transfer and is recognized as a legal lot of record. Currently there are two homes and two accessory structures on the property. The main residence, which is occupied by the Applicant, his family and mother is approximately 2,800 square feet and was constructed some time in the 1980s. The proposed manufactured home is approximately 1,200 square feet and will be occupied by the Applicant's mother. Staff cannot find any evidence that the main residence was permitted and the manufactured home was placed on the property illegally. The two accessory structures consist of a well house and stables, which were constructed some time between 1992 and 2001. Staff cannot find any evidence that these accessory structures were permitted.

On January 30, 2014, the Building and Development Services Division received a complaint regarding the placement of a manufactured home onto the property with no Development Permit posted from Santa Fe County. On February 6, 2014, Code Enforcement conducted an inspection on the property and issued the Applicant a Notice of Violation for Unpermitted Development.

The Applicant states a variance is needed in order to provide his elderly mother

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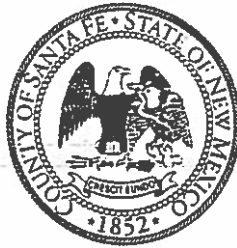




Henry P. Roybal
Commissioner, District 1

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. V 14-5190

VARIANCE

PABLO AND MARIA CERQUERA, APPLICANTS

ORDER

THIS MATTER came before the Board of County Commissioners (hereinafter referred to as “the BCC”) of Santa Fe County for hearing on December 9, 2014, on the Application of Pablo and Maria Cerquera (hereinafter referred to as “the Applicants”) for a variance of Santa Fe County Ordinance No. 2007-2, “An Ordinance Amending Article XIV, Traditional and Contemporary Community Zoning Districts, of the Santa Fe County Land Development Code, Ordinance 1996-10, As Amended, to Add a New Section 10, Village of Agua Fria Zoning District” (hereinafter referred to as “the Village of Agua Fria Ordinance”), Section 10.6 (Density and Dimension Standards), to allow three dwelling units on 0.962 acres. The BCC, having reviewed the Application, supplemental materials, staff reports, and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. The Applicants request approval for a variance of the Village of Agua Fria Ordinance, Section 10.6 to allow three dwelling units on a 0.962 acre lot.

2. The Santa Fe County Land Development Code, Ordinance No. 1996-10 (hereinafter referred to as "the Code") and the Village of Agua Fria Ordinance are applicable to all property within the Village of Agua Fria Zoning District.

3. The lot that is the subject of the Application is located in Santa Fe County at 2247 Paseo De Tercero, within Section 5, Township 16 North, Range 9 East ("Property"), within the Traditional Community of Agua Fria. The lot was created in 1991, by way of Family Transfer, and is recognized as a legal lot of record, consisting of 0.962 acres, as evidenced by Plat of Survey for Eligio M. Tercero recorded in the records of the Santa Fe County Clerk at Book 227, Page 048.

4. Maria Cerquera, formerly known as Maria Tercero, provided a warranty deed as evidence of her ownership of the Property.

5. The Property currently has two dwelling units, as evidenced by photographs of the Property entered into the record as Exhibit 6. The size of surrounding properties range from 0.33 acres to 10 acres, and densities range from one dwelling to two dwelling units per legal lot.

6. All noticing requirements of the Village of Agua Fria Ordinance, Section 10.9 were met by the Applicants. The Applicants provided receipts for mailing notices before the CDRC and BCC by certified mail November 7, 2014. Noticing in the legal section of the Santa Fe New Mexican occurred on November 18, 2014 as evidence by the clipping of that publication in the file and the affidavit of publication provided by the New Mexican. The Applicants also provided a certification of posting and photographs of the posting.

7. The Village of Agua Fria Ordinance specifies a minimum lot size of 0.75 acres per dwelling unit. Lot size can further be reduced to 0.33 acres per dwelling unit if the lot has

both community water and community sewer. The Property has both community water and sewer, making it eligible for increased density. In order to support three dwelling units without a variance, the Applicants need a lot size of 0.99 acres; the Property is short this acre amount by 0.028 acres.¹

8. At the Public Hearing before the BCC on December 9, 2014, staff recommended denial of the requested variance.

9. In the event the Application was approved, Staff recommended imposition of the following conditions of approval:

A. The Applicants shall comply with all applicable water conservation measures. (As per Santa Fe County Ordinance No. 2002-13).

B. The Applicants must obtain a development permit from the Building and Development Services Department for the additional dwelling unit. (As per the Code, Article II Section 2).

C. The placement of additional dwelling units is prohibited on the Property. (As per the Village of Agua Fria Ordinance, Section 10.6).

D. The Applicants shall comply with all Fire Prevention Division requirements at time of development permit application. (As per 1997 Fire Code and NFPA Life Safety Code).

10. Article II, Section 3.1 of the 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 such

¹ At the public hearing, it was erroneously stated that the Applicants lacked 0.038 acres or 1,152 square feet. This Order consistently refers to the shortfall as .028 acres, which is the 0.99 acres needed for three dwelling units without a variance minus the 0.962 acre size of the Property.

non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the [BCC] and the [BCC] may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking of property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety." Section 3.1 concludes that, "In no event shall a variance...be recommended by [the] Development Review Committee nor, granted by the [BCC] if by doing so the purpose of the Code would be nullified."

11. Article II, Section 3.2 of the Code states, "In no case shall any variation or modification be more than a minimum easing of the requirements." Allowing three dwelling units when the Applicants have almost enough land for the three dwelling units is a minimal easing of the Code.

12. At the December 9, 2014 public hearing, the Applicants spoke on behalf of the variance request and submitted a letter from the Agua Fria Village Association in support of the Application. There were no public comments in opposition to the requested variance.

13. The Applicants intend to place an additional manufactured home on the Property to provide them with needed additional income. They also hope to use the extra home as a residence for their children when they return back from college. Their inability to utilize the remainder of their lot for these purposes would result in a hardship both monetarily and for their future plans to provide a residence for their children.

14. A variance is needed in order for the Applicants to develop the remaining portion of the Property. The Property is lacking approximately 0.028 acres in order to meet the Village of Agua Fria Ordinance requirements for a third dwelling unit on their lot.

15. The Applicants further testified that there are many surrounding properties with similar densities to their request.

16. Granting this variance request will not nullify the purpose of the Code or the Village of Agua Fria Ordinance, and would not result in conditions injurious to health or safety, given that the Property is served by community water and sewer rather than wells and septic tanks.

WHEREFORE, the Board of County Commissioners of Santa Fe County hereby approves the request for a variance of Ordinance No. 2007-2 (Village of Agua Fria Zoning District), Section 10.6 (Density and Dimension Standards) to allow three dwelling units on 0.962 acres located at 2247 Paseo De Tercero, Santa Fe County, subject to the conditions in Paragraph 9 above. The motion to approve the variance passed by a 4-0 vote, with Commissioners Anaya, Chavez, Holian, and Stefanies voting in favor of the motion. Commissioner Mayfield was excused from the meeting at which the public hearing was held and decision announced.

IT IS SO ORDERED.

This Order was approved by the Board of County Commissioners of Santa Fe County on this 13th day of January, 2015.

By: _____
Robert A. Anaya, Chair

Attest:

Geraldine Salazar, County Clerk

Approved as to form:



Gregory S. Shaffer, County Attorney

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MR. MENDOZA: Thank you for your consideration.
COMMISSIONER ANAYA: Seeing none.

The motion carried by unanimous [4-0] voice vote.

MR. MENDOZA: Thank you for your consideration. Thank you very much.

- VII. A. 7. **CDRC CASE # V 14-5190 Pablo & Maria Cerquera Variance.**
Pablo and Maria Cerquera, Applicants, Request a Variance of Ordinance 2007-2 Village of Agua Fria Zoning District, Section 10.6 (Density and Dimension Standards), to Allow a Third Dwelling Unit on 0.962 Acres. The Property is Located at 2247 Paseo de Tercero, in the Traditional Community of Agua Fria, Within Section 5, Township 16 North, Range 9 East, (Commission District 2)

MR. MARTINEZ: Pablo and Maria Cerquera, Applicants, request a Variance of Ordinance 2007-2 Village of Agua Fria Zoning District, Section 10.6, Density and Dimension Standards, to allow three dwelling unit on 0.962 Acres. The property is located within the Traditional Village of Agua Fria at 2247 Paseo de Tercero, in the Traditional Community of Agua Fria, Within Section 5, Township 16 North, Range 9 East, Commission District 2.

The subject lot was created in 1991, by way of Family Transfer and is recognized as a legal lot of record. The Applicants have owned the property since 1994. There are currently two dwelling units on the property. Currently the Applicants and their family reside in one of the existing homes and the other is occupied by tenants. The Applicants have stated the proposed home will also be occupied by tenants until such time their children are of age/adults.

The Applicants request a variance of Ordinance No. 2007-2, Village of Agua Fria Traditional Community Zoning District, § 10.6, Density and Dimension Standards, to allow three dwelling units on 0.962 acres. The Applicants state a variance is needed in order to develop the remaining portion of the property. The Applicants intend to place an additional manufactured home on the property to provide them with additional income and for future use for their children. The property is lacking approximately 0.038 acres or 1,152 square feet in order to meet Code requirements for a third dwelling unit on one lot.

On August 21, 2014, the County Development Review Committee, CDRC, met and acted on this case, the decision of the CDRC was to recommend approval of the Applicants request with staff conditions by a 5-0 voice vote with the finding that the amount of acreage they are lacking to meet code requirements is minimal. Minutes Attached as Exhibit 1.

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County

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criteria for this type of request. Staff recommendation: Denial of a variance of Ordinance No. 2007-2, Village of Agua Fria Zoning District, § 10.6, Density and Dimension Standards, to allow three dwelling units on 0.962 acres.

The decision of the CDRC was to recommend approval of the variance subject to the following conditions. Mr. Chair, may I enter these conditions into the record?

COMMISSIONER ANAYA: Yes, you may.

Conditions:

1. The Applicant shall comply with all applicable water conservation measures. (As per Ordinance No. 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the additional dwelling unit. (As per Article II, § 2).
3. The placement of additional dwelling units is prohibited on the property. (As per Ordinance No. 2007-2 § 10.6).
4. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application (As per 1997 Fire Code and NFPA Life Safety Code).

MR. MARTINEZ: I stand for any questions.

COMMISSIONER ANAYA: Is there any questions of staff?

Commissioner Chavez.

COMMISSIONER CHAVEZ: I should have asked this question of the last case too. CDRC voted recommended approval 5-0 and the Growth Management staff denied the permit because it's not in compliance. Could you explain a little bit about the Growth Management staff and your position on this and how it varies from the CDRC?

MR. MARTINEZ: Mr. Chair, Commissioner Chavez, I think what the CDRC found was it was such a small percentage that they were lacking of property. If they would have had a little bit more of property they would have met our criteria.

COMMISSIONER CHAVEZ: So based on that you have to deny the applicant's request but then suggest conditions for approval?

MR. MARTINEZ: Mr. Chair, Commissioner Chavez, that is correct.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair.

COMMISSIONER ANAYA: Is the applicant present?

[Duly sworn, Maria Cerquera testified as follows:]

MARIA CERQUERA: Maria Cerquera. Mr. Chair and Commissioners, my name is Maria Cerquera and this property was given to us by my parents. They divided the lot into 10 siblings that we had so we each got the same amount. It's under the amount needed so we're asking for a minimal variance.

COMMISSIONER ANAYA: Thank you, Ms. Cerquera. Is there any questions of the applicant? This is a public hearing, is there anyone present to speak in favor or against this particular case? Seeing none, the public hearing is closed. What is the pleasure of the Commission?

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COMMISSIONER CHAVEZ: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Chavez.

COMMISSIONER CHAVEZ: I'm going to make a motion to approve the request for a variance with staff recommendations.

COMMISSIONER STEFANICS: I'll second.

COMMISSIONER ANAYA: There's a motion and a second to approve with staff recommendations to approve the variance. Any further discussion or questions? Commissioner Chavez.

COMMISSIONER CHAVEZ: Yeah, I guess this would be to staff. On the sewer system, the City of Santa Fe sewer system, the applicants have received a letter of commitment; does that give them the go ahead?

MR. MARTINEZ: Mr. Chair, Commissioner Chavez, that's correct.

COMMISSIONER CHAVEZ: Okay, that's all I have. Motion and a second with no further discussion.

The motion carried by unanimous [4-0] voice vote.

- VII. A. 8. **CDRC CASE # V 14-5270 Madeline Wells and Mary O'Brien Variance. Madeline Wells and Mary O'Brien, Applicants, Request a Variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to Allow Two Dwelling Units on 6.195 Acres. The Property is Located at 30 Sibley Road, within the Vicinity of Cañoncito, Within Section 13, Township 15 North, Range 10 East (Commission District 4)**

JOHN LOVATO (Case Manager): Thank you, Mr. Chair, Commissioners. Madeline Wells and Mary O'Brien, Applicants, Request a Variance of Article III, § 10, Lot Size requirements, of the Land Development Code to allow two dwelling units on 6.195 acres.

The subject lot was created in 1993, by way of a Land Division, approved by the Land Use Administrator, and is recognized as a Legal Lot of Record. In 1995, by warranty deed, Maria O'Brien transferred to Madeline Wells an undivided half interest in the subject property. There is currently a residence, an abandoned structure, and two storage sheds located on the property. The abandon structure is non-habitable, and the current habitable residence is 1,425 square feet.

The Applicants request a variance of the Land Development Code to allow two dwelling units on 6.195 acres. The Applicants state, when they initially purchased the property in 1993, both structures existed. Since the purchase of the property, the structure across the creek has been abandoned and is no longer accessible due to lack of all-weather access and the structure is non-habitable. The proposed structure will not be located across the river and will have all-weather access. The Applicants state they purchased the property together with the intention of constructing a second dwelling so they both have homes they could reside in. Their request is to replace the abandon second dwelling with a habitable dwelling. There are several properties with similar lot sizes and



