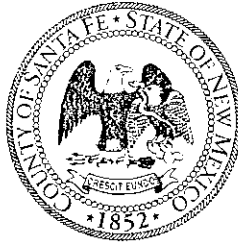


Danny Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

**CASE NO. MIS 02-4325
LA PRADERA SUBDIVISION MASTER PLAT AUTHORIZATION
GARDNER ASSOCIATES LLC AND LA PRADERA ASSOCIATES LLC,
APPLICANT**

ORDER

THIS MATTER came before the Board of County Commissioners (hereinafter referred to as “the BCC”) for hearing on May 10, 2011, on the Application of Gardner Associates LLC and La Pradera Associates LLC, (hereinafter referred to as “the Applicants”) for Master Plat Authorization. The BCC, having reviewed the Application and 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 are requesting authorization to proceed with a Master Plat for 10 of the proposed lots and 11 of the previously approved residential lots/units in Phase I for a total of 21 master platted lots.
2. The property is located west of Richards Avenue between I-25 and the Arroyo Hondo, within Sections 17 & 18, Township 16 North, Range 9 East.
3. Authorization of the Master Plat will delegate authority to the Land Use Administrator to approve plat amendments establishing new lots.
4. The Application is in compliance with Article V, Section 5.6, Administrative Approval of Lot Layout.

5. In support of the Application, the Applicants state that the reason for the request to proceed under a Master Plat is that by creating a “village concept” with relatively small building footprints, lot-lines cannot be pre-determined. The ultimate lot lines will be very irregular and cannot be identified and finalized until after home construction is complete.

6. There were several members of the public who spoke both in favor of and against the Application.

7. After conducting a public hearing on the request and having heard from the Applicants, their representatives and the public, the Board of County Commissioners hereby approves the Application for Master Plat Authorization.

IT IS THEREFORE ORDERED that the Application is approved.

I certify that the Application was approved by the Board of County Commissioners on this _____ day of _____, 2011.

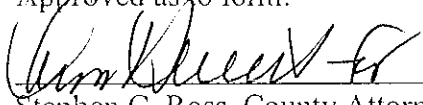
The Board of County Commissioners of Santa Fe County

By: _____
BCC Chairperson

ATTEST:

Valerie Espinoza, County Clerk

Approved as to form:

A handwritten signature in cursive script, appearing to read "Stephen C. Ross", written over a horizontal line.

Stephen C. Ross, County Attorney

CHAIR VIGIL: Thank you.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR VIGIL: Commissioner Stefanics.

COMMISSIONER STEFANICS: I am moving for the extension for the previously approved master plan, and I'd like to just comment that since it is only an extension, and it is in the Community College District, which is identified for projects of this nature.

COMMISSIONER HOLIAN: Second. And I would like to make the comment that this is one of the projects that I think is a model for the kind of development that we do want to do in the future in Santa Fe County and so even though it's been extended a number of times I think that this is a good kind of development.

COMMISSIONER STEFANICS: With the conditions.

COMMISSIONER HOLIAN: Yes. With conditions. I agree.

CHAIR VIGIL: Okay. There's a motion with conditions and it's been seconded. Any further discussion? Commissioner Anaya and Commissioner Mayfield?

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

- XV. A. 9. **BCC CASE # MIS 02-4325 La Pradera Master Plat Authorization.**
Gardner Associates LLC and La Pradera Associates LLC (Alexis Girard), Applicants, request authorization to proceed with a Master Plat for the creation of 22 residential (live/work) lots on approximately 2.27 acres within the existing La Pradera Subdivision (Phase I), which is located within the Community College District. The property is located west of Richards Avenue between I-25 and the Arroyo Hondo, within Sections 17 & 18, Township 16 North, Range 9 East (Commission District 5) [Exhibit 2: Opposition Letters]

VICKI LUCERO (Residential Development Case Manager): Thank you, Madam Chair. On January 28, 2003, the EZA granted Master Plan Approval for a mixed-use development, La Pradera, consisting of 80 residential units and 16,335 square feet of commercial space on 69.2 acres. On March 9, 2004, the BCC granted Final Plat and Development Plan approval for the mixed-use subdivision. On June 30, 2005, the EZA granted approval of a Master Plan amendment to the previously approved La Pradera, Phase I, mixed-use subdivision to allow an expansion of an additional 158 residential lots, Phases 2-6, on 94 ± acres.

On January 31, 2006 the BCC granted Preliminary Plat and Development Plan approval for Phases II through VI and final approval for Phases II and III consisting of 97 lots. On July 10, 2007, the BCC granted final plat and development plan approval for phases 4 thru 6 of the La Pradera which consisted of 60 lots on 28.4 acres.

The Applicants have submitted an application for a Master Plan Amendment for the La Pradera Subdivision in order to create an additional 37 residential lots. Twenty-seven of the proposed lots will be created by adjusting lot lines of existing lots to reduce the size of some of the oversized lots in Phases II-VI. The Applicant states that these smaller lot sizes

are dictated by the significant changes to our economy and the market demand for entry-level housing. The other ten proposed lots will be combined with 12 previously approved units from Phase I to create a village concept which will have the potential of being live/work units, and will be replacing the previously approved 32,667 square foot commercial area.

For clarification, at this time the BCC is not taking action on the Master Plan Amendment which will later determine the zoning and density of the project. The BCC is being asked to make a decision as to whether or not the applicants may proceed with the development under the Master Plat process as defined in the County Land Development Code which would not require that a specific lot layout be defined prior to plat recordation and would grant administrative authority to create lot boundaries once buyers are identified or home construction is complete.

Article V, Section 5.6.1 of the Code states, "In commercial, industrial or high density residential subdivisions which are to be developed in phases or in cases where a condominium proposes to convert to a subdivision, the Board may delegate authority to the Land Use Administrator to administratively approve a specific lot layout plan when it determines that due to the size, scale or marketing requirements that approval of a plat with a specific lot layout is in the best interest of the County and developer."

Before seeking Master Plat approval, the developer must file a petition with the Board requesting that it be permitted to obtain approval pursuant to this section. If the Board approves the petition, the Application will be reviewed by the CDRC and the Board for Preliminary and Final Plat approval which will then be referred to as the Master Plat.

The Applicants are requesting authorization to proceed with a Master Plat for 10 of the proposed lots and 12 of the previously approved residential lots/units in Phase I for a total of 22 master planned lots. The Applicants state that the reason for the request to proceed under a Master Plat is that by creating a village concept with relatively small building footprints, lot-lines cannot be pre-determined. The ultimate lot lines will be very irregular and cannot be identified and finalized until after home construction is complete.

Recommendation: Staff has reviewed this Application and has found the following facts to support this submittal: authorization of the Master Plat shall delegate authority to the Land Use Administrator to approve plat amendments establishing new lots; the CDRC and BCC shall establish development standards applicable to the subdivision as authorized by the Code; the CDRC and BCC may approve both the Preliminary and Final Plat which will be known and designated as a Master Plat.

Staff has established findings that this Application is in compliance with Article V, Section 5.6, Administrative Approval of Lot Layout. Staff recommends approval of the Applicant's petition to obtain Master Plat Authorization to create 22 lots on 2.27 acres. And again, Madam Chair, I just wanted to reiterate because it can be somewhat confusing, that tonight the BCC will only be asking as to whether or not the applicants can proceed with their request under the master plat guidelines, so it's basically a procedural request at this point. If the BCC says yes, you can proceed in that fashion then the master plan amendment will go back to the CDRC for recommendation and come back to the BCC for approval at a later date, at which time that's when the BCC will say yes or no to the increase in density.

CHAIR VIGIL: Okay. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. Could you explain a little bit

about the – I'm confused about the administrative approval and the CDRC and the BCC? Because I think there's some concern that we're going to lose touch with the plans that are going to happen in this community. So I'd like to understand and I'd like the audience to understand what does administrative approval mean and what will be coming in front of us finally before anything would get approved.

MS. LUCERO: Madam Chair, Commissioner Stefanics, the applicants are requesting to have administrative approval of these 22 lots around the village area that they're proposing. But before we even get to that the applicants will need to request a master plan amendment and preliminary and final subdivision plat approval in order to be able to increase the density. That application will come before the CDRC and the Board within the next two or three months. If that gets approved then what that means for the purposes of these 22 master planned lots is that as the applicants obtain buyers for the lots then all that will be required is that they go back to the Land Use Administrator to create those 22 lots. So that will be the administrative process.

COMMISSIONER STEFANICS: So after tonight, if this were approved, the next step would be for the developers to do what?

MS. LUCERO: To proceed with their request for master plan amendment.

COMMISSIONER STEFANICS: To?

MS. LUCERO: To the CDRC and then ultimately to the Board of County Commissioners. So there'll be an opportunity for two more public hearings before anything is finalized.

COMMISSIONER STEFANICS: Thank you, Madam Chair.

CHAIR VIGIL: But to underscore that, the 22 lot split division would not come to us. That would be identified by administrative approval?

MS. LUCERO: Madam Chair, that's correct. The 22 lots that they're requesting would be the maximum number of lots that could be created but those 22 lots, they would come through the administrative process to create those lots.

CHAIR VIGIL: Okay. So when those lots got approval from the administrative process, or not, whatever, the outcome would be it would still go to the CDRC. The CDRC can approve or deny that?

MS. LUCERO: Madam Chair, the CDRC and the Board would have an opportunity to see the master plan amendment, which is the next step. So that would be when you would actually be deciding as to whether or not you're going to allow this project to increase the density, which includes the master plan lots and then additional lots that they're proposing to create. And if the Board approves that then the lot creation of the 22 lots will be administrative, so it won't come back to the BCC or the CDRC.

CHAIR VIGIL: Okay. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. Could you give us an example of some other development or project that has 22 lots on 2.27 acres? So that we have a point of comparison.

MS. LUCERO: Madam Chair, Commissioner Stefanics, it would have to be one of the projects within the Community College District because that's the only area that would allow densities of this magnitude.

COMMISSIONER STEFANICS: So Madam Chair, I'm asking does Rancho

Viejo have a section that has 22 lots on 2.27 acres?

MS. LUCERO: Madam Chair, Commissioner Stefanics, I can't answer that with total confidence. I don't know if Jack or Shelley might have some insight to that.

COMMISSIONER STEFANICS: I think, Madam Chair, I'm asking this because we need some perspective on the size of the land and number of lots in comparison to something else we've seen.

SHELLEY COBAU (building & Development Manager): Madam Chair, the Village Center at Rancho Viejo has very, very tight densities. They have townhomes, small lots, cluster housing. Lots may be 8,000 square feet in size, many of them.

COMMISSIONER STEFANICS: So many of those are town homes or homes with connecting walls.

MS. COBAU: That's correct.

COMMISSIONER STEFANICS: Thank you.

CHAIR VIGIL: Is another development Aldea that might fit into that category?

MS. COBAU: Madam Chair, that's correct. Aldea has a mixture of housing – townhomes, live/work units, single-family homes on very small lots.

COMMISSIONER HOLIAN: Madam Chair.

CHAIR VIGIL: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. So Vicki, when this master plat comes before the CDRC and the BCC my understanding is they will be considering just the density; they will not actually see the lot lines. Is that correct?

MS. LUCERO: Madam Chair, Commissioner Holian, they won't see the lot lines for the 22 proposed master plat lots. There's a proposal for additional lots as part of the master plan amendment, so you will see some lots that are actually laid out but not these 22. They're just going to be designated as an area where 22 future lots will be created.

COMMISSIONER HOLIAN: So we would see the actual outline of where the 22 lots will be but not the interior lot lines. Is that correct?

COMMISSIONER STEFANICS: Not the interior lot lines. That's correct.

COMMISSIONER HOLIAN: Okay. Thank you, Vicki.

CHAIR VIGIL: Okay. Any other questions for staff? Is the applicant here? Is there anything the applicant would like to add?

[Duly sworn, Alexis Girard testified as follows:]

ALEXIS GIRARD: Alexis Girard. Madam Chair and Commissioners, thank you for hearing us this evening. We're doing this in several parts. I'm going to go through a few of the items and then my partners and some consultants will speak as well. First of all I would just like to say that there is a lot of misinformation going around and so hopefully through this presentation we will let you know that we are good stewards of this development and we have worked very hard to make it a livable, viable community that we hope will thrive. So thank you for your consideration.

Phase I La Pradera approvals provide for already 11 condos or live/work units. It also provides for 32,667 square feet of commercial area, of which up to 16,335 square feet may be residential. So when you're considering this master plat there's already – there's an outline of where the development can occur and what we're proposing. And it's more of a trade-off of

the commercial to add additional residential. We wish to create a small, residential village at the heart of La Pradera in place of the commercial zoning currently in place. We would have no condos or multi-family dwellings, nor would we have attached housing; these would all be detached. We would speak to the original commercial idea in that these homes would have separate entrances for home office application.

Because of the nature of the village design these units will be small and closely integrated. We have a good idea of the product that we want to market but we want the flexibility to allow buyers to make design changes, for example, to add a room or to move a patio. Though we know the maximum number of homes that will be developed we do not know their final configuration, thus we want to have the flexibility to finalize lot lines after the homes have their finalized design and are sited. This is possible under the master plat provisions of the County Land Development Code, Section 5.6. We do not want the condo regime with in the La Pradera Homeowners Association because there's a double dues that's created in that instance and we're trying to prevent that from happening.

Some of this is repeating, so I'm sorry. We would convert the 11 approved condos to single-family detached units. We will establish discrete signed covenants to the live/work aspect. There will be two-story homes. We will work with surrounding homeowners to site homes with respect to view corridors as much as possible. There is one neighbor here tonight who is concerned about a lot, Lot 35, next to his being used for 2.5 units rather than the original one unit that was designated for that lot when he first purchased it. We've agreed to work with him and have that remain a single-family lot.

The revised La Pradera traffic impact analysis shows that there will be no significant impact on surrounding roadways. We are not seeking any variances through this request. We are zoned for what we are proposing to do. Next, I would like to have Vahid speak to the village concept.

[Duly sworn, Vahid Mojarrab testified as follows:]

VAHID MOJARRAB: Vahid Mojarrab, 926 Shoofly, 87505. Thank you, Madam Chair, Commissioners, again, this proposal has two sections on this master plan. One is the village area that we are proposing that would have ambiguous lot lines the staff was describing to you, and the other portion of it is the 27 additional lots in phases II through VI, which we are actually achieving through the lot line adjustment. So I just want to emphasize the open space calculation that was proposed originally on this master plan is still the same. We are not encroaching or taking away any open space through this master plan amendment.

So on the left-hand side of the board you see the approved existing master plan which includes this commercial area over here and lots 33 and 69. And as we described before, this illustration includes also the Lot 35, which we're taking out of the equation, so it's a little bit deceiving, but it shows the concept of the village area which we are trying to promote more of the home occupation. We have discovered most of our clients are small users, maybe take tutorial math or music and they just need a small space to run their business and they don't need a big commercial space. So we're just providing more of that flavor of residential that they would have a separate entry to their units with a guest parking so they don't have to have a secondary commercial space to support their income.

And this is resembling much of what you see on the East Side, the compound area which is condensed but all the open spaces contribute to the other ones so that's why we

didn't want to put any lot lines or hard lines on these tracts at the moment to preserve some of that flexibility for our buyers and think about a little bit more carefully on how we're going to place some of these units and how they're going to play with each other, both in the sense of the open space and in the view corridors.

So I don't know if you have any questions, but I'm just going to describe this area and pass it along to John McCarthy.

CHAIR VIGIL: Mr. McCarthy, please proceed.

[Duly sworn, John McCarthy testified as follows:]

JOHN MCCARTHY: I'm John McCarthy. I reside at 825 Allendale. I'm a member of the development entity. Although the specific action requested tonight is very narrow in terms of which procedural process we follow I feel it's very necessary to clear the air on certain issues and inferences so that not only the Commission but our homeowners and neighbors can make value judgments and decisions based on the correct facts.

The predominant theme of most of the letters and comments that have been submitted to you and to staff and mentioned to us in our meeting with the homeowners concern density. And this map here in front of you right now shows the La Pradera phase I through VI. This is Phase I. This is where the commercial master plan request is located, and our neighbors to the south here in Vista Ocasá, you can see perhaps the lot line showing their 2.5 to 5-acre lots that they have. In the process of our original Phase II through VI master plan amendment we negotiated with our neighbors here, the Vista Ocasá neighbors for a buffer which in this case along this area is 125 feet as measured from the center of Dinosaur Trail up to the building structure, and in this area which is Phase II we provided a 175-foot setback and a little less in this area here.

So having used up our land in that fashion we made a decision as the development team to go ahead and supersize these lots on the southern tier that interface with the buffer and Vista Ocasá. And what I mean by supersize is that our standard lot is about 7,500 square feet on average. It's a 75-foot frontage which allows us to do a two- and in some cases three-car garage. So with this current situation the predominant area that we're affecting or requesting to affect lot line adjustments is in this area that we refer to as our estate lots. So mostly the lot line adjustments take lots that in some cases are 13,500 square feet, plus or minus, and reduce those overall to approximately 7,000 to 7,500 square feet, which is very close to our average, standard lot throughout Phases II through VI.

So there's been a lot of concern that increased density means really, really small lots and therefore will further devalue the lots and the homes in addition to what's happened because of our economics.

So just to clarify the situation that in Phase II through VI, through these lot line adjustments we'll end up with 27 additional lots which are scattered through Phases CC through VI. Now, Phases II and III have been completed. Phases IV, V and VI have not. So out of the 27 requested increased lots that's not going to happen immediately. It will probably be over the next four years that those lots will actually be built. Currently we have enough inventory to last in Phases II and III for the next 2 ½ years.

So the other concern that's been expressed is that because we've changed these lots to 7,000 or 7,500 square feet we will down-size the size of our homes and correspondingly add a negative impact on existing homeowners. The fact of the matter is in Phase I most of those

lots are very, very large lots and as I said, the average lot in Phase II through VI is 7,600 square feet.

So the 27 lots in Phase II through VI will have a minimal impact in any event because we can build the same house on a 15,000 square foot lot that we can on one of these standard lots. So the market's the one that tells us what size home to build. Now, we have always, even with our affordable homes, built homes with two-car garages so that the streetscape shows very well and there's not much differentiation between an affordable home and a market rate home. As a matter of fact we build market rate homes and allow the buyers to go ahead and force their own financing and supplement from the different agencies in town. But in many cases it's difficult to tell the difference between a market rate house and an affordable house.

So these houses that we are building now range from \$239,000 to \$425,000 and this is well within the current range of the existing market. So there is – I'd like to take the opportunity at this time as well so that we can have everyone share the same information, the same correct information in their respective decision making processes. So of particular concern was some of the letters that we and the staff and you as Commissioners have received and it may be that you have not had time to review those letters, but I'd like to hit a few of the high points because we take this extremely seriously and we don't want our neighbors to get any further upset because they have the incorrect information.

So there's one letter that we received from one of our homeowners, Matthew Cooke, that has been referred to in other letters two or three times. And his letter is dated April 28th, and our concern is that there is a lot of inferred points made and actually non sequiturs or out of context comments made that are, in our opinion, not only in some cases incorrect but at the very least very misleading. And if you had those package of letters in your package I will quickly highlight some corrections for the benefit of the Commission, staff and our homeowners and neighbors. But in his letter dated April 28th there is the first paragraph refers to water treatment issues in terms of reclaimed water and I'd like to just point out that there was a third amendment to our declaration of protective covenants filed in May of 2010, which was not even a lateral move by the developer but was based on a vote by the homeowners of which we participated, and that document was recorded May 6, 2010 in the County records.

He also states that we chose to delay the development of affordable housing against the Commission's desire. That's an incorrect statement. The discussion had to do with Jack Sullivan, a Commissioner the time, asking us to hold off the development of the 11 condos until we proved up our water budget, which we have done. Again, the next paragraph talks about us not meeting four of our requirements. There are only four conditions that "have not been met" and states there is no mention of their lack of compliance. Actually, those four issues were conditions of approval and findings of fact that we had to provide a water service agreement, which we did. We had to correct the redlines, which we did. We had to demonstrate that we had our discharge permit, which we got, and provide a financial guarantee.

These were all conditions contained in the findings of fact without which we couldn't have recorded the subdivision. But the innuendo here is that we don't do what we say we're going to do and that we've misled people and that's not the case.

The next paragraph, the applicants were unable to implement the reclaimed water plant, etc. That's addressed again in the third amendment and the first page here it also says that there's a concern that the applicants may continue to violate the covenants in terms of minimum square footage of floor space. We have an affidavit signed by the late Jane Petchesky that quantifies that the 1500 square feet includes heated and unheated square footage and that this is a private covenant that is being conformed to and again, this is an inference that we don't carry out our plans.

There's also a lot of out of context documents in this 25-page letter that has to do with water availability assessment and statements from the State Engineer, the Office of the State Engineer, issuing a negative opinion. Well, the State Engineer issues a negative opinion on every subdivision in the city or the county because his position is the City and the County do not have a demonstrable 100-year water plan. So this is taken out of context and out of meaning to say or imply that La Pradera has not followed the correct County procedures in terms of this water budget. As a matter of fact La Pradera has more than adequate water service agreements. The original water service agreement came out of the Duran Consent Decree to do this subdivision twice over. But again, the inference is that we do not.

There's another page here, it's an extract out of a recorded document, 2004, that has to do with water user restrictions and Mr. Cooke states that in effect we're not in compliance when in fact we're doing much better. We have a .13 recorded and we're actually doing somewhere around .11 acre-feet per year based on existing three-year historical data. So we also had a letter from Marcella Wiard, one of our homeowners. She was concerned about changes to lot sizes or changes from commercial to residential. So what wasn't stressed in our Phase I approval discussion is that we were obligated to build 32,667 square feet of commercial of which – and this is our recorded Phase I plat – of which half, 50 percent, could be residential. We were also approved at the same time for 11 condo units and there's an inference or a mistaken take that live/work equals affordable housing, and one of our homeowners is concerned about that. I believe that is Marcella.

That's not the case. The condos were not live/work. We already met our affordable requirement in Phase I or have identified other lots that have to be built still, but not the condos. So all through this also many of our homeowners are fearful that we're doing this – making this master plan amendment request irresponsibly and because we are blatantly greedy developers. Now, I jokingly refer to myself as a greedy developer because those words are hyphenated anyway; you can't be a developer without being greedy. But I'm certainly not blatant and the fact that we're providing lots that are essentially the same size as our standard lots should be applauded. We are actually building homes right now. We're going vertical. We're adding jobs, and we're taking care, as Alexis stated, being the stewards of this project.

Now, one of our other homeowners, Crow Rising, is concerned about 50 percent open space. We not only have maintained the 50 percent we're actually a little bit in excess of that. She was concerned that her yard would be equipped with landscaping. We only contributed or sold the lot. We weren't the builder and we made no promises. So I want Crow Rising, if she's here to know that if representations were made she needs to go back to the builder to meet those. And here Crow Rising states that the common thread is that the developers of La Pradera say one thing and do another. That's not the case and this is why I wanted to make these corrections because it really isn't fair to the homeowners nor to us to base a lot of these

secondary letters on a flawed first letter from Mr. Cooke.

When we developed the first phases we did have Advantage Asphalt contracting with us. They got permission to have a yard for the equipment. We have recently had them clean it up and what's left behind is clean dirt. We're going to be using some of it. Some of it is standing by to be recycled, broken pieces of asphalt and concrete. It certainly is a mountain but it's not trash hidden in the corner. So I respect these comments but again, you can appreciate why I want our homeowners and you, Commissioners, to hear our position as well.

CHAIR VIGIL: I have a question for you, Mr. McCarthy. Commissioner Anaya.

COMMISSIONER ANAYA: Yes, Madam Chair. It could be Mr. McCarthy or maybe even staff. I'm looking at the summary right now and it says Gardner Associates, La Pradera, Applicants, request master plat for 22 residential units live/work lots on 2.27 acres. I've heard the applicant and I've heard staff refer to 8,000 square feet. I've heard you refer to 7,000 square feet but I guess – help me understand. It doesn't equate as far as lot size. I'm not at this point even making any determination. It's more about 4,500 square feet per lot to equate to 22 lots for 2.27 acres. So clarify that for me.

MR. MCCARTHY: Madam Chair, Commissioner Anaya, there's two separate sets of information and you're going to the heart of the matter. What we're asking the Commission to approve tonight is to modify the existing zoning in this area here, Phase I which is already approve for 32,667 square feet of commercial with half of it being residential and 11 condos on three lots. All we're asking for is permission to use the master plat process to complete that development. This is already approved. Those lots would be roughly 4,000 square feet on average, plus or minus. The balance of the request, which will be heard later, is for the modification of lot lines in Phases II through VI, which are here, by reducing these estate lots which I mentioned are on the southern tier and creating 27 other lots here that have an average close to the 7,600 square foot average that we already have when you take all of the lots we have and remove the estate lots. So you find out what the standard size is. And the reason for the explanation of that is to allay the fears of our homeowners that we're coming in with some very, very tiny lots or substantially different than what we already have and are building upon.

COMMISSIONER ANAYA: Madam Chair, just to staff. To put 22 lots on 2.27 acres, it's going to be about 4500 square foot lots. Is that specifically what's requested? Because we heard 7,000, we heard 8,000, and I'm not even saying I'm against or for that, I'm just saying I want to be clear. Commissioner Stefanics asked at the beginning, equate an example of what it looks like, but to put 22 lots on 2.27 acres is 4,500 square foot lots. Am I missing something associated with that?

MS. COBAU: Madam Chair, Commissioner Anaya, it's almost 4,600 square feet. It's 4,594.6 square foot average lot size when you do that math. So you're correct. And the example I was giving was just in Rancho Viejo. I wasn't referring to a specific development.

COMMISSIONER ANAYA: I just want to make sure we're all on the same page. Then I guess my next question is, so we're talking about 4,500 and change square foot lots on this request and we're talking about what's the price point on these lots, suggested?

MR. MCCARTHY: Our price point on these lots really, it's just difficult to

answer because what we're doing –

COMMISSIONER ANAYA: A range.

MR. MCCARTHY: Well, may I, Madam Chair, Commissioner Anaya, what we're looking at is a completed package, but a range of these lots would probably be somewhere in the \$85,000 range. So all of these lots, as Vahid has laid them out as they could be detached. They'll be two story. But because they'll be oddly shaped you can't impose a grid upon them at this time.

COMMISSIONER ANAYA: But you, Madam Chair, Mr. McCarthy, you're going to sell lots and houses together, correct?

MR. MCCARTHY: Yes.

COMMISSIONER ANAYA: What's the range on a built-out lot? Low side, high side?

MR. MCCARTHY: Well, Madam Chair, Commissioner Anaya, right now our experience is from \$239,900 to \$425,000. We're hoping that these lots will be in the mid-range of the \$239,000 to \$425,000. They'll be good quality homes.

COMMISSIONER ANAYA: Madam Chair, Mr. McCarthy, thank you.

CHAIR VIGIL: Okay. Mr. McCarthy, who will be giving the next part of your presentation?

MR. MCCARTHY: I would like to pass the mike to Oralynn to touch a few issues on wastewater and water in general.

CHAIR VIGIL: Okay. Are you done?

[Duly sworn, Oralynn Guerrerortiz testified as follows:]

ORALYNN GUERRERORTIZ: I'm Oralynn Guerrerortiz with Design Enginuity, and my address is P.O. Box 2758 here in Santa Fe, New Mexico. I'm just going to talk a little bit about the wastewater system. La Pradera's all six phases are going to be served or are served by the La Pradera reclamation facility, which is an advanced tertiary treatment plant. It treats nitrogen, reduces that and recirculates that and it is in 100 percent compliance and always has been with the State. We're actually going through our five-year renewal period at this point. There was a suggestion that the ED is unaware of who our operator is. Our operator is Leonard Quintana. He's a level 4 wastewater operator. He's excellent. Actually, he used to be an employee here at the County years ago; we were lucky enough to have him.

The project is not just a simple septic tank. There was – there is a filtration and disinfection system as part of the plant but the filtration and disinfection system served water that flowed to commodes, for toilet flushing, and it was decided to turn off the commode and toilet flushing facilities. They were never really in demand. Every house had to be plumbed so it had the possibility of having potable water or reclaimed water in a toilet and very few people actually wanted to use the reclaimed water in the toilet, so that system was actually shut down completely. The filtration and disinfection is not used. Reclaimed water is used at La Pradera for the irrigation of common areas, like it's down at Rancho Viejo. As a result La Pradera actually I think has the lowest water use of any project in the county and I'd love the County to verify this. The most recent year there were 51 lots that were served by the County and we're at .117 acre-feet per year. So I think this has always been a model of a low water using project. I'm very proud of that aspect of it.

There was issues raised about odors associated with the treatment plant. Fortunately, the treatment plant through different maintenance operations odors are escaping, when you're washing down things, when you're cleaning things, you do get odor issues. And other times I'm not even sure where the odor is coming from. Often when I'm there I can't smell it. I guess I'm hitting it at the wrong time. But nevertheless, I'm sure there are odors at times. We're also working regularly to find out what problems existing and trying to rectify them. We have actually two parallel plants out at La Pradera. That's because the second phase will build another plant that has a lot of capacity and we're going to bring that second plant on line just so we can take the first plant down which has been in service for a number of years now, about five years, and do a thorough checkup on it and look at it a little more carefully on the inside to see where some of our sources of odors are.

Other than that, if you have any other questions, if anybody raises any other questions with regard to wastewater, I'd love to be able to answer them. Thank you.

CHAIR VIGIL: Thank you. Next person. Who will be presenting, if there are? Are there any other further presenters?

MR. MCCARTHY: Madam Chair, there's quite a few other issues. I'd just like to mention a couple. This is in direct response to our Vista Ocaso neighbor Lisa Burns, who has written two letters. But I wanted to address her concern about her groundwater and cisterns. We are on the County water line which is wheeling water from the City, so we do not have a direct impact on her groundwater. In addition she was concerned about our drain field. Our drain field, if I may, Lisa's home is located right here. The wastewater treatment plant is located right here, and the drain field is located up here. So we are – this is a 200-foot scale, so we are substantially quite a ways away from her property and our drain field should not have any impact at all on her property.

In addition, in her second letter there's some misstatements, actually incorrect, and if I may again I believe that many of the obvious reasons to oppose the master plan amendment have already been presented by Matthew Cooke in his opposition filed April 2011. So here we go again working off of bad informational base. And there were three items – violation of the water restrictive covenants of .16. Orallynn has testified to .117; violation of the 1500 square foot minimum per household. Please remember that was Jane Petchesky affidavit that cleared that up; and violation of the availability of reclaimed water for irrigation purposes. That was addressed in the third amendment to the restrictive covenants.

In addition, in this letter from Ms. Burns states that we're not providing solar homes. We never said we would. The inference is we didn't do what we said we were going to do and a further paragraph says evidence when compiled will show that this has not been in compliance since Mr. Summers, the previous building of the system and operator was replaced in 2008. A quick check of the NMED metrics will show that we have always been in compliance and still are.

COMMISSIONER STEFANICS: At this point, we have all these letters and I think what we were offering to do, and as the vice chair I'm taking over right now, but what we were offering you to do is to offer any information you wanted to before we moved to any other comments, since we are in a public hearing. And is there anything else you want to summarize, not rebuttal to the statements, but anything you want to summarize about the project or the development before we go to other comments?

MR. MCCARTHY: Madam Vice Chair, Commissioners, yes. In closing, we're not asking for any variances. We're zoned for this use. We're not adding any roads. There's no significant impact from traffic, according to our engineer's report, and we're already zoned for the Phase I use. We're just asking for a procedural approval and direction.

COMMISSIONER STEFANICS: Thank you very much. We're going to move to other comments from the audience, then we'll go to questions and comments from the Board of County Commissioners. If you have any comments to make would you please move over and just line up and we'll take one right after the other, and if we don't move pretty quickly we'll be here till midnight. So if you have anything to say, pro or con, we'd love to hear from you, but please move over to my right, your left and up to the podium. We need you, anybody who is going to speak stand forward and you will all be sworn in at once. So anybody who is going to speak at all please come over so that you can be administered the oath one time. And thank you. We're happy to hear from all of you but please, as she indicated state your name and your address for the record and we'd love to hear from you.

[Duly sworn, Ernie Zapata testified as follows:]

ERNIE ZAPATA: Yes. My name is Ernie Zapata. I reside at 721 Don Felix.

COMMISSIONER STEFANICS: And I should explain. It's been a long evening so people are coming and going to the restroom and making phone calls to their families, but everybody is listening; everybody is paying attention. So please bear with us. So go right ahead.

MR. ZAPATA: Just comments. I'm in the real estate business and I know the developers personally. I've seen what they can do and have done for the public interest as far as providing residences to people that are looking at buying. There's been a few inferences as far as -- a few comments as far as stewards of the state. You yourselves as far as the Commission is concerned should be stewards of the state but the land, on behalf of the public of course.

There's been some presentations tonight as far as variances are concerned, some of them being extensions on developments and obviously for the simple points of the economy doesn't allow for any kind of throw the money at it, start quoting it so we can provide housing for people. This county basically lives on tax revenue that is built off of homes that are built. What these types of development do, these people are basically making changes to the development that are going to create a higher density and an affordable price point that can basically for people that are interested for that type of price point. The fact of the matter is it's not only going to be doing that it's also going to be providing jobs. As you all know, people are looking for jobs -- construction workers, landscapers, electricians.

So the fact of the matter is that this is in the interest of the whole community as a whole for tax revenue, for jobs as far as the community is concerned. They're not asking for any changes to the development itself. They're basically making a change as far as the complexion of the development itself that is going to make more affordable homes for the community. So other than that I hope you vote in favor of the changes and I appreciate your listening to me.

COMMISSIONER STEFANICS: Next speaker please. There were several people that were sworn in so let's keep going.

[Previously sworn, Rosalie Calhoun testified as follows:]

ROSALIE CALHOUN: Hi. My name is Rosalie Calhoun and I live at 5 Camino Sabanero. I am also in favor of the changes. I think it's much better for us to not have condos. I've been in communities where you have two accountants, two everything and it does bring up the cost of your monthly assessment. Also I like the change of it being all residential with some work space, as opposed to being commercial and the economy now, with the larger lots in place II through VI, those homes or those lots could have sat for a long time. Right across the street, Oshara has declared bankruptcy as of today or yesterday. I have been in situations where bankruptcy has been declared in other states and I've seen the residences plummet to a low from either the bank taking over or other owners taking over of going down to one third of the value from the original sales. So I think that these changes are needed for this community to continue being successful and I want the developer to stay there and not be put out of business and I don't want this to become another bankrupt community. I think that it is one of the most beautiful developments in the county. Thank you.

COMMISSIONER STEFANICS: Thank you very much. Next person please.

[Previously sworn, Lisa Burns testified as follows:]

LISA BURNS: I'm Lisa Burns. I live at #111 Las Caballeras in Santa Fe, New Mexico. I'm sort of taken aback because John McCarthy has already torn apart my letter and you guys have already read it as well. But I do want to say that I did speak with Robert George at the Environmental Department yesterday on the telephone. He was not able to tell me who the operator is of the system. He said that he would look into it; he wasn't sure. I ride my horse past that system, a lot. It smells, a lot. It's not just the, whatever, the effluent is that they're watering their - as Oralyne said and she also acknowledged that there are issues with the system, and I smell it all the time. There's the land that Jane Petchesky has donated to the conservation easement is where I ride my horse which is right along the arroyo. It is on a 100-year flood plain on the Arroyo Hondo. There's an aquifer. You can't tell me that that's not an issue with a wastewater treatment plant the size they want to do here. It's a scary situation.

And yes, I am concerned about my water and my groundwater. I think everybody should be concerned because of the smell. Now, Robert George told me, I asked him specifically if the smell is an indication that there could be something wrong with the system. He said, well, an intermittent smell may not but if it's consistent then it is. And it is consistent. I've been snooping in your little wastewater treatment plant, a lot. There are some serious issues. There's a bid stink going on over there and I don't know why they want to cover it up and I don't know why they want to bring on more homes on line when there's some very serious problems with the system and a lot of the other residents here who live in La Pradera can attest to that. And if I'm right will you raise your hand? [A number of people in the audience raised their hands.] That's all I have to say.

COMMISSIONER STEFANICS: Thank you very much. Next person please.

[Previously sworn, Kimberly Gonzales testified as follows:]

KIMBERLY GONZALES: Madam Chair, Commissioners, I'm Kimberly Gonzales and I reside at 50 La Pradera; and if I may I'd like to present you guys with pictures of some of the problems that we've experienced in our residence. [Exhibit 3] What I'm showing you here is what Advantage Asphalt had created in our open space which is now full of debris, not dirt or clean dirt as Mr. McCarthy referenced, and for months there would be chain link fence around that as well as porta-potties and there were actually dump trucks in

and out of our subdivision between the hours of 9:30 and 10:00 pm at night, of which I did call the County Sheriff Department because I thought that something was fishy about dump trucks going to that area in the middle of the night.

We have several problems, actually, in La Pradera. One of our biggest problems was break-ins, , which occurred frequently and affected many of my neighbors and at the last HOA meeting I recall there was [inaudible] event letting the homeowners know that we were going to have a gated community. And there was a problem because our Vista Ocaso neighbors if we closed down Dinosaur Trail, or Old Dinosaur Trail, rather, to put these gates up to try and reduce the crime rate inside of our subdivision. So we were presented with a different map showing us different entry levels within the subdivision that wouldn't affect our neighbors from Vista Ocaso from crossing through the subdivision. That didn't happen. We never got our gates. We pay homeowner association dues every month for a gated community that was promised at the last HOA meeting that never happened.

My home was also built with a recycled water plumbing in my home and I cannot use that because the effluent water treatment does not work. That was one of the main reasons that I bought in La Pradera was for the open space, the balance with nature and the effluent water treatment system. Sunday night my sons and I were driving home about 9:00 in the evening and they asked what that smell was. The smell was the effluent water treatment system and the wastewater treatment system from the Dinosaur Trail and the Rudy Rodriguez area, which is Phase II, actually Phase VI through IV which they're wanting to add more units to.

If you go by Phases I and II, I actually feel very sorry for our neighbor how lives there because that area where Lisa rides her horse does smell. And he put a play set together for his children and they are never out there because they cannot tolerate the smell.

I'm here asking you guys as our Commissioners to please do something about this because I do not want other people coming and investing into a subdivision that is not working for the current residents. Thank you.

CHAIR VIGIL: Thank you, Kimberly. Next speaker.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR VIGIL: Commissioner Mayfield. Do you have a question for –

COMMISSIONER MAYFIELD: Ms. Gonzales. Ms. Gonzales, when were these pictures taken?

MS. GONZALES: Two days ago.

COMMISSIONER MAYFIELD: Thank you.

[Previously sworn, Adriene Simpson testified as follows:]

ADRIENE SIMPSON: Madam Chair, my name is Adriene Simpson. I've already –

CHAIR VIGIL: You've been sworn. Thank you, Adriene.

MS. SIMPSON: Wow. This started out really concise and now it's grown. I'll try and summarize it best I can. Density is one of our issues and I don't think there's ever been a County code that allowed unlimited density like the Community College District Plan does. And there are some good aspects and attributes of the plan and I don't believe the current development is going by that plan. It wasn't their problem of solar homes, it was the Community College District Plan that promised sustainable development with solar homes,

water reclamation facilities. It's all in every page of the plan, practically.

So just because you have an oversupply of water it doesn't mean that you're supposed to use it, according to this plan. And I would really like to see the math that comes up with the .11 acre-feet a year. That's almost less than 40,000 gallons and I monitor my own water use and I go over it and I'm as frugal as can be. My trees have been there for over 20 years and they're still only ten feet tall. So I really would like to see the math and the data supporting those figures.

As far as the marketability, I don't see the reason to increase the inventory of these small lots. There's already a glut of inventory in La Pradera. By his own admission he says there's two years' worth there. Not to mention Rancho Viejo has also got extensive inventory. These lots are sitting vacant and it's just a huge, gigantic dirt patch out there. We're surrounded by that on the south side and La Pradera's dirt patch is on the north side. So we're just subjected to constant dust storms and tumbleweeds rolling by, not to mention I think there's some concern about the neighboring area. The neighboring areas are not part of this higher density. We're aptly named Dinosaur Trail because we're rural residential, I guess, which is becoming a dinosaur. So again, the density is a question.

As far as the marketability, Mr. McCarthy stated at the Genoveva Chavez meeting that we had that the price points aren't going to drop on these lots. So I don't see how the smaller lot size is going to help with the marketability. And we delivered fliers yesterday in the wind and I hadn't personally seen a lot of the houses in Phase I close up until that time and I have to say there is a marked difference between the market rate homes that are existing out there in Phase I and the affordable homes that are being built now which have no -- they're nowhere near the ones that have already been built. There's no comparison at all.

Anyway, as far as the wastewater plant goes I spoke with Mr. Summers and he was dismayed that he was still listed as the operator on the State documents and was going to correct that immediately, since it's been two years since he's been involved with it, since he was locked out of the system when he raised concerns when they wanted to put Phases II through VI on the existing plant. I don't know what those concerns were based on but I'm sure they can be investigated as there's already an acknowledged problem with the plant, and he stated that it was questionable about the second plant that's coming on line, whether it's being operated properly. Anyway, there's a lot of environmental questions here that need to be addressed before any sort of density increase is agreed to.

I must mention we spent countless hours and time and effort to come to agreement in 2006 in this master plan and the number of lots that were already on it. And that's apparently going out the window. It leaves me concerned -- what are the decisions of this Board worth if they can be just thrown out the window in another few years? How can we make the decisions binding? Finally, I understand that there has to be some room for change because in the residential -- changing the commercial to residential, I don't think that's a bad change. The density, of course, is outlandish and the price of the lots. I don't think it's realistic given the failure of Oshara and the questionable success of the one out in Rancho Viejo.

So I just don't think that the applicant applying for a rubber stamp from Mr. Kolkmeier on any of these issues is prudent. So I'd like to oppose that and any changes should come before the Board. And the lot lines that are already zoned in the commercial development area, those that already have lot lines zoned in there. They may in total be zoned

commercial but it's not zoned for 22 units. That hasn't been approved by anybody, but they're suggesting that Mr. Kolkmeier can rubberstamp it and approve it without you seeing. So those are my concerns.

CHAIR VIGIL: Thank you very much, Adrian. Let me just do some time management here. Is there any – who else would like to address the Commission? Let me see a show of hands. Sir, would you please come up as you are coming up, and could I see the remainder of the show of hands? Six of you. Okay. Please state your name.

[Previously sworn, Ken Gand testified as follows:]

KEN GAND: My name is Ken Gand. We live at 97 Bosquecillo.

CHAIR VIGIL: Please proceed.

MR. GAND: Our lot size is 10,400 square feet. On that, according to the 4,000, you would be putting 2.5 houses on that lot. They said 1500 square feet, heated and unheated. The average size garage is about 500 square feet, which means the house, the heated area, is going to be about 1,000, possibly less or maybe a little more. That density is going to bring more traffic, smaller lots and squeeze us all in. That is not why we moved to La Pradera. As the signs all said, 50 percent open space. This is a small community. They're not making it a small community anymore. Thank you. I'm very much against the density.

CHAIR VIGIL: Thank you, Mr. Gand. Appreciate your testimony. Whoever would like to come up. There are six people interested in speaking. The only thing I would ask without giving you a time limitation is just not to repeat the testimony that we've already heard.

[Previously sworn, Marcella Wiard testified as follows:]

MARCELLA WIARD: I'm Marcella Wiard and I live at 703 Bosquecillos in Santa Fe, La Pradera. And I'd just like to clarify that when we purchased our home, we were in the first phase and there is a market rate house and there's a very big difference in what our house looks like and the second and third phases look like. They are entirely smaller. And I'm concerned also about the density but what I would like to address is when we purchased our lot we were told that there were 11 condos that were going to be built and seven commercial buildings only. Period. No live/work. I never heard that term before. I work for BT Homes. We presented La Pradera to a lot of the buyers who were out here and homeowners who are here today. We never were using that terminology. And I'm very concerned about the live/work proposal.

CHAIR VIGIL: Thank you, Marcella. Appreciate your testimony. Next.

[Previously sworn, Ron Gallegos testified as follows:]

RON GALLEGOS: Ron Gallegos, Old Dinosaur Trail. I know you don't want to hear the same thing but I just want to quickly reiterate because I think it is important there is a clear delineation between the homes they are building now and what another home is. He stated that Advantage Asphalt had taken down their yard. There is in fact still a portion of their yard in place, so that is not entirely true. I'm sure he's trying to move away from commercial out of the goodness of his heart but just because he feels he can't sell the commercial and that's within his right.

I am concerned that my property, actually bordering La Pradera, I actually never received notice of this until I saw a notice on the mailboxes and that's of big concern to me. Another thing is with his surrounding neighbors and keeping in mind the neighbors that are

around him they're all 2.5 up to 10-acre lots. My home is on 2.5 acres; there's one residence, it's 2.5 acres. Just a few feet away he wants to put 22 on a smaller lot than I have. He's saying the traffic engineer said there was no impact but that is a considerable amount of more people and a considerable amount of more traffic.

The Commission's approval, when this originally was done, it was under a harsh light from Vista Ocaso and the surrounding neighborhoods that these were conditions of approval. And to go away from that is to go away from original acceptance of this, that being the water as well. I just wanted – it was a hard-fought agreement and I just would like them to stick to the agreement. That's all I have to say.

CHAIR VIGIL: Thank you, Mr. Gallegos. Next.

[Previously sworn, Michael Bartlett testified as follows:]

MICHAEL BARTLETT: My name is Michael Bartlett. I'm at 23 Churchill Road. I live next door to La Pradera Subdivision. From my back window I see homes that remain unfinished and lots that remain empty, the casualties of the downturn in the housing market. Rather than waiting out the downturn La Pradera is asking to make changes to what has already been approved. I'd like to present the following facts. La Pradera has already received approval to build twice the density. When I look at La Pradera and I look at Oshara I see a lot of emptiness. This whole idea of a work/study, work/live situation doesn't seem to have any bearing on the market. As Oshara now just went bankrupt that's another indication of it.

I have 2.5 acres. I'm an adjoining property. A few years ago I asked for a variance for having my existing guesthouse approved. It was denied. I was told it was too much – too many people, too high density for my property. And yet here we're going to try and fit 22 properties on 2.2 acres, less acreage than I have. And in addition to the people who live there, since it is live/work there are going to be people that are coming in and out as business, so there is going to be a lot of traffic that's going to be influencing it.

These are our neighbors. Most of us have lived there five, ten or even more years who love the rural feel of the area. These developers come in every time making this promise and that promise and when they don't get what they seek they come to you asking for changes which harm our neighborhoods. We lose. Our roads are crowded and no one pays to improve them. The beautiful vistas are now being crowded with homes, many of which are empty. When is the insanity going to stop? We'd like you to help protect us all. La Pradera made the plan they did and they have to deal with the consequences, just like I have to deal with my variance getting denied. The reality is that La Pradera is an approved master plan and it is a plan that should remain in effect. Making smaller, lower quality units make some quick sales but the La Pradera developers have shown that their interest is not in making the property better for its owners and neighbors but simply make sales. The electronic gates are still not in place among many other improvements. I ask the Commissioners to keep the master plan intact and to vote no on this ordinance.

CHAIR VIGIL: I'm going to take just a few minutes.

[The Commission recessed from 9:40 to 9:50.]

CHAIR VIGIL: We can proceed at this point in time. Please state your name and continue with your testimony.

[Previously sworn, Tom Gillentine testified as follows:]

TOM GILLENTINE: My name is Tom Gillentine. I live at 2256 Calle Cacique and my family and I own five residential lots immediately to the east of La Pradera. I am very definitely opposed to this density. We've talked a lot about square feet tonight but ten units per acre is apartment house density, out here in our nice rural subdivision which Jane Petchesky would in no way approve of. [Applause]

CHAIR VIGIL: Please hold your order. Everyone's testimony needs to be heard. Are you done, Mr. Gillentine?

MR. GILLENTINE: Yes.

CHAIR VIGIL: Thank you very much. Next.

[Previously sworn, Craig Tyler testified as follows:]

CRAIG TYLER: My name is Craig Tyler. I live at 83 La Pradera. The comment I want to make here is that in a market downturn it's harder to sell properties. We all understand that. We're all impacted by it. I suggest as painful when it happens the price will rebound. If we allow them to do what they're proposing it will never come back. What I mean by that is their changes are permanent. So if I may show, using their graphs, this is the original plan, this is what they're changing it to. I think devaluing the neighborhood is pretty obvious. I guess I'll just conclude by saying I'm encourage by the words "protection of property" on the wall behind you and ask for your protection.

CHAIR VIGIL: Thank you, Mr. Tyler. Next.

[Previously sworn, Matthew Cooke testified as follows:]

MATTHEW COOKE: Thank you, Madam Chair. Matthew Cooke, 85 La Pradera. I just have three brief points of consideration. I do have 15 signatures opposing this request as well as some of the other homeowners. [Exhibit 4] I will submit those for the record please. Also, I'd like to point out that the lot 35 that the applicant has offered to not absorb for the development of the 22 units has not been factored into this 4,500 square foot number. And lastly, based on the recommendation this evening for the developers to work with the village authority in Case #MIS 05-5502, I would like to point out that the La Pradera homeowners are presently unable to vote on issues which affect our communities via the La Pradera Homeowners Association. The La Pradera Homeowners Association is run by the board of directors, Alexis, Girard, John McCarthy and Bob Trujillo and they are the only members with voting rights.

Our only recourse to oppose the propositions of our developers is via these hearings in front of the BCC. Approval of this authoritative request will strip that recourse from La Pradera homeowners. Please consider these facts in your decision. Thank you.

CHAIR VIGIL: Thank you very much, Mr. Cooke. Is that it? Is there anyone else that would like to address the Commission? Okay, Mr. McCarthy or Ms. Guerrerortiz?

MS. GUERRERORTIZ: Thank you, Madam Chair. I just want to make some statements on some things that were brought up. Robert George is the director of the Groundwater Bureau. I don't know how many groundwater discharge permits there are but the fact that he doesn't know who our operator is is not surprising to me. I think that our permit writer is actually on maternity leave currently. It's Melanie Sanchez so she would be best to ask.

The wastewater treatment plant is not in the 100-year floodplain. That's not allowed under any rules in the County or in the State and ours is not in the 100-year floodplain. There

was a 50-foot setback originally but actually the floodplain has shrunk in that area with some more detailed study recently so it's probably a much larger setback but I haven't measured it.

And with regards to water use in La Pradera, they are really low. Karen Torres has got that information available. She sent it to me in Excel and anybody can get it; it's part of the public record. Thank you.

CHAIR VIGIL: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, Ms. Guerrerortiz, has anybody or has the Environment Department looked at your wastewater treatment plant and heard some comments from the public that there are some concerns with smell, maybe leaching? Do you have those results you could present to us?

MS. GUERRERORTIZ: The treatment plant has had site visits a few times by the Environment Department since it was constructed and put into use. I have no knowledge of any problems the department's ever raised with me or raised to the owners of the plant. I agree that there are some concerns out there, things that we need to address, some improvements we need to make and we're moving forward with those. But the Environment Department considers the plant in 100 percent compliance.

COMMISSIONER MAYFIELD: Madam Chair, on your comments there, if you are proposing to increase density and you're already indicating there are some improvements or some adjustments you need to make, are you going to have those adjustments brought to us before you increase this density? Are you going to address those concerns you all currently have right now?

MS. GUERRERORTIZ: The changes that we propose to make at the plant are actually in front of the Environment Department currently. And then I'm still trying to figure out causes of things. So why we're moving, we've got two parallel plants there. We're taking the first plant that was a smaller plant out of service and going to bring the larger second plant into service and then look at the first plant a little more carefully to see if we can make some design changes to make some improvements with it. So we have any idea we'll make design changes on that first plant.

The other changes that we're doing are related more to the pumping facilities associated with getting the effluent to the different open space areas for irrigation.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. On that note, so what are the permits or what are you asking the Environment Department to do? To change from one plant to a second plant?

MS. GUERRERORTIZ: No, the second plant has already been approved. What's in front of the department is a renewal, it's the five-year renewal that's the standard practice with the Groundwater Bureau. But as part of that we have been looking at some modifications with regards to the pumping facilities. And also just to integrate the plants better, because we've always tried to set up the plants so that if one had to get shut down the other one could come into play so we have backup systems, and we're basically increasing those backup systems now. That's our intention.

COMMISSIONER MAYFIELD: And if these density changes go through your current existing plants will be able to accommodate?

MS. GUERRERORTIZ: Yes. Our current plant has the capacity of 40,000 gallons per day. We actually could serve a lot more homes than what we have in La Pradera.

And including if we could add another 50 and we'd still have more than enough capacity in that plant. It was over-designed.

COMMISSIONER MAYFIELD: Thank you.

CHAIR VIGIL: Mr. McCarthy, did you want to address the Commission?

MR. MCCARTHY: Yes, I had several closing comments. One is addressed to Ron Gallegos. Ron, the fence that's still up; you're correct. That's Joe Boyden's yard. He's doing construction now, but Advantage has taken all of their fences out. So we'll probably remove that fence as well, but you're correct, but it wasn't Advantage's fence. I don't know why you weren't noticed. We'll follow up on that with our addressing. We apologize for that.

And then in terms of the traffic impact, I'd like to invite the audience and Commissioners' attention to the fact that in Phase I, our existing approvals were for 11 condos, so by definition, if you multiply 11 times 1500 square feet you'd get, if my math is correct, 16,500 square feet, and we also were approved for 32,667 square feet of commercial, of which half could be residential. So that's about 49,000 square feet that's currently approved. And if you take 21 lots – and Matthew brought the correct point up that by eliminating Lot 35 we'd have 21 units in the layout, times 1500, we're looking at 31,500 square feet.

So when you look at the change from the existing approval to what we're proposing, it's just going from 49,000 down to 31,500, it's easier to understand the statement that we don't have negative traffic impact. So I stand for questions from the Commission, and thank you to the audience and the Commission.

CHAIR VIGIL: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Mr. McCarthy, were you able to look at these photos? Was a copy provided to you?

MR. MCCARTHY: No, sir, but I'm out there every day and I know that there is a pile of debris, that it's construction debris. There's some asphalt and there's some broken concrete as well as two piles, pretty high piles of dirt.

COMMISSIONER MAYFIELD: Mr. McCarthy, is this on development property? Is this on a construction company's property?

MR. MCCARTHY: No, sir. Where that's located is – this phase here was never built. It's approved but it wasn't built. The yard in question is right down here in the southwest corner and one of our neighbors asked us to remove it which we then did, but this is an unrecorded phase, so it's not in open space or anything, it's just undeveloped land at this point.

COMMISSIONER MAYFIELD: Mr. McCarthy, and I asked our recorder, but wasn't it your testimony a little earlier that this is just fill dirt and it's all clean?

MR. MCCARTHY: What I had testified – when we had originally started this development there was a mound of dirt here that was about 35 feet high. We moved that over here and so there's now – and that's been reduced somewhat. So there's a large mound of dirt at this location. There's another mound of dirt here that's clean fill, and then in front of that there's the two stacks of concrete, broken concrete and asphalt right here in this location. And Advantage is in the process of removing that as well. So it takes a while to ship that out but they're moving it.

Excuse me, Madam Chair, Commissioner, if I may say so, this was an allowed use

that while these phases were being built it was used as a marshalling yard and since we're not doing any construction right now it does need to be moved.

COMMISSIONER MAYFIELD: And Madam Chair, Mr. McCarthy, how long has this debris been sitting there if you have not been doing any construction out there?

MR. MCCARTHY: Well, the large pile has been sitting there since we moved the large pile from here over to here. It's been sitting there for a number of years, probably since 06, 07.

COMMISSIONER MAYFIELD: Thank you.

CHAIR VIGIL: Any further questions? And I do believe there's no one else in the public that wants to address us so unless someone would – please step forward.

[Duly sworn, Trish Trujillo testified as follows:]

TRISH TRUJILLO: The only thing I wanted to address is that I don't have a personal interest in this development other than a business relationship. From the very beginning I've been the escrow officer closing a lot of these transactions. And a lot of the changes that are taking place that I wanted to bring up have to do with our economy. A lot of the changes in the structure of homes that are being built are being changed to accommodate what can be sold in this economy. And I'm actually getting ready to close 14 home transactions, maybe not \$400,000, \$600,000 or \$800,000 homes but a \$250,000 home that could house your child, my child and your employees.

And that's something that I want you to consider is that changes are taking place and my number one – we're living in an economy where my number one client right now are banks. I'm closing short sales, bank-owned property. But they're working to try to accommodate homes for the average working person like you and me and our children. I've got four children here and one of my biggest things is keeping them here, and this development is working to accommodate that with what we're living with today. That's all I wanted to say.

CHAIR VIGIL: Thank you, Ms. Trujillo.

COMMISSIONER STEFANICS: Madam Chair, is the public hearing over?

CHAIR VIGIL: That's what I'm trying to determine. Please step forward and state your name.

[Duly sworn, Kay Gillentine Britt testified as follows:]

KAY GILLENINE BRITT: My name is Kay Gillentine Britt and I will be very brief. Ms. Trujillo wants to speak to the emotional side of this with the economy and everything and I would just like to say that I do not live in La Pradera. I grew up on the land east of La Pradera. I rode my horse through that country before Rancho Viejo was there, when it was still the Jarrett Ranch. And I've seen a lot of changes to that countryside over the years and I grew up knowing Gene and Jane Petchesky my whole life. And yes, it's changing and I know that we need some new homes for people. My children do not live here anymore. They've gone back – they live in the Midwest right now.

However, there's got to be some space left for those of us who appreciate the beauty of this land and the open space is diminishing day by day here. I know that the Petchesky's left their ranch as open space. I know that my father has tried to, for whatever reason, we don't own our ranch any more but it's been developed. There's 2.5-acre lots there. I don't want it to be any smaller than that. I like to be able to see the mountains. I like to be able to

go and see the countryside and for the people who are able to ride their horses through there, that was what that land, that we wanted it to be and that's what I would like for it to stay as much as possible, and that's all I would like to say. Thank you very much.

CHAIR VIGIL: Thank you, Ms. Britt. Anyone else? Seeing no others, this public hearing is closed and I'll turn it over to the Commissioners. Commissioner Mayfield and then Commissioner Stefanics and then Commissioner Anaya.

COMMISSIONER MAYFIELD: Madam Chair. Just for the record, Steve, I don't know how many emails I received regarding this. I believe that some of them have been forwarded to us but I just printed up two or three as I went through my email now. So we can have all those placed in the record please. Thank you.

MR. ROSS: Madam Chair, Commissioner Mayfield, we'll do that.

CHAIR VIGIL: Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair, just as a quip, for all the emails we received we might all have to recuse ourselves from making a decision about this. I want to make a series of comments. First, Jack, could you talk about the Community College District. This, La Pradera is in the Community College District. Correct?

JACK KOLKMEYER (Land Use Administrator): Madam Chair, Commissioner Stefanics, yes. You want me to expand on that a little bit?

COMMISSIONER STEFANICS: Yes. Madam Chair, Jack, could you please describe some of the purposes of purchases of land or development within the Community College District.

MR. KOLKMEYER: Sure, I'd be happy to, because it seems like this is sort of a crux of the issue here and what I will say probably won't make some of you happy but it might make others of you happy. But the idea of the Community College District was a mixture of everything – small houses, large houses, people with a lot of money, people with no money. The idea was that you could have apartments next to large lots, and it was configured in such a way that these developments would be built around community centers. La Pradera was designated as one on the Community College District maps. And that meant that those areas would be mixed use, mixing commercial, residential. Fifty percent open space was mandatory for everybody. That's a lot of open space compared to what's happening in other parts of Santa Fe County.

So the all the things on the plus side, plus trails. You have the best trail system in the Community College District in the county. It connects to the rail line. Excuse me, sir. Please excuse me for a moment.

CHAIR VIGIL: Sir, you will have to step back we have a deputy waiting in the back. You will need to step back and allow for staff to make their statements. You've been given your opportunity. Please allow us.

MR. KOLKMEYER: So with the 13 village centers spread all throughout the 18,000 acres of the Community College District it was expected that the developments would occur around those village centers. Two years after we did the Community College District, however, we did a fiscal impact study. I don't believe any of you – Commissioner Vigil, I believe you may have known about some of that. And the consultant at that point told us we had too many village centers, that we should reduce it from 13 to 7. And one of the ones that was not appropriate was in the La Pradera area, because there was concern that because of the

existing neighborhoods there, Vista Ocaso, the other one that's over there, and the other areas around Dinosaur Trail, that the mix wasn't going to work that way.

Now, what we've seen in a period of about two or three-year segments after that period of time, every one of the developers came in and asked for large amounts of commercial. I think Oshara asked for something like three million square feet of commercial. And then slowly but surely all the developers said, no, we can't do the commercial. We want residential. So ironically, we were turning back to the very things that our consultants told us in 2001, that you're going to have to go through some kind of a period of readjustment in the Community College District, because you weren't going to be able to get the commercial to satisfy the residential because the residential wasn't there. So it's one of these conundrums that we constantly find ourselves in.

So it seems to me now, ten years later, we probably didn't go back and do the adjustments the way that we should have, readjusted the village centers on the map from 13 to 7, which maybe would have solved some of this problem that we're facing here today. But it seems to me right now, as the Land Use Administrator, because what's being asked for is a technique that gets my approval and even if you do that, you have to grant me the ability to be able to do that. Even if you do it's still got to go back to the CDRC and the Board again.

So the issue is, if there's to be a readjustment it makes sense right now. What is it? And it seems like one of the adjustments is there has to be some kind of rearrangement of the types of residential that should be included in La Pradera. So whether this is right or if it's wrong, I'm not sure. We're all able to grasp what the all components of that decision are right now, but one thing bothers me as the Land Use Administrator and that is the problem with the wastewater.

COMMISSIONER STEFANICS: Okay. Well, this has gone past my question and I really appreciate your putting out the concept for people to get to. The reason I'm asking the general question, Madam Chair, and I was using this analogy earlier with my colleagues, when people move to the country lots of times they don't know what they're getting into. When people move and buy some place, lots of times they don't know what they have bought into in terms of what has been approved for the plans of the community. And I think that some people who move into a high density area that's already established know. Other people who move into things that are considered urban sprawl don't know that some day it might be very dense around them. And I think that some people aren't intimately involved in every detail of the Community College District. So I think that's the problem for some of the people involved in this.

I think that there's an issue with when a developer or purchaser of land makes that investment under our code, under the plans they have the right to do things. But I'm also hearing a variety of concerns that have not been addressed by people who live in the existing community. So when the County Commission approves things they are approving things to be done according to certain standards, and I am hearing tonight that maybe not all of those standards are addressed or are in place. Whether or not there was development and then problems occurred. It might have happened. Or whether there were problems from the beginning; I don't know. But I think we have some disconnect about moving ahead with future plans when people in the community are very concerned about what they have now.

So I wanted to just put out there's a variety of issues that have come up tonight and I

just wanted to verbalize some of mine while I listen to the rest of my colleagues. Thank you, Madam Chair.

CHAIR VIGIL: Thank you. I believe Commissioner Anaya you were next.

COMMISSIONER ANAYA: Madam Chair, Commissioners, staff, I'm going to go back to some basic questions just so I can make sure I'm in the right place. Madam Chair, staff, tell me exactly how many total lots prior to this request to modify the plan, how many total lots have already been approved?

CHAIR VIGIL: Ms. Lucero can give us that answer.

MS. LUCERO: Madam Chair, Commissioner Anaya, I'm just trying to do the math here and add these up. I believe it was 238 lots.

COMMISSIONER ANAYA: So Madam Chair, Ms. Lucero, this request, the existing approval is 238 lots, plus a commercial lot?

MS. LUCERO: Madam Chair, Commissioner Anaya, the commercial lot was included in that total number of lots.

COMMISSIONER ANAYA: Okay. Of that 238 how many are commercial lots?

MS. LUCERO: I believe there was -- well, they were approved for I believe there were four commercial lots with a total of 32,000 square feet of commercial space.

COMMISSIONER ANAYA: Does this request that logistically would have to go through CDRC and back here before it would go forward, does this request take away all four of those commercial lots?

MS. LUCERO: Madam Chair, Commissioner Anaya, what it basically does is it converts those four lots into a village concept where there's going to be live/work units. So that would be the form of commercial that would exist within those lots.

COMMISSIONER ANAYA: Okay. So aside from the live/work terminology, total lots, 238, of which four of those are commercial. In this new proposal, the total lots would go up 11? 238 to 249 total?

MS. LUCERO: Madam Chair, Commissioner Anaya, as part of the math of this request tonight, which is for the -- to allow, well 21 now, 21 lots, so out of those 21, I believe that there would be ten new lots? Ten new lots. So ten additional lots.

COMMISSIONER ANAYA: Okay. So I'm just going to put some perspective on this. We're talking about a total master plan that's been approved, combined commercial and residential of a total of 238 lots. The entire discussion we've had tonight and the concerns raised, the advocates and the people raising concerns, we're talking about a net deviation of ten lots out of 238 to 248. Is that right?

MS. LUCERO: Madam Chair, Commissioner Anaya, the ten lots that are being proposed, those ten lots are part of the master plat authorization that's requested tonight. In addition to those, as you'll see in a few months when they come forward with the master plan amendment application, there's also an additional 27 lots that will be proposed.

COMMISSIONER ANAYA: Okay, so that's what I'm getting at. So when I'm looking at this 22 number in my book here what I understand that to be is that they already had 11 of those approved, and that there's an additional 11 that they're asking for in this request. Is that accurate?

MS. LUCERO: That's correct.

COMMISSIONER ANAYA: Okay. So we had 238, and tonight's action, if it's allowed to go forward would raise it ten lots?

MS. LUCERO: Madam Chair, Commissioner Anaya, it would just allow them – all tonight's action is going to do – but it won't actually approve the additional lots. I just want to make sure we're clear.

COMMISSIONER ANAYA: So tell me, what did you say about 27 lots? I'm looking at all the lots, trying to make sure I'm completely clear. What I understand that to be is we're going from 238 to 248 with this proposed action to take it through the process. That's it.

MS. LUCERO: Madam Chair, Commissioner Anaya, for tonight's request, that's correct.

COMMISSIONER ANAYA: But what you're telling me is in addition to those ten lots they're going to come in with 27 additional lots, on top of what that is, to take it up another 27 lots?

MS. LUCERO: Madam Chair, Commissioner Anaya, that's what they're proposing as part of their master plan. So in total it will be the 238 original lots, plus 37 more. For a total of 273 lots.

COMMISSIONER ANAYA: Okay. So of the – just a logistical question. Then why in your summary when you tell me – and I'm not picking on you. I'm just trying to understand the logic in the framework of the recommendations and the information I have. Then why on the issue do you give me the issue as 22 lots at the top and then in the back you restate that again and you say, recommendation, and you refer back to the 22 but there's no reference to the additional. So I guess what I'm getting at is if you bring it up in the issue and then you – what's the recommendation of staff and then you bring the 22 up? I think I'm understanding that of those 22, 11 were existing and 10 are new based on the deviation of one that I heard over here about a Lot 35 or whatever that was.

You're also saying that you're going to bring back another item to hear that's going to go through the CDRC and the Commission again? Or is that additional number of lots you said that's going to be part of the proposal that's going to go to CDRC and back to us? Are you following me?

MS. LUCERO: Madam Chair, Commissioner Anaya, I think so. Let me if I can just kind of clarify. The reason that we're only bringing up the 22 lots right now is because that's the only part of the subdivision that they want to have a master plat for. Those 22 lots are the ones that they want to be able to create administratively ultimately. The remainder of the lots, the additional 27 lots, those will actually be platted through the master plan amendment process.

COMMISSIONER ANAYA: So that's not tonight at all.

MS. LUCERO: That's not tonight at all. So all we're considering tonight is a master plat to allow them to proceed under the master plat guidelines for these 22 lots.

COMMISSIONER ANAYA: Okay. So Madam Chair, Ms. Lucero, along those lines and now that we're focused in on only tonight, only talking about 22 lots, we're really only talking about 10 more lots in addition to what they've already received approvals for.

MS. LUCERO: That's correct.

COMMISSIONER ANAYA: Ten lots in the scheme of 238 plus ten.

MS. LUCERO: Correct.

COMMISSIONER ANAYA: Okay. That being said, this is a question for the applicant, and I don't care who wants to answer it. The thing I heard, and I agree with Commissioner Stefanics' separation of issues. I can tell you that I completely agree with her comments relative to things that maybe aren't what they should be relative to sewer or relative to cleanup. I think that's a separate issue. I think that's a responsibility of all of you to work with the community that you already have residents in to mitigate those issues and to make it right. Just to put it blunt. I think that's not the issue that we're hearing tonight, but that is very much an issue that we've been discussing as a Commission in recent meetings that it's not only our obligation and responsibility as elected officials to make approvals or vote and take action in accordance to recommendations from staff and feedback from the public and even those applicants. It is our obligation to make sure that those people that are fulfilling those build-outs are doing so in a way that's in accordance with the conditions and specs and regs and all that stuff. So I think I agree with Commissioner Stefanics. I think those concerns need to be addressed and those are separate issues.

Speaking specifically to the density issue, which I heard over and over and over again, which is going to come up as part of the process at CDRC and then back probably as discussion items at the Board of County Commissioners, I would presume. You're probably going to have the same groups of people who are going to raise those concerns relative to density. Does the applicant have additional space to augment the size of that 2.27-acre piece of land higher? Is that possible?

MR. MCCARTHY: Madam Chair, Commissioner Anaya, not if we maintain the 50 percent open space.

COMMISSIONER ANAYA: Madam Chair, and I kind of was thinking ahead to that that might be something that would come up. I thought that. And I guess I would go back to our Land Use Administrator as a question. Because I heard what you said and I heard your follow-up. Part of my thought process when some of the communication was going on was we go through a process and prior Commissions – I can't speak to every single detail and aspect, nor would I pretend I could, to what those Commissioners were faced with when they were making those determinations. What I know is that they were bombarded with a lot of information and a lot of different aspects and the Commission at the time I think took an aggressive step to do something that was fairly progressive in nature and took the County to a different place. And I think some might say, well, maybe it was a bad place or maybe they don't agree with the place they took it to, and I respect that, but I think overall when you look at affordability and other, trails and things that you mentioned, that it does bring forth options that weren't prevalent in other developments and a process that wasn't prevalent in other developments.

So I guess my question back to you is you said, and I think I agree with it, that there's adjustments that we have to make. Do you feel the same way about those adjustments associated with commercial? Would you apply that same logic to utilize potentially part of open space to raise the density up a little bit to be more consistent with – maybe not more consistent but more prevalent with surrounding areas? I mean is that even something that you think is rational along the same thought process that you brought up?

MR. KOLKMEYER: Madam Chair, Commissioner Anaya, the point to what I was trying to make about the adjustment was in fact the adjustment, what they're trying to do to adjust from commercial, which no longer really works the way that it was originally intended to be something else. So I think we have to take that into consideration, because if it's then going to be something else then it's probably going to be some other kind of residential. Because the commercial is really difficult there. We have lots of commercial on Turquoise Trail. Some is happening in Rancho Viejo. But it doesn't appear at this point after ten years that we're going to – that adjustment about having about appropriate commercial is going to work.

Where we're going to hold the line as staff is we're not going to go below 50 percent open space. We're not going to do it. That was the agreement that we made with everybody that lived out there and we're going to stick to that as your staff. So, however a developer wants to come in and accommodate that is probably going to have to be through them, if they want to rearrange commercial to some other kind of residential, our thinking would probably be then they're going to have to figure out how to rearrange the residential and the density to make it work within the 50 percent open space.

Because if we give away the 50 percent open space – and we did that 12 years ago. That was a key element to the Community College District. Several people have gotten up here and said we're losing open space. That was the whole point of this to try to get dense areas where we could have a wide variety of housing for people who were rich, poor, young or old could live in a more community-type situation but certain things were really important. In fact that's where the whole affordable housing ordinance started was with the 15 percent open space where we got affordable housing at that particular rate.

But we don't think we can jeopardize the 50 percent open space.

COMMISSIONER ANAYA: Madam Chair, I just want to be clear. I don't think I said I wanted to walk away from 50 percent but I think what I heard from a lot of people in the audience and otherwise was if it wasn't exactly 50 percent I don't think it would undermine the whole integrity of the Community College District. I'm just going to leave my comment at that and I'd like to hear what some of the other Commissioners have to say. I think that there's a process in place. I think that may be something that as you made the comment about adjustments, maybe that's an adjustment we need to look at, but that the process, if we're talking not about the 27, Ms. Lucero, that potentially would be coming in. We're not talking about that. We're just talking about 22 and a deviation of not 11 but actually 10, based on the one coming off the table. I think the process at the CDRC as well as BCC and maybe some more thought and more interaction with not only these developers but the other developers and the other community members in the Community College District might be warranted if it's in the interest of the entire community as a whole. So those are my thoughts, Madam Chair.

CHAIR VIGIL: Thank you. I will turn it over to you. May I just make a couple of comments? I'd like to remind our colleagues that we're also dealing with an issue in the Community College District that places the burden on the County with regard to a wastewater treatment plant and that's Oshara. Now, Oshara, we did hear testimony and we knew coming down the line that it was in financial trouble. It was going bankrupt and part of the reason why I think it did is nobody anticipated the economic downturn. We actually don't have any

policies in place to deal with economic downturns, and we know that this community does not want to be put in the same place that we're having to deal with Oshara right now because those people who own property there are between a rock and a hard place. They don't know what's going to happen to their wastewater treatment plant. Their homeowners association has gone defunct. There's nobody there taking on any kind of a leadership role to make that community happen. So all of a sudden the issues that they're having difficulty with have been brought to the County and we're asked to rescue them from a lot of the issues that were created because of the economic downturn, because there was nothing to assist this development in creating a [inaudible]

I wanted to make that statement. And then I had to ask you, Jack. One of the issues that I didn't hear you address when Commissioner Stefanics asked the question about highlighting the Community College District is that live/work spaces were imposed in that district, and if I'm to understand correctly that actually exists in commercial developments themselves, like the Turquoise Trail Industrial Park. It's one of those concepts that has been a part of integrated community mixed-use plans. Correct?

MR. KOLKMEYER: Madam Chair, that's correct. It's been used from the beginning. Now, maybe it hasn't been used in the context of La Pradera and the subdivision in the development that's going on there, but that was a term that was used early on in the development of the Community College District, yes.

CHAIR VIGIL: I just want to also state, my understanding because through all the development review processes that we've gone through, the live/work space is actually less of a traffic impact because the folks that live and work there stay there and there is the traffic coming and going. At least that's what I recall from the Galisteo property.

MR. KOLKMEYER: Madam Chair, that's correct. In the traffic studies that we've done in Rancho Viejo and with Oshara show less trips per day for live/work. That's correct.

CHAIR VIGIL: Okay. And one other thing that I also want to just put out there with regard to the concerns of the community is you also don't want this development to go under, because if they do you really don't know what's going to come up if this development goes under because what they're requesting, I think, is an attempt to assist them in moving forward with this development in a way that would assist you in keeping that development somewhat vibrant at least. There were, I'm sure you heard and I heard testimony, that there were commitments and promises made. The Commission can't address those. The only thing that we can address is what's in compliance and what can be in compliance with the code.

Another question I have for Vicki is why the master plat -- can this be done through preliminary?

MS. LUCERO: Madam Chair, these lots could be created through a preliminary and final normal plat procedure, however, because as the applicant stated that they weren't certain who the buyer -- how the homes were going to be designed they wanted the flexibility to be able to create the lot layout and lot configurations as the homes were built. So that's the reason for the master plat process.

CHAIR VIGIL: Okay. Does the developer agree with that or did you have another reason for going through the master plat process?

MR. MCCARTHY: Madam Chair, Commissioners, we have a specific vision for a village with trails and interaction possibilities throughout the village. So we're going to have some very, very odd-shaped structures, number one, if we were to build the whole thing at one time. Number two, we want individual buyers to have the flexibility to tailor their home occupation spaces to fit their needs. So that's going to change the footprint. So we would like to be able to come in and superimpose that jigsaw type of lot line configuration pretty close to the final stages of development and if I may add one thing, please recall in this Phase I that we're dropping the commercial. So when we talk about ten lots or eleven lots in addition to the eleven condos, that's in lieu of the commercial, which already had a 50 percent residential allowance in there.

CHAIR VIGIL: Okay. Thank you, Mr. McCarthy. Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair and whoever can answer this. Is there any covenants or restrictions that currently prevent live/work space in the homes that are out there?

MR. MCCARTHY: Madam Chair, Commissioner Mayfield, almost by definition for Phase I approval it states that we have this 32,667 of which 50 percent may be residential. It in an indirect way defines a live/work kind of structure even though that may not have been the original intent, that's effectively what it is. But to directly answer your question, we do not have any kind of home occupation zoning unless it's in the matrix that the Community College District allows, and I don't think that's the case, nor do we have the equivalent of the City's RAC zoning, I think recreational arts and crafts zoning. But no, we don't.

And as a matter of fact, when we talk about live/work units, we're really talking about single-family residential, and I think Vahid addressed this – single-family residential where a music teacher or a tutor or someone else could invite their students into their home, effectively, and legally conduct business, and I think I heard staff mention as long as there weren't more than six visits a day kind of thing that it would fit within some other zoning category. But no, we do not have a specific zoning category for this.

COMMISSIONER MAYFIELD: Thank you.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. McCarthy, perhaps you can help me again. Your last comment about 50 percent of the commercial was for 50 percent residential – say that again and tell me what that equates to in units.

MR. MCCARTHY: Well, 50 percent would be 16,335, so if you divide that by 1500 you're going to have at least 11 units anyway. That's on the 50 percent of what's already approved. In other words, 50 percent of the 32,667 commercial, divided by two gives you 16,000, divide that by the minimum of 1500 square foot units and we're effectively not asking for an increment in terms of approved space. It's the conversion of using the already existing commercial of that commercial to flexible residential use.

COMMISSIONER ANAYA: Madam Chair, Mr. McCarthy, in Phase I, how much of the commercial are you converting? How many of those four lots in just Phase I are you converting to residential?

MR. MCCARTHY: Madam Chair, Commissioner Anaya, we're suggesting

that we do away with all of the commercial and for the sake of the technical description of the commercial includes the condos. But we're doing away with all of the commercial, not just the 50 percent share that's allowed. So we would be going again with my prior comment, from 49,000 approved square feet down to 31,500 or so square feet.

CHAIR VIGIL: Any further questions? Seeing none, what's the pleasure of the Commission?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR VIGIL: Commissioner Mayfield.

COMMISSIONER MAYFIELD: I will move to deny the applicant's request for the master plat.

CHAIR VIGIL: Okay. I have a motion to deny. Is there a second? Motion dies for lack of a second. Is there another alternative motion?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, given my last couple sequencing of questioning, keeping in mind the two issues are separate between the existing property owners that I think have issues that I think need to be addressed and I think we all need to learn more what those are, and then taking into consideration the question associated with the total – basically with what you said and I guess I wish that would have been said at the beginning and maybe you said it and I missed it. But the whole discussion here and concern revolves around density as I hear it from the residents.

I'm going to make a motion to approve the process going forward which encumbers going back to CDRC and coming back to the Commission. But I'm also going to ask as part of the motion to do that that staff in coordination with the applicant as well as the feedback you already heard from community members relative to the density aspect of the units themselves, that that discussion take place and that staff consider that as what potential alternates do you have as you go through the process because otherwise, you're going to have these same folks that are going to go to CDRC again and they're going to come back here again and I think the interest is to try and figure out is there any balance or compromise associated with some of those concerns. So I'm going to move for approval that it continue forward, given that the conversion is from commercial and it's a net increase on this one of ten lots total, but that there be some internal County efforts, applicant efforts to incorporate or have discussion on options that potentially raise the density I guess is what I'm hearing. But I would move that.

CHAIR VIGIL: I have a motion. Is there a second?

COMMISSIONER HOLIAN: Madam Chair, I'll second it and I would like to add an amendment that there be meetings between the developers and the residents. I just see a lot of problems with regard to the dumping we saw, with regard to the wastewater treatment plant, with regard to many things that were promised and were not followed through on. So if I were to – this will come back to both the CDRC and the BCC and I would not go, I would not approve it I would not go forward with it any more unless I really see a good faith effort on the part of the developers to work with the community to address those problems, and there are problems.

I would also like to say something to the community. I think that what we're seeing

here is something that's happening across the United States. I think that the way that we are developing, the way that we envision ourselves as developing in America is changing. It's changing because of a lot of things that are out of our control. One if it is the cost of energy. One of it is the cost of land. The kind of development that we've done, that we've worshiped, the 2.5-acre lot, when you think about it it's the way of destroying the most amount of land that we can. And a lot of people talk about 2.5-acre lots and that's open space, but it's not. That 2.5-acre lot is served by all kinds of infrastructure. It's served by roads. It's served by electric lines, and it's a way of actually destroying the most amount of environment that we can.

So I think that we have to relook at the way we develop in this country. We have to do what I think is envision more in the Community College District, which is that we defer with dense development and then we set aside a certain amount of open space that will preserve the environment. So I think that this is a hard lesson for Americans to learn because we have always had, we have always seen ourselves as having an unlimited amount of land and so we should be able to develop however we want. But in the long run we have now eaten up a lot of the land in Santa Fe County and if we really want to preserve the open space that we love, the character that we love about this county, then we're going to have to rethink how we develop. Thank you.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I would accept the friendly amendment for discussion. I think in the Community College District it was put together, centered around that methodology of more dense, cluster-type development throughout that district, but I guess where I might differ a little with some of the comments would be that there are segments within Santa Fe County that that's not the way of life associated with the residents in some parts of the county. So I accept the amendment but I think there are areas of the county that don't see that same need for cluster development. So I do accept the amendment though.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR VIGIL: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, we had earlier discussion about I guess a neighboring property, Oshara Village, and I know this body has also discussed maybe a performance bond being put up by our developers, so if in case or if in fact this development does go belly up, how do we make sure that the residents aren't holding the bag with the infrastructure that's there. Is there any type of guarantees from the development community that there are some assurances provided to this community? One, we spoke about the wastewater system, that if something goes awry, they're not going to be left holding the bag with that wastewater system, or somebody's going to be coming to this County saying, take it over. We cannot manage it anymore and we need the County to bail us out. And I don't know if that's been discussed. I know we've – or at least I believe I've discussed that there might be some performance requirements on some of our developers in the future. Steve, is there anything in place right now?

MR. ROSS: Madam Chair, Commissioner Mayfield, we're just trying to review what's in place right. In the ordinance there is performance bonding required. It

wasn't in place in Oshara because it had already been developed, but there are requirements in the code and they certainly can be beefed up in the rewrite. We'll pay close attention to that.

COMMISSIONER MAYFIELD: Would they apply to this development?

MR. ROSS: I believe the bonds have already been released because the improvements have been completed.

COMMISSIONER MAYFIELD: Could we put that as a condition if they're asking to increase the density in this area?

MR. ROSS: Commissioner, when they come in for the subsequent development platting and plans, if there are improvements, say, upgrades or increases in the capacity, those would have to be bonded.

COMMISSIONER MAYFIELD: Thank you, Madam Chair, and the other Commissioners brought this up. My thoughts to the development community, going back and working with the residents that you currently have is one, I believe you should have environmental certification on your wastewater treatment center, especially if you're proposing to increase density. Two, testimony that was provided to us and pictures that were provided to us, there is an eyesore out there of some serious debris. I would say at least 100 yards, maybe, from what I saw in the picture. I would think that just as a good gesture you all would have that stuff immediately removed and hopefully not place any more in those lots. That's all I have to say. Thank you.

CHAIR VIGIL: Okay. We're going to take a vote on this. I just want to clarify. This really just is a motion to approve a process. It isn't a motion to approve a final product. This process should be able, and I like the amendment that Commissioner Holian provided, this process should be able to provide a design and the opportunity for the residents in the area, and I did hear the testimony today that there is a desire and there is a statement of confidence that there has been good stewardship on this and if it's the case that stewardship should consider so that communication with the residents and the neighbors will continue. I think once we approve this process we still have a lot of hoops to go through, just because this process has been approved doesn't mean this density is going to be approved. So it gets really confusing to those of us who are here making decisions saying why are there so many people here that don't really like it?

But the fact of the matter is we don't know what we like right now, because we're not taking action on any particular product. So with that I'm going to go ahead unless there's any more comments. All those in favor of the amended motion please say so by saying aye.

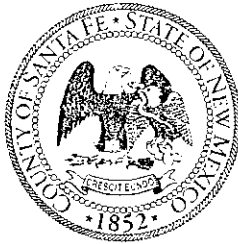
The motion passed by majority [3-2] voice vote with Commissioners Anaya, Holian and Vigil voting in favor and Commissioners Mayfield and Stefanics voting against.

CHAIR VIGIL: I hope that by the time this comes to us that we'll have a better idea of what this is going to look like, and we'll have a better understanding from the neighbors in the area that they clearly understand your intent to be good stewards. Thank you.

Danny Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

CASE NO. V 11-5010

VARIANCE

BERNIE ROMERO, APPLICANT

ORDER

THIS MATTER came before the Board of County Commissioners (hereinafter referred to as “the BCC”) for hearing on May 10, 2011, on the Application of Bernie Romero (hereinafter referred to as “the Applicant”) for a variance of Article V, Section 8.1.3 (Legal Access) of the Santa Fe County Land Development Code (“Code”) to allow an access easement of less than twenty feet (20’) in width and grade to exceed 11%. The BCC, having reviewed the Application and supplemental materials, staff reports and 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 Applicant requests approval of a variance of Article V, Section 8.1.3 (Legal Access) of the Code to allow an access easement of less than twenty feet (20’) in width and grade to exceed 11% located at 11 Caminito Santerra, off County Road 67A, within the Traditional Community of Canada de Los Alamos, within Section 27, Township 16 North, Range 10 East (“Property”).
2. The Applicant would like to apply for a Family Transfer Land Division however his existing fifteen foot access easement does not meet Code criteria.

3. The Applicant meets the density restrictions for a family transfer as his property consists of 5.84 acres and is located within the Traditional Community of Canada de Los Alamos.

4. Article V, Section 8.1.3 of the Code states in part: "Legal access shall be provided to each lot and each lot must directly access a road constructed to meet the requirements of Section 8.2 this Article. Parcels to be accessed via a driveway easement shall have a twenty (20') foot all weather driving surface, grade of not more than 11%, and drainage control as necessary to insure adequate access for emergency vehicles."

5. The BCC imposed the following conditions for approval. The Applicant shall: construct a turnaround on the property; ii) install a 10,000 gallon water storage tank and sprinkler system; iii) submit a vegetation management plan for approval by the Fire Marshal; and iv) comply with the Urban Wild Land Interface Code for building materials for any proposed structures on the property.

6. In support of the Application, the Applicant agrees with the conditions imposed by the BCC.

7. No members of the public spoke in favor or in opposition to the Application.

After conducting a public hearing on the request, the Board of County Commissioners hereby approves the request for a variance of Article V, Section 8.1.3 (Legal Access) of the Code to allow an access easement of less than twenty feet (20') and grade to exceed 11% on property located at 11 Caminito Santerra based upon the Applicant complying with the conditions as stated above.

IT IS SO ORDERED

This Order was approved by the Board of County Commissioners of Santa Fe County on
this ___ day of July, 2011.


By: _____

Virginia Vigil, Chair

Attest: _____

Valerie Espinoza, County Clerk

Approved as to form:

A handwritten signature in cursive script, appearing to read "Stephen C. Ross", written over a horizontal line.

Stephen C. Ross, County Attorney

and request that visit with the Agua Fria Village Association to look at alternative densities and gain some input, not necessarily alternative densities but alternative designs. Okay. Any other comments?

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

- XV. A. 5. CDRC CASE # V 11-5010 Bernie Romero Variance. Bernie Romero, Applicant, requests a variance of Article V, Section 8.1.3 (Legal Access) of the Land Development Code to allow an access easement of less than twenty feet (20') in width. The property is located at 11 Caminito Santerra, off County Road 67A, within the Traditional Community of Canada de Los Alamos, within Section 27, Township 16 North, Range 10 East, (Commission District 4)

WAYNE DALTON (Building & Development Services Supervisor): Thank you, Madam Chair, Commissioners. On April 12, 2011, the BCC met and acted on this case. The decision of the BCC was to table this case in order for staff and the Fire Marshal to meet with the Applicant to determine whether there are other options regarding fire protection due to the access issue.

On April 29, 2011, staff and the Fire Marshal met with the Applicant and determined that if the variance is approved there will be other fire protection requirements that the Applicant must comply with. These improvements will include a turnaround on the property, a water storage tank, sprinkler system, a vegetation management plan, and compliance with the Urban Wild Land Interface Code for building materials for any proposed structures on the property. However, staff and the Fire Marshal still recommend that the variance be denied based on the access, which exceeds 11 percent and is less than 20 feet in width.

Madam Chair, Chief Sperling and Buster Patty are here to answer any questions you have regarding the access and additional fire protection requirements.

CHAIR VIGIL: Okay. Are there any questions for staff in particular?
Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I appreciate, because I know we had discussion on this, all the Commissioners. I appreciate that staff had the meeting. I guess what I'm confused about is that staff is still not recommending supporting it. Given the context of the discussions that happened with the Fire Marshal and the alternative recommendations. Is it solely based on -- why isn't staff supporting it now given what you went to to get us to this point?

MR. DALTON: Madam Chair, Commissioner Anaya, staff is still recommending denial based on the access issue. The access is still less than 20 feet in width and the grade is exceeding 11 percent. That is a code requirement, that the grade can't exceed 11 percent and it has to be a 20-foot driving surface. That is why staff is recommending denial.

COMMISSIONER ANAYA: Madam Chair, an I think I'd like to ask the chief a few questions of the Fire Department.

CHAIR VIGIL: Okay. Mr. Sperling, are you here? Or Buster Patty. Mr. Patty.

COMMISSIONER ANAYA: I saw the Chief. Was he just there or was it just me? Oh, there he is. Either one of you.

BUSTER PATTY (Fire Marshal): Madam Chair, Commissioners, we did go out and we had a look at the road to see if there's any alternative ways to help him. The road that's in question and grade is over 11 percent is actually 20 percent grade. We can get in there but in inclement weather it will create a problem with both fire equipment access and emergency response, because of the steepness of the grade. It is very narrow; it's a one-way road going in and out of that place. If you do decide to grant this we will have some other options that we can do. We can do the water storage. The water storage doesn't do us a lot of good if we can't get equipment into it and if we have inclement weather like I say with the snow on that thing we may not be able to get down that road. If we do we may not be able to get out.

We have an access that comes out onto the Canada de los Alamos Road that's just very abrupt up at the top, so we have to make a right or a left hand turn immediately. If we stop the equipment, in slicker weather we'd never be able to get going again and we'd be liable to block that road for any other piece of apparatus going in there. That's why we based our decision on that.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Yes.

COMMISSIONER ANAYA: Madam Chair, thank you, Mr. Patty for being here, first of all. I understand what you said and we had some discussion about this at the last meeting, and I think that overall throughout Santa Fe County we are always trying with your help and the help of the rest of the staff to improve the situation of access, emergency access, but I think the other thing that I think we – I know I asked staff to consider as we're looking at cases is the reality associated with the placement of lots and even existing lots, that there are places within Santa Fe County that we know are far worse situations than this but yet we do our best and you do your best as the Fire Department to access those. And I respect your comments but I also respect those individuals out there that are in these tough situations that are trying to provide property to their family, trying to provide opportunities to live for members of the community.

And so I would continually appreciate additional options being pursued when they are potentially viable that can help balance protection and fire safety with individual people that are trying to get lots and better themselves as well. So thank you, Madam Chair.

CHAIR VIGIL: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. Mr. Patty, I did a lot of door-to-door out there when I was running for office, and it seems to me that there are a lot of properties in that situation, right in the Village of Canada de los Alamos, isn't that correct? That are extremely difficult to get into?

MR. PATTY: That is correct. There's lots of driveways out there that don't meet the code. This is the basis, that it just doesn't meet the code and it's brought here so that you can make a decision on it. If you do make a decision to approve it then the code does allow us to ask for some optional things, which would be sprinklering or some water storage and turnarounds to be able to get the equipment turned around.

COMMISSIONER HOLIAN: Okay. Thank you, Mr. Patty. And I have a question for staff too. Is a guesthouse allowed on that property?

MS. COBAU: Madam Chair, Commissioner Holian, we look at guesthouses as accessory structures, so right now, Mr. Romero has a piece of property with a home on it. If he's granted this variance he wants to do a land division. So he would not be allowed to put a guesthouse on that property after it were divided because it would be an accessory structure without a main residence.

COMMISSIONER HOLIAN: Well, let's say he didn't divide the property and he just – say he wanted to put an extra guesthouse on his property. Would he be allowed to do that?

MR. DALTON: Madam Chair, Commissioner Holian, the applicant does have the density for a guesthouse on the property.

COMMISSIONER HOLIAN: Thank you.

CHAIR VIGIL: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. This question is for fire. Can you describe for me the effectiveness of a water sprinkler system in containing a fire in and around the house?

MR. PATTY: Yes, Madam Chair and Commissioners. Sprinkler systems that are required in a house, when required, is an SPB-13D system. It is a small system. It's normally a ten-minute system. It's for life safety purposes. It's not necessarily designed to save the house. It's to buy time to let the people evacuate the house and to get out safely. Life safety is the number one priority here.

COMMISSIONER STEFANICS: So, Madam Chair, the fire suppression system would not in fact keep a fire from spreading across the property into other properties.

MR. PATTY: It's hard to say. It might. Most of the time a suppression system in a house like that will stop a fire. Insurance companies also know this. There's a lot of the water supply that is based on the insurance companies to be able to even insure a home in an area like this. With the sprinkler system, that is the best way and most viable way for them to even get insurance on this home. The sprinkling would be one of the minimum requirements that we would have for this house and probably one of the most feasible things he can do.

COMMISSIONER STEFANICS: Well, Madam Chair, the reason I'm asking this question is, being in fire season, if we are concerned about what's going on right now and the spreading of wildfires this would be a concern that it would not really suppress.

The second item I really want to ask I guess is to staff, and this – I know I've brought this up before. This is a philosophical issue. When somebody has a piece of property and they don't – the property does not conform to what we would like for it to in terms of code, in terms of grade, etc., what have been some of the other options that we have put forward to applicants coming forward?

MS. COBAU: Madam Chair, Commissioner Stefanics, philosophically, if someone has a legal lot of record we make every effort to allow them to develop on their property. If this were a legal lot of record with challenged access without a house on it variances are granted based on non-self-inflicted conditions that are non-topographic in nature. So this might well be one that staff would recommend approval of because the applicant would have no other choice. However, the applicant has beneficial use of this

property; there's already a home on it. He just to do a land division and create another lot. So the beneficial use of the property is already there.

COMMISSIONER STEFANICS: So, Madam Chair, from what I'm hearing, if this property – it's a variance for an access easement. That's all.

MS. COBAU: Madam Chair, Commissioner Stefanics, that's correct. He has the density to do a family transfer land division on his property. However, he doesn't have adequate access to access the new lot. So that's why he needs a variance. Because the current access does not meet code standards.

COMMISSIONER STEFANICS: So, Madam Chair, if we provided the variance for the access, and the owner sells the property in five years, and someone new comes forward to do something with this land. We would make accommodations for that person? These are philosophical questions.

MS. COBAU: At that point it would be a legal lot of record, Commissioner Stefanics, so they would have a right to develop on it if it were a legal lot of record. Once the lot is created, in the creation of the lot we would require they show buildable area, they would have access granted by variance, so it would be a developable lot.

COMMISSIONER STEFANICS: Well, Madam Chair, my comment is that, right or wrong, throughout the entire county we have non-conforming properties and we hear these cases a lot, and every time someone comes in front of us and their neighbors or their community has been allowed to do something that they're not allowed to do they really see it as discrimination against them, even though we have a code that we're trying to uphold. So we recognize, or I recognize that it's very hard on these individuals to hear a yes or a no, especially their neighbors, because if it goes against the neighbors they're not happy and if it goes against the property owner, they're pretty unhappy. So I just wanted to put out that we have many of these around the entire county. Thank you.

CHAIR VIGIL: Question, Shelley, while you're there, then I'll turn it over to you, Commissioner Anaya. Since they have full beneficial use, is there another access road that could be identified or would the terrain prevent that?

MS. COBAU: The terrain prevents, precludes any additional secondary type of access. There's I guess been discussion with their neighbor to get the 20-foot easement widened. I don't know if there's been any cash offered to the neighbor for the cash that they want to have in addition to what they already have. I don't know what the details of their negotiations with their neighbor are. Maybe Wayne can address that.

MR. DALTON: Madam Chair, this is the only access to this property.

CHAIR VIGIL: And the terrain prevents any other possible access? Would you state that?

MR. DALTON: It's very difficult, yes.

CHAIR VIGIL: Okay. Commissioner Anaya. And we still have to have a public hearing on this, by the way.

COMMISSIONER ANAYA: Thank you, Madam Chair. I think that the last point is probably the point that is the most frustrating I think for the property owner. The property owner's property meets the size requirements associated with needing the separation of lot requirements to actually do a transfer and it's a matter of whoever the neighbors are not wanting to give five more feet. And that the request that we had as a Commission was to seek

alternate measures beyond the 15-foot requirement that would help mitigate an emergency situation. And I think that's what you've done and what you've talked about.

I think, Madam Chair, Commissioner Stefanics, relative to your comment, I think you're spot-on with your remarks and I think as we go through the code process right now that we may want to have discussions and be a little more explicit about potential options that we would look at or that staff would look at instead of an either yes or no recommendation from staff so that within the code we build in provisions where staff could actually utilize that code to come up with alternative methods if there wasn't the appropriate ingress or egress or whatever the deficiency might be, but that there would be built in options for staff to consider rather than just it's either yes or no. Thank you, Madam Chair.

CHAIR VIGIL: Okay. This is a public hearing. Is there anyone here that would like to address the public, and before I do, Commissioner Mayfield, what is your question?

COMMISSIONER MAYFIELD: Thank you. Madam Chair and staff, the applicant's home and including all of the surrounding homes, and I count at least four, five, maybe six, seven – were any of these homes granted a variance for the existing easement that they are all sharing to get into the property?

MR. DALTON: Madam Chair, Commissioner Mayfield, I'm not aware of any variances that were approved in this area, for access.

COMMISSIONER MAYFIELD: Madam Chair and Wayne, when did the code go into place that required the 20-foot easement on the road?

MR. DALTON: Madam Chair, Commissioner Mayfield, that would be 1996-10, so 1996.

COMMISSIONER MAYFIELD: So arguably, all these homes were built prior to 1996.

MR. DALTON: Madam Chair, Commissioner Mayfield, I couldn't answer that question. The homes in the area look older but there are also some newer homes in the area.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Dalton, do we have the applicant here?

MR. DALTON: Yes, he is here.

COMMISSIONER MAYFIELD: Was his primary home constructed prior to 1996 or post-96? So, Madam Chair, if his home was constructed post-96 did he receive a variance to build that home back there?

MR. DALTON: Madam Chair, Commissioner Mayfield, it is a legal lot of record. He was allowed to build a home on that property, and I have no record in our system of a variance being approved for that home.

COMMISSIONER MAYFIELD: Thank you.

CHAIR VIGIL: Okay. This is a public hearing. Anyone from the public that would like to address the Commission on this please step forward. Okay, seeing no one, any further questions? Commissioner Holian, please proceed.

COMMISSIONER HOLIAN: I feel that actually if we put on the conditions that were recommended by our Fire Marshal that we will actually make that area slightly safer. For one thing there will be turnaround on the property. There will be a water storage tank. I do recognize that in bad weather that it will be difficult for fire or emergency vehicles to get up that driveway but then that's probably true for almost all the other driveways in that

area. So therefore I would like to move for approval of CDRC Case #V 11-5010, Bernie Romero Variance, with the following conditions: That there be a turnaround constructed on the property, a water storage tank, and let me just ask Mr. Patty – is 10,000 gallons appropriate?

MR. PATTY: Madam Chair, Commissioner Holian, a 10,000-gallon tank for each dwelling. There's one existing there now that is not the one we're looking at. So it would be one 10,000-gallon storage tank and a sprinkler system and a turnaround.

COMMISSIONER HOLIAN: Okay. And also a condition for the sprinkler system. Also a vegetation management plan, and compliance with the Urban Wild Land Interface Code for building materials for any proposed dwelling. So I would like to put all those conditions on the variance.

CHAIR VIGIL: I have a motion.

COMMISSIONER ANAYA: I second, Madam Chair.

CHAIR VIGIL: And a second. Further discussion?

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

- XV. A. 6. **CDRC CASE # V 10-5240 Ronald Crawford Variance. Ronald Crawford, Applicant, Jim Siebert, Agent, request a variance of Article III, Section 10 Lot Size Requirements of the Land Development Code to allow a lot line adjustment to reduce Tract A-2 to 2.507 acres and increase Tract A-1 by 4.01 acres for a total of 10.90 acres. The property is located at 17 Roy Crawford Lane, within Section 17, Township 16 North, Range 10 East (Commission District 4)**

MR. LARRAÑAGA: Thank you, Madam Chair. On October 21, 2010, the County Development Review Committee met and acted on this case. The recommendation of the CDRC was to deny the Applicant's request in conformance with staff's recommendation. The Applicant requests a variance of Article III, Section 10, Lot Size Requirements of the Land Development Code to allow a 6.526-acre parcel to be reduced to 2.5 acres. The Applicant is proposing a lot line adjustment between Tract A-1 and Tract A-2. The lot line adjustment would increase the acreage on Tract A-1 to 10.90 acres and decrease the acreage on Tract A-2 to 2.5 acres.

The Applicant states he must sell his mother's home located on Tract A-2 but wishes to retain as much of the family property as possible. The lot line adjustment would also allow for his driveway, which is within Tract A-2, to be platted entirely on his property. The property is located within the Metro Mountain Hydrologic Zone where the maximum allowable lot size is 20 acres with .25 acre-feet water restrictions and can be reduced to five acres with community water. Both Tract A-1 and Tract A-2 are below the maximum allowable lot size permissible by the Land Development Code.

Article II Section 3 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

