

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

COMMISSIONER DURAN: But right now the Code is 15.

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

COMMISSIONER DURAN: Thank you, Mr. Chair.

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

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

COMMISSIONER DURAN: At final plan.

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

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

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

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMMISSIONER SULLIVAN: They were in mine, anyway.

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

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

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

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

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

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

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

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

COMMISSIONER SULLIVAN: But that's with each lot.

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

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

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

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

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

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

MS. VAZQUEZ: We would not.

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

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

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

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

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

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

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

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

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

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

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

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

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

COMMISSIONER SULLIVAN: Right.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



that from a marketing standpoint?

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

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

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

COMMISSIONER SULLIVAN: Sure.

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

COMMISSIONER SULLIVAN: To protect the water.

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

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

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

COMMISSIONER DURAN: And how many?

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

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

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

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

COMMISSIONER SULLIVAN: What is a conditional dedication?

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

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

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

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

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

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

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

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

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

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

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

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

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

MS. GUERRERORTIZ: That's correct.

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

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

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

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

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

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

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

COMMISSIONER SULLIVAN: Will be within the fifty feet.

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

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

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

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

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

COMMISSIONER DURAN: Mr. Commissioner -

COMMISSIONER SULLIVAN: Go on. I yield.

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

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

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

COMMISSIONER DURAN: Well, what's your solution?

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

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

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

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

COMMISSIONER DURAN: Well, ask him.

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

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

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

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

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

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

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

requirements on that road and met every standard on it.

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

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

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

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

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

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

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

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

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

COMMISSIONER SULLIVAN: Okay, so if we put that in that won't hurt anybody's feelings.

MS. VAZQUEZ: Do you have a copy of that for the record somewhere?

MR. ABEYTA: I don't know. Vicki probably does.

COMMISSIONER SULLIVAN: And I just wanted to clarify, in some of the documents, I don't see anything mentioned about the wastewater treatment system, other than constructed wetlands. But I understand that was the old process, that we're now talking about an advanced trickling filter with additional storage and treatment. Is that correct?

MS. VAZQUEZ: Mr. Chair, Commissioner, I believe you're looking at the master plan submittal on that, what was submitted at master plan. The development plan submittal submitted by Design Engenuity did have a wastewater treatment plan.

COMMISSIONER SULLIVAN: Okay.

MS. VAZQUEZ: The plans outline it as well.

COMMISSIONER SULLIVAN: Condition 22 talks about what you're going to do on Dinosaur Trail west of the subdivision, that you're going to put some gravel down there, some basecourse. There's no condition that addresses what you're going to do east, but my understanding is what you're going to do east from looking at your drawings is that you're going to basecourse and pave that to four inches of asphalt paving. Is that correct?

MS. VAZQUEZ: Mr. Chair, Commissioner, we will comply with the guidelines for basecourse, yes. From the County Public Works. And paving.

COMMISSIONER SULLIVAN: Okay, now I read four inches. Is that what you're proposing?

MS. VAZQUEZ: That's correct?

COMMISSIONER SULLIVAN: Okay, so we've got that on the record, that it will be four inches. Okay. There was no indication of the conditions as to what that would be and I just wanted to be sure it was clarified. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya?

COMMISSIONER MONTOYA: Mr. Chair, Ms. Vazquez, regarding the requirement of .16, condition number 19, correct me if I'm wrong, but did I hear Ms. Guerrerortiz say that we were looking at .13?

MS. VAZQUEZ: That is correct. We want a water restrictive covenant placed on each of these homes that will be recorded with the Clerk's office at a .13. We have accepted the water budget of .16.

COMMISSIONER MONTOYA: Oh, you have.

MS. VAZQUEZ: We have.

COMMISSIONER MONTOYA: So you're in agreement with this condition?

MS. VAZQUEZ: We are, Commissioner.

COMMISSIONER MONTOYA: Okay.

MS. VAZQUEZ: We just want to push the water use even more. We want

to push people to use less water, and we believe that by putting a .13 water restriction we will push them to use less water.

COMMISSIONER MONTOYA: Okay. And then for staff, Ms. Lucero, regarding the information that you gave us today from the Office of State Engineer, what would you conclude in terms of their final analysis, which was: "Consequently, this office is compelled at the current time to issue a negative opinion of the water supply availability for this development."

MS. LUCERO: Mr. Chair, Commissioner Montoya, are you referencing what type of condition we would impose as far as that memo goes?

COMMISSIONER MONTOYA: Yes, would there be a recommended condition or - what would be staff recommendation?

MS. LUCERO: Mr. Chair, Commissioner Montoya, there is a condition, I believe it's condition number 13, that requires compliance with review comments from the State Engineer's Office. So any additional requirements from the State Engineer the applicants would be required to comply with.

COMMISSIONER MONTOYA: Okay, so that would include today's correspondence.

MS. LUCERO: That's correct.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, my question is about the affordable housing. It seems like we're always pushing back affordable housing, and some developers are always saving that for the last. I think that it's important that we maybe build those units in the first 69 units. And I'd like to see that. How do you feel about that?

MS. VAZQUEZ: Mr. Chair, Commissioner, we will build what's required in that first phase of the 69 units. So I believe that's - I gave the plan back to Oralynn. But I think it's -

COMMISSIONER ANAYA: Seven.

MS. VAZQUEZ: No, it's ten units.

COMMISSIONER ANAYA: Ten?

MS. VAZQUEZ: Yes.

COMMISSIONER ANAYA: Okay, so I was hearing earlier that there was going to be four. How many units total?

MS. VAZQUEZ: There's a total of twelve units, Commissioner.

COMMISSIONER ANAYA: Okay. So I was hearing that four units would be part of the eleven units that would be held off?

MS. VAZQUEZ: Mr. Chair, Commissioner, what Commissioner Sullivan said is that four of the affordable housing units are within those condo units that we would agree to hold off on building. But what I said to him was that we would agree to build the required affordable housing units within the 69 units. So that would be a total of ten out of the twelve units that we needed to build.

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COMMISSIONER ANAYA: Okay.

MS. VAZQUEZ: This is essentially now, because we're holding off one those condo units, a phased project. And so the rules for affordable housing on phased projects are a little different.

COMMISSIONER ANAYA: So you would build the last two if we were to give you approval, if you were underneath the water budget, you would build those last two when you do the eleven units?

MS. VAZQUEZ: Mr. Chair, Commissioner, that is correct. We would build the last two when we met our water budget and we could go forward with the construction of the condo unit.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN CAMPOS: Okay, if there is no objection -

COMMISSIONER DURAN: Sir? Can I ask a question?

CHAIRMAN CAMPOS: You have a question.

COMMISSIONER DURAN: Why won't you build all of them?

MS. VAZQUEZ: Why won't we build the entire twelve units?

COMMISSIONER DURAN: All the affordable units.

MS. VAZQUEZ: Within the 69 units? Because the requirement right now is the fifteen percent affordable. Because the zero to sixty percent range and the size of the housing meets with the condo units that we were constructing. Because it made sense to us to put some affordable housing units in the neighborhood center closer to some office space and potential jobs.

COMMISSIONER DURAN: But you really wouldn't have a problem if we required that you build all twelve immediately, would you?

MS. VAZQUEZ: If we were required to build the twelve units, that would increase the ordinance requirement of fifteen percent to seventeen percent of affordable housing units.

COMMISSIONER DURAN: Well, there's no requirement right now to give you .13 acre-feet either.

MS. VAZQUEZ: That is correct, Commissioner. There is no requirement. But we believe we've met the burden by establishing the evidence through the meter data for Rancho Viejo.

COMMISSIONER DURAN: Well, I think it's all about give and take. I think that building all twelve of them is a reasonable request to ask of you. Because the affordable housing always gets shortchanged.

COMMISSIONER ANAYA: I agree.

CHAIRMAN CAMPOS: Okay.

MS. VAZQUEZ: Mr. Chair, Commissioners, I -

CHAIRMAN CAMPOS: Can we hold on for a minute? If there's no objection from the Commission, I'd like to move to public hearing.

COMMISSIONER DURAN: That would be a good idea.



CHAIRMAN CAMPOS: Okay. Any objection? Let's go to public hearing. Anybody in the public want to address the Commission on this particular application? Nobody?

COMMISSIONER ANAYA: One person.

CHAIRMAN CAMPOS: Come on up.

[Duly sworn, Allen Hoffman testified as follows:]

ALLEN HOFFMAN: My name is Allen Hoffman, and I live at 122 Coyote Ridge Road. I could point out initially that I own no portion of this and I am not here as an owner. But I am here in my capacity as a community founder, as I believe I'm an environmentalist, and as a father. I want to try to express to you that what you're doing here today is far more important than just approving or disapproving one community.

I do a radio show on KSFR on environmental issues, and we have had environmentalists, experts, and the public commenting. And the one issue that comes up over and over again is the only hope for the future of Santa Fe County for my children and their children is the concept of water re-use. I would like to point out that the proposal that has been made here today is revolutionary as far as Santa Fe County is concerned. It is the first time that any developer has proposed to build not only a single water system, but a second water system at enormous cost to treat the water, to filter the water, to disinfect the water, and to send it back to each home.

Now, I think this is crucially important for us to remember, because as a town founder and as a community builder, which I do, if we do not honor the people for doing the right thing, people will not do the right thing. The right thing for the future of my children is to take this concept of water re-use, which has never been done before, and to prove two things. Number one, to prove that it works, and number two, to prove that this body will honor people and will encourage people to do this. So I will make this - I will vow right now that if you can provide them an incentive, a reason to spend this extra money, to build this revolutionary system, then the next time, if there ever is a next time, or I create another community, I will also use this technology.

And I think that it is fair to say that all the other people who are developers are watching this hearing very carefully. Because if they are going to spend this extra money and take this extra risk, they need to make it financially feasible. So if I were in your place, which of course I am not, but if I was, I would look at such a noble effort as this and say, Well, maybe we will take the risk, and instead of going at .16, we'll make it .15 or even .14, which is still more than their projection of .13 or .136, however you read that data. I think that is crucially important. I think there are lots of community builders and developers out there that if they felt that the County Commission would honor these efforts, that they would do the same. And quite frankly, someday I would like to see this be the law, for every developer to have to re-use water.

Now, I could go into great detail why this is such a revolutionary system that they're proposing. It's called a partial closed loop. The water that goes through the toilets is permanently returned. It is no less than revolutionary. And even at .16 - well, at .13,

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you're taking about a forty percent, over a forty percent savings on annual water use. That almost doubles the amount of our children that can stay and live in this community.

I'll close just by saying one thing. When Cris Moore cast the vote that approved the Aldea community, a community that I helped create, one of his constituents came up to him and said, I voted for you because you were anti-growth, and now you cast a vote that approved a community. And Cris Moore looked at this man and said, If we oppose all development, only bad development will survive.

You can speak to the development community here in Santa Fe right now and say, We're willing to support this revolutionary way of approaching our water problems. And especially if we're going to start looking at wells, production wells. As the source of water for the future, conservation will be absolutely crucial. Please, make the effort. Give these folks a little extra help in making this project financially feasible, and the rest of us who are in this business will follow suit. Thank you.

CHAIRMAN CAMPOS: Thank you. Anybody else?

[Duly sworn, Lynn Canning testified as follows:]

LYNN CANNING: Hello Commissioners. My name is Lynn Canning and I'm with the Santa Fe Land Use Resource Center. And I swear to tell the truth, the whole truth, and nothing but the truth. And generally we don't speak either in favor of or in opposition to particular developments. And so I'm going to speak as the person who has spent years with many of you working on a Regional Planning Authority plan for this area.

And I guess I would like to say that my understanding of this project is that it does in fact attempt to bring together a number, if not all, of the criteria that the Regional Planning Authority is putting forward as the criteria by which we wish to direct development in the future for this community. In terms of water, in terms of affordable housing, in terms of economic development, in terms of desired development patterns, it seems to be something that attempts to bring all those together.

And so I can't be as eloquent as the previous speaker about this, and again, to me it's not so much being in favor of a particular development or opposed to others. But I know that this community needs affordable housing, and I'm grateful that you've stressed that this evening. I know that this community needs projects that will take care of our precious water resource and spread it as far as it goes. I know that this community needs jobs. And I know that Commissioner Sullivan has in fact said just permitting commercial zoning isn't going to create those jobs. But having them as part of a development, and a well done development, obviously is going to make a difference. And I know that we've all agreed that desired development patterns is also important.

So I guess I would just like to say that we've been on this road for planning for this area for a long time. The County's been on this road with the Community College District. It does happen to fall in that district. I don't feel as though it should be approved just because it does. But it also falls in the area and within the criteria that the Regional Planning Authority is putting forth. And I would hope that you would - what our dream always was, Commissioner Duran, I think was to bring our vision of land use planning and

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linking land use and water together with growth management that brought the elements that as a community we need to move into the future together. And to do that in the Regional Planning Authority so that when you have your permit and development review hats on, you've also got the regional plan in mind. And I'm just asking you to keep those things in mind this evening when you look at this. Thank you very much.

CHAIRMAN CAMPOS: Thank you. Anybody else? Okay, public hearing is closed. Any additional comments?

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER DURAN: I've known Mr. Hoffman for a long time, and I know that the last ten years he's spent working on projects that are community-minded. And I really believe that the future of this community relative to the development community - the future of the development community, developers in this community, is to bring forward socially responsible developments. I see that this represents that. It meets our Code, the Code that we approved developing the community college district. And the innovative way that they are going to recycle this water also I think represents socially responsible development. And I would like to make a motion to approve the project with all of the recommendations. And I know that Commissioner Sullivan had several that I would be willing to attach as friendly amendments, except for the fifty-foot road one. But if you insist, I would suggest that if you wanted that fifty-foot road to be continuous, that we make that a condition. And if the applicant cannot come forward with signed agreements for that widening, that they come back and we discuss it again, or that -

COMMISSIONER SULLIVAN: That's fine.

COMMISSIONER DURAN: Okay.

COMMISSIONER MONTOYA: Is that the 31 condition?

COMMISSIONER DURAN: Yes.

COMMISSIONER MONTOYA: Second.

COMMISSIONER DURAN: Did you have other amendments, Commissioner Sullivan?

COMMISSIONER SULLIVAN: Not too many. Just to clarify on the right-of-way, that the condition would be fifty feet of right-of-way both within the boundary of the subdivision as well as east of the subdivision to Richards, excluding the trail, which would be outside that.

COMMISSIONER DURAN: But I want to condition that.

COMMISSIONER SULLIVAN: I'm getting to that.

COMMISSIONER DURAN: Okay.

COMMISSIONER SULLIVAN: And that if the applicant cannot achieve that through agreements with the owner -

COMMISSIONER DURAN: Or if it becomes cost-prohibitive.

COMMISSIONER SULLIVAN: Or if it becomes cost-prohibitive, then that issue will come back for re-analysis by the Commission.

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COMMISSIONER DURAN: In master plan and final.

COMMISSIONER SULLIVAN: Well, they're at final now.

COMMISSIONER DURAN: Oh. What's your next level?

MS. VAZQUEZ: We're at final, Commissioner.

COMMISSIONER DURAN: Oh, you're done? Okay. Well then, within thirty days.

COMMISSIONER SULLIVAN: Within thirty days of the notification from the applicant that they can't achieve this agreement. How's that?

COMMISSIONER DURAN: I would say thirty days from today.

COMMISSIONER SULLIVAN: Well, they've got to have time to work it out.

COMMISSIONER DURAN: How much time would you need to try and work that out with your neighbors?

MS. VAZQUEZ: Let me understand the condition. You're looking for fifty feet of right-of-way from the boundary of the property line east to Richards?

COMMISSIONER SULLIVAN: Correct. As well as in front of the property. But that's already shown on your drawings.

MS. VAZQUEZ: Right. Not including the trail?

COMMISSIONER SULLIVAN: Not including the trail, correct. Which is also the way it's shown on your drawings in front of the property. When I say in front, I mean along the boundary of the property.

COMMISSIONER DURAN: That it conforms with what is on your property.

MS. VAZQUEZ: The reason that we got the forty feet, Commissioner Duran, on certain places is because that's what we agreed to with some of the neighbors. And when we went to Public Works, it was acceptable. We'd have to go back to them. We would be willing to go back to them, we would be willing to talk to them about doing that.

COMMISSIONER DURAN: They're both here, are they not?

MS. VAZQUEZ: Hold on just a minute.

COMMISSIONER SULLIVAN: Why don't you just go ask them?

COMMISSIONER DURAN: Then we can deal with it right now.

COMMISSIONER SULLIVAN: Then we can deal with it now. And then -

MS. VAZQUEZ: Go ahead. Because Oralynn will deal with that issue, and I can finish this.

COMMISSIONER SULLIVAN: I think I had the clarifications about the signal. That I think was taken care of. And on 17, on the agreement with Emerald Alliance, would just be prior to plat recordation. That seems to have been taken care of, but I'd like to memorialize that. And I would like, as I indicated previously, to add an amendment which you brought forward, Commissioner Duran, which is that the affordable housing be built in the first phase.

COMMISSIONER DURAN: Right.

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COMMISSIONER SULLIVAN: As amendment 32, as condition 32. And I would also ask for consideration that the withheld units be those in the floodplain as opposed to the other units further up on the property. Does that cause you a problem?

COMMISSIONER DURAN: I don't understand the infrastructure reasons why -

COMMISSIONER SULLIVAN: It seems like it would be cheaper to build them, everything within that road network at the upper end anyway. I'm just concerned that we are building in the floodplain.

COMMISSIONER DURAN: Does that create problems?

MS. GUERRERORTIZ: Yes it would, sir. The Fire Marshal likes loop roads. I'm sure he'll want that road created. We're going to have to build it. I as an engineer would want it built. At that point we're putting all the infrastructure in for the homes, and we'd have in essence a road that wouldn't be used but would have all the infrastructure.

COMMISSIONER DURAN: How long are you - what's the build-out on the project? Anticipated build-out?

MS. GUERRERORTIZ: We anticipate it to be fairly quick. I think it'll be completely built out in a couple of years.

COMMISSIONER DURAN: And how long are you asking to hold back those eleven units until proof is given to us?

MS. GUERRERORTIZ: We've actually left that up to the staff. It's basically related to however much data they need to feel comfortable. We hope it's within two to three years, but that's actually under the staff's jurisdiction. But frankly, sir, Commissioner Sullivan and I don't agree. I don't see this as a flood hazard. I don't develop homes that will be in a hazard zone. These homes will be perfectly safe, and we do want them developed all at the same time.

COMMISSIONER SULLIVAN: Arroyo Hondo's the second largest arroyo in Santa Fe next to the Arroyo Chamiso, and it's unpredictable. And if we ever get rain around here, which I'll be glad to see, I think we're going to be surprised at what it does, given the development that's occurred upstream since these reports were there. If there's some way that we can word this, I think they already have a looped road, if the issue is a looped road. I believe that's already there. But it just seems logical to me that the units that are the most problematic be the ones that be held back in the second phase.

COMMISSIONER DURAN: So you said a two year build-out?

MS. GUERRERORTIZ: Yes, sir.

COMMISSIONER DURAN: That's forty houses a year, right?

MS. GUERRERORTIZ: Yes, sir. Oh, I'm sorry. So it's 35 a year.

MS. VAZQUEZ: About 35 a year.

MS. GUERRERORTIZ: Sir, I would venture to say that we're talking about the 500-year floodplain. We're talking about an area that potentially might get flooded once in 500 years. The probability is once every 500 years it's going to happen. Holding

back a few years isn't going to make a difference. If we held back 500 years we might see a result, but I think that's not a reasonable request at this point. And we're meeting Code. County code allows development in a 500-year floodplain.

COMMISSIONER DURAN: Okay. I think that my motion then, I'm sorry Commissioner Sullivan, is not with the holding back of those units, the holding back units being the floodplain units. I think that they're going to be able to prove that this technology works. This is the first time I've seen it. So my motion would be for everything that you attached to it excluding that.

COMMISSIONER SULLIVAN: Okay. Let me just make one other clarification or question, while we're in the discussion phase. This was something that the staff brought up. The conditions or the covenants allow 400 square feet of non-native irrigated landscaping per unit. And the Community College District Ordinance doesn't allow any non-native landscape materials. What was the need for the 400 feet? It seems like we could save some more water if we didn't allow 400 feet of Kentucky blue grass on each of these units.

MS. VAZQUEZ: Mr. Chair, Commissioner, actually the covenants prohibit non-native turf. What you're referring to is the State Engineer letter. And the State Engineer letter was concerned about the non-native turf issue. It was, I believe, there was an error in the plan submittal that we did send a letter to the State Engineer and we did cover it in the covenant that the only grass that's allowed would be native turf.

COMMISSIONER SULLIVAN: Okay. But the covenants that I read indicated a maximum of 400 square feet of non-native turf. That was written right in the covenants that are in the book here.

MS. VAZQUEZ: That's an error, sir.

COMMISSIONER SULLIVAN: You're indicating that that's an error.

MS. VAZQUEZ: Yes.

COMMISSIONER DURAN: So you'll change that?

MS. VAZQUEZ: We would agree to -

COMMISSIONER SULLIVAN: You would change that so there'll be non-native -

MS. VAZQUEZ: It's a College District Ordinance requirement.

COMMISSIONER SULLIVAN: Well, that's what I thought. And that's why -

MS. VAZQUEZ: Yes, it is.

COMMISSIONER SULLIVAN: It was brought up by the State Engineer, but I did still see it in these covenants that you submitted.

COMMISSIONER DURAN: Okay, that's my motion.

CHAIRMAN CAMPOS: Commissioner Anaya?

COMMISSIONER ANAYA: Mr. Chair, I just want to say a couple things. This is a unique development in Santa Fe County. It's the first of it's kind because of the double plumbing. I know a couple years ago we talked about it, and now we're seeing it.

And I think that is good for Santa Fe County. We're implementing the water harvesting in this development, wastewater treatment plant, the re-use of water. We're bringing economic development back to Santa Fe County. And the affordable housing, which is very important to me - and I'm glad to see the Commissioners agree with me on bringing those twelve units up right away. It's got the park, the plaza, open space and trails, and all that to me is very important in a subdivision. So Mr. Chair, with that, thank you.

CHAIRMAN CAMPOS: Okay. Commissioner Montoya?

COMMISSIONER MONTOYA: Mr. Chair, Steven, Dr. Wust or Doug, what is the time that we are going to request of the applicant in terms of the collection of data? Is it stated in there somewhere? I probably missed it.

STEPHEN WUST (County Hydrologist): Mr. Chair, Commissioner Montoya, Steven Wust, County Hydrologist. I was telling you, it's in my letter, but basically what we talked about was two to three years of data. And the reason we've left it a little vague is that it would really depend on the data that come in. In other words, if there's a wide range and we're getting a variability and we're still seeing changes summer to winter, we'd want more data to prove it out. But if it's a nice narrow range and it's showing that it's coming in at a pretty consistent level, then we could accept it in a reduced amount of time. And so it isn't definite to say exactly.

The other reason would be how many units. If building slows down and there's only twenty units in the next year, that's probably not enough units to say there's a year's worth of data. So we tried to leave it a little vague in order to accommodate the future variability on how many houses would be in the data set and what the range of the data would be.

COMMISSIONER MONTOYA: So Mr. Chair, Stephen, would that have possibly been in your letter of March 1<sup>st</sup>?

MS. VAZQUEZ: EZC packet, the letter that was submitted, it was dated December 5, 2003. I only have the first page of it in my records, but it did have a time frame of two to three years and his rationale was basically that depending on how much data came in - it was submitted as part of the record.

COMMISSIONER DURAN: I think three years is too long.

DR. WUST: Mr. Chair, it says here if they collect a minimum of three years of water use data with a sufficient number of units, but as I expressed, that's been updated and it could change, depending on the data spread and the number of units.

COMMISSIONER DURAN: Wouldn't they have the option to come forward if they have the data sooner? They could always come in and ask, or they could come back and say we need more time.

MS. VAZQUEZ: I believe that was why the condition was written the way it was.

COMMISSIONER DURAN: That's the beauty of life; things change.

CHAIRMAN CAMPOS: That's right. Weather cycles. We have to wait for the weather cycles to show us. And what they do in fact per unit.

COMMISSIONER DURAN: I understand. Okay. Any other comments or questions.

COMMISSIONER MONTOYA: Mr. Chair, is that letter then part of the record?

MS. VAZQUEZ: Mr. Chair, Commissioner, it is part of the record because it was submitted in the EZC packet. I do have a copy if you'd like me to add it as an additional part of the record.

COMMISSIONER DURAN: So are we saying two years?

COMMISSIONER MONTOYA: Until sufficient build-out.

COMMISSIONER SULLIVAN: That's what we did for Rancho Viejo.

COMMISSIONER MONTOYA: Yes.

COMMISSIONER SULLIVAN: Excuse me, Mr. Chair, Commissioners, is that a condition we want to add on, 32, based on three years of data?

COMMISSIONER MONTOYA: If that's okay with the maker of the motion.

COMMISSIONER DURAN: That's fine with me.

MS. VAZQUEZ: Excuse me, Mr. Chair, Commissioner, what was the result of the water issue?

COMMISSIONER DURAN: The letter that you submitted is part of the record and that's a condition.

COMMISSIONER MONTOYA: Right. It was submitted.

CHAIRMAN CAMPOS: By the way, did you have any discussions about right-of-way?

MS. VAZQUEZ: I did. I just quickly wanted to say the College District standards requires a 50-foot right-of-way, but it also gives you flexibility to divide it up. Give you 40 feet for the road and ten feet for the trails. And the reason they do that is they wanted to give people some flexibility in the design of the road and in the design of the trail and we have met that standard throughout this development and I just wanted to point that out for the record. Also, the last thing is that in dealing with the neighbors, this subdivision was really created through neighborhood effort. The neighbors wanted it, a meandering trail.

CHAIRMAN CAMPOS: The question is, you talked then about acquiring 50 feet. That's the question.

MS. VAZQUEZ: Mr. Gillentine would not agree at this time to give us the 50 feet of right-of-way.

COMMISSIONER DURAN: Then I withdraw it as a motion, as a condition, and accept your 40 feet with a meandering trail.

MS. VAZQUEZ: Thank you, Commissioner.

CHAIRMAN CAMPOS: Secunder?

COMMISSIONER MONTOYA: Fine.

CHAIRMAN CAMPOS: You accept that?

SFC CLERK RECORDED 04/19/2004



COMMISSIONER MONTTOYA: Yes.

CHAIRMAN CAMPOS: What's the - what do you anticipate the sale price will be for these lots?

MS. VAZQUEZ: Mr. Chair, Commissioners, hold on.

COMMISSIONER DURAN: What does that have to do with anything?

CHAIRMAN CAMPOS: Just curious.

COMMISSIONER DURAN: You have a buyer here for one.

CHAIRMAN CAMPOS: No, no.

COMMISSIONER DURAN: It just went up \$20,000 based on all these conditions.

COMMISSIONER SULLIVAN: Mr. Chair, while they're talking, can I make a comment?

CHAIRMAN CAMPOS: Sure.

MS. VAZQUEZ: Mr. Chair, Commissioners, I don't believe my principals can answer that at this point.

COMMISSIONER SULLIVAN: I can answer it for you. I can tell you what they're selling for in that area. Mr. Chair, I think that this project has a lot of favorable components to it. I think it's a serious mistake not to have adequate right-of-way in a development. I think if we've set a standard that says that we can have this constricted right-of-way it's going to come back to haunt us and the taxpayers of Santa Fe County are going to have to pay someone to widen that right-of-way to make it safe and to carry the amount of traffic that this project is going to generate. I've come to that conclusion in discussing it with people, myself included, who live in the vicinity of the project. So I just want to make that clear, that there's a great deal of factors that make us feel that this is a good project and we hope that everything that's promised comes to be when the homes are built, but I think that we have not adequately addressed the traffic situation. If forty feet of right-of-way was adequate, the developers would have saved money and had 40 feet of right-of-way on the boundaries of their own property. So clearly, the engineer doesn't feel that it's adequate or she would have designed a 40-foot row on their property.

So I just want to make myself clear. Thank you.

CHAIRMAN CAMPOS: And Commissioner Duran, I would urge you to consider the 50-foot. I think as things change, usage changes, the County's going to have to pay for this.

COMMISSIONER DURAN: It's 40 feet and then there's still a trail for the bike, correct?

MS. VAZQUEZ: That's correct.

COMMISSIONER DURAN: And the trail for the bike is not in that 40 feet.

MS. VAZQUEZ: That is correct, Commissioner.

COMMISSIONER DURAN: Thank you. My motion stands.

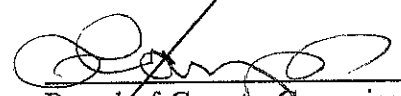
The motion to approve EZ Case #S 02-4321 passed by majority [4-1] voice vote,

with Commissioner Sullivan voting against.

ADJOURNMENT

Chairman Campos declared this meeting adjourned at approximately 8:55 p.m.

Approved by:

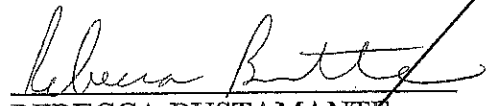


Board of County Commissioners  
Paul Campos, Chairman

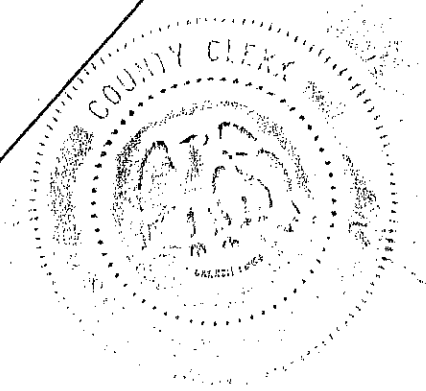
Respectfully submitted:

  
Karen Farrell, Commission Reporter

ATTEST TO:



REBECCA BUSTAMANTE  
SANTA FE COUNTY CLERK



SFC CLERK RECORDED 04/19/2004

~~The motion passed by unanimous voice vote.~~

**EZ Case MP 02-4323 La Pradera Subdivision, Phases 2-6: Gardner Associates, LLC** (John McCarthy, Bob Lee Trujillo), applicant is requesting a master plan amendment for expansion of the previously approved mixed-use subdivision, to permit 158 residential lots on 95.5 acres. The property is located along Dinosaur Trail in the Community College District within the two-mile Extraterritorial District.

*Exhibit 3: Applicant's Plan Amendment Packet*

*Exhibit 4: Vista Ocaso Neighborhood Association support letters*

*Exhibit 5: City Staff report [undated]*

*Exhibit 6: Maureen Cashmon's Letter 6/25/05*

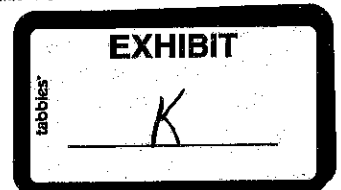
Chair Lopez recited the case caption and Mr. Catanach provided his staff report as follows:

"On June 9, 2005, the EZC recommended approval of the master plan amendment. On January 28, 2003 the EZA granted master plan approval, and on March 9, 2004 the BCC granted final plat/development plan approval for a mixed-use subdivision consisting of 80 residential units and 16,335 of commercial space/live/work units on 69 acres, and identified as La Pradera, Phase 1.

"The proposed master plan amendment is for the purpose of expanding the previously approved subdivision to permit 158 lots on 95 acres to be developed in phases, including 48.25 acres of open space/parks with public trails and 23 units for affordable housing. The master plan proposes the following as a village zone neighborhood and a fringe zone neighborhood: Phase 2 – village zone neighborhood (14.7 acres), 51 residential units (8 affordable units), neighborhood park with canopy shelter and bus stop (1.2 acres); Phase 3 – village zone neighborhood (8.9 acres), 26 residential units (4 affordable units) community park (4.4 acres); Phase 4 – village zone neighborhood (7.7 acres), 27 residential units (4 affordable units), neighborhood park (1.2 acres); Phase 5 village zone neighborhood & fringe zone neighborhood (12.2 acres), 44 residential units (6 affordable units) and neighborhood park (1.6 acres); and, Phase 6 – village zone neighborhood (1.9 acres), and 10 residential units (2 affordable units).

"The proposed development is in accordance with the Community College District Ordinance for a village zone and a fringe zone based on the landscape types relevant to slope, vegetation and natural drainage. The minimum residential density that is required in a village zone is 3.5 units per acre; the applicant is proposing 3.5 units per acre. The proposal is also in conformance with gross residential density in a fringe zone with one residential unit per acre.

"The proposed master plan amendment does not include commercial for a mixed-use development. However, the zoning ordinance does allow the applicant to demonstrate in *NB6-6E*



the proposed master plan a relationship between an existing or proposed commercial center and the proposed non-mixed-use development. The master plan must show a relationship relevant to roads, trails and open space connections. The proposed master plan amendment does demonstrate a relationship to the previously approved La Pradera, Phase One commercial neighborhood center, including a relationship with the Oshara and Rancho Viejo mixed-use developments.

"The market analysis indicates that there is a demonstrated need for the proposed development, and the economic/fiscal impact report indicates a positive gain from the proposed development.

"Water service is proposed from the Santa Fe County Water Utility. The total amount of water rights for the proposed expansion is 24 acre-feet with a water allocation of .13 acre-feet per lot. La Pradera, Phase One was approved to utilize a portion of the water service agreement from Greer Enterprises. The remaining balance of the water rights that were allowed for phase one consists of 8 acre-feet and additional water rights are committed from the Berridge water service agreement consisting of 7 acre-feet. Additional water rights will need to be acquired by the applicant and transferred to the Santa Fe County Water Utility subject to approval by the BCC. The total water budget is based on strict water conservation measures requiring use of treated wastewater and collection of roof drainage for irrigation of landscaping, and the use of low water appliances and prohibiting evaporative coolers and outdoor water spigots.

"The wastewater treatment facility in phase one will be expanded subject to approval of a discharge permit by the NMED,

"A traffic report has been submitted addressing the relevant impacts. A traffic signal will be needed at the Richards Ave./Dinosaur Tr. intersection and State Road 14/Rancho Viejo Blvd. intersection, including improvements at the Rancho Viejo Blvd./Dinosaur Tr. intersection. The proposed master plan also includes a realignment of Dinosaur Trail from the southern boundary of the property to the northern boundary along the I-25 right-of-way, and connecting back to the existing Dinosaur Trail along the interstate right-of-way. The section of Dinosaur Trail along the northern boundary will remain for use by local traffic. The internal roads will be paved with curb-gutter and sidewalks as required.

"Common drainage ponds will be utilized to control post-development drainage. The Arroyo Hondo flood zone extends through the southeast corner of the property and will be part of the open space. Permanent open space/parks will consist of 48 acres with public trails, including the required setback of 265 feet along the interstate. Treated wastewater and storage of roof drainage will be used to irrigate existing and proposed landscaping. An archaeological report was submitted and no significant archaeological sites were discovered."

Mr. Catanach reviewed the criteria for consideration of a proposed master plan within the Community College District.

NB 6-66

- a) Conformance with the Community College Plan.
- b) Viability of the proposed phases to function as completed developments in the event that the subsequent phases of the project are not approved or completed.
- c) Conformance with the Community College District Ordinance and other applicable laws and ordinances in effect at the time of consideration, including required improvements, proposed roads and trails, community facilities, design and/or construction standards and open space standards.
- d) Impact to schools, adjacent properties or the County in general.

He said staff determined that the proposed master plan is in conformance with the Community College District Plan and Ordinance. Staff recommends approval subject to the following conditions:

1. Compliance with applicable review comments from the following:
  - a) State Engineer
  - b) State Environment Dept.
  - c) State Dept. of Trans.
  - d) Soil & Water Dist.
  - e) County Hydrologist.
  - f) County Public Works
  - g) County Technical Review
  - h) County Fire Dept.
  - i) County Water Utility
  - j) Santa Fe Public School Dist.
  - k) State Historic Div.
2. Dinosaur Trail will be subject to a conditional dedication to the County for future ownership and maintenance.
3. Provide recreational facilities (playground equipment, seating) and landscaping for neighborhood park on west, and provide recreational facilities (picnic facilities, court) and landscaping for centralized community park. Each phase shall have a minimum of 50 percent of the total acres for open space/parks.
4. Provide a minimum of 24 residential units for affordable housing, and a mix of housing types is required for each phase.
5. Participation in a infrastructure extension policy for district-wide infrastructure improvements as required by the County. Credit may be given to the applicant for off-site infrastructure that they have constructed that benefits others.
6. Address phasing of village trail and local trail network.
7. Compliance with CCD Road Plan for reservation of right-of-way corridor for extension of future road alignment at the southeast corner of property.
8. Address off-site trail extending west along Dinosaur Tr. to Rancho Viejo Blvd.
9. Provide a minimum 195 foot open space/landscaped buffer along the south property boundary as presented and discussed with the Vista Ocaso neighborhood. The open space/landscape buffer will be identified on the master plan and the subdivision plat/development plan, and will be enforced by the County with the financial surety for completion of the subdivision improvements and issuance of building permits.

NB 6-67

Referring to condition 9, Mr. Catanach said the EZC originally tabled this case and asked the applicant and the Ocaso Association to reach an agreement/compromise regarding the setback on the Old Dinosaur Road. Mr. Catanach directed the Authority to the minutes from the EZC June 9 meeting. He indicated that president of the Association, Gary Miller, documents what "appeared to be a majority consensus" regarding the 195-foot setback [Exhibit 4] and EZC based its action on that.

Mr. Naranjo said the City staff needed to clarify their previous position. He said there had been discussion at the EZC meeting as to whether the City overstepped its boundaries in the review process when the City focused on sound planning rather than compliance with the CCD Plan.

The City re-reviewed the project for compliance with the CCD plan, and it is clear to the City that "this application meets the minimum criteria established and set forth as objectives in the plan."

Mr. Naranjo said the City recommends approval with the following conditions:

1. The development must participate in the South Richards Avenue mitigation improvements. This will include funds to widen Richards Avenue.
2. The development must contribute financially to the planned improvements located at the intersection of Richards Avenue and Rodeo Road.
3. An updated traffic study must be submitted and approved by the City of Santa Fe Traffic Engineer if trips generated have changed.
4. If the proposal wishes to utilize City of Santa Fe utilities, a utility service application must be completed for water service and sewer service from the City of Santa Fe.
5. The completed utility service application must be presented through the TRT for approval prior to recordation.
6. Staff recommends density reduction to be more consistent with adjacent neighborhood.

Commissioner Sullivan asked whether the County's approval was based on .13 acre-feet. Mr. Catanach said staff recommends approval based on compliance with the County Hydrologist. Commissioner Sullivan said the Hydrologist recommended .16 acre-feet.

Commissioner Sullivan asked what prompted the City to change its recommendation. Mr. Naranjo said staff was guilty of over-planning the property as opposed to reviewing if the proposal met the conditions and intent of the Community College Plan. Commissioner Sullivan asked if he was correct in stating that the City feels the density is too high, but meets the minimum requirements of the Community College Ordinance. Mr. Naranjo responded that he couldn't say they felt the density was too high; rather it is in compliance with the CC District Plan. Commissioner Sullivan pointed out that the minimum density can be amended by variance.

Chair Lopez invited those wishing to address the Authority on this subject to stand and be placed under oath.

Rosanna Vazquez, counsel for the applicant, said she was representing a consensus from a

NB 6-68

group of people who have reached an agreement on the development. This will not only benefit future residents of this development, but will benefit the entire area. She introduced the applicants.

Ms. Vazquez said as directed by the EZC, the project team met with the neighborhood association and reached an agreement. [Exhibit 3] The idea behind the CCD in its inception, in its plan, and in its ordinance was to create community, provide an area where people could congregate, provide a creation of linkages between areas where people could congregate so you could create a village, a place where people wanted to be. The idea of community has been basis for negotiations with neighbors, design of development, and amendments made to development as a result of neighborhood meetings.

Using a site map, Ms. Vazquez located the subdivision off Dinosaur Trail, located the different phases, Vista Ocaso neighborhood and the Rodriguez family, who created a community for their family to live. She identified the buffer, noting it was 195 feet and ranges from 300 feet to 150 feet. An "imagination" park has been included in the subdivision with a bus stop. She identified Burttram's property which is not governed by the College District and is proposed to have an average density of one dwelling unit per 2.5 acres.

Ms. Vazquez reviewed the original subdivision submission that included higher density (210 units) with Dinosaur Trail coming through subdivision. The amended subdivision has reduced the density to 158 units, realigned Dinosaur Trail and added the park and bus stop. The developer has also accepted installing traffic calming measures and has agreed to work with Vista Ocaso to develop those measures.

Ms. Vazquez said the increased buffer between Vista Ocaso and La Pradera was a "sticky" issue but they have reached resolution and 195 feet has been agreed to. There is a new gateway to the development, and provided a monument/sign to clearly identify the subdivisions. The developer made a strong commitment to provide landscaping for the buffer, trees/screening, so in addition to 195 feet there would be trees there.

Ms. Vazquez discussed the 24 affordable housing units and identified a park in the center of the subdivision to provide recreation for the smaller lots. She noted that every lot faces open space.

Ms. Vazquez closed her remarks stating she was very proud to be a part of this team.

Under oath Harmon Burttram, 8 Prairie Vista, clarified that his mother's estate owns a part of the property that is being developed. He said he developed Vista Ocaso neighborhood about 30 years ago and has lived there since 1980. There are approximately 50 houses in the area now.

Mr. Burttram said he supported the Community College District notion of cluster development with higher open space. He said he has two other parcels that lay directly between the property being developed and the Vista Ocaso neighborhood. Those parcels he elected not to place in the CCD, in order to provide some sort of buffer between existing

NB 6-69

neighborhood and this piece of property. He remarked that Judy McGowan questioned him extensively about his decision.

Mr. Burttram said the La Pradera developers have proposed a really nice development and gone out of their way to do something with excellent standards. He said the proposal is nicer than Ocaso and has paved roads, walking paths, and open space. Mr. Burttram said he was representing his wife, and his son who lives next store and Tom Beatty, who spoke in favor of this at the EZC meeting in May: "we all support this project."

Under oath, Luke Rodriguez, 11 Rudy Rodriguez Drive which is directly across Dinosaur Trail from the proposed subdivision, said Gary Miller, president of homeowners association for Vista Ocaso, requested he read the following statement on his behalf.

"Dear EZA members, thank you for your time and service. I met with Commissioner Sullivan on Monday, June 27, 2005, to affirm support of the EZC recommendation for approval of the request for master plan amendment to La Pradera 1, with County staff and the developers' representatives present. Following my summary outline to Commissioner Sullivan, a discussion began concerning the placement of primary access roads for the new development. I explained to Commissioner Sullivan that the first presentation we received indicated that existing Dinosaur Trail would be used as a primary access road for the new development. The neighbors in Vista Ocaso opposed that idea, and suggested instead that the road be moved into the highway corridor, as reflected in the current plan recommended for approval by the EZC. The developer agreed this made sense to minimize the impact to our existing Dinosaur Trail, and re-configured the development plans. Existing Dinosaur Trail from the Berridge property into Vista Ocaso was improved, and is maintained by the Vista Ocaso neighbors.

"Commissioner Sullivan went on to suggest, as I understand it, that his preference would be to support the road re-alignment as it appears in the current plan, but with addition of crash gates in various places along the new road, effectively isolating access through and around the development while increasing traffic flow on interior high-density residential lanes. This suggestion directly opposes the wishes of the neighbors, as agreed to by the developer and documented in the current plan to minimize the impact to existing Dinosaur Trail, as it would likely force more traffic onto it. It would seem to conflict with the intent of the CCD plan, as it would effectively separate continuous access through the proposed phases, except for emergency access only.

"The main issue to the negotiations with the developer was the impact of the new development on our existing neighborhood and road. The road as proposed in the current plan and recommended for your approval by the EZC minimizes the impact of traffic to our privately maintained road, and those homeowners that would be most adversely affected nearest the road and the development site. Preserving the road placement in the current plan fulfills the CCD plan's concept of providing connecting roads while at the same time minimizing the impact of the increased traffic as a result of the development.

NB 6-70



"I pray you'll support the agreement between the neighbors and developer on this issue, and preserve the placement of the road, with traffic calming devices, as it stands now. Thank you."

Under oath Maureen Cashmon, 20 Arroyo Viejo Road, Vista Ocaso provided the following testimony:

"As a homeowner, I am not in favor of any development which does not preserve the rural character of my existing neighborhood. I believe the proposed master plan amendment for La Pradera phases 2-6 fails to meet this standard. I Have sent each of you a detailed letter outlining my objections [*Exhibit 6*]. Tonight, I will just highlight main concerns.

"First, I believe this is the wrong development in the wrong location...This development might be fine on thousands of acres of developable land in a Community College District that do not abut an existing neighborhood. But wrong development for land which abuts an existing neighborhood. Why do I say this? ... Density of homes proposed for La Pradera is too high. This is not just my opinion. Until just a few minutes ago, it was also the concern of City senior planner. The City looks at protecting existing neighborhoods with adequate buffering and density levels consistent with that of adjacent neighborhoods....

"County staff tells you minimum density in CCD plan is a minimum of 3.5 dwelling units per acre, and a developer would be required to obtain a variance if a decreased density is proposed, as City staff had previously recommended...this statement by County staff is not completely accurate. CCD zoning matrix, under village zone neighborhoods fringe zone section, states: Lower density of adjacent neighborhoods is allowed. No variance is needed to allow lower density of dwelling units next to adjacent neighborhoods. Vista Ocaso is an adjacent neighborhood. Even the developers' own attorney at last EZC meeting stated, CCD Ordinance needs to be read as a whole. Surely this must also include the special provision allowed for existing neighborhoods, which are only three in the CCD plan, and not just the provisions which benefit the developer. Again, density of homes proposed for this subdivision is too high and can be reduced without seeking a variance. This is the wrong development in wrong location.

"Secondly, the proposed master plan does not preserve the rural character of existing neighborhood, and I believe violates the intent of CCD plan and its corresponding ordinance...The 50 percent open space requirement the developer must meet consists mainly of open space in a highway corridor. Although legally permissible I do not believe any of us in this room will consider taking an evening stroll along I-25...

"Why would the architects of the CCD plan allow for buffers next to existing neighborhoods, allow for lower density of housing next to adjacent neighborhoods, and highlight the need for special consideration for three existing neighborhoods in the plan if they did not intend for these provisions to be used?... Again, wrong development in

NB 6-71

the wrong location.

"Thirdly, I have just learned of a plan to place crash gates on the re-aligned Dinosaur Trail. I believe this was never the intention of neighbors who attended many meetings with developers. It is my opinion that many of the neighbors believe this road realignment was probably the only positive thing the developer has offered to the existing neighborhood. To now route traffic back onto current Dinosaur Trail is wrong, and once again violates spirit of CCD plan, which strives to preserve existing character of rural neighborhoods.

"I share - and I believe Commissioner Sullivan and please correct me if I misquote you, but I have heard some concerns about density of traffic this new development will bring. Traffic analysis reports the developers have prepared stated the current traffic flow on Dinosaur Trail is 500 car trips per day. This new development will bring approximately 3,500 car trips per day. It's absurd to allow this volume of traffic in the Vista Ocaso neighborhood. I realize you are concerned about number of cars passing along the road, but to allow crash gates would re-route the traffic back into the Vista Ocaso neighborhood. I believe many of the homeowners, if they knew of this suggestion, would be here in force to oppose crash gates...

"Finally, the buffer issues have been most contentious part of this process. The ordinance requires an adequate buffer to be provided for an existing neighborhood. This is the law... No compromise could be worked out. You have a letter from the association, and have seen minutes of June 9 EZC meeting that Vista Ocaso Neighborhood Association would support this development if the developer would grant 195-foot buffer. I understand when an association speaks, information they present is given special consideration and weight. However, to obtain this special status, information the association presents must be accurate. This has not occurred. First, I must state this association has no legal standing...there is considerable controversy on whether homeowners in Vista Ocaso prior to June 9 EZC meeting supported the plan which proposed a 195-foot buffer. A meeting of the association took place and 31 percent of the households attended this meeting. Neighbors were notified by letter and by e-mail. Out of the 31 percent, which was only 16 households, 56 percent of the homeowners, one vote per household, said we would not support this development without a 300-foot buffer. Unfortunately, the president of association felt we needed to be more inclusive and elected to take concerns of people that did not attend the meeting. This would be fine and fair; however, unless we went back to re-canvas the total neighborhood, you cannot collectively choose which opinions you choose to hear. I volunteered to go with the president of the association to re-canvas the neighborhood; this has never occurred. Once the association said, We support it, neighbors are demoralized. They just want the process to end, and I think that's why we have a low turnout. This ordinance is tearing this neighborhood apart. Again, you must disallow the association's letter and views on this because they have no legal standing...

NB 6-72

"The developers' attorney has stated they have provided an adequate buffer for the existing neighborhood. The question you must answer is: what is adequate? At last EZC meeting, the developers' attorney stated two parcels of land adjacent to Vista Ocaso neighborhood were left out of the plan to allow for a buffer zone...these parcels of land were sold to individuals at least a year ago and homes have been and are being developed as we speak. Surely new landowners do not consider their property to be a buffer to this proposed new development.

"Although the developer finally agreed to 195-foot buffer, I still believe it is inadequate. After raising various legal concerns regarding the ordinance and trying to appeal EZC's decision, the County staff finally stated what the buffer size was on the south and east sides of Vista Ocaso. It fluctuates, but in the area of village zone development, excluding fringe zone, maximum size is approximately 189 feet... since the County staff has been unable to state why the law imposed a buffer on the south and east sides of Vista Ocaso, why the buffer is not uniform in measurement, and why no buffer was established for the north and west sides for the neighborhood when the County amended the ordinance to allow village zone development on land originally designated as open space and arroyo corridor.

I can only state that I believe that the buffer requirement is inconsistent, arbitrary, and capricious. The only way to resolve this discrepancy, short of amending the ordinance, is to utilize the liberal interpretation clause of the ordinance, which states: Whenever there is a discrepancy or conflict between minimum standards, the more restrictive standard to each requirement shall apply. The more restrictive standard on the Vista Ocaso buffer is approximately 388 feet...I'm sure the developers will state the liberal interpretation clause in the ordinance should not be implemented, and I would probably agree with them. However, then this master plan must be tabled until the ordinance is amended. I believe this County cannot ignore the liberal interpretation clause in this matter...

"It is likely if the County went back and look in their original staff analysis report, they would find an annotation of what the buffered size should have been and why it was granted. I believe this information would require a 300-foot buffer, based on conversations with the neighbor who worked diligently on the CCD plan, Mr. Bob Wilber. However, in absence of such documentation, the master plan should have the most restrictive standards of the liberal interpretation clause placed on it as a condition of approval, or the master plan must be tabled until the ordinance is amended.

"The developers will argue that any buffer more substantial than what they are prepared to offer the existing neighbor is unfeasible. I understand the developers' concerns in this matter. They have chosen to develop land that has highway corridor restrictions on one side of the proposed development, and has an existing neighborhood on the other side which is entitled to special consideration. However, please remember it is their choice to try to develop this land. It is up to this authority to ensure all provisions of the ordinance and accompanying plans are carried out. If the developer

NB6-73

feels the profit margin would not be satisfactory to their investors if a lower density is mandated, it is the developers' right not to go further in this process...

Repeating that it is the wrong development in the wrong location, Ms. Cashmon requested that the case be tabled.

Previously sworn, Rudy Rodriguez, Jr. said his family subdivision would be impacted the most from the proposed development. He said they would prefer no development and his family supported a 200-foot buffer compromise. He said he owns three properties adjacent to the proposal. His greatest concern is that the realignment go forward because it will protect his family from traffic. He said the imagination park was also a good amenity. Mr. Rodriguez said he hoped to divide his property through the family transfer provision and give property to his children and grandchildren.

Mr. Rodriguez asked the Authority to approve the amendment as presented with the realignment to Dinosaur Road.

The applicant was invited to make a final statement.

Ms. Vazquez acknowledged that this has been a difficult project. Referring to Ms. Cashmon's June 25<sup>th</sup> letter to the Authority [*Exhibit 6*] "...I would still like a 300-foot buffer to preserve the rural character of Vista Ocaso, however, if a minimum 195-foot landscaped buffer is established for this development I feel many of the legal issues I referenced in my June 20<sup>th</sup> letter regarding the buffer will be resolved." Ms. Vazquez said the development standards developed in the Community College District Ordinance protect the rural character of the existing neighborhoods. This project not only meets the Ordinance standards but exceeds them. Agreeing that playing Frisbee along the corridor open space may not be an attractive alternative, surely runners and bike riders will want to use the paved trail. The developers were committed to working with the neighbors on the road character.

Ms. Vazquez said at the EZC meeting there were approximately 25 neighborhood members present and many stood in opposition to the proposal. Following that meeting the president of the Vista Ocaso Association sent out a letter requesting a response from those in opposition. The president received 15 e-mails/letters and 6 voice mails in support of the EZC decision. Ms. Vazquez said there was not full consensus and the developers have modified their plans to meet many of Vista Ocaso's desires.

Ms. Vazquez said they were in agreement with Dr. Wust's letter and agree to all staff-imposed conditions.

Chair Lopez said she observed members of the audience shaking their heads in disagreement with Ms. Vazquez's statements regarding the association's general consensus with the proposal. She invited Ms. Cashmon to return to the podium and address the e-mail situation. Ms. Cashmon said she did not receive a letter or e-mail from Mr. Miller and neither did Lisa Barns. She asserted that many of her neighbors did not receive the letter.

Ms. Cashmon said the association was not official.

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Commissioner Sullivan said although he was reluctant to do so, he did, at the request of the developer meet ~~on site~~ with the developer and Mr. Miller. Using a site map, Commissioner Sullivan identified the three roads going east and west through the development - Old Dinosaur Trail, middle road and the relocated Dinosaur Trail. The CCD Plan works to maintain a community-feel and not building traffic priority roads. Commissioner Sullivan said he fully supports Vista Ocaso's idea of creating a buffer and getting traffic off the existing Dinosaur Trail and there are a number of ways to achieve that. Commissioner Sullivan said identified proposed developments and existing neighbors along Dinosaur Trail stating they too will be impacted.

Commissioner Sullivan said within the recently approved Oshara development, staff established that roads should not be short-cuts but rather safe, low-speed integrated roads within the development. Oshara was approved with the "northeast connector" which goes through the development and will ultimately connect with St. Francis. He said the same criteria and design thoughts need to be implemented with this development.

Commissioner Sullivan assured those present that the word "crash gate" was never mentioned in the meeting with the developer and Mr. Miller.

Commissioner Sullivan said the most recent corridor plan calls for a frontage road on the north side of I-25. Therefore, making Dinosaur Trail Road into a frontage road was problematic. He suggested the traffic go through the subdivision as it does in Oshara. Another possibility is dead-ending the existing Dinosaur Trail. He questioned the credibility of the developer's statement that the northern boundary of old Dinosaur Trail will be used for local traffic.

Commissioner Sullivan said the traffic needs more analysis. The concept of moving traffic away from the existing Dinosaur Trail is valid.

Referring to the buffer, Commissioner Sullivan said he envisioned a landscaped open space that will not be built upon. The applicant's 195-foot buffer goes from the center of Old Dinosaur Trail to the edge of a building envelope. The envelope is 25 feet from the lot line and Dinosaur Trail is a 50-foot right-of-way, thus the buffer is actually 145 feet.

Commissioner Sullivan requested that as this development progresses to preliminary the applicant step beyond "as required" and provide specifics.

Commissioner Sullivan said the density causes him concern and asked the developer to be considerate of the existing 2.5-acre/lot neighborhoods.

Commissioner Vigil said she felt more input was needed on the road issues and asked Commissioner Sullivan whether he would consider granting master plan with the condition that DOT address the road issues. Commissioner Sullivan said he would with other entities also participating.

Commissioner Vigil said she is very concerned about thoroughfare traffic using

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neighborhood roads. Commissioner Vigil asked whether not approving this development based on density would be in violation of the CCD Ordinance.

Mr. Ross said there is a 3.5 dwelling units per acre minimum written in the Ordinance and suggested it would be problematic to require less without an ordinance amendment.

Responding to Commissioner Campos's question about different water use within the phases, under oath project engineer Orallynn Guerrerortiz stated that that phase 1 uses gray water back to the toilet. Apparently, there is some concern about using graywater in the toilets and left it out of the analysis for phases 2 through 6. Ms. Guerrerortiz stated that at final construction plan the concern of a broken irrigation line was considered and it was determined two reclamation water lines were necessary, one to serve lot irrigation and the other for the toilet. This doubled the reclamation cost that is underway in La Pradera 1.

Ms. Guerrerortiz said she was not involved in the project when reclaimed water was established for the toilets. The single biggest water user in the original water budget was the washing machine and if La Pradera can require lot owners to install front-load washers that amount can be reduced by half. She said the savings will more than meet the savings established with the graywater toilets.

Commissioner Campos said he had no problem with the density. As far as the road issue, he agreed with Commissioner Sullivan and wanted more analysis on that issue.

Chair Lopez asked staff what was the appropriate level to deal with the road issues. Mr. Catanach said the realignment should be addressed at master plan.

Referring to the water budget, Mr. Catanach said he understood .13 was the restriction per lot, .16 is the water right allocation. Commissioner Sullivan said that issue requires greater analysis.

Commissioner Sullivan was prepared to structure a motion providing master plan approval with direction to the applicant to incorporate the concept of reducing traffic on the existing Dinosaur Trail and maintain the community concept and avoid short-cuts in the subdivision at preliminary. Commissioner Vigil said she wanted to avoid the appearance of inviting short-cut traffic through neighbors.

Commissioner Vigil moved to approve MP 03-4323, La Pradera Phases 2 through 6, with all staff conditions, and

- Set aside the issue of Dinosaur Trail for further study
- Alternatives be presented at preliminary

Commissioner Sullivan seconded and the motion passed by unanimous voice vote.

~~PETITIONS FROM THE FLOOR~~

~~None were presented.~~

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~~CHAIRMAN MONTOYA: Okay. Any other comments? If not, what's the pleasure of the Board? Staff recommendation is to request the publishing. Correct?~~

~~MR. GRIEGO: Mr. Chairman, that is correct.~~

~~COMMISSIONER SULLIVAN: Mr. Chairman, I was just going to move to publish with the amendment that I suggested so that it would be out there before the public for comment. If, based on the staff's recommendation it was deemed not appropriate to put it in there, then we wouldn't put it in there. I just think you want get as much as you can out in front of the public so that they can have a chance to review it.~~

~~CHAIRMAN MONTOYA: Okay, I have a motion by Commissioner Sullivan with the amendment on page 3 on item G.~~

~~COMMISSIONER CAMPOS: Second.~~

~~CHAIRMAN MONTOYA: Second by Commissioner Campos. Any discussion?~~

~~The motion to authorize publication of title and general summary of an amendment to the Highway Corridor Ordinance passed by majority 4-1 voice vote with Commissioner Vigil voting against.~~

~~CHAIRMAN MONTOYA: So that is going to be published, then we'll have - when is the public hearing scheduled, Robert?~~

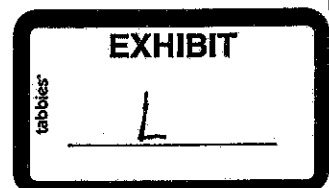
~~MR. GRIEGO: I will plan on having a community meeting in February and then bringing it forward to the CDRC and to the Board of County Commissioners - we're looking at March and April for that.~~

~~CHAIRMAN MONTOYA: Thank you. Appreciate it. Jack, thank you.~~

- XIII. B. 2. EZ Case #S 02-4324. La Pradera Subdivision Phases II-VI - Gardner Associates, LLC, (John McCarthy) Applicant, Oralynn Guererortiz, Agent, Request Preliminary Plat and Development Plan Approval for Phases II-VI of La Pradera Subdivision which will consist of 157 Residential Lots on 94 Acres. This Request Also Includes Final Plat and Development Plan Approval for Phases II and III, which will consist of 97 lots. The Property is Located Along Dinosaur Trail in the Community College District, within Sections 17 & 18, Township 16 North, Range 9 East (2-Mile EZ District, Commission District 5)**  
**FOR DELIBERATION AND VOTE ONLY**

VICKI LUCERO (Zoning Director): Gardner Associates, LLC, (John McCarthy) applicant, Oralynn Guererortiz, agent, request preliminary plat and development plan approval for Phases II-VI of La Pradera Subdivision which will consist of 157 residential lots on 94 acres. The applicant is also requesting final plat and development plan approval for

SFC CLERK RECORDED 03/22/2006



Phases II and III, which will consist of 97 lots. The property is located along Dinosaur Trail in the Community College District, within Sections 17 & 18, Township 16 North, Range 9 East Two-Mile EZ District, Commission District 5.

A motion was made by Commissioner Sullivan to grant preliminary plat and development plan approval for Phases II through VI with staff conditions. The vote ended in a tie, with Commissioners Sullivan and Campos voting in favor of the motion, and Commissioners Anaya and Montoya voting against the motion. Commissioner Vigil was not present. Therefore this case is being heard for deliberation and vote only.

On December 8, 2005, the EZC met and acted on this case. The decision of the EZC was to recommend preliminary plat and development plan approval for phases II through VI, and final plat and development plan approval for phases II and III. The applicant is requesting preliminary plat and development plan approval for phases II through VI consisting of 157 lots and final plat and development plan approval for phases II and III, consisting of 97 lots.

This application was reviewed for access and traffic, water, wastewater, fire protection, solid waste, terrain management, open space, landscaping and archeology.

Recommendation: Staff concludes that there are still outstanding issues regarding water allocation and water assignment. Staff also feels that the issues regarding traffic control at Rancho Viejo Boulevard and Dinosaur Trail have been addressed, and also the relocation of Dinosaur Trail was a discussion that was brought up at the BCC meeting. We were also waiting a new response from the State Engineer which I will hand that out to you in just a few minutes. [Exhibit 5] We feel that the issues regarding the water should be addressed prior to final development plan approval. Therefore staff recommends preliminary plat and development plan approval only for Phases II though VI, subject to the conditions are recommended by the EZC. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you, Vicki. Gerald.

MR. GONZALEZ: Mr. Chairman, members of the Commission, I need to convey the information that probably within the last half-hour or so we had hand-delivered from the representatives of the Santo Niño Regional Catholic School a proposed submission in which they're trying to ask the - at least the way I read it, ask the Commission to reopen the record to take additional evidence concerning creating a roundabout at the Dinosaur Trail and Richards Avenue intersection. Obviously, this matter is here simply for consideration based on the record that was previously made. I just wanted to let you know that that had occurred and make sure that you had all the information on your plates as you move forward with this.

The record, as far as I understand it has been closed on this proceeding, so it would take some special action on the part of the Commission to reopen the record and take this into account. The other risk, I suppose is that if you do that then maybe you have to reopen the record as a whole and that also carries with it some attendant difficulties.

CHAIRMAN MONTOYA: Okay. Thank you for that information, Gerald. Again, this is deliberation and vote only. Any discussion on this? And the previous motion which Commissioner Vigil was not present for Vicki, could you please restate that?

MS. LUCERO: Mr. Chairman, the motion that was made at the last meeting



was to grant preliminary plat and development plan approval for Phases II through VI with staff conditions.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Ms. Lucero, is that consistent with staff recommendation?

MS. LUCERO: Mr. Chairman, Commissioner Campos, that is consistent with staff recommendation.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Vicki, has any progress been made with regard to the water service agreement and with regard to any of the outstanding issues that you had at the last meeting?

MS. LUCERO: Mr. Chairman, Commissioner Vigil, it's my understanding that the applicants are going to be coming forward in March before the BCC for a water service agreement. I don't know the specific details. The County Hydrologist might be able to expand on that.

CHAIRMAN MONTOYA: Steve, can you answer that question?

DR. WUST: Mr. Chairman, Vicki probably wasn't here when I introduced the County Hydrologist so I'm here as the Water Resources Department Director. But yes, I've been in communication with the applicant and the scheduling is to move forward with the water service agreement for Commission approval in the March administration meeting. They've also shown me the water rights they want to be utilizing for that. And the look from us is that they look pretty good and they're in-basin.

COMMISSIONER VIGIL: What are the other outstanding issues, Vicki?

MS. LUCERO: Mr. Chairman, Commissioner Vigil, I believe that was the only outstanding issue that remained to be addressed as far as staff was concerned. The Public Works Department has responded regarding the intersection at Rancho Viejo Boulevard and Dinosaur Trail. That seems to have been addressed, and as I mentioned, the State Engineer, we were awaiting a response which I have just handed out.

COMMISSIONER VIGIL: Okay. I think that's the last of my questions.

CHAIRMAN MONTOYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: I haven't had a chance to read this yet but I think my original motion is still the proper one, to accept staff's recommendation for preliminary approval. This January 9<sup>th</sup> letter from the State Engineer still states a negative recommendation. It takes them a little while to go through and see what the issues were before, the issues on the water were, that they did not have enough water rights transferred for the first two phases that they wanted final plat approval for. And we've had discussions as well about the road in the corridor. That's, I think, still an outstanding issue that should be addressed at the next stage. So I would encourage the Commission to move forward with the staff recommendation.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. So that I'm clear, we're leaving out the final plat and development plan approval for Phase II and III. I know that Commissioner Sullivan didn't include that in his - but that's what the applicant wanted. Correct?

MS. LUCERO: Mr. Chairman, Commissioner Anaya, that's correct. That's what the applicant was requesting.

COMMISSIONER ANAYA: And I'm sorry for not following, but tell me again - and I know one of them is the State Engineer, but tell me again why they're asking for this and why we're denying it.

MS. LUCERO: Mr. Chairman, Commissioner Anaya, the only outstanding issue remaining is water, as far as staff's review. The water rights haven't been transferred. The Utilities Director had just mentioned that everything looks good like it's in order and I know that they're on the agenda for the BCC meeting in March to have this completed, and that was the reason we were only recommending preliminary at this time.

COMMISSIONER ANAYA: Okay, so everything is in line but staff's not recommending because you don't have it with you.

MS. LUCERO: Right. Because the transfer hasn't occurred as of yet.

COMMISSIONER ANAYA: And I'm sorry. It's getting late in the evening, but Steve, you said that everything was in line and it's going to be in the next meeting?

DR. WUST: Mr. Chairman, Commissioner Anaya, it's not for the total amount of water. Out of about 18 feet - I'm off on my numbers a little bit - they're short about 3, 3.5.

COMMISSIONER ANAYA: Three and a half acres.

DR. WUST: Yes. That's what the water service agreement in March is to come forward is to finish off that total. They're already gotten assignment of most of that water.

COMMISSIONER ANAYA: It's coming back now. Thank you, Mr. Chairman.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I do believe this development is ready to move forward. There's just some last minute things that need to be done. I think I have assurances from what staff has told us that we could actually move forward with this. I would not vote with the motion that was placed there for the majority vote. I would vote against the motion, and with that I think it would die. I don't know what the procedure would be. I suppose we would have to reconsider a motion.

CHAIRMAN MONTOYA: Which we could do at this point.

COMMISSIONER VIGIL: Right.

CHAIRMAN MONTOYA: So does anyone want to make another motion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I just have a question for staff. Ms. Lucero, did

staff change its position from the last meeting, based on information that Dr. Wust presented?

MS. LUCERO: Mr. Chairman, Commissioner Campos, staff would maintain the same recommendation.

COMMISSIONER CAMPOS: Which would be -

MS. LUCERO: Preliminary only until the water service agreement is in place.

COMMISSIONER CAMPOS: And why is that important? Do you think these agreements all have to be final before we finish this out?

MS. LUCERO: That's correct. That's common procedure.

COMMISSIONER CAMPOS: And is that a significant issue that you consider important in the public interest?

MS. LUCERO: Yes, Commissioner Campos.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Was there a motion and a second?

CHAIRMAN MONTOYA: No.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think that Commissioner Vigil said that she wouldn't vote in favor of the motion that was on the floor at the last meeting.

CHAIRMAN MONTOYA: Correct.

COMMISSIONER SULLIVAN: So that motion has now been reconsidered. The agenda item is for deliberation and vote on that motion. So when we move forward and vote on that motion, that will conclude this agenda item. If Commissioner Vigil votes no, then that motion will die. The published agenda item is for deliberation and vote on that motion. So that's the motion.

MR. ROSS: Mr. Chairman, there is no motion on the table at this point. We have to have a new motion. That last motion failed under our rules of order. So we have to have a new motion no matter what it is. Even if the motion is the same motion that was made last time and failed, we still need to have a new motion at this time and have a new vote.

COMMISSIONER SULLIVAN: My understanding, Mr. Chairman, was in our rules of order, when a motion fails, that that motion is brought back to the next meeting. Now, what you're saying is different from that. So your opinion, Mr. Ross is that the whole issue, the whole development is brought back for another vote.

MR. ROSS: Mr. Chairman, all we're here to do is to vote on the evidence that was presented last time. So we would need a new motion today. The motion last time failed two-two. So it needs to come back for a new motion today, pursuant to our rules of order. If we can't get a motion through today then it's deemed denied.

COMMISSIONER SULLIVAN: Okay. I guess that's different from my recollection. I'll certainly take the opinion of our legal counsel. In the past we've always voted on the motion that was tied. I would just again remind everyone, and I think you're cognizant of, that we have an important precedent here about encroachment into the Highway Corridor.

And if we move forward without that being resolved – and I don't know what the resolution to that is – it could be, as I said, some noise attenuation, a number of things. Without that being resolved, we've opened a door to other encroachments in the Highway Corridor and that's a concern of mine. Thank you.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I agree with Commissioner Sullivan. That's an issue that's outstanding. I'm not sure how staff would evaluate it. Staff has stayed away from that issue so far. But as a precedent-setting issue, if we started putting all our roads out on the setback – I'm not sure on that. And secondly, staff still believes that we should wait, that there's a significant issue and that we should be patient. Staff, they're our experts, so I would go along with staff. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I just wanted to ask Vicki or Dolores. Is there an outstanding issue?

DOLORES VIGIL (Land Use Administrator): Mr. Chairman, Commissioner Vigil, we have made an evaluation regarding the buffer issue and Highway Corridor setback. We've been talking about it among staff. We've also forwarded our evaluation to Legal and we've come up with an evaluation stating that the open space zone allows accessory but not primary buildings. Since open space zones are crossed by existing or planned roads in a number of places in the Community College District, living, mixed or traffic priority roads are allowed to be constructed within open space. The type of road sections would be determined by its location and function relative to adjacent zones of development. In the open space standards section, the criteria for property to be considered open space for the purpose of meeting the 50 percent requirement includes setbacks required by the Highway Corridor standards or other ordinances. The land area where roads are constructed could not be counted towards 50 percent open space. The trails could be counted.

I would also like to state that we do have within the Highway Corridor Ordinance, and we have approved the east-west connection that was approved through the Oshara project, and I believe that's within the setback, in the buffer area.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Is it your conclusion then that isn't an outstanding issue then?

MS. VIGIL: My conclusion is that it's not a building and it is a road, and it's not an accessory structure either. And if you'd like us to maybe find the section that Commissioner Sullivan has been referring to and dig further we would be more than happy to do that, but this is what we've come up with.

COMMISSIONER VIGIL: Thank you.

MS. VIGIL: You're welcome.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, so I'm confused. So did you say