New Castle Planning and Zoning Commission Meeting
Wednesday, February 12, 2020, 7:00p.m., Town Hall

Call to Order
Commission Chair Apostolik called the meeting to order at 7:00pm.

Roll Call

Present Chair Apostolik
Commissioner Bourquin – arrived 7:05pm.
Commissioner McDonald
Commissioner Riddile
Commissioner Sass

Absent Commissioner Johannsson
Commissioner Lucio

Also present at the meeting were Town Administrator Dave Reynolds, Town Planner Paul Smith, Assistant Town Attorney Haley Carmer, Deputy Town Clerk Mindy Andis and members of the public.

Meeting Notice
Deputy Town Clerk Mindy Andis verified that her office gave notice of the meeting in accordance with Resolution TC-2020-1.

Conflicts of Interest
Chair Apostolik stated he had known the Hutchinson's for years and they were also neighbors.
Assistant Attorney Haley Carmer said she didn't see there was a conflict as long as Chair Apostolik was able to be fair and unbiased.

Citizen Comments on Items NOT on the Agenda
There were no citizen comments.

Public Hearing
Brief description of application: Application for a Conditional Use Permit for an Accessory Dwelling Unit (ADU)

Legal description: Section: 31 Township: 5 Range: 90 Subdivision: Gordon Subdivision Lot: 5A, a resubdivision of Gordon Subdivision Lots 4 and 5, Town of New Castle, According to the plat thereof recorded October 17, 1991 as Reception No. 428362.

Common address: 226 N. 7th Street, New Castle, CO 81647

Owner: Vance and Elyse Hutchinson

Chair Apostolik opened the Public Hearing at 7:01 p.m.

Town Planner Paul Smith said the purpose of the Conditional Use Permit application was to consider approval of an accessory dwelling unit (ADU) to provide increased affordable housing opportunities within the town and to facilitate housing in close proximity to places of employment.

Planner Smith said that the ADU was located on the same lot as the principle structure, on the second floor of a two-car garage. It is within walking distance to downtown amenities such as restaurants, Town Hall, the Library, and river access.

Planner Smith said that the code stated that ADUs shall contain no more than eight hundred fifty (850) square feet and not less than four hundred (400) square feet in the R-1 zone district. Only one ADU shall be allowed per principal building. The square footage of ADU shall be calculated using the total gross square footage associated with the ADU unit living space inclusive of storage, hallways, and basements but not including garage space.

The total interior square footage of the proposed ADU was 841sf according to the assessor. No other ADU is associated with the principal building.

Planner Smith said an ADU was required to contain a kitchen equipped, at a minimum, with a cooking appliance, a sink, and a refrigerator/freezer with a capacity not less than six cubic feet. He noted that the Applicant had stated that the ADU will contain a full kitchen with range, refrigerator, sink and dishwasher.

Planner Smith said that an ADU was required to contain a bathroom equipped with, at a minimum, a sink, a toilet and a shower, and the proposed ADU contained two full bathrooms, each with a shower/tub, sink and toilet.

Planner Smith said that no ADU was allowed to have more than two bedrooms, and one off-street parking space was required to be provided for each bedroom in addition to the required parking space(s) for the principle building. He noted that the proposal showed two bedrooms with one off-street parking space per bedroom. The parking spaces were located east of the garage (off of 7 street) at the base of the stairway entry.

Planner Smith said that all water service connections made to an ADU should comply with the town's water and wastewater service connection requirements and the landowner shall bear all expense of such connections. The landowner shall obtain all necessary permits from the town prior to any road cuts, and shall, prior to connection, pay a tap fee to the town equal to 0.8 EQR because the ADU has two bedrooms. The owner shall also pay a water rights dedication fee in the same ratio as the tap fee. The fees totaled $14,400.

Planner Smith said that an ADU may not be condominiumized and/or sold separate and apart from the primary building to which it was accessory, and the Applicant had stated that the ADU will be occupied by a family member or will be rented.

Planner Smith said that the code required that the design, exterior treatments and color of an ADU be the same as, or compatible with, the design and exterior color and treatments of the primary building to which it is accessory. He stated that the principle dwelling unit was built in 1963 with a stone facade, wood window trim, and a low angle hip roof. Though the roof of the principal building was nonconforming with New Castle Municipal Code 17.20.150, it was generally consistent with other strictures in the R-1 zone district. The Applicant intended to install a shed roof for the ADU which would optimize views of Mt. Medaris. A non-gabled roof is atypical in R-1 zoning. However both structures will eventually have consistent design features after the renovations of each building were complete.

Planner Smith said that an ADU may only be occupied by an individual occupant or an individual "family" as defined in § 17.04.050 of the municipal code.

Planner Smith said that a conditional use application shall be approved only if the town council finds that the application:

1. Is eligible for conditional review under Section 17.84.040;

Staff comment: Per New Castle Municipal Code 17.20.050, accessary dwelling units require a conditional use approval in the R-1 zoning. A complete application with all Conditional Use Permit & Accessary Dwelling Unit review requirements was submitted on December 26, 2019. A public hearing with the Planning Commission was scheduled for the first available meeting after 45 days.

2. Is generally compatible with adjacent land uses;

Staff comment: Residential dwelling units, trivially, are compatible with residential R-1 zoning. The proposed alteration will not obstruct neighborhood access or negatively impact contiguous open space.

3. Meets all requirements of Section 17.84.020, is in compliance with this title and minimizes potential adverse impact of the conditional use on adjacent properties and traffic flow;

Staff comment: The proposed dwelling unit will slightly increase the density within the immediate vicinity of the property. The roof design is uncharacteristic for the neighborhood and nonconforming to New Castle Municipal Code 17.20.150. These matters aside, the proposed accessary dwelling unit fully complies with all code requirements and will have negligible impact on the community.

4. Is consistent with the comprehensive plan;

Staff comment: The Comprehensive Plan (Guiding Principle 5) recognizes a need for affordable housing. Accessary dwelling units can provide an attractive low-Impact alternative to meet the need:

"The Town of New Castle, through land use policies and building regulations, can affect the numbers, size, type, location and rate of housing development. By influencing the number and variety of available housing stock, local government can ease upward pressure on prices. New Castle will establish standards of affordability based on median household income, will promote the creation of housing priced at or below those standards and will establish guidelines and procedures for maintaining affordable housing stock over time. New Castle needs to explore and adopt a variety of policies and strategies to support the affordable housing to a broad spectrum of the community."

Additionally, Policy H0-4 indicates:

"The Town will continue to support the creation of accessory dwelling units in new and existing residential areas."

The 2019 Downtown Plan addresses the benefit of accessary dwelling unit development:

"Old Town is now one of the more affordable neighborhoods in the community. However, it is relatively low density and downtown needs more residential support. Increasing density in the Old Town neighborhood, within reason and where appropriate, might be a proper step for several reasons. The Town Code allows Accessory Dwelling Units (ADUs) as a conditional use in downtown. These can allow residents to care and support for aging family members or provide rental space creating extra income. Accessary dwelling units also serve renters with affordable housing. Finally, additional housing units will add vibrancy downtown, as there will be more people living nearby that will likely visit those businesses regularly."

"An accessory dwelling unit is a separate living space within a house or on the same property as an existing house. Tiny houses, a recent housing trend, would be considered an accessary dwelling unit if they are placed on a permanent foundation on a lot containing a principal dwelling."

"It is recommended that the Town of New Castle sponsor information to the Old Town residents about this existing opportunity. The information should illustrate how such housing could be accommodated within the neighborhood, how provisions could be developed to make sure that it does not infringe upon "the existing quality of life in the neighborhood and the effect it could have on efforts to improve downtown."

5. The town has the capacity to serve the proposed use with water, sewer, fire and police protection.

Staff comment: Other than water and sewer, impacts on the Town's infrastructure, including police and fire protection are slight.

The staff recommends Planning and Zoning Commission approval of Resolution PZ 2020-1 with the following conditions:

A. The use approved in the application shall not be conducted until the town planner has issued a conditional use certificate. That certificate shall be issued only after applicant has entered into an agreement with the town specifying that all conditions imposed by the town council will be completed and that the use and improvements will be in accordance with the approved application site plan and development schedule. The conditional use certificate must be issued within one year of the date of final approval by town council, or the application is deemed withdrawn by the applicant and is of no further force and effect.

B. No approved conditional use may be altered, structurally enlarged, expanded in parking area or expanded in ground area unless the site plan is amended and approved in accordance with the procedures applicable to approval of a conditional use as set out in chapter 17.84.070.

C. In the event the town receives any complaints about the use of the site or observes or becomes aware of any violations of the conditional use approval, the applicant and/or owner may be summoned before the town council in a public meeting to show-cause why the permit should not be revoked, suspended, or additional conditions imposed. Such show-cause hearing shall be open to the public and the applicant or owner may present testimony or offer other evidence on its behalf.

D. New water service will extend from the primary dwelling tap with adequate sewer & water separation as determined by the Public Works Department.

E. Applicant shall be required to pay all water and sewer tap fees associated with the conditional use at 0.8 EQRs and a water rights dedication fee all totaling $14,400. The applicant shall pay $4,800 of said fees for the water dedication within 30 days of council approval of the application and prior to, and as a condition of, the issuance of the planner's conditional use certificate. Applicant shall pay the remaining balance ($9,600.00) prior to the issuance of the building permit for the construction of the accessary dwelling units over the garage.

F. The applicant shall comply with all applicable building, residential, electrical and municipal code requirements including all sign code regulations.

G. Added exterior lighting will be dark sky compliant pursuant to the Comprehensive Plan Goal EN-4.

H. All representations of the applicant in written and verbal presentations submitted to the Town or made at public hearings before the planning commission or town council shall be considered part of the application and binding on the applicant.

I. The applicant shall reimburse the town for any and all expenses incurred by the town regarding this approval, including without limitation all costs incurred by the towns outside consultants such as legal and engineering costs.

Chair Apostolik closed the Public Hearing at 7:12 p.m.

Motion: Commissioner Riddile made a motion recommending approval of Resolution PZ-2020-1, A Resolution of the New Castle Planning & Zoning Commission Recommending Approval Conditional Use Permit for an Accessory Dwelling Unit (ADU).

Commissioner Bourquin seconded the motion, and it passed on a roll call vote: Commissioner Bourquin: Yes; Commissioner Sass: Yes; Commissioner Riddile: Yes; Chair-Commissioner Apostolik: Yes; Commissioner McDonald: Yes.

Public Hearing

Brief description of application: Application for PUD Master Plan Amendment of Planning Areas PA13, PA17, & PA18 in Castle Valley Ranch – Changing Mixed-Use 1&2 Zoning to Residential Zoning;

Legal description: Town of New Castle, Garfield County, State of Colorado:

- Parcel A: A PARCEL OF LAND SITUATE IN THE NE1/4 SECTION 31 AND THE NW1/4 SECTION 32, TOWNSHIP 5 SOUTH, RANGE 90 WEST OF THE 6TH P.M., COUNTY OF GARFIELD, STATE OF COLORADO, SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE WEST 1/16 CORNER BETWEEN SAID SECTIONS 29 AND 32 A REBAR AND ALUMINUM CAP LS NO. 36572 SET IN PLACE; THENCE S 01° 19' 34" E 1570.62 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY OF LINE CASTLE VALLEY BOULEVARD, AS FILED WITH THE GARFIELD COUNTY CLERK AND RECORDER'S OFFICE RECORDED JANUARY 9, 2001 UNDER RECEPTION NO. 574735, ALSO BEING A POINT ON THE EASTERLY BOUNDARY LINE OF CASTLE VALLEY RANCH PUD AS FILED WITH THE GARFIELD COUNTY CLERK AND RECORDER'S OFFICE RECORDED AUGUST 10, 1983 UNDER RECEPTION NO. 344590 THE TRUE POINT OF BEGINNING; THENCE DEPARTING SAD RIGHT OF WAYS 01°19' 34" E AND ALONG SAID EASTERLY BOUNDARY LINE 1066.16 FEET TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF SAID CASTLE VALLEY RANCH, P.U.D.; THENCE ALONG SAID SOUTHERLY BOUNDARY LINE THE FOLLOWING FOUR (4) COURSES: 1. N 89° 40' 24" W 1195.15 FEET; 2. N 00° 19' 36" E 120.00 FEET; 3. N 89° 40' 24" W 180.00 FEET; 4. N 00° 05'00" W 210.20 FEET; THENCE DEPARTING SAID SOUTHERLY BOUNDARY LINE N 00° 05'00" W 983.59 FEET; THENCE S 89° 56' 5" W 552.43 FEET TO A POINT ON THE EASTERLY BOUNDARY LINE OF CASTLE VALLEY RANCH, PA19A AND PA19B AS FILED WITH THE GARFIELD COUNTY CLERK AND RECORDER'S OFFICE RECORDED NOVEMBER 29, 2005 UNDER RECEPTION NO. 687288; THENCE N 40° 33' 51" E ALONG SAID EASTERLY BOUNDARY LINE 283.40 FEET;

THENCE CONTINUING ALONG SAD EASTERLY BOUNDARY LINE N 55° 43' 05" E 455.98 FEET TO A POINT ON SAID SOUTHERLY RIGHT OF WAY LINE OF CASTLE VALLEY BOULEVARD; THENCE DEPARTING SAD EASTERLY BOUNDARY LINE AND ALONG SAID SOUTHERLY RIGHT OF WAY LINE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 862,01 FEET; AN ARC LENGTH OF 591.51 FEET (CHORD BEARS S61° 39' 09" E 579.98 FEET); THENCE CONTINUING ALONG SAID SOUTHERLY RIGHT OF WAY LINE THE FOLLOWING SEVEN (7) COURSES: 1.S 81° 18' 39" E 261.25 FEET; 2. ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 719.98 FEET, AN ARC LENGTH OF 342.58 FEET (CHORD BEARS 5 67° 40' 47" E 339.36 FEET); 3. ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 115.42 FEET, AN ARC LENGTH OF 19.02 FEET (CHORD BEARS S 14° 30' 47" E 19.00 FEET); 4. ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 82.00 FEET, AN ARC LENGTH OF 110.68 FEET (CHORD BEARS S 48° 27' 33" E 102.47 FEET); 5. ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 115.42 FEET, AN ARC LENGTH OF 20.06 FEET (CHORD BEARS S 82° 08' 49" E 20.03 FEET); 6. ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 719.98 FEET, AN ARC LENGTH OF 57.30 FEET (CHORD BEARS S 41° 01' 02" E 57.29 FEET); 7. S 38° 44' 14" E 193.94 FEET TO THE POINT OF BEGINNING.

- Parcel B: A PARCEL OF LAND SITUATE IN THE NE1/4 SECTION 31, TOWNSHIP 5 SOUTH, RANGE 90 WEST OF THE 6TH P.M. COUNTY OF GARFIELD, STATE OF COLORADO, SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE WEST 1/16 CORNER BETWEEN SAID SECTIONS 29 AND 32, A REBAR AND ALUMINUM CAP LS NO. 36572 SET IN PLACE; THENCE S29° 45' 20" W 2647.04 FEET TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF CASTLE VALLEY RANCH, P.U.D. AS FLED WITH THE GARFIELD COUNTY CLERK AND RECORDER'S OFFICE RECORDED AUGUST 10, 1983 UNDER RECEPTION NO. 344590, THE TRUE POINT OF BEGINNING; THENCE ALONG SAID SOUTHERLY BOUNDARY LINE THE FOLLOWING FOUR (4) COURSES: 1. N 89° 50' 34" W 450.00 FEET; 2. N 00° 09' 26" E 75.00 FEET; 3, N 89° 50' 34" W 275.00 FEET; 4, N 000 09' 26" € 150.00 FEET; THENCE DEPARTING SAID SOUTHERLY BOUNDARY LINE N00° 47' 28" W 548.03 FEET TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF CASTLE VALLEY RANCH, PA 19A & WITH THE GARFIELD COUNTY CLERK AND RECORDER'S OFFICE RECORDED NOVEMBER 29, 2005 UNDER RECEPTION NO. 687288; THENCE ALONG SAID SOUTHERLY BOUNDARY LINE N 40°

33' 51" E 273.86 FEET; THENCE DEPARTING SAID SOUTHERLY BOUNDARY LINE N 89° 56' 25" E 552.43 FEET; THENCE S 00° 0500" E 983,59 FEET TO THE POINT OF BEGINNING (a/k/a Assessor Account No. R043084.)

- Parcel C: A PARCEL OF LAND SITUATE IN THE SW1/4 SECTION 29, SE1/4 SECTION 30, THE NE1/4 SECTION 31 AND THE NW1/4 SECTION 32, TOWNSHIP 5 SOUTH, RANGE 90 WEST OF THE 6TH P.M., COUNTY OF GARFIELD, STATE OF COLORADO, SAID PARÇEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE 1/4 CORNER BETWEEN SAD SECTIONS 29 AND 30, A BLM BRASS CAP IN PLACE; THENCE S 27° 20' 37" E 2941.40 FEET TO A POINT ON THE WESTERLY LINE OF LAKOTA CANYON RANCH, FIRST AMENDED PLAT FLING NO. 1 AS FILED WITH THE GARFIELD COUNTY CLERK AND RECORDER'S OFFICE RECORDED JULY 18, 2003 UNDER RECEPTION NO. 632116, THE TRUE POINT OF BEGINNING; THENCE DEPARTING SAID WESTERLY LINE S 90° 00' 00" W 34.26 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 300.00 FEET; AN ARC LENGTH OF 123.32 FEET, CHORD REARS S 78° 13' 25" W 122.46 FEET; THENCE S66° 26' 50" W 88.64 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 300.00 FEET, AN ARC LENGTH OF 180.86 FEET, CHORD BEARS S83° 43' 05" W 178.13 FEET; THENCE N 79° 00' 40" W 277.49 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 300.00 FEET, AN ARC LENGTH OF 273.25 FEET, CHORD BEARS N 52° 55' 05" W 263.90 FEET; THENCE N 26° 49' 30" W 358.53 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 175.00 FEET; AN ARC LENGTH OF 218.29 FEET, CHORD BEARS N 62° 33' 33" W 204.41 FEET; THENCE S 81° 42' 24" W 142.08 FEET; THENCE S 08° 42' 12" E 51.58 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 855.84 FEET, AN ARC LENGTH OF 209.29 FEET, CHORD BEARS S 15° 42' 32" E 208.77 FEET; THENCE S 65° 53' 03" W 97.34 FEET; THENCE S 81° 23' 34" W 266.32 FEET; THENCE S 51° 51' 16" W 126.84 FEET; THENCE S 36° 47' 12" W 88.30 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF CASTLE VALLEY BOULEVARD AS FILED WITH THE GARFIELD COUNTY CLERK AND RECORDERS OFFICE RECORDED JANUARY 9, 2001 UNDEER RECEPTION NO. 574735; THENCE ALONG SAID NORTHERLY RIGHT OF WAY THE FOLLOWING NINE (9) COURSES: 1. S 34° 40' 33" E 927.02 FEET; 2. ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 762.01 FEET, AN ARC LENGTH OF 620.22 FEET, CHORD BEARS S 57° 59' 36" E 603.25 FEET; 3. S 81° 18' 39" E 261.25 FEET; 4. ALONG THE

ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 819.98 FEET, AN ARC LENGTH OF 395.62 FEET, CHORD BEARS S 67° 29' 21" E 391.79 FEET; 5. ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 140.42 FEET, AN ARC LENGTH OF 11.84 FEET, CHORD BEARS N 87° 15' 43" E 11.84 FEET: 6. ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 86.00 FEET, AN ARC LENGTH OF 136.02 FEET; CHORD BEARS S 49° 50' 45" E 122.28 FEET; 7. ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 170.42 FEET, AN ARC LENGTH OF 16.26 FEET, CHORD BEARS S 07° 16' 18" E 16.26 FEET; 8. ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 819.98 FEET, AN ARC LENGTH OF 70.54 FEET, CHORD BEARS S 41° 12' 06" E 70.52 FEET; 9. S 38° 44' 14" E 63.19 FEET TO A POINT ON SAID WESTERLY LINE OF LAKOTA CANYON RANCH, FIRST AMENDED PLAT FILING NO. 1 AS FLED WITH THE GARFIELD COUNTY CLERK AND RECORDER'S OFFICE RECORDED JULY 18, 2003 UNDER RECEPTION NO. 632116 UNDER RECEPTION NO. 632116; THENCE ALONG SAID WESTERLY LINE THE FOLLOWING NINE (9) COURSES: 1. N 01° 19' 33" W 284.64 FEET; 2. N 00° 50' 46" W 298.08 FEET; 3. N 01° 24' 24" W 405.00 FEET; 4, N 01° 13' 24" W 135.00 FEET; 5. N 03° 05' 23" E 23.82 FEET: 6, N 01° 46' 46" W 247.13 FEET; 7. S 88° 47' 17" W 2.05 FEET; 8. N 01° 19' 33" W 12.43 FEET TO THE WEST 1/16 CORNER OF SECTIONS 29 AND 32 A REBAR AND ALUMINUM CAP LS NO. 36572 IN PLACE: 9. N 00° 55' 44" W 17.57 FEET TO THE POINT OF BEGINNING.

- Parcel D: A PARCEL OF LAND LOCATED ENTIRELY WITHIN THAT PARCEL DESCRIBED BY THE WARRANTY DEED RECORDED MARCH 9, 2006 UNDER RECEPTION NO. 693683 SITUATE IN THE SW 1/4 OF SECTION 29, SE 1/4 OF SECTION 30, AND NW 1/4 OF SECTION 32, TOWNSHIP 5 SOUTH, RANGE 90 WEST OF THE 6TH P.M., GARFIELD COUNTY, COLORADO, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT FROM WHENCE A BLM BRASS CAP IN PLACE AT THE 1/4 CORNER OF SAID SECTIONS 29 AND 30 BEARS N 53° 08' 04" W A DISTANCE OF 1655.92 FEET WITH ALL BEARING RELATIVE TO N 89° 36' 48" E THE LINE BETWEEN FOUND MONUMENTS FOR SAID W 1/4 CORNER SECTION 29 AND A REBAR AND CAP STAMPED LS 13174 THE NORTHEAST CORNER OF SAID OPTION PARCEL; THENCE S 00° 55' 44" E ALONG THE WEST LINE OF PARCEL A-1 AS DEPICTED ON THE PLAT; THE AMENDED AND RESTATED SUBDIVISION EXCLUSION/EXEMPTION OF LAKOTA CANYON RANCH AS RECORDED JULY 18, 2003 UNDER RECEPTION NO. 632118 A DISTANCE OF 1124.50 FEET TO A POINT ON THE WEST LINE

OF BLOCK F AS DEPICTED ON THE PLAT; FIRST AMENDED AND RESTATED FINAL SUBDIVISION PLAT OF LAKOTA CANYON RANCH FILING 1 AS RECORDED JULY 18, 2003 UNDER RECEPTION NO. 632116; THENCE N 88° 47' 17" E ALONG A SOUTHERLY LINE OF SAID AMENDED AND RESTATED SUBDIVISION EXCLUSION/EXEMPTION OF LAKOTA CANYON RANCH A DISTANCE OF 0.99 FEET; THENCE S 01° 21' 09" E ALONG SAID WEST LINE BLOCK F A DISTANCE OF 465.00 FEET TO A POINT ON THE NORTH LINE OF SILVERADO TRAIL RIGHT OF WAY AS DEPICTED ON SAID PLAT OF LAKOTA CANYON RANCH FILING 1; THENCE S 88 °47' 17" W ALONG THE NORTH LINE OF SAID SILVERADO TRAIL A DISTANCE OF 4.42 FEET; THENCE S 00° 55' 44" E A DISTANCE OF 30.00 FEET TO A POINT ON THE NORTH LINE OF A PARCEL AS DESCRIBED IN INSTRUMENT RECORDED APRIL 17, 2007 UNDER RECEPTION NO. 721293; THENCE THE FOLLOWING NINE (9) COURSES ALONG SAID NORTH LINE; 1. S 90° 00' 00" W A DISTANCE OF 34.26 FEET; 2. THENCE 123.32 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 300.00 FEET, A CENTRAL ANGLE OF 23° 33' 09" AND A SUBTENDING CHORD BEARING S 78° 13' 26" W A DISTANCE OF 122.45 FEET; 3. THENCE S 66° 26' 50" W A DISTANCE OF 88.64 FEET; 4. THENCE 180.86 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 300.00 FEET, A CENTRAL ANGLE OF 34° 32' 30" AND A SUBTENDING CHORD BEARING S 83° 43' 05" W A DISTANCE OF 178.13 FEET; 5. THENCE N 79° 00' 40" W A DISTANCE 277.49 FEET; 6. THENCE 273.25 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 300.00 FEET, A CENTRAL ANGLE OF 52° 11' 11" AND A SUBTENDING CHORD BEARING N 52° 55' 05" W A DISTANCE OF 263.90 FEET; 7. THENCE N 26° 49' 30" W A DISTANCE OF 358.53 FEET; 8. THENCE 218.29 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 175.00 FEET, A CENTRAL ANGLE OF 71° 28' 06" AND SUBTENDING CHORD BEARING N 62° 33' 33" W A DISTANCE OF 204.41 FEET; 9. THENCE S 81° 42' 24" W DISTANCES OF 104.99 FEET TO A POINT ON THE EAST LINE OF THE NORTH WILD HORSE DRIVE RIGHT OF WAY AS DESCRIBED IN THE SPECIAL WARRANTY DEED RECORDED SEPTEMBER 25, 2007 UNDER RECEPTION NO. 733780; THENCE THE FOLLOWING THREE (3) COURSES ALONG SAID NORTH WILD HORSE DRIVE; 1. N 08° 42' 12" W A DISTANCE OF 17.22 FEET; 2. THENCE 390.97 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 668.49 FEET, A CENTRAL ANGLE OF 33° 30' 34" AND A SUBTENDING CHORD BEARING N 08° 03' 05" E A DISTANCE OF 385.42 FEET; 3. THENCE 228.11 FEET ALONG THE ARC OF A REVERSE CURVE HAVING A RADIUS OF 491.25 FEET, A CENTRAL ANGLE OF 26° 36'

20" AND SUBTENDING CHORD BEARING N 11° 30' 11" E A DISTANCE OF 226.07 FEET TO A POINT OF NON-TANGENCY; THENCE 103.99 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 250.00 FEET, A CENTRAL ANGLE OF 23°50'00" AND A SUBTENDING CHORD BEARING S 79° 12' 35" E A DISTANCE OF 103.24 FEET; THENCE S 67° 17' 36" E A DISTANCE OF 131.42 FEET; THENCE S 30° 00' 58" W A DISTANCE OF 50.41 FEET; THENCE S 18° 54' 59" W A DISTANCE OF 221.52 FEET; THENCE S16° 07' 55" W A DISTANCE OF 50.00 FEET; THENCE 104.09 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 970.00 FEET, A CENTRAL ANGLE OF 6° 08' 55" AND A SUBTENDING CHORD BEARING S 11° 34' 51" W A DISTANCE OF 104.04 FEET TO A POINT OF NON-TANGENCY; THENCE S 71° 43' 03" E A DISTANCE OF 57.57 FEET; THENCE S 63° 30' 38" E A DISTANCE OF 55.33 FEET; THENCE S 56° 40' 07" E A DISTANCE OF 55.13 FEET; THENCE S 44°48' 48" E A DISTANCE OF 174.82 FEET TO A POINT OF NON-TANGENCY; THENCE 30.23 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 275.00 FEET, A CENTRAL ANGLE OF 6° 17' 51" AND A SUBTENDING CHORD BEARING N 42° 06' 34" E A DISTANCE OF 30,21 FEET; THENCE S 51° 02' 22" E A DISTANCE OF 247.25 FEET TO A POINT OF NON-TANGENCY; THENCE 102.92 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 481.00 FEET, A CENTRAL ANGLE OF 12° 15' 34" AND SUBTENDING CHORD BEARING N 54° 54' 14" E A DISTANCE OF 102.72 FEET; THENCE 122.69 FEET ALONG THE ARC OF A REVERSE CURVE HAVING A RADIUS OF 219.00 FEET, A CENTRAL ANGLE OF 32° 05' 53" AND A SUBTENDING CHORD BEARING N 44° 59' 05" E A DISTANCE OF 121.09 FEET; THENCE N 28° 56' 08" E A DISTANCE OF 541.68 FEET; THENCE N 14° 00' 12" E A DISTANCE OF 22.45 FEET; THENCE N 00° 55' 44" W A DISTANCE OF 289.40 FEET; THENCE N 32° 41' 48" W A DISTANCE OF 88.46 FEET; THENCE N 00° 02' 34" W A DISTANCE OF 167,50 FEET; THENCE N 54° 50' 38" E A DISTANCE OF 173.10 FEET; THENCE S 89° 54' 27" E A DISTANCE OF 116.87 FEET TO THE POINT OF BEGINNING, LESS AND EXCEPT THE FOLLOWING PROPERTIES FROM ALL OF THE ABOVE: LOTS 1 THROUGH 19 AND OPEN SPACE, CASTLE VALLEY RANCH SUBDIVISION PA12, FILING 9, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 25, 2007 UNDER RECEPTION NO. 733785; LOTS 1 THROUGH 17, CASTLE VALLEY RANCH SUBDIVISION PA13, FILING NO. 10, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 28, 2011 UNDER RECEPTION NO. 812500; LOTS 1A, 1B AND 1C, LOTS 2A, 2B AND 2C, AMENDED FINAL PLAT OF LOTS 1 AND 2 OF CASTLE VALLEY RANCH PA12, FILING NO. 9; LOTS

3A, 3B AND 3C, LOTS 14A, 14B AND 14C, AMENDED FINAL PLAT OF LOTS 3 AND 14 OF CASTLE VALLEY RANCH PA12, FILING NO.9; LOTS 4A, 4B AND 4C, LOTS 15A, 15B AND 15C, AMENDED FINAL PLAT OF LOTS 4 AND 15 OF CASTLE VALLEY RANCH PA12, FILING NO. 9; ALL THOSE STREETS AND PUBLIC RIGHTS OF WAY DEDICATED ON THE FINAL PLAT OF CASTLE VALLEY RANCH PA12, FILING NO.9; and ALL THOSE STREETS AND PUBLIC RIGHTS OF WAY DEDICATED ON THE FINAL PLAT OF CASTLE VALLEY RANCH PA13, FILING NO.10,

Common address: N/A

Applicant: CVR Investors, Inc. and its assigns

Landowner: CVR Investors, Inc.

Chair Apostolik opened the Public Hearing at 7:13 p.m.

Planner Smith said that the purpose of the application was to repurpose the remaining mixed-use properties owned by the applicant to general residential zoning. If successful, it will result in two mixed-use parcels in Castle Valley Ranch still outstanding: 1.) A 10.8 acre lot northwest of the Pyramid Drive roundabout owned by CTS Investors; 2.) An approximately 30 acre parcel southwest of the Castle Valley Boulevard and N. Midland intersection owned by Williams Family Investments. (Note: 15.6 acres of mixed-use land still remains undeveloped in Lakota near Castle Valley Boulevard and Faas Ranch Rd.)

Planner Smith said that the applicant was bound by a 3-party restrictive covenant with CTS Investors and Williams Family Investments (Exhibits 13 & 15). The covenant defines various water right commitments and allocates the number of residential units and commercial space to each owner. With respect to commercial space the agreement assigns 10,230sf to Williams Family Investments, 89,770sf to the property owned by CTS Investors, and no share of the space to the applicant. Because of the private agreement excludes the town and the fact that the town contemplates mixed-use for the proposed area per the Master Plan, there is a potential for conflicting land-use philosophies which may hobble future development. The application is a pre-emptive effort to align the Master Plan more consistently with the restrictive covenant and thereby steer clear of disputes.

Planner Smith said that amending a master plan was concerned with improving the vision of the current plan. The planning and zoning commission and council are being asked to consider whether the town is better off, now and in the future, repurposing 47 acres of mixed-use development for exclusively residential use. Pursuant to the provisions set forth in Municipal Code chapter 16.08, planning and zoning commission is required to hold a public hearing on the application. Planner Smith said that within thirty (30) days after the close of the public hearing, the commission must make one of three recommendations to town council:

1) Approve the master plan amendment unconditionally;
2) Approve the master plan amendment with conditions;
3) Deny the master plan amendment.

Planner Smith reviewed the land use history of Castle Valley Ranch with the commission. He said that the original annexation of Castle Valley Ranch in 1983, and amended in 1989, comprised a PUD of 2,500 residential units and "limited commercial" (~23ac) on a total of 654 acres. The annexation was partly premised on rapid growth of the shale industry and a resulting demand for housing. As the industry's outlook dimmed there was agreement that "down zoning" (i.e. reducing density) would better suit future growth revisions and commensurate infrastructure improvements. Subsequently, Ordinance no. 2002-2 (Exhibit 10) was approved, which cut the original master plan density to 1,400 units and up to 100,000sf of commercial space (~2.3ac). Exhibit 4 identifies the most current version of the master plan map approved by the ordinance.

Planner Smith said that the current status of development in Castle Valley Ranch was as follows:

- 540 of the approved 1,400 lots remain in the PUD remain vacant. To date, no commercial property has been developed.
- Sufficient water rights have been conveyed or will be conveyed to support anticipated densities.
- Public works infrastructure has been improved to sustain the approved level of development.
- Road access on Castle Valley Blvd, as it currently stands, will accommodate the anticipated future traffic flows. According to the Castle Valley Ranch Infrastructure Agreement of 1999, studies have confirmed that no new improvements will be necessary to support the traffic impacts of future filings of Castle Valley Ranch. (Whether Castle Valley Boulevard should be widened to four lanes during future phasing of Lakota is another matter.)
- To date, the current total of all dedicated open space is less than 10% of the total acreage of Castle Valley Ranch, open space dedication shall continue at a rate of 10% per approved final plat, less any terrain having a slope of 35% grade or more.
- Dedicated school parcels (30acres) have fulfilled the requirement set by the Master Plan.
- The provision for a public safety/fire district site has been achieved by the construction of the Colorado River District fire house at Lakota.

Planner Smith summarized by saying that past development of Castle Valley Ranch had tracked closely with the latest master plan, with one noticeable exception: the 2.3 acres of commercial space slated to be located within the mixed-use zones of the PUD had yet to be realized. As revealed in the approved minutes of the 1st reading of the 2nd Amended Master Plan (Exhibit 12) the east entry of Castle Valley Ranch envisioned, according to owner Steve Craven (CTS Investments), "garden offices, mini-storage, incubator office space (office space in front, warehouse in back), and offices for the many contractors who live in the New Castle area but have no place to have an office in New Castle." Mr. Craven went on to say, "the

Master Plan was trying to create a destination community for primary homebuyers, not a place where people live because they cannot afford to live closer to the resort areas." The mixed-use areas east of the established filings of Castle Valley Ranch were intended to have the flexibility for future development to accommodate new ideas as the Town grew and needs evolved.

Planner Smith said that the application proposed only to amend the zoning designations of four mixed-use parcels in Castle Valley Ranch and did not affect in any adverse way the remaining provisions of the 2002 Master Plan. The remaining provisions shall govern in the event of any conflict with the amendment. With that in mind, he noted that the application should be approved only if planning and zoning commission found that the application:

1. Is generally compatible with adjacent land uses;

Staff comment: Contiguous parcels are identified by open space, residential, or mixed use. Proposed residential zoning will resonate with these land uses.

2. Is consistent with the comprehensive plan;

Staff comment: Broadly, the comprehensive plan envisions compact communities with a mixture of residential, commercial, and open space. This is the Smart Growth model identified in Goal CG-5 and referenced elsewhere in the comprehensive plan. The intention is to reduce sprawl, generate local employment, encourage healthy amenities, and generally motivate a balanced lifestyle. As manifested in various filings in castle Valley Ranch to date, the achievement of this vision has begun, but is far from complete. Specifically commercial prospects, which attract local employment and provide needed amenities, continue to be relegated. Though the application does not prohibit commercial space elsewhere in Castle Valley Ranch, staff contends that the proposal does obfuscate the goals and policies of the comprehensive plan by:

- Undermining the aim of balanced communities;
- Permanently narrowing the potential locations for commercial development, local employment, and non-residential amenities;
- Creating the prospect where the available commercial space (i.e. 100,000sf) could be "zoned away" as future filings are approved. There is nothing in the ordinance which obligates any of the owners from building commercial;
- Making it more difficult to flex with future needs of the community by restricting a large portion of the PUD for one specific use;

Mixed-use as defined in both Castle Valley Ranch and Lakota epitomizes the overall thrust of the comprehensive plan. A decision to re-designate these zones may make some short-term sense, but ultimately defies many of the guiding principles for Town growth.

3. The town has the capacity to serve the proposed use with water, sewer, fire and police protection;

Staff comment: The Town is currently prepared to handle build-out of up to 1,400 dwelling units and 100,000sf of commercial space as outlined above. The current application does not affect those limits.

4. The uses proposed within the PUD are uses permitted outright or by special review within the zoning district or districts contained within the PUD;

Staff comment: Not Applicable.

5. The number of dwelling units permitted by the underlying zoning districts is not exceeded by the PUD plan;

Staff comment: Due to the nature of the application, future residential development is unspecified. The applicant will however be limited to the PUD maximum 1,400 units, of which roughly 540 units remain.

6. The PUD utilizes the natural character of the land, includes compatible land uses, provides for fire and police protection, off-street parking, vehicular, pedestrian and bicycle circulation, outdoor recreation, is of overall compatible architectural design, achieves adequate screening, buffering and aesthetic landscaping, avoids development of areas of potential hazard, ensures compliance with the performance standards and meets all other provisions of this title.

Staff comment: Due to the nature of the application, it is unclear how future filings will be designed. As residential parcels, however, staff does not anticipate conflicts with performance standards or other design requirements of this title.

The application makes changes to the vision of the Master Plan in Castle Valley Ranch. The purpose of the hearing was to decide whether these changes are compelling upgrades to the PUD and to the town. Clearly, residential land use is consistent with other land uses. However there is nothing urgent, in staff's opinion, to develop free-market residential units, and without a balance of commercial space there is good indication that more residential may in fact adversely impact the municipality.

Planner Smith said that in short, staff believed that the proposal, as written, does not meet the town's development and community goals as outlined in its comprehensive plan. With mixed-use zoning the town had at least twice the land-use options as it would with solely residential zoning. Since decisively forecasting future land-use needs is complex, surrendering the flexibility of mixed-use zoning might be ill-advised. Because of these considerations, staff recommended continuing the hearing for Resolution No. PZ 2020-2 until the applicant, CTS Investments, LLC, and Williams Family Investment Company, RLLP present phasing alternatives for the allocated commercial space that both preserved the terms of the restrictive covenant and was consistent with the guidance of the comprehensive plan.

Commissioner Riddile asked about the vested rights in Castle Valley Ranch.
Attorney Carmer said when Castle Valley Ranch was first approved and annexed

into the town there was a site specific development plan which meant it carried the vested rights with it. What was approved then cannot be diminished. The applicant was also a property owner in Castle Valley Ranch and that is why the applicant can ask for a change in the zoning. She said that the town will want is the other major land holders with other mixed-use in the PUD to agree to the zoning change because the change would affect their vest rights. Attorney Carmer said there were letters from the other land holders agreeing to the change. If the zoning change was approved, there would be a formal agreement made.

Applicant Aaron Atkinson said CVR Investors bought the property back in 2010 through a bankruptcy. There was a restrictive covenant prior to CVR Investors acquiring the property. The agreement was a three-way agreement between CTS Investments, LLC and Williams Family Investment Company RLLP and CVR Investors. He said that the agreement was recorded and goes with the property.

Mr. Atkinson said they had purchased the vacant land previously owned by Village Homes who had executed a restrictive covenant with CTS Investments, LLC, which is owned by Mr. Steve Craven. The covenant prohibited Village Homes from using their vacant land for purposes of commercial development. CVR Investors was informed that the restrictive covenant runs with the land, and is binding upon CVR Investors, Inc. in the development of the land. He said they had provided the Town with a copy of the covenant.

Mr. Atkinson said that CVR Investors had conferred with Mr. Craven about the application and Mr. Craven did not object to the application. Unlike CVR Investors, Inc., Mr. Craven had expressed his interest in commercial development at some point in the future. Mr. Atkinson noted that, in actuality, the restrictive covenant did not reserve a very large number of commercial units. When converted to acreage, it amounted only to a few acres of commercial development. CTS Investments, LLC possessed more than enough acreage to meet the number of commercial units when they decided to move in that direction.

Mr. Atkinson said that CVR Investors, Inc. had never been involved in commercial development, and have no intention to do so. Rather, he said they were a residential development company. He further noted that to date, no one had ever approached CVR Investors to propose developing commercial units in New Castle in the ten years they had owned the property.

Mr. Atkinson said that CVR Investors believed that the Town of New Castle was not currently poised to absorb commercial development on the CVR Investors property, particularly the area of Filing 11 which was presently the subject of an ongoing development application. He said that although commercial development may have played a significant part of the Comprehensive Plan which was enacted around 2008, obviously the market did not develop in the manner that was anticipated at that time. He felt that New Castle had not witnessed the demographic growth that was anticipated, and therefore commercial development had not progressed as the town or anyone else would have liked. As a result, CVR Investors were not in a position to even consider developing commercial units.

Mr. Atkinson said that CVR Investors is a close-knit company with concerned owners who want everyone to succeed in New Castle. CVR Investors intimately understand the problems that were caused by Village Homes in their eagerness to force something that the market was not poised to bear. Instead, CVR Investors wants to be conscientious in their development by building quality products steadily, such that the market can readily absorb them and everyone will prosper.

Mr. Atkinson said that CVR Investors is very enthusiastic about plans to build and develop in New Castle, and the proposed re-zoning was one of the beginning steps to bring those plans to fruition. He said it was important to CVR Investors to maintain close ties and work with the town in all other facets of development.

Sally Linden, New Castle resident. Ms. Linden asked if CVR Investors turned the property into all residential what their plan was. Ms. Linden said she had moved to New Castle from a high-density development and did not want to see that happen here. Once the land was gone it's gone, and she wanted the open space and the trails maintained.

Mr. Atkinson said he did not know and it depended on the market. There were no plans or designs other than the plans for Filing 11 that they had just submitted that proposed 91 residential units.

Connie Davis, New Castle resident. Ms. Davis asked what type of residential CVR Investors was proposing and whether there will be a variety of homes.

Mr. Atkinson said there would be a variety of homes and with respect to the comp plan there should be a mix of housing types.

Planner Smith said looking at current trends called for higher density types of housing. With that he said there should be trails as well as buffer and breathable space. Having it denser helped it to be more cost effective with infrastructure and maintenance.

Town Administrator Dave Reynolds said the restrictive covenant limited the total number of residential units. The plan was not unlimited buildout and the developer did not have the right to build exclusively tri-plex units.

Mr. Atkinson said CVR Investors were restricted to about 300 units. Certain areas will be one type of homes and other areas would be of another type of home.

Planner Smith said there were 377 residential units total CVR Investors could build on their parcels. CVR Investors have already developed 74 residential units which leave 303 residential units left. With Filing 11 there are 91 potential residential units that leaves 212 residential units left to be developed on CVR Investors parcels. CTS Investments would have 136 residential units.

Ms. Davis asked if there would be restrictions on what type or kinds of commercial would be allowed.

Chair Apostolik said when an application came in to plat what the developer wanted, that is when the application would be reviewed and determined if the application met the requirements.

Ms. Davis asked at what point is Castle Valley Boulevard will become a four lane road.

Chair Apostolik said it was up to the town's engineer to determine when Castle Valley Boulevard needed to be made into a four lane road. There are certain trigger points that included statistics regarding density, population and vehicle traffic numbers.

Wayne Shelton, New Castle resident. Mr. Shelton said the town's population was about half of Glenwood Springs and approximately 10 percent retail. With the town being a "bedroom community" there was very little commercial opportunity for anyone.

Chair Apostolik said with his years of experience sitting on the planning & zoning commission, every commercial developer stated "there needs to be more roof tops." The commission has asked what that number was.

Dee Kressner, New Castle resident. Ms. Kressner said there were trails behind her house that are used on a regular basis by many people each day.

Denise Scheberle, New Castle resident. Ms. Scheberle said she would like to caution the commission on how the development should be move forward. She said she was very concerned about the density of filing 11. There were tri-plexes with no open space and there is drainage in the area. She felt that what made New Castle, New Castle was the open space. Ms. Scheberle felt that people needed to have room to breathe. Ms. Scheberle encouraged the commission and the developer to think creatively as she felt there could be a corridor that would benefit everybody and be something special.

Marty Gervais, New Castle resident. Mr. Gervais said there should be some trail access continued through the area. Mr. Garvais asked if the commercial was taken away from CVR Investors, if that would that put more pressure on other areas to have commercial.

Planner Smith said the maximum in Castle Valley Ranch for commercial was 100,000sf which was about 2.3 acres. That could be 10-20 lots. CTS Investors had 90,000sf of commercial and Williams Family Investments had 10,000sf of commercial. That was the maximum that is allowed in Castle Valley Ranch. Lakota Canyon Ranch had additional 100,000sf of commercial.

Tom Schwerk, New Castle resident. Mr. Schwerk said that Colorado River Fire Rescue will be asking for a Mill Levey increase. Their impacts are directly related to the increase of population and property taxes were not bringing in enough revenues. CVR Investors bought the property knowing about the agreement.

Administrator Reynolds said Colorado River Fire Rescue was looking to a new Mill Levey because what they were currently taking in was not enough. Much of their budget relied on oil and gas, and Fire Departments collect nothing on sales tax. The town runs off of property taxes, sales taxes and Mill Levies. He said the town relied heavily on sales tax.

Jean Huyser, New Castle resident. Ms. Huyser asked if the proposed density will be similar to the density on North Wild Horse.

Mr. Atkinson said CVR Investors were restricted on certain type of density, and it was approved on a case by case basis.

Commissioner Bourquin asked for clarification won the proposed land use changing from mixed-use zoning to residential zoning. She said the town had R1, R2 and R3 zoning within the code. She asked what type of residential zoning CVR Investors was looking for because it would help answer the density questions.

Attorney Carmer said the decision on the zoning was made at the filing level.

Ms. Huyser asked how much open space was required in each filing.

Chair Apostolik said the open space had to be a usable space.

Brian Westerlind, New Castle resident. Mr. Westerlind asked why they change in zoning if they could already build residential.

Mr. Atkinson said that the reason was because of the restrictive covenants which were at odds with the way the master plan worked. Discussions with town council and town staff indicated that a change in the master plan would more appropriately place the zoning in line with the restrictive covenants.

Commissioner Riddile said that the town council had requested that CVR Investors make the application for more global planning. He said it was not the first time mixed-use had been zoned and then moved to the East. When Castle Valley Ranch started commercial development had not been proposed. Looking at the map there is no more room to move the commercial to the East..

Mr. Westerlind said that it looked like the application was another effort to push commercial into a smaller area yet again. He felt that if it was left like it is currently, then it could be reviewed as the development process progressed. Mr. Westerlind felt that the agreement was not restricting them from building any houses and he said it was not the right move to make at this time. He felt it was better to find a way to work with the town.

Chair Apostolik said at the time the Comp Plan was being re-written the town was growing at a high rate with all residential. The town was not able to keep up and get some control over the growth. It took time to figure out where the town wants to specifically or strategically place commercial. He said the town was also looking towards the East for property that could be annexed into the town. Chair Apostolik said they also considered West down Highway 6 and on the South side of the river in the county at what possible development may happen. Commercial in Castle Valley Ranch was also considered back then.

Mary Gervais, New Castle resident. Ms. Gervais asked if commercial were taken away from Castle Valley Ranch if that would force Lakota Canyon Ranch to have commercial.

Attorney Carmer said no, that it would depend on what the developer wanted to do. Commercial square footage was not being taken away from Castle Valley Ranch, it was just saying where commercial could go. Even if the application was approved tonight, there was still 100,000sf of commercial that would be developed in Castle Valley Ranch. Lakota Canyon Ranch had a similar limitation.

Commissioner Bourquin asked Mr. Atkinson where he feels the middle ground was with the town.

Mr. Atkinson said CVR Investors have been a good partner with the town, and requests and issued had been addressed quickly.

Commissioner Riddile said there was some debate over the size and location of the commercial space. When the comprehensive plan was written the context was very different than what it was today. The commercial space that the town was hoping would develop just had not come yet. He said that he was hearing that the community valued open space, trails and breathing room.

Commissioner Riddile said if the density was increased and some of the lots consolidated with conditions and guarantees from Mr. Atkinson, it could preserve more open space which may be a good trade-off and balance the issues.

Chair Apostolik said CVR Investors was asking for all three parcels to be changed and after hearing from the public, he felt that the commission needed more information and time to think about the application.

Motion: Chair Apostolik made a motion to continue the public hearing until February 26, 2020. Commissioner McDonald seconded the motion and it passed unanimously.

Items for next Planning and Zoning Agenda
There were no items for next Planning and Zoning agenda.

Staff Reports
There were no staff reports.

Commission Comments and Reports
There were no commission comments or reports

Review Minutes from Previous Meeting
Motion: Commissioner Riddile made a motion to approve the September

11, 2019 meeting minutes as submitted. Chair Apostolik seconded the motion and it passed unanimously.

Motion: Chair Apostolik made a motion to adjourn the meeting. Commissioner Bourquin seconded the motion and it passed unanimously.

The meeting adjourned at 9:10p.m.

Respectfully Submitted,

THE TOWN OF NEW CASTLE
PLANNING & ZONING COMMISSION
...ADO

Planning and Zoning Commission Chair
Chuck Apostolik

Mindy Andis

Deputy Town Clerk Mindy Andis, CMC