

**New Castle Planning and Zoning Commission Special Virtual Meeting  
Wednesday, March 9, 2022, 7:00 p.m.,**

Virtual Meetings are subject to internet and technical capabilities.

**To join by computer, smart phone or tablet:  
<https://us02web.zoom.us/j/7096588400>**

**If you prefer to telephone in:  
Please call: 1-346-248-7799  
Meeting ID: 709 658 8400**

**Call to Order**

Commission Chair Apostolik called the meeting to order at 7:00 p.m.

**Roll Call**

Present Chair Apostolik  
Commissioner Martinez  
Commissioner McDonald  
Commissioner Riddle  
Commissioner Sass  
Commissioner Westerlind  
Commission Alternate Rittner (coin toss)

Commission Alternate Parks

Absent Commissioner Bourquin

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 2022-1.

**Conflicts of Interest**

There were no conflicts of interest.

**Citizen Comments on Items NOT on the Agenda**

There were no citizen comments.

**Public Hearing**

**Consider Resolution PZ2022-2 Recommending Approval of Amendments to**

## **sections 16.04.060 & 17.104.020 of the New Castle Municipal Code**

Chair Apostolik opened the Public Hearing at 7:02 p.m.

Town Planner Paul Smith reviewed the proposed resolution with the commission.

Assistant Town Attorney Haley Carmer said once the resolution is approved by Planning and Zoning Commission, the recommendation will move forward to Town Council for an ordinance. Code Section 17.104.020 is in the Castle Valley Ranch (CVR) zoning regulation, there will be language stating the changes are intended to be in consistence with vested rights. The changes are not intended to change current vested rights.

Town Administrator Dave Reynolds said the resolution is getting rid of old chapters 13 and 14 that no longer exists. The code chapters changed with new codifiers there are references in Chapter 16 that refers to Chapter 13, but there no longer is Chapters 13 and 14. Therefore, the resolution is meant to clean the code up and makes the references accurate.

Chair Apostolik closed the Public Hearing at 7:14 p.m.

**MOTION: Commissioner Chair Apostolik made a motion to approve Resolution PZ 2022-02, a Resolution Recommending Approval of Amendments to sections 16.04.060 & 17.104.020 of the New Castle Municipal Code. Commissioner Riddile seconded the motion and it passed on a roll call vote: Chair Apostolik: Yes; Commissioner Riddile: Yes; Commissioner Sass: Yes; Commissioner Rittner: Yes; Commissioner McDonald: Yes; Commissioner Westerlind: Yes; Commissioner Martinez: Yes.**

### **Items for Discussion**

#### **Road/Traffic Impact Fee**

Attorney Carmer said she did look into how the impact fees would affect current developments and how it would affect town wide impact fees on roads and traffic. There is currently no road or traffic impact fees imposed in any of the proposed documents for CVR PUD. The developer was required to develop Castle Valley Boulevard. There was nothing in the approval documents saying they are exempt from any future impact fees the town might impose on a town wide bases.

Attorney Carmer said Lakota Canyon Ranch (LCR) did have two separate impact fees. One was a cost recovery fee which was a pay back to CVR Developer for a portion of the cost for Castle Valley Boulevard which since has sunset. The second impact fee is currently in effect for just LCR that is to fund future improvements to Castle Valley Boulevard specifically making Castle Valley Boulevard into a four lane road, installing a traffic signal at Clubhouse Drive and Castle Valley Boulevard and

installing a traffic signal at Castle Valley Boulevard and Highway 6 & 24. The impact fee is collected at the time of building permit. Each year the fee increases by the greater of four percent or CPI. LCR doesn't have vested rights therefore there would be no complications for an impact fee. However, there is a current agreement which states the town can impose additional impact fees on a town wide bases those fees would equally apply to LCR.

Attorney Carmer said the discussion would need to be is what the purpose of the impact fees would be and it would affect LCR. If, the purpose and scope is to improve Castle Valley Boulevard specifically the current LCR impact fee already cover the town could run into some issues imposing the town wide fee on LCR since there already an existing fee. However, if the fee is more general such as street maintenance, filling pot holes, re constructing the street, chop and seal and such. The current LRC impact fee is not for the general maintenance of streets. LCR could be subject to the current impact fee plus the town wide general impact fee.

Attorney Carmer said when the town does impose a new impact fee that fee would be imposed on new development and are meant to offset the cost associated with the impact of the new development and infrastructure (roads). The way to set those types of fees is by doing a detailed analysis of incremental cost and marginal cost of each vehicle and the different road usage would impact the road. There would be fiscal analysis that would go into looking at those types of costs and what is need to defer or defray the financial impacts as the support for the impact fee.

Attorney Carmer said Town Council would need to look at the scope what the impact fee is for and then getting the finical back up to justify the impact fee.

Chair Apostolik said he would like to see it town wide not just necessarily Castle Valley Boulevard. The traffic not only impacts Castle Valley Boulevard but also Downtown is CDOT but the side streets and 7<sup>th</sup> Street.

Chair Apostolik said the Town of Eagle has an impact fee that is town wide and the fee is applied per dwelling unit and the money is used for anything. Pitkin County is \$2.52 per square foot of heated space for both residential and commercial. Garfield County has a fee depending on the area will depend on the fee. The fee is based on the square footage. The fee is a street impact fee not a tax it's a fee applied to building permits.

Administrator Reynolds said the impact fee is to help offset the extra stress that are being places on the roads because of the construction project. As long as the town were to implement the impact fee equally across town and not be specific on what LCR impact fee is already covering and be general such as pot holes, general maintenance and etc. throughout town because of the wear and tear on the roads due to the incoming construction. Then, the impact fee would be enforceable and chargeable to building permits.

Attorney Carmer said there has be background to support the cost number that is reached to show what it costs the town to up keep the streets. Also, to show how new development increases the cost.

Attorney Carmer said since the impact fee would be in affect town wide, something to consider is remodels, demolition, adding a new construction accessory dwelling unit (ADU), would that trigger the fee and just not new construction. The point of the see is offset the increases in development and increases of the impact because of the new development. Will need to be careful on how the impact fee is defined in the code. The impact fee is used for the area where the impact occurs.

Administrator Reynolds said he would bring this discussion before council for their discussion and direction on the impact fee.

### **Review of Conditional Use Permit Process**

Planner Smith outlined the process for Condition Use Permits (CUP), which is attached to these minutes as exhibit "A".

### **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 Westerlind made a motion to approve the February 23, 2022 meeting minutes as submitted. Commission Chair Apostolik seconded the motion and it passed unanimously.**

**MOTION: Chair Apostolik made a motion to adjourn the meeting. Commissioner Sass seconded the motion and it passed unanimously.**

The meeting adjourned at 8:15 p.m.

Respectfully Submitted



  
Chair Chuck Apostolik

  
Deputy Town Clerk Mindy Andis, CMC

**Sections:**

**17.84.010 Purpose.**

Although each zoning district is primarily intended for a predominant type of use (such as dwellings in residential districts), there are a number of uses which may or may not be appropriate in a particular district depending upon, for example, the location, nature of the proposed use, character of surrounding development, traffic capacities of adjacent streets and potential environmental effects. These factors may dictate that the circumstances of development should be individually reviewed. It is the purpose of this chapter to provide review of such uses so that the town is assured that such uses are compatible with their locations and surrounding land uses and will further the purposes of this title and meet the objectives of each zoning district as described in the town's land use plan.

(Prior code § 13-06-010)

**17.84.020 Application.**

- A. An application for approval of a conditional use may be filed by a person having an interest in the property for which the conditional use is requested, with the written consent of the owner, and shall be made on a form provided by the town. The application must include fifteen (15) copies of the following:
1. A complete site plan illustrating:
    - a. Adjacent land uses and location of adjacent structures,
    - b. Boundary and size of site,
    - c. Building location, height and setbacks,
    - d. Off-street parking and loading areas,
    - e. Points of ingress and egress,
    - f. Service and refuse areas,
    - g. Signs and exterior lighting,
    - h. Fencing, landscaping and screening,
    - i. Compliance with performance standards,
    - j. Anticipated utility requirements;
  2. A time schedule for development; and
  3. Other information the applicant believes will support the application.

- 
- B. The applicant shall furnish a list of the names and addresses of owners of property located within two hundred fifty (250) feet of the subject site.
  - C. Upon review of the application, the planning commission may determine that additional information is critical to its evaluation of the application. The applicant shall be responsible for furnishing such additional information if so requested.

(Ord. 2004-12 § 5 (part); prior code § 13-06-020)

#### **17.84.030 Coordination with planned unit development plan approval.**

If the proposed conditional use is submitted as part of a planned unit development plan, the provisions of this chapter shall be met through approval of the planned unit development plan.

(Prior code § 13-06-030)

#### **17.84.040 Processing of application.**

- A. The applicant shall submit the complete application to the town planner. Upon finding the application complete, the planner shall submit the application to the planning commission.
- B. The planning commission shall hold a public hearing to consider the application in accordance with the procedures set forth in Chapter 16.08.
- C. Within thirty (30) days following the public hearing or within such time as is mutually agreed by the planning commission and the applicant, the planning commission shall either recommend approval of the application, with or without conditions, or denial of the application to the town council.
- D. Within sixty (60) days from the date of the planning commission's written decision on an application, or within such time as is mutually agreed by the town council and the applicant, the town council shall approve the application, with or without conditions, or deny the application.
- E. An approved conditional use shall not be conducted until the planner has issued a conditional use certificate. The certificate shall be issued only after the 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 (1) year of the date of final approval by town council, or the conditional use application is deemed withdrawn by the applicant and is of no further force and effect. Town council may extend this deadline upon good cause shown.

(Ord. 2004-3 § 15 (part); prior code § 13-06-040)

(Ord. No. 2011-6, § 2, 7-5-2011)

---

**17.84.050 Approval criteria and conditions.**

- A. 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;
  2. Is generally compatible with adjacent land uses;
  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;
  4. Is consistent with the comprehensive plan; and
  5. The town has the capacity to serve the proposed use with water, sewer, fire and police protection.
- B. In considering an application for a conditional use, the town council may impose conditions on the application to ensure compliance with this section.

(Prior code § 13-06-050)

**17.84.060 Plans to be endorsed and made part of zoning map.**

All approved site plans for conditional uses, including modifications and conditions, shall be endorsed by the town council and made a permanent part of the zoning district map.

(Prior code § 13-06-060)

**17.84.070 Alterations.**

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 this chapter.

(Prior code § 13-06-070)

**17.84.080 Existing conditional uses.**

Any use that legally existed prior to the effective date of this title shall continue as an approved conditional use upon written request of the owner or manager or similar representative of such use. In the case of such written request, the request shall be endorsed by the town council and made a permanent part of the zoning map.

(Prior code § 13-06-080)