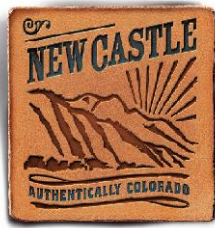


Posted: _____

Remove: _____



Town of New Castle
450 W. Main Street
PO Box 90
New Castle, CO 81647

Administration Department
Phone: (970) 984-2311
Fax: (970) 984-2716
www.newcastlecolorado.org

Agenda

New Castle Planning and Zoning Commission Regular Virtual Meeting Wednesday, August 26, 2020, 7:00 PM

Due to concerns related to COVID-19, this meeting will be held as a virtual meeting only. The public is invited to attend.

[To join by computer, smart phone or tablet Click Here:](#)

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

**Follow the prompts as directed. Be sure to set your
phone to mute until called on.**

Call to Order, Roll Call, Meeting Notice

Conflicts of Interest (Disclosures are on file with Town Clerk & Secretary of State)

Citizen Comments on Items NOT on Agenda

Public Hearing

- A** Consider Resolution PZ-2020-08 Recommending Approval of a Conditional Use Permit for a Quilting Studio on Property Located in the Commercial -1 Zone.

(CANCELLED) Public Hearing

- B** (Application withdrawn by Applicant) Consider Continuation of Decision on Resolution PZ-2020-02 Recommending Approval of Castle Valley Ranch PUD Master Plan Amendment

Public Hearing

- C** Consider Resolution PZ-2020-09 Approving a Preliminary PUD Development Plan for Castle Valley Ranch Filing 11, Being a Portion of PA17 and PA19.

Comments/Reports

Review Minutes of Previous Meetings

- D** Draft minutes August 12, 2020

Adjournment

**TOWN OF NEW CASTLE, COLORADO
PLANNING AND ZONING COMMISSION
RESOLUTION NO. PZ 2020-08**

A RESOLUTION OF THE NEW CASTLE PLANNING AND ZONING
COMMISSION RECOMMENDING APPROVAL OF A CONDITIONAL USE
PERMIT FOR A QUILTING STUDIO ON PROPERTY LOCATED IN THE
COMMERCIAL-1 ZONE DISTRICT.

WHEREAS, on June 18, 2020, Dara Marquardt (“Applicant”) submitted a Conditional Use Permit Application (“Application”) for the property owned by Applicant located at 333 W. Main Street, New Castle, Colorado, and legally described in Exhibit A hereto (“Property”); and

WHEREAS, the Property is zoned Commercial-1 (C-1); and

WHEREAS, the Property is currently improved with a single family dwelling used for residential purposes; and

WHEREAS, Applicant seeks to construct a 280 square-foot workshop on the Property to be used as a quilting studio; and

WHEREAS, Chapter 17.36 of the New Castle Municipal Code (the “Code”) establishes the permitted, conditional, and nonpermitted uses for the C-1 zone district; and

WHEREAS, pursuant to §17.36.040(D) of the Code, any use not specifically defined in the permitted, conditional, or non-permitted use categories for the C-1 zone district shall be a conditional use requiring the issuance of a conditional use permit pursuant to Chapter 17.84 of the Code; and

WHEREAS, the use Applicant proposes for the Property is not listed as a permitted, condition, or non-permitted use within the C-1 district, making it a conditional use; and

WHEREAS, as required under Code §17.84.040(B), the New Castle Planning and Zoning Commission (“Commission”) held a duly-noticed public hearing on August 26, 2020, to consider the Application; and

WHEREAS, pursuant to Code §17.84.050, the Commission hereby finds that the Application:

1. is eligible for conditional review under §17.84.040;
2. is generally compatible with adjacent land uses;
3. meets all requirements of §17.84.020 of the Code, is in compliance with Title 17 of the Code, 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 fire and police protection and is not required to provide water or sewer service.

NOW, THEREFORE, BE IT RESOLVED BY THE NEW CASTLE PLANNING AND ZONING COMMISSION AS FOLLOWS:

1. Recitals Incorporated by Reference. The foregoing recitals are incorporated by reference herein as findings and determinations of the New Castle Planning and Zoning Commission.

2. Listing of Approved Uses. The following constitute the uses for the Property that the Commission recommends be approved under the Application. The existing residential use of the Property may continue in addition to the use set forth below.

- A. the operation of a quilting studio

3. Recommendation. The Planning and Zoning Commission hereby recommends that the Town Council approve the Application and use proposed therein pursuant to § 17.84.050 of the Code, subject to the following conditions:

- A. All representations of the Applicant in written Application materials and in verbal presentations submitted to the Town or made at public hearings before the Planning Commission or Town Council and reflected in the minutes thereof shall be considered part of the Application and binding on the Applicant;

- B. Applicant shall comply with all applicable building, residential, electrical and other municipal code requirements, including all sign code regulations;

- C. Any new exterior lighting will be dark-sky compliant pursuant to the Comprehensive Plan Goal EN-4;

- D. 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, 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, with such show-cause hearing open to the public and the Applicant or owner being able to present testimony or offer other evidence on their behalf;

- E. 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 Town's outside consultants such as legal and engineering costs;

- F. 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 Section 17.84.070 of the Code; and

G. 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.

THIS RESOLUTION PZ 2020-08 was adopted by the New Castle Planning and Zoning Commission by a vote of ___ to ___ on the 26th day of August, 2020.

NEW CASTLE PLANNING AND
ZONING COMMISSION

By: _____
Chuck Apostolik, Chairman

ATTEST:

Mindy Andis, Deputy Town Clerk

EXHIBIT A
Legal Description

The property that is the subject of the Application described in Resolution PZ 2020-8 is legally described as follows:

Lots 3 and 4, Block 7, Town of New Castle, County of Garfield, State of Colorado,

commonly known as 333 W. Main Street, New Castle, Colorado 81647



Town of New Castle
450 W. Main Street
PO Box 90
New Castle, CO 81647

Planning/Building & Code Administration Department
Phone: (970) 984-2311
Fax: (970) 984-2716
www.newcastlecolorado.org

Staff Report
Conditional Use Permit – Quilting Studio
Planning Commission – Hearing
August 26, 2020

Project Information

Name of Applicant: Dara Marquardt

Applicant's Mailing Address: PO Box 398

Property Address: 333 W Main St. New Castle CO

Property Owner: Same

Owner Address/Phone: (970) 355-0595

Proposed Use: Studio

Legal Description: Section: 31 Township: 5 Range: 90 Subdivision: Original Town New Castle Lots: 3 and 4, Town of New Castle, According to the plat thereof recorded;

Size of Lot: 5,000 sq ft

Street Frontage: W Main St

Existing Zoning: C-1

Surrounding Zoning: C-1

I Application:

The application proposes a quilting studio workspace in the C-1 zoning district along the alleyway south of Main St. The studio will consist of a 280 square foot structure which will accommodate assembly area and a large quilting machine used to service quilts for clients. Currently the property is occupied by a single-family home, built in 1909, and accessory structures. The use is currently non-conforming according to code section 17.36.050. In the event that the property should transition from a residential to conforming commercial use, this studio can be readily converted to a single car garage or storage shed. The applicant maintains that the versatility of the structure will be an asset to the community regardless of the proposed use or future use of the property.

Whereas chapter 17.36 of the municipal code does permit analogous uses such as printing shops and photography studios, provisions for quilting studios are neither specified permitted nor not-permitted. Therefore per section 17.36.040 (D), "any use not specifically defined in the permitted, conditional, or non-permitted use categories shall be a conditional use." As a conditional use application, the Planning Commission (P&Z) is required to hold a public hearing in accordance with the procedures set forth in Municipal Code chapter 16.08. Within 30 days after the hearing, P&Z must make one of three recommendations to Town Council:

- 1) Approve the CUP unconditionally;
- 2) Approve the CUP with conditions;
- 3) Deny the CUP.

II Development Application Exhibits:

- A. Development application
- B. Application narrative
- C. Public notice
- D. Affidavit as to notice of public hearing
- E. Certified mail receipts
- F. Property owners within 250'
- G. Signed performance standards
- H. Agreement to pay consulting fees
- I. Warranty deed
- J. Policy title insurance
- K. Property photos
- L. Adjacent land uses & structures
- M. Site plan
- N. 2D renderings

III Application Requirements:

The purpose of a conditional use permit is to determine if the nature of the proposed use is appropriate to the location, character of the surrounding development, vehicle capacity on adjacent streets, and potential environmental effects, among other factors, that the Town may deem relevant to the type of land use.

Site Plan:

- (1) Adjacent land uses and location of adjacent structures:

Staff Comment – The existing building is adjacent to a residential lot to the west, and the Ringer commercial building to the East. The Ringer building is a live/work establishment. The house fronts Main St. to the north, and an alleyway to the south.

- (2) Boundary and size of lot:

Staff Comment – Exhibit M illustrates the boundary and size of lots 3 & 4. In C-1 the minimum lot area for a single-family detached unit is 2,500 square feet per dwelling unit. The current lot size is 5,000 square feet. The minimum floor area is 800 square feet per dwelling unit. The existing floor area is 1,638 square feet. The quilting studio will add 280 square feet of lot coverage.

- (3) Boundary location, height and setbacks:

Staff Comment – The maximum building height in C-1 for residential is 32 feet. The proposed building height is 13' as identified in Exhibit __. Setbacks are noted on the drawings and comply with the C-1 minimum setbacks mentioned in section 17.36.080.

- (4) Off-street parking and loading areas:

Staff Comment – Exhibit M depicts the anticipated off-street parking areas. For residential dwelling units in the C-1 zone there must be one and one-half parking spaces per dwelling unit. (MC 17.76.120§B). A minimum of fifty (50) percent of the required parking spaces in the C-1 zone district shall be provided onsite behind the building and with access from the alley. Currently there are 2.5 off-street parking spaces located entirely in the rear of the lot.

- (5) Points of ingress and egress:

Staff comment – The studio design shows a service door planned at the northern side of the structure and a 7' barn door to the east. Parking for the studio will be accessed by the alleyway from either the east or west.

- (6) Service and refuse areas:

Staff Comment – Shown on Exhibit M & N, there is access for meter readings and ample space beyond the fence for any trash collection services. In the event that the land were to transition to commercial use, the proposed garage would not impede on the function of these areas.

- (7) Signs and exterior lighting:

Staff Comment – There are currently no proposed exterior signs and/or lighting. Should this change, the applicant will be required to comply with lighting and sign code provisions in the municipal code. Any added exterior lighting will need to be dark-sky compliant per the comprehensive plan.

- (8) Fencing, landscaping and screening:

Staff Comment – Landscaping and screening is shown on Exhibit N. The garage will run parallel to the existing fence and contribute to the screening at the rear of the lot. Fencing will remain compliant with R-1 zone standards.

- (9) Compliance with performance standards:

Staff Comment – The Applicant has submitted a signed document stating they will comply with all performance standards.

- (10) Location and size of easements, power poles, fire hydrants, gas lines, water and sewer lines; anticipated utility requirements:

Staff Comment – The garage will not be connected to Town water and sewer. Electrical service is anticipated on the west wall of the structure. The garage does not impede on any easement.

IV Commercial District Design Requirements:

Section 17.36.030 of the municipal code states that the Town's goals within the C-1 district are to retain historical characteristics of the downtown business area by preserving existing structures constructed prior to the year 1930. Remodeling and construction is encouraged: to reflect the goals of the zone district; to enhance the town's attraction to residents, tourists, and visitors; to serve as a support and stimulus to business and industry; to reflect a pedestrian orientation; and to enhance property values. Section 17.36.100 states that design and construction in C-1 shall be consistent with the following provisions:

- A. Remodeling and restoration improvements to preexisting and/or nonconforming structures are encouraged and shall not affect their existing uses as described above. Exterior remodeling and improvements shall blend with the existing structure and surrounding neighborhood with the effect to retain and restore the district's historical characteristics.
- B. New additions to existing structures shall meet the setback requirements of this district. The exterior shall blend with the existing structure.
- C. New construction within this C-1 district shall be designed in relation to the historical characteristics of the district, so that the exterior features of such construction shall blend with the historical characteristics as established in this chapter.
- D. Exterior finish materials such as logs, exposed metals or materials of gloss finish, or vinyl-finish siding on nonresidential buildings are not permitted.

Staff anticipates that the design and construction of the quilting studio will not violate these provisions nor conflict with the overall design of the existing house.

V 17.84.050 – CUP Approval Criteria and Comments:

A conditional use application shall be approved only if the town council finds that the application:

1. Is eligible for conditional review under Section 17.35.050;

Comment: Sections 17.36.050, 17.36.050, and 17.36.060 of the municipal code identify the list of permitted uses, conditional uses, and non-permitted uses, respectively. By virtue of its exclusion from all of these lists, a quilting studio is thereby subject to the conditional use process. A complete application with all CUP requirements was confirmed on July 1, 2020. 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;

Comment: Although the current land use of this lot is non-conforming in C-1, it is staff's opinion that the proposed addition of the garage will not inhibit the transition of land use from residential to commercial. Moreover the presence of a studio structure will likely enhance the function of the property with any use.

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;

Comment: The proposal anticipates little negative impact on the community and adjacent properties. Furthermore, the Applicant will satisfy the requirements of all adopted

building codes and Town codes as described in the conditions of approval.

4. Is consistent with the comprehensive plan

Comment: The New Castle Comprehensive Plan Policy H-1G maintains that New Castle will encourage new businesses in historic downtown that will create a destination/stop for tourism. New Castle will favor retail and service for its downtown buildings. The proposed quilting studio is consistent with these policies.

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

Comment: The studio will not be serviced by the Town's water or sewer. Impacts on the Town's infrastructure, including police and fire protection are slight.

VI Staff Recommendations

The staff recommends Planning Commission **approval of Resolution No. PZ 2020-8** 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. The applicant shall comply with all applicable building, residential, electrical and municipal code requirements including all sign code regulations.
- E. Added exterior lighting will be dark sky compliant pursuant to the Comprehensive Plan Goal EN-4.
- F. 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.
- G. 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 Town's outside consultants such as legal and engineering costs.



Planning Department
(970) 984-2311
Fax: (970) 984-2716
Email: tnc@glenwood.net

LAND DEVELOPMENT APPLICATION

Town of New Castle
PO Box 90
450 W. Main Street
New Castle, Co 81647

Note: You are required to meet with the Town Planner to review a checklist of items applicable to your project before filing this application with the Town. All application materials are subject to the Colorado Open Records Act (CORA), C.R.S. §24-72-201 to 207.

Applicant: Dana Marquardt	
Address: PO BOX 398	Phone: 970-355-0595 FAX: E-mail: djl5840@gmail.com
Property Owner: Dana Marquardt	
Address: 333 W. Main St.	Phone: 970-355-0595 FAX: E-mail: djl5840@gmail.com
Contact Person: Dana Marquardt	
Address: 333 W. Main St.	Phone: 970-355-0595 FAX: E-mail: djl5840@gmail.com
Property Location/Address: 333 W. Main St.	
Legal Description: Residence	Acres: 5,000 sq. ft.
Existing Zone (e.g., Residential R-1, Commercial C-1): C-1	Existing Land Use: residential

TYPE(S) OF LAND USE(S) REQUESTED

- ☐ Pre-Annexation Agreement
- ☐ Annexation
- ☐ Subdivision (including Minor and Major Subdivisions, Lot Splits, Sketch Plans, Subdivision Preliminary Plans, Subdivision Final Plans, & Condominiumizations)
- ☐ Amended Plat
- ☐ Planned Unit Development (including PUD Sketch Plans, Preliminary PUD Development Plans, PUD Master Plans and Final PUD Development Plans)
- ☒ Conditional Use Permit or Special Review Use Permit
- ☐ Lot Line Adjustment or Dissolution
- ☐ Site Specific Development Plan/Vested Rights
- ☐ Variance
- ☐ Zoning
- ☐ Zoning Amendment
- ☐ Re-zoning

	6/18/2020
Applicant Signature	Date

Quilting Studio Design Compatibility

The proposed structure at 333 West Main Street will be used as a quilting studio for custom quilting. It will blend with the house aesthetically while adhering to town guidelines on both setbacks and permitted building materials. By incorporating siding, paint, windows, and native landscaping elements, the quilting studio will not only complement the existing structure, but enhance the visual appeal from both the back yard as well as the alley way. Currently, the rear of the lot is underutilized and visually unremarkable. When the quilting studio is completed it will promote a clean, quaint, and tidy atmosphere while serving as a vital workspace for a local business. While this will be a space best utilized as a quilting studio, should the property be sold in the future, it will enhance the appeal of the overall lot by providing a flexible space for both commercial and residential buyers. Overall, the quilting studio will be a positive addition to New Castle in terms of aesthetic appeal and functionality.

NOTICE OF PUBLIC HEARING Town of New Castle

Due to concerns related to COVID-19, this meeting will be held as a virtual meeting only. The public is invited to attend by computer or telephone.

Date: August 26th, 2020

Time: 7:00 PM

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

To Telephone into the meeting:
Please call: 1-346-248-7799
Meeting ID: 709 658 8400

Public body
conducting hearing: Planning and Zoning Commission

Brief description
of application: Conditional Use Permit for Quilting Studio in C-1 Zoning District

Legal description: Lots 3 and 4, Block 7, Town of New Castle, County of
Garfield, State of Colorado

Common address: 333 W Main St.

Applicant: Dara Marquardt

Landowner: Dara Marquardt

The complete application is available at the Town Clerk's office at 450 West Main Street, P. O. Box 90, New Castle, CO 81647. All interested persons are invited to appear and state their views, protests or objections. If you cannot appear personally at such hearing, then you are urged to state your views by letter.



AFFIDAVIT AS TO NOTICE OF PUBLIC HEARING

I, Dara Marguardt, do hereby certify that pursuant to ordinances of the Town of New Castle, Colorado, I provided notice of a public hearing before the New Castle Planning Commission/Town Council on **August 26th, 2020** regarding a **Conditional Use Permit** application by doing the following:

1. At least fifteen (15) days prior to such hearing, I sent a copy of the **attached** Notice of Public Hearing by certified mail to the owners of all property within two hundred fifty (250) feet of the subject property and to the Town of New Castle.
2. If required by Chapter 16.10 of the new Castle Municipal Code, at least thirty (30) days prior to such hearing, I sent a copy of the **attached** Notice of Public Hearing by certified mail to the owners of mineral estates who have requested notification with respect to the subject property at the Garfield County Clerk and Recorder.
3. At least fifteen (15) days prior to such hearing, I posted notice of the hearing on the property on a sign approved by the Town at least twenty-two (22) inches wide, twenty-six (26) inches high, with letters at least one (1) inch in height. The sign was posted so that it was visible from a public street.
4. At least (15) days prior to such hearing, the **attached** Notice of Public Hearing was published on the Town's website.

DARA
Signature

STATE OF COLORADO)
COUNTY OF Garfield) ss.

Subscribed and sworn to before me this 18th day of August, 2020, by Dara Alexandria Marguardt.

Witness my hand and official seal.

Rosana Garcia
Notary Public
My commission expires: July 10, 2023.

ROSANA GARCIA
NOTARY PUBLIC - STATE OF COLORADO
NOTARY ID 20084026083
MY COMMISSION EXPIRES JUL 10, 2023

City/State ZIP+4® 380 013 CA
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New Castle CA 91647

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☐ Return Receipt (hardcopy)	\$ 00.00
☐ Return Receipt (electronic)	\$ 00.00
☐ Certified Mail Restricted Delivery	\$ 00.00
☐ Adult Signature Required	\$ 00.00
☐ Adult Signature Restricted Delivery	\$ 00.00

Postage \$0.55

Total Postage and Fees \$4.10

Postmark Here

08/10/2020

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Street and Apt. No. PO BOX 251
City/State ZIP+4® New Castle CA 91647

K2 Spirits	302 W Main St
Joshua Landis & Donna Brown	312 W Main St
Molly Mogauero & Jeff Ellis	316 W Main St
Corrine Gerstner	366 W Main St
Town of New Castle	376 W Main St
C & S Properties LLC	386 W Main St #7
Robert McKissack	386 W. Main St #6
Carlin Properties LLC	386 W Main St #5
Margot H Eicher	335 W Main St
Town of New Castle	423 W Main St
Dustin & Diane Chapin	437 W Main St
Patricia Ringer & William Charle	331 W Main St
Trimble Block LLC	303 W Main St
Samuel & Leticia Garcia	275 W Main St
Laugh More LLC	219 W Main St
Samuel & Leticia Garcia	201 W Main St
Rocky Top LLC	386 W Main St #1
Susan Decillis	386 W Main St # 3
Cindy & Royle Stillman	386 W Main St #2
David Bristol & Lee Teran	386 W Main St #4
Wells Fargo	402 W Main St
Town of New Castle	450 W Main St
Town of New Castle	116 N. 4th St
Robert Rittner	111 N. 3rd St
Joshua & Nicole Moore	111 N. 4th St
Mary ASA Power	121 N. 3rd St
Riverchurch Inc	126 N. 4th St <i>POB 254</i>

PERFORMANCE STANDARDS

I, Dara Marguardt, ON THIS DATE June 22, 2020 agree
to abide by the following PERFORMANCE STANDARDS:

Performance Standards

- (A) **Smoke.** No use shall be permitted in any district unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to emission of smoke.
- (B) **Particulate Matter.** No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to emission of particulate matter.
- (C) **Dust, Odor, Gas, Fumes, Glare or Vibration.** No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to emission of dust, odor, gas, fumes, glare or vibration.
- (D) **Radiation Hazards and Electrical Disturbances.** No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to radiation control.
- (E) **Noise.** No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to noise.
- (F) **Water Pollution.** No operation shall be conducted unless it conforms to the standards established by the Colorado Department of Public Health's rules and regulations pertaining to water pollution.

Source: Ord. 261, Sec. 15.04.090, 1983

AGREEMENT TO PAY CONSULTING FEES AND EXPENSES

It is the policy of the Town of New Castle that all land use applications must be filed in the Office of the Town Clerk to receive formal consideration. Please refer to the Town Clerk's Office for all applicable procedures.

However, the Town encourages land use applicants to consult informally with members of the Town Staff, including outside consultants, prior to filing applications if the applicant has questions regarding areas within Staff members' particular expertise; PROVIDED THAT THE POTENTIAL APPLICANT AGREES TO REIMBURSE THE TOWN FOR ALL FEES AND EXPENSES RELATING TO SUCH INFORMAL MEETINGS.

The Town employs outside consultants for engineering, surveying, planning, and legal advice. These consultants bill the Town on an hourly basis as well as for expenses including but not limited to copies, facsimile transmissions, and long distance telephone calls.

It is the Town's policy that all persons wishing to hold informal meetings with members of the Town Staff acknowledge responsibility for all fees and expenses charged by outside consultants by signing this Agreement below.

I acknowledge and agree to pay the Town of New Castle all actual costs incurred by the Town in relation to legal, engineering, surveying, planning, or other services performed by consultants to the Town as a result of such consultants' review and comment upon, or other services related to, land use proposals and/or applications proposed by me or on my behalf, regardless of whether or not such application is formally filed with the Town. Interest shall be paid at the rate of 1.5% per month on all balances not paid within thirty (30) days of the date of the statement. In the event the Town is forced to pursue collection of any amounts due and unpaid, the Town shall be entitled to collect all costs of collection in addition to the amount due and unpaid, including but not limited to reasonable attorney's fees and costs.

SO AGREED this 10 day of June, 2020.

Dara Marguardt
Applicant (Print Name)

DARA
Signature of Applicant

970-355-0895
Telephone

PO Box 398
Mailing Address of Applicant

Dara Marguardt
Property Owner

Mailing Address if different from above

DARA
Signature of Property Owner

Applicant
Relationship to Applicant or Potential Applicant

Type of application: Land Development application

Property description: C-1 non conforming residential structure

Reception #: 888291
 01/27/2017 02:23:59 PM Jean Alberico
 1 of 1 Rec Fee: \$13.00 Doc Fee: \$33.25 GARFIELD COUNTY CO

WARRANTY DEED

THIS DEED, made on January 27, 2017,

Between Brian Reding and Olga Reding

of the County of Garfield, and State of Colorado, grantor, and

James G. Marquardt and Dara A. Marquardt, as Joint Tenants

whose legal address is: 333 E. Main Street, New Castle, CO, 81647

of the County of Garfield and State of Colorado, grantee:

WITNESSETH, That the grantor for and in consideration of the sum of \$332,500.00 DOLLARS, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey and confirm unto the grantee, his heirs and assigns forever, all the real property together with improvements, if any, situate, lying and being in the County of Garfield and State of Colorado described as follows:

Lots 3 and 4
 Block 7
 Town of New Castle

as known by street and number as: 333 E. Main Street New Castle CO 81647

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the grantee, his heirs and assigns forever. And the Grantor, for himself, his heirs, and personal representatives, does covenant, grant, bargain, and agree to and with the Grantee, his heirs and assigns, that at the time of the enrolling and delivery of these presents, he is well seized of the premises above conveyed, has good, sure, perfect, absolute and indefensible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature soever, except and subject to general taxes and assessments for the year 2017 and subsequent years and all those specific exceptions described by reference to recorded documents as reflected in Commonwealth Title Company's Commitment No. 1609045-2 accepted by Grantee(s) in accordance with Section 8.2 (Record Title Matters) of the Contract to Buy and Sell Real Estate relating to the above referenced property; distribution utility easements (including, cable TV); those specifically described rights of third parties not shown by the public records of which Grantee(s) has actual knowledge and which were accepted by Grantee(s) in accordance with Section 8.3 (Off-Record Title Matters) and Section 9 (Current Survey Review) of the Contract to Buy and Sell Real Estate relating to the above described real property; inclusion of the Property within any special taxing district;

The grantor shall and will WARRANT AND FOREVER DEFEND the above bargained premises in the quiet and peaceable possession of the grantee, his heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof. The singular number shall include the plural, the plural the singular, and the use of gender shall be applicable to all genders.

IN WITNESS WHEREOF the grantor has executed this deed on the date set forth above.

 1/23/17
 Brian Reding

 01/23/17
 Olga Reding

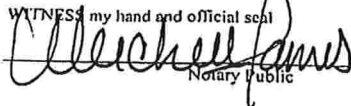
STATE OF COLORADO)
) ss.
 COUNTY OF GARFIELD)

The foregoing instrument was acknowledged before me on January 27, 2017, by Brian Reding and Olga Reding.

My commission expires: 10.17.18

Commonwealth File No. 1609045-2

Return to:
 James G. Marquardt and Dara A. Marquardt
 333 E. Main Street
 New Castle CO 81647

WITNESS my hand and official seal

 Notary Public

MICHELLE JAMES
 NOTARY PUBLIC
 STATE OF COLORADO
 NOTARY ID # 20024033912
 MY COMMISSION EXPIRES OCTOBER 17, 2018

Exhibit J

POLICY OF TITLE INSURANCE

SCHEDULE A

Amount of Insurance: \$332,500.00

Premium \$721.00

Policy No. 8130606-210696106

File No. 1609045-2

Date of Policy: January 27, 2017 at 5:00 PM

1. Name of Insured

James G. Marquardt and Dara A. Marquardt

2. The Estate or interest in the land described herein and which is covered by this policy is Fee Simple and is at the date of Policy vested in:

James G. Marquardt and Dara A. Marquardt

3. The land referred to in this policy is described in the said instrument, is situated in the County of Garfield, State of CO, and is identified as follows:

Lots 3 and 4

Block 7

Town of New Castle

Patrick P. Burwell

Countersigned:

Authorized Officer or Agent

Exhibit K





Exhibit L

335 W MAIN
(RESIDENTIAL)
STRUCTURE

32'

5'

Proposed
Studio

10'

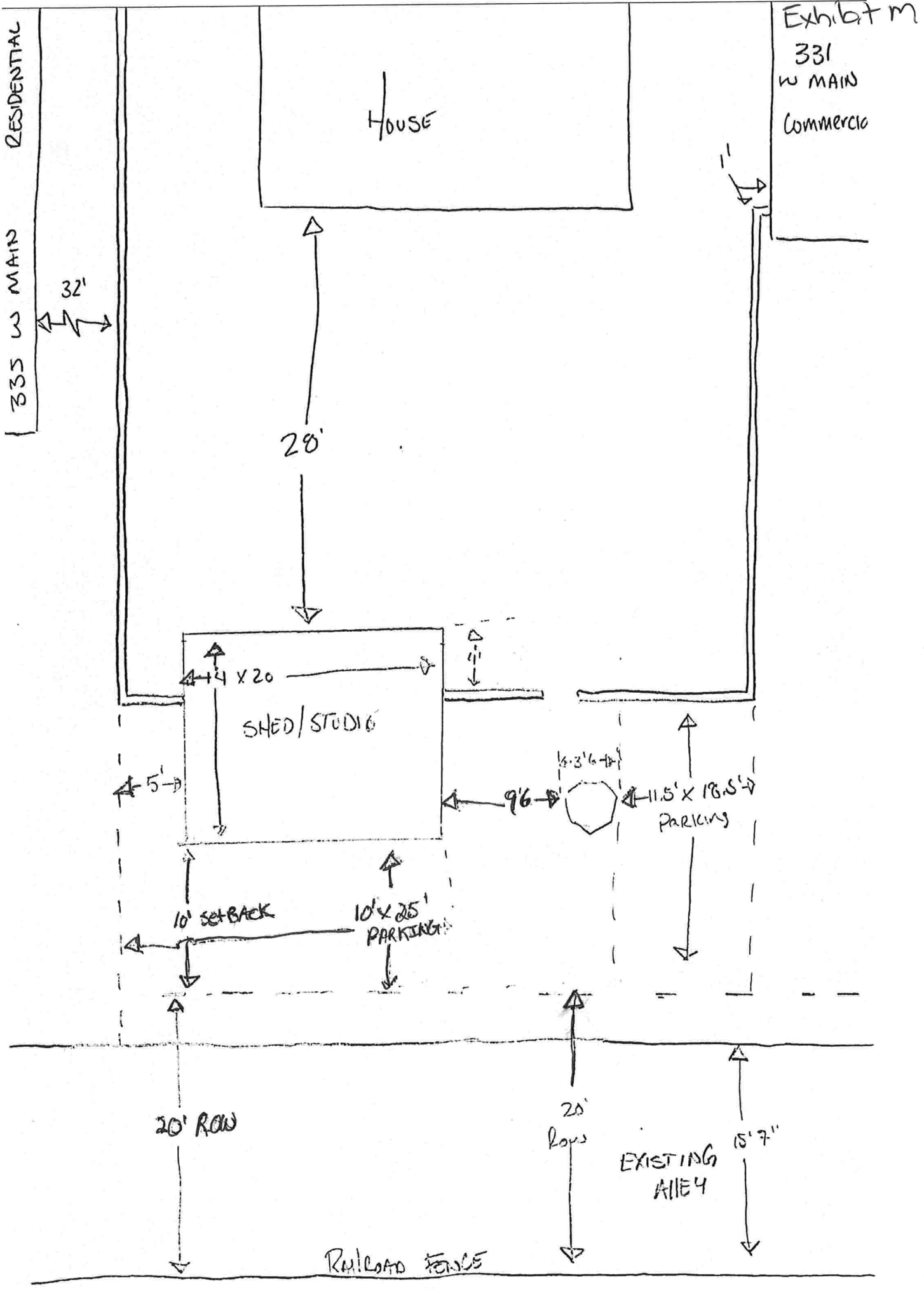
333 W MAIN

21'6"

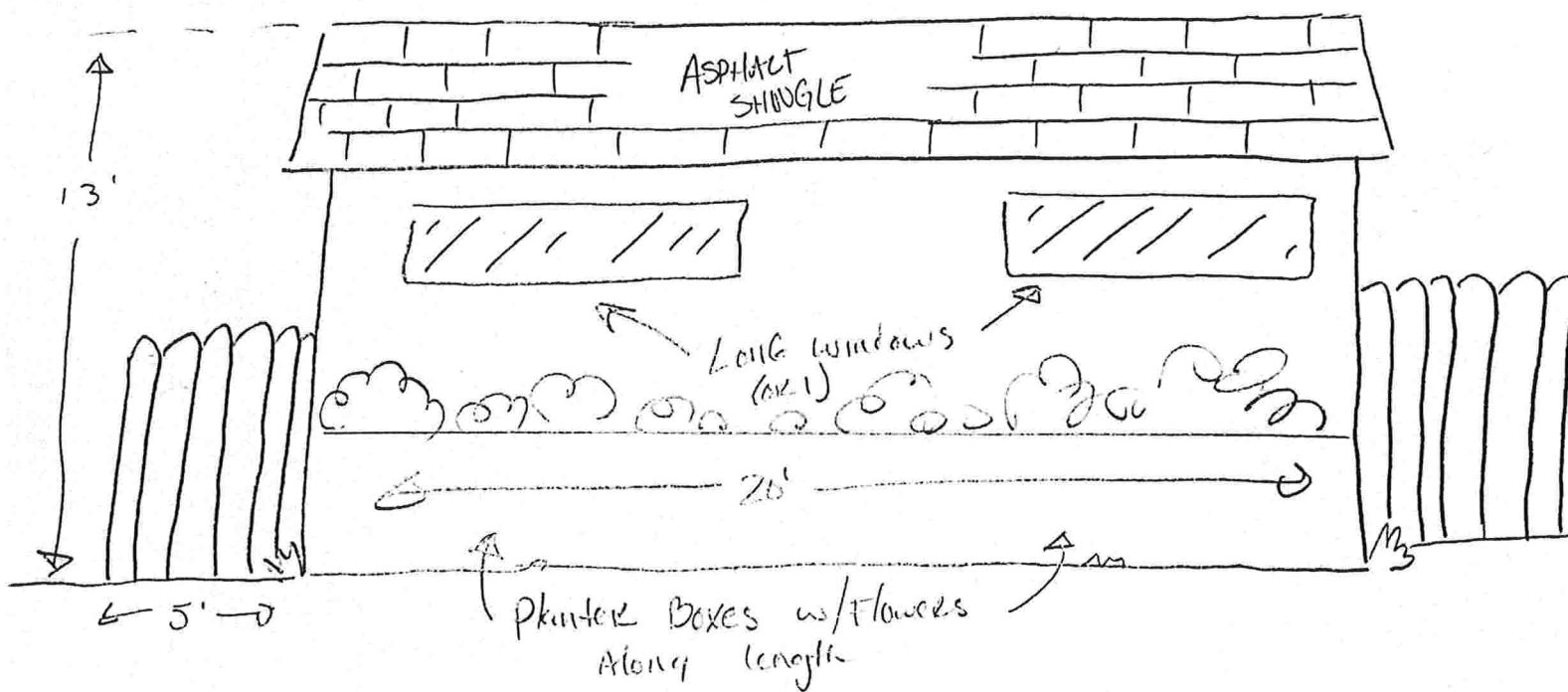
331 W MAIN
(COMMERCIAL)
STRUCTURE

Not to Scale

ALLEY



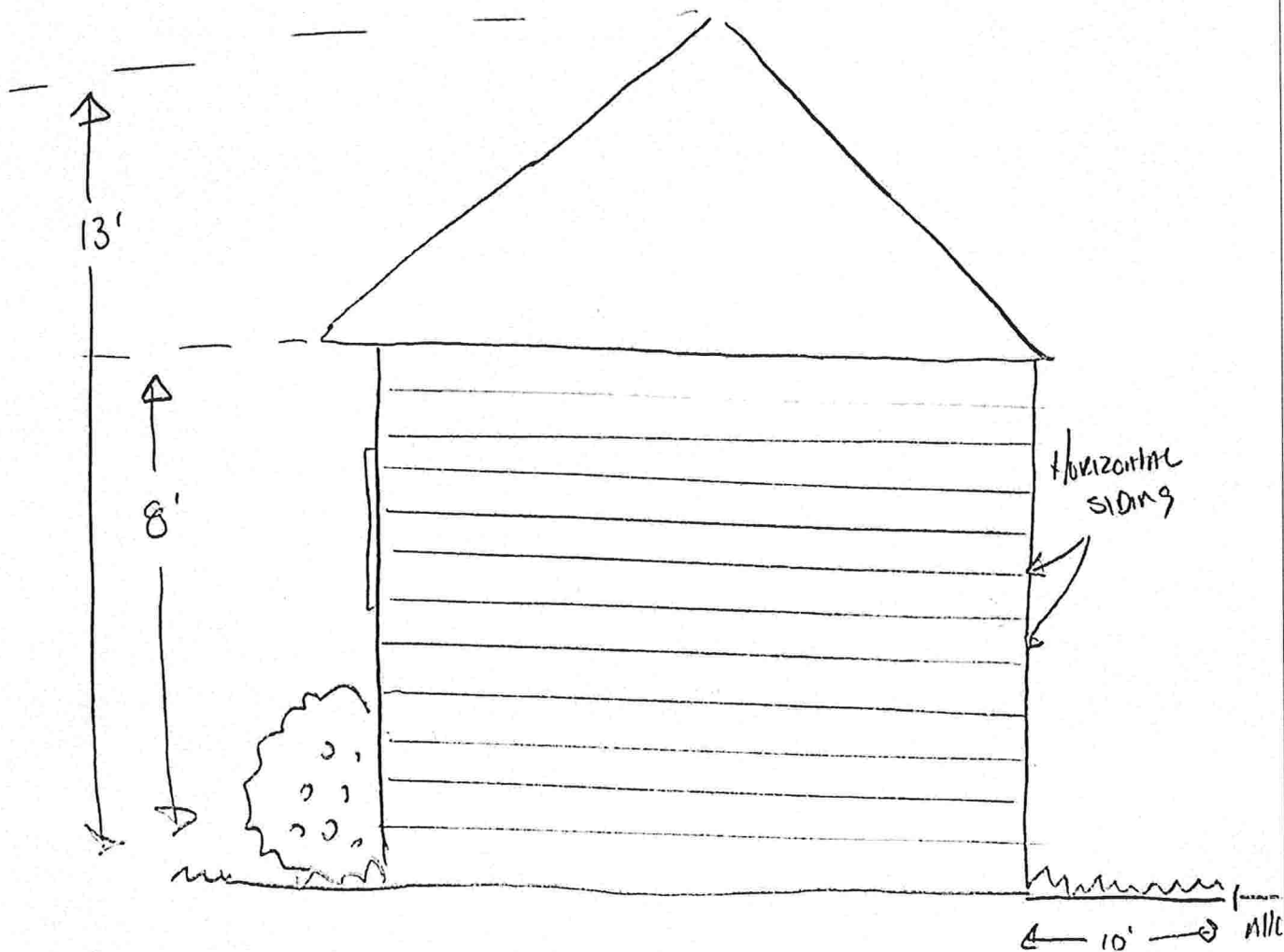
FACING NORTH



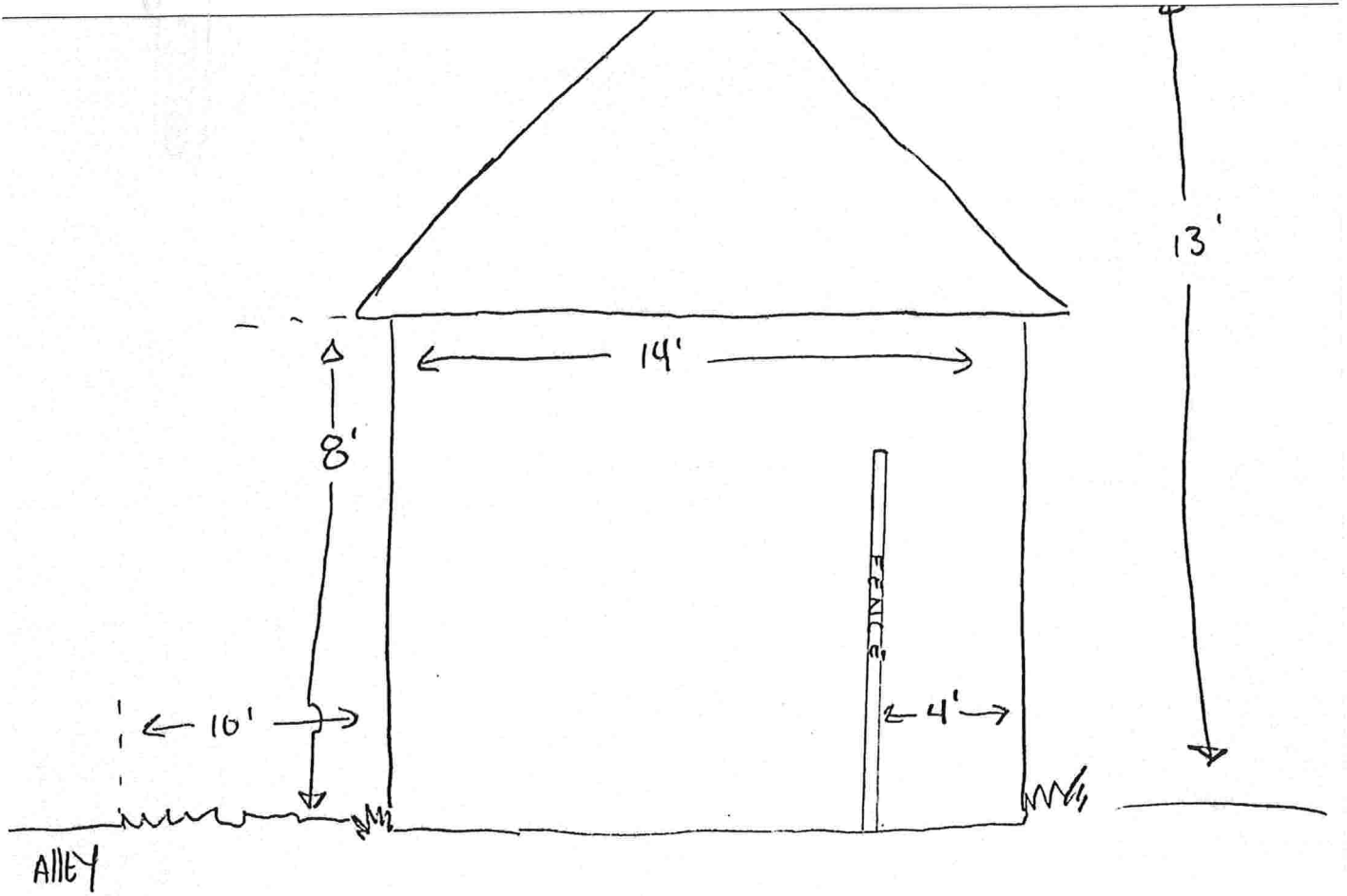
Facing South



Yard View



Facing East



FACING WEST

**TOWN OF NEW CASTLE, COLORADO
RESOLUTION NO. PZ-2020-9**

A RESOLUTION OF THE NEW CASTLE PLANNING AND ZONING COMMISSION APPROVING A PRELIMINARY PUD DEVELOPMENT PLAN FOR CASTLE VALLEY RANCH FILING 11, BEING A PORTION OF PA 17 AND PA 19.

WHEREAS, CVR Investors, Inc. (“Applicant”) is the owner of certain real property within the Town of New Castle described in the attached Exhibit A, which property as part of Planning Areas 17 and 19 of the Castle Valley Ranch Master Plan (the “Property,” or Filing 11); and

WHEREAS, the Applicant has submitted an application requesting approval of a combined Preliminary/Final PUD Development Plan and a Preliminary/Final Plat for the first phase of the development, which application is further defined in Section 2 of this Resolution (the “Application”); and

WHEREAS, the Applicant proposes to construct a total of 91 residential units in 28 multi-family buildings on 27 lots on 13.538 acres; and

WHEREAS, the PA 19 portion of the Property is zoned Residential (R), and the PA 17 portion is zoned Mixed Use (MU); and

WHEREAS, the Applicant intends to develop and plat the Property in phases, with the first phase including ten (10) lots, ten (10) multi-family buildings, and 32 residential units and the public improvements associated with the same; and

WHEREAS, the Town of New Castle Planning & Zoning Commission (“Commission”) held a duly noticed public hearing on May 13, 2020 that was continued to May 27, 2020, to consider the Application; and

WHEREAS, the Commission listened to testimony from Staff, the Applicant, and members of the public concerning the Application; and

WHEREAS, after the public hearing was closed on May 27, 2020, the Commission voted to deny the Application in its entirety and adopted Resolution PZ 2020-6 effective as of August 7, 2020 to document its decision; and

WHEREAS, pursuant to Section 17.100.070(D) of the Town Municipal Code, Applicant took the Commission’s decision regarding the preliminary PUD portion of the Application (the “Preliminary Application”) to Town Council for review; and

WHEREAS, on July 21, 2020, Town Council reviewed the Commission’s decision regarding the Preliminary Application and decided to refer the Preliminary Application back to the Commission for reassessment; and

WHEREAS, at its August 26, 2020 meeting, the Commission reconsidered the Preliminary Application based on the information and evidence presented during the public hearings; and

WHEREAS, subject to compliance with the terms and conditions of this Resolution, the Commission finds:

1. that the Preliminary Application is generally compatible with adjacent land uses;
2. that the Preliminary Application is consistent with the Town's Comprehensive Plan;
3. that the Town has the capacity to serve the proposed uses with water, sewer, fire and police protection;
4. that the uses proposed within the PUD are uses permitted outright within the zoning district contained within the PUD;
5. the number of dwelling units permitted by the underlying zone district is not exceeded by the PUD plan;
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, achieved adequate screening, buffering and aesthetic landscaping, avoids development of areas of potential hazard, ensures compliance with performance standards, and meets all other provisions of the applicable ordinances of the Town; and

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF NEW CASTLE, COLORADO:

1. Recitals. The foregoing recitals are incorporated by reference as findings and determinations of the Planning and Zoning Commission.
2. Definition of the Application. The "Application" consists of the documents and information identified by the Town Clerk on Exhibit B, plus all representations of and other documents presented by the Applicant reflected in the minutes of the Planning and Zoning Commission public hearing on May 13, 2020 that was continued to May 27, 2020, the Town Council review held on July 21, 2020, and the Commission reassessment review conducted on August 26, 2020.
3. Action regarding Preliminary Application: The Preliminary Application proposes:
 - a. The construction of ninety-one (91) residential units in twenty-eight (28) multi-family buildings on twenty-seven (27) lots, with the lots, roads, and open space to be platted and developed in accordance with the site/phasing plan dated May 27, 2020, that is included in the Application;

- b. That the first phase of Filing 11 will include ten (10) lots, eleven (11) multi-family buildings, and 33 residential units and the public improvements associated with the same; and
- c. That the platting of future phases of Filing 11, including subdividing the Property into lots and amending final plats as the multi-family buildings are constructed, be approved at a the staff level, provided that the future phase plats and amended final plats are in substantial conformance with the Application.

The Planning Commission hereby approves the Preliminary Application subject to reducing the number of units by 19 as explained in Section 6 of this Resolution and subject to compliance with all other conditions set forth in Section 6 of this Resolution.

5. Zoning. The development and use of the Property shall be subject to the restrictions and requirements of the MF-1 Zone District of the Castle Valley Ranch PUD Zoning Regulations, Section 17.104.080 of the Code (Zone District), as may be modified by the final plats for the Property; all other applicable provisions of the Code; and all applicable Ordinances of the Town. In the event of any conflict between the Zone District text and the final plats for the Property, the final plats shall control.

6. Conditions. Approval of the Preliminary Application is subject to and contingent up on satisfaction of the following conditions:

- a. Soften the transition between single family homes along South Wildhorse Dr. and the multifamily homes proposed in the Application by:
 - Converting the buildings on Lots 2 & 8 to triplexes
 - Converting the buildings on Lots 3, 4, 5, & 7 to duplexes
 - Retaining the two duplex buildings on Lot 6
 - Integrate single-family home architectural features into the duplex design.
- b. Eliminate, reorient, or reduce the following two buildings that adversely impact the natural character of the land pursuant to approval criteria 17.100.090(A.6):
 - Reduce the building on Lot 10 to a duplex because of the aesthetic impacts of a 18' grade cut
 - Reduce the building on Lot 11 to a duplex because of the aesthetic impacts of a 14' grade cut
- c. Design duplex units on Eagle Ridge Rd. with garages which can accommodate two vehicles to improve the housing diversity, snow storage, and on-street parking issues.
- d. Upgrade Open Space C as a central "green" with useable park space by eliminating Falcon Ridge Court and buildings 18, 19 & 20. Add off-street parking between buildings 17 & 21 for Open Space C. Open Space C shall include flat space for activities, playground equipment, or shade structures.

- e. Widen the natural buffer along C Avenue to greater than 120 feet or heavily landscape with trees to obscure the line-of-site between adjacent homes along South Wildhorse Dr. and those in Filing 11.
- f. Identify all permanent snow storage easements on the final plat and any temporary locations on the phasing drawings. A snow storage easement shall be designated between each building structure and confined to an area 15' wide by 10' deep beyond the sidewalk. Additionally, snow storage easements in aggregate shall total no less than 15% of the plowable street area. Snow storage shall be free of all obstructions including, but not limited to, boulders, shrubs, trees, and fences.
- g. Install street signage stating, NO PARKING ON STREETS 48 HOURS AFTER A SNOWFALL EVENT OF 2" OR MORE".
- h. Prohibit on-street parking along the outer radial lane of Eagle Ridge Drive to improve snow removal, safety, and traffic flow. Prohibit parking adjacent to any snow storage easement identified on the plat.
- i. Provide 5' landscape ("green") buffers between the road and sidewalks along both sides of Bear Canyon Dr. and the inner radial lane of Eagle Ridge Dr. All green buffers shall be lined with trees except in designated easements.
- j. At the developer's sole expense, mitigate potential fuel hazards for wildland fires in areas identified as threats by Colorado River Fire & Rescue.
- k. Construct and dedicate for public use a single-track hiking and biking easement at the base of Ganley Hill as a trail connector between Mount Medaris and Prendergast Hill as shown on Exhibit C or dedicate as Public Open Space a portion of the land bordering properties to the south of Eagle Ridge Rd.
- l. Improve trail connectors with areas gained by downsizing to duplexes as shown on Exhibit C by providing a north-south connector trail from the C Ave switchback (at Castle Valley Boulevard), continuing between Lots 2 & 3 and 22 & 23 to Open Space C. The north-south connector will continue between Lots 15 & 16 to the south end of Eagle Ridge Rd. An additional east-west connector will extend from Open Space C between Lots 25 & 26 to Bear Canyon Drive and beyond. All such connectors shall be paved or concrete.
- m. Design Bear Canyon Dr. as a collector street as defined in the Municipal Code to channel traffic from residential areas to arterial streets. The minimum right-of-way shall be 60' including two 12' wide travel lanes, two 8' wide parking lanes, two 5' wide landscape buffers, and two 5' sidewalks.
- n. Provide water and sewer service stub-outs for future development east of Bear Canyon Drive prior to the installation of road infrastructure.

- o. Provide verification that the Castle Valley Blvd right-of-way can accommodate standard turn lanes and through lanes.
- p. Specify on the plat that Open Spaces A, B, and C shall be maintained by the HOA.
- q. Provide a construction phasing plan. Identify, at minimum, each of the following components:
 - Buildout phases;
 - Schedule that identifies the sequencing of construction, sequencing of occupancy, traffic flow, and traffic control plans during construction;
 - Storage and staging areas for construction equipment and materials;
 - Illustrate drainage and erosion control best management practices (BMP's)
- r. Request approval of street names through Garfield County Communications to avoid any duplication of names in the county dispatch area.
- s. Demonstrate that all exterior illumination shall comply with acceptable International Dark-sky Association (IDA) standards.
- t. Designate locations of mailbox kiosks with written authorization from the local postmaster.
- u. Submit an exhibit and conveyance document(s) in a form acceptable to the Town Attorney outlining the necessary water rights (potable and/or raw) required for Filing 11.
- v. Prior to the recordation of any Filing 11 phase plat, the Applicant shall enter into a subdivision improvements agreement with the Town for each phase of the development in a form acceptable to the Town Attorney.
- w. The sale of individual units within Filing 11 may not occur until a plat creating the unit is recorded with Garfield County.
- x. All representations of the Applicant made verbally or in written submittals presented to the Town in conjunction with the Application before the Commission or Town Council shall be considered part of the Application and binding on the Applicant.
- y. The Applicant shall comply with all applicable building, residential, electrical and municipal code requirements, including all sign code regulations, when developing the Property according to the Plan, as amended;
- z. 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 Town's outside consultants such as legal and engineering costs.

- aa. Submit a new combined preliminary/final subdivision application to be considered concurrently with a revised final PUD application that takes into account the conditions set forth in this Resolution.

7. Action on final PUD portion of Application. The Commission hereby continues its decision on the final PUD portion of the Application until Applicant submits a revised final PUD development application that addresses the conditions set forth in Section 6 of this Resolution. The revised final application will be considered at a public hearing noticed as set forth in Section 16.08 of the Town Municipal Code.

8. Effect of Resolution. This Resolution PZ 2020-9 shall repeal and supersede Resolution PZ 2020-6 only with respect to the Preliminary Application. Resolution PZ 2020-6 remains in effect for all other portions of the original Application. The preliminary/final subdivision application has been previously denied but may be re-submitted for further review in conformity with the approved Preliminary PUD Development Plan and may be considered simultaneously with the hearing on any Final PUD Development Plan.

SO RESOLVED this 26th day of August, 2020, by a vote of ____ to ____.

TOWN OF NEW CASTLE
PLANNING & ZONING
COMMISSION

Chuck Apostolik, Chairman

ATTEST:

Mindy Andis, Deputy Town Clerk

Exhibits:

- Exhibit A: Legal Description
- Exhibit B: List of Application materials
- Exhibit C: Annotated Site Plan

EXHIBIT A
Legal Description

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 S 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" E 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

EXHIBIT B
Application Materials

- 1) PUD & Subdivision Combination Applications
- 2) Application Narrative
- 3) Applicant Response to Referrals - SGM
- 4) Referral - Colorado Parks & Wildlife
- 5) Referral - Colorado Fire River Fire and Rescue
- 6) Referral - Town of New Castle Public Works
- 7) Referral - Town Engineer
- 8) Referral + Redlined Plat -Town Attorney
- 9) Referral - Town of New Castle Police Chief
- 10) Referral - Garfield RE-2 School District
- 11) Will Serve Letter - Xcel
- 12) Public Notice
- 13) List of Property owners within 250' of Development
- 14) Affidavit as to Notice of Public Hearing
- 15) Agreement to Pay Consulting Fees & Expenses, February 15th, 2019
- 16) Title Commitment + Legal Description
- 17) Soils Report - A.G. Wassenaar
- 18) Drainage Calculations - SGM
- 19) Utility Report - SGM
- 20) Traffic Impact Study - SGM
- 21) Construction Drawings
- 22) Architectural Floorplans
- 23) Updated site/phasing plan dated May 27, 2020

EXHIBIT C
Annotated Site Plan
(to be attached)



**Town of New
Castle**

450 W. Main Street
PO Box 90

**Planning & Code Administration
Department**

Phone: (970) 984-2311

Fax: (970) 984-2716

Staff Report

**Castle Valley Ranch - Filing 11//Portion of PA17 & Remaining PA19
Preliminary PUD Development
Planning Commission – August, 26 2020**

Report Compiled: 8/21/2020

Project Information

Name of Applicant:	CVR Investors, Inc and its assigns
Applicant's Mailing Address:	1038 Country Club Estates Dr., Castle Rock, CO
Phone/Email:	303-549-1916; aa@hackstafflaw.com
Property Owner:	CVR Investors, Inc. (Aaron Atkinson)
Owner Mailing Address	Same as applicant
Proposed Use:	<i>Originally</i> proposed 27 Multifamily Lots (MF1), 3-plexes and 4-plexes; 91 total residential units;
Legal Description:	Section: 32 Township: 5 Range: 90 A PCL IN THE NE4 OF SEC 31 & NW4 OF SEC 32 CONT 48.695 AC AKA PARCEL 2 Section: 31 Township: 5 Range: 90 A PARCEL OF LAND SITUATE IN THE N1/2 SEC 31 CONT 15.505 AC AKA PARCEL 5
Street Frontage:	North – Castle Valley Blvd;
Existing Zoning:	Residential (R) & Mixed Use (MU)
Surrounding Zoning:	Single Family (SF2) – North & South Wildhorse Dr. Mixed Use (MU1) & Multifamily (MF1) – Redstone Dr.

I Application Exhibits:

(New exhibits since May 27th, 2020)

- A. Memorandum from Town Attorney, August, 20, 2020
- B. Updated applicant narrative
- C. Original site plan from May 13, 2020 public hearing
- D. Staff report from May 13, 2020 public hearing
- E. Annotated Staff site plan, August 20, 2020
- F. Town Council minutes from July 21, 2020

II Sketch Plan:

Sketch Plan

A sketch plan application for Filing 11 was reviewed by the Planning Commission on September 11, 2019 and by Council on October 1, 2019. At that time the development proposal contemplated 96 multi-family dwelling units comprised entirely of tri-plexes and four-plexes similar in style to existing units along Redstone Dr. and Foxwood Ln. in Castle Valley Ranch (CVR). The 15 acre proposal spanned both mixed-use and residential zones south of Castle Valley Blvd (CVB) and east of S Whitehorse Dr. The general concept of the sketch plan – lot sizes, open space, trails, & roads – tracked closely with a prior application submitted by Village Homes, Inc. in 2008. The 2008 application was for 62 single-family homes and was ultimately withdrawn.

At both meetings it was noted by the Applicant that the sketch plan demonstrated substantial compliance with the municipal code, adopted model codes, public works manual, and the Comprehensive Plan (CP). Staff acknowledged that the overall *design* conformance was substantial, however, it disputed the degree of continuity with the CP and aspects of the CVR Master Plan. Staff maintained that though strict compliance with the CP may not be practical in some cases, the CP is intended to provide qualitative and quantitative guidance for future land use and is made binding by virtue of its inclusion of the approval criteria for land development applications pursuant to C.R.S. 31-23-206.

The sketch plan process produced points of consensus and debate. Those included:

Points of Consensus:

- For a preliminary/final application, all submittal components need to be thorough and complete prior to meeting with Council.
- The Applicant's product – triplexes on Redstone Dr and Foxwood Ln – has generally been well received by buyers. The units are energy efficient with various modern amenities.
- The typical price-point has been competitive with Lower Valley multi-family development.
- High density residential is better suited along and south of Castle Valley Blvd. (CVB) rather than in the vacant parcels to the north of CVB.
- Land use proposals should prioritize the health and well-being of the community.
- The developer is currently party to a restrictive covenant committing them to no more than 303 additional residential units and no commercial development.

- An east-west connector trail should be integrated into the design.
- A looped raw water system is best practice for landscape irrigation.
- View planes should be preserved as much as feasible.

Points of Debate:

- Two-thirds of the proposed development consists within a mixed-use zone as specified by the CVR Master Plan. Areas of strategic, small-scale commercial development should be considered in fidelity with the vision of mixed-use in the *CP*.
- Pedestrian circulation should be improved to provide direct access to open space, parks, and other areas throughout the CVR PUD.
- Diversity of dwelling units should be included into the design rather than the same style throughout.
- The density and design of multi-family homes seemed misplaced when directly bordering larger single-family homes on S Wildhorse Dr. Transitions should be more subtle.
- Trail connectivity was limited. The proposed Open Space C was not useful. A park amenity would be a better use of that location.
- Off-street parking, though compliant with codes, would create ongoing challenges for traffic flow and snow storage given the density, road widths, attached sidewalks, and propensity of residents to have more than two cars per household or using their garages as storage.
- Snow storage was not adequately specified on the site plan.
- C Ave might be considered for a future emergency access road, in hindsight to the small fire that broke out on Mt. Medaris in the summer of 2019.
- There should be separation between the curb and sidewalk for pedestrian safety and snow storage.
- The proposal did not sufficiently represent the Smart-Growth model endorsed by the *CP*. Smart-Growth promotes sustainable communities with compact residential mixed with commercial amenities and services, all reasonably accessible without vehicles.
- There was dissatisfaction with not knowing the development plan with the neighboring parcels. Without visibility it would be difficult to assess the appropriateness of the current proposal with the overall community. A master plan amendment was recommended to flesh-out those details.

Per Council request, the Applicant presented the conceptual plan to the general public at an open house. The meeting unfortunately was not well attended, but the few attendees did provide feedback based on their perception of Redstone Dr. & Foxwood Ln. and their recollection of the original application for Filing 11 in 2008. The units have generally been well-built and at an attractive price-point to a variety of consumers. However there was comment that the build-out could have better planned for parking, traffic flow, and non-vehicular movement.

III Preliminary/Final Hearing – Planning Commission Denial

On May 13, 2020, the New Castle Planning Commission opened the hearing for Resolution PZ 2020-06 on a preliminary PUD application for Filing 11 in Castle Valley Ranch. The application consisted of 91 duplex, triplex, and four-plex units on approximately 13.5 acres. At

the continuance on May 27, 2020, the Commission – as the approval body for preliminary PUD applications – unanimously denied the application because of noncompliance with the Comprehensive Plan, Section 17.100.090(A)(6) of the municipal code, and other grounds as reflected in the record of the public hearing pursuant to the approval criteria for PUD applications in Section 17.100.090. Specifically, the application:

- ***Is NOT generally compatible with adjacent land uses***
 - Development in the vacant parcels to the north and east remained undetermined. A master plan amendment, introduced by the applicant on February 12, 2020, intended to rezone all land in CVR owned by the applicant from mixed use to residential, which would clarify the nature of development of those parcels in the future. However, the master plan amendment was deferred by the applicant until August 26, 2020. Therefore, the application's compatibility with the neighboring parcels remained difficult to ascertain.
 - The proposed style and density of multifamily units was deemed to be out of balance with the large, single-family residential homes on South Wildhorse. Adverse impacts on aesthetics and property values would be likely.
- ***Is NOT consistent with the comprehensive plan***
 - Residential or commercial development of 50 lots/units or greater shall include a mix of land-use types that “provide effectively integrated convenience retail, employment, services, parks/open space/trails, public transit, and non-motorized access (*Goal CG-4A*). Proposed amenities are used sparingly.
 - A large-scale, multifamily development would challenge the livability of the community. Shortcomings with parking, usable open space, non-vehicular circulation, and snow storage will generate a more utilitarian experience rather than one hospitable to quality places that people want to live, work, play, and learn in (*Goal CG-5*).
 - Mixed-use zoning, as defined in the master plan, Town code, and the comprehensive plan, signifies a mixture of residential and non-residential development. Mixed-use affords a community the possibility for local amenities, services, and possible employment (*Goals CG-4A thru E*);
 - Existing wildlife corridors would be displaced with little attention given to relocation habitat (*Goal EN-1*). Sensitive environmental areas will be preserved, and open space corridors will be used to break up continuous areas of development (*Goal POST-4A-B*).
 - Though marketed as competitively priced, the multifamily units would likely sell at price points at or above \$400k similarly to other townhomes in CVR. New development should embrace aspects of genuine affordability with a diversity of densities, types, and unit sizes (*Goal HO-2A*).
 - Sidewalks and trails could go further in generating connectivity between neighboring parks, open space, and other filings along CVB. Separated sidewalks and a trail easement between Ganley and Prendergast were recommended (*Goal T-1F*). The intent of the Commission is to encourage non-motorized trails and generous open space which promote recreational value (*Goal POST-3*).
 - Road designs do not adequately accommodate public safety access and will increase road maintenance. Single car garages mean owners will habitually default to using the garage as storage and at least one vehicle parked on the street. Mobility will be tight even in the best conditions. The resulting congestion, as already experienced on Redstone Dr. and Foxwood Ln., will lead to costly snow removal and at times generate obstacles for emergency equipment (*Goal T-1G*).
- ***The uses proposed are NOT permitted outright in all instances***
 - Roughly 2/3's of the site plan spans mixed use zoning. While multifamily housing is a permitted use in the mixed-use zone district, the zone district is purposely designated for a mixture of uses in accordance with the adopted Smart-Growth model and is meant to complement residential areas by providing needed services and amenities. Developing only residential in the mixed-use zone does not comply with the purpose of the zone district.

- Due to obligations with a restrictive covenant, the applicant is compelled to develop only residential on the property. This obligation, however, does not mean the applicant is forced into exclusively multifamily townhome development. Staff and the Commission offered possible solutions for development which, though forfeited the commercial, offered diversity, amenities, and enhanced livability. Unfortunately, none were advanced.

IV Applicant Appeal

According to Section 17.100.070 § D, “the applicant may take a disputed decision of the planning commission to the town council for review. If, in the town council's sole discretion, the finding of the planning commission may have been in error, the town council shall refer the application back to the planning commission for reassessment.” On July 21, 2020, pursuant to this code provision, the applicant formally contested the Commission’s conclusion before Council. Specifically, the applicant maintained that:

- **The Commission’s decision is inconsistent with C.R.S. 29.22.03.**
 - The applicant argued that because the Comprehensive Plan is insufficiently specific and largely discretionary, the goals and policies identified in it could not be used as formal conditions of approval in a land use application. The statute reads, “(2) No local government shall impose any discretionary condition upon a land-use approval unless the condition is based upon duly adopted standards that are sufficiently specific to ensure that the condition is imposed in a rational and consistent manner.”
- **The Commission’s acted inequitably in consideration of the application**
 - Eagle’s Ridge Ranch (approved 2019) and Lakota Senior Housing (approved 2017) were both found to be compliant with the approval criteria though they were 2-3 times the density.
 - High density multi-family units in ERR and LSH also demonstrate a blunt transition across from large single-family homes north of CVB. Yet those applications were deemed compliant with the approval criteria.
 - Filing 9 townhomes on Redstone Dr and Foxwood Ln are merely replicated in the currently application. Again Filing 9 was deemed compliant while the current application was not.
- **MF-1 is a permitted use on the list of uses within the MU general zoning**
 - Irrespective of the definition of mixed-use in the Code and Comprehensive Plan as a mixture of residential and non-residential uses, the applicant argued any use-by-right listed in the MU zoning is an approved option for development whether in part or in whole. The Commission, therefore, was mistaken in its conclusion that the elected use was not permitted in the underlying zoning district by virtue of the absence of a non-residential or commercial use.
- **Compromises with the design were made at the Commission’s request**
 - Density was reduced to 91 units upon initial review from sketch plan
 - Greenbelts were added along Bear Canyon Dr per request of Public Works
 - Snow storage areas were specified per request of the Commission and Public Works
 - Off-street parking was added along Eagle Ridge Rd
 - An east-west trail connector was added from the C Avenue connector, along Eagle Ridge Rd, to Bear Canyon Rd

Upon review of all testimony, Town Council recommended that Staff, the Commission, and the applicant should reconvene on the preliminary PUD application and consider whether sufficient revisions could be made to warrant the Commission's approval.

V. Revised Preliminary PUD Application and Approval Process

As a result of the Council's decision, both Staff and the applicant have provided alternatives to the original preliminary PUD application for the Commission's consideration. Resolution PZ 2020-9 shall repeal and supersede Resolution PZ 2020-6 only with respect to the Preliminary Application. Resolution PZ 2020-6 remains in effect for all other portions of the original Application. The preliminary/final subdivision application has been previously denied but may be re-submitted for further review in conformity with the approved Preliminary PUD Development Plan and may be considered simultaneously with the hearing on any Final PUD Development Plan.

The Commission will be charged with deciding whether any recommended revisions or combination of revisions to the application will favor approval based on the criteria in MC 17.100.090. An application shall demonstrate:

1. Generally compatibility with adjacent land uses;
2. Consistency with the comprehensive plan;
3. Town's capacity to serve water and sewer and provide fire and police protection;
4. Whether land uses are permitted outright or by special review;
5. Whether number of dwelling units permitted by the underlying zoning districts is not exceeded by the PUD plan;
6. Whether the PUD utilizes:
 - i. the natural character of the land,
 - ii. provides for off-street parking, vehicular, pedestrian and bicycle circulation, outdoor recreation,
 - iii. is of overall compatible architectural design,
 - iv. achieves adequate screening, buffering and aesthetic landscaping,
 - v. avoids development of areas of potential hazard, ensures compliance with the performance standards and meets all other provisions of this title.

VI. Staff Recommendations:

Staff recommends the Planning Commission explore the following alternatives to the Filing 11 preliminary PUD application prior to deciding on Resolution 2020-09.

1. Soften the transition between single family homes along S Wildhorse Dr. and the multifamily homes of this proposal by:
 - Converting lots 2 & 8 from quadplexes to triplexes. **(Less 2 units)**
 - Converting lots 3, 4, 5, & 7 to duplexes. **(Less 5 units)**
 - Retaining lot 6 as two duplex buildings.
 - Integrate single-family home architectural features into the duplex design.
2. Eliminate, reorient, or reduce the following two buildings that adversely impact the natural character of the land pursuant to approval criteria 17.100.090(A.6):

- Reduce building 10 to a duplex because of the aesthetic impacts of an 18' grade cut; **(Less 2 units)**
 - Reduce building 11 to a duplex because of the aesthetic impacts of a 14' grade cut; **(Less 1 unit)**
3. Widen the natural buffer along C Avenue to greater than 120 feet *or* heavily landscape with trees to obscure the line-of-site between adjacent homes along S Wildhorse Dr. and those in Filing 11. An improved natural buffer will also function to protect the wildlife habitat identified in the referral from the District Wildlife Manager of Colorado Parks & Wildlife.
 4. Identify all permanent snow storage easements on the final plat and any temporary locations on the phasing drawings. A snow storage easement shall be designated between each building structure and confined to an area 15' wide by 10' deep beyond the sidewalk. Additionally, snow storage easements in aggregate shall total no less than 15% of the plowable street area. Snow storage shall be free of all obstructions including, but not limited to, boulders, shrubs, trees, and fences.
 5. Install street signage stating, NO PARKING ON STREETS 48 HOURS AFTER A SNOWFALL EVENT OF 2" OR MORE".
 6. Prohibit on-street parking along the outer radial lane of Eagle Ridge Dr to improve snow removal, safety, and traffic flow. Prohibit parking adjacent to any snow storage easement identified on the plat.
 7. Require 5' landscape ("green") buffers between the road and sidewalks along both sides of Bear Canyon Dr. and the inner radial lane of Eagle Ridge Dr. All green buffers shall be lined with trees except in designated easements.
 8. Design duplex units on Eagle Ridge Rd. with garages which can accommodate two vehicles to improve the housing diversity, snow storage, and on-street parking issues.
 9. At the developer's sole expense, mitigate potential fuel hazards for wildland fires in areas identified as threats by Colorado River Fire & Rescue.
 10. Construct and dedicate for public use a single-track hiking and biking easement at the base of Ganley Hill as a trail connector between Mount Medaris and Prendergast Hill. Alternatively, dedicate as Public Open Space land bordering properties to the south of Eagle Ridge Rd.
 11. Upgrade Open Space C as a central "green" with useable park space by eliminating Falcon Ridge Court and buildings 18, 19 & 20. Add off-street parking between buildings 17 & 21 for Open Space C. Open Space C shall include flat space for activities, playground equipment, or shade structures. **(Less 9 units)**
 12. Improve trail connectors with areas gained by downsizing to duplexes as shown in the Exhibit by providing a north-south connector from the C Ave switchback (at CVB), continuing between lots 2 & 3 and 22 & 23 to Open Space C. The north-south connector will continue between lots 15 & 16 to the south end of Eagle Ridge Rd. An additional east-west connector will extend from Open Space C between lots 25 & 26 to Bear

Canyon Dr and beyond. All such connectors shall be paved or concrete.

13. Design Bear Canyon Dr. as a collector street as defined in the Municipal Code to channel traffic from residential areas to arterial streets. The minimum right-of-way shall be 60' including two 12' wide travel lanes, two 8' wide parking lanes, two 5' wide landscape buffers, and two 5' sidewalks.
14. Provide water and sewer service stub-outs for future development east of Bear Canyon Drive prior to the installation of road infrastructure.
15. Provide verification that the Castle Valley Blvd right-of-way can accommodate standard turn lanes and through lanes.
16. Specify on the plat that Open Spaces A, B, and C shall be maintained by the HOA.
17. Provide a construction phasing plan. Identify, at minimum, each of the following components:
 - Buildout phases,
 - Schedule that identifies the sequencing of construction, sequencing of occupancy, traffic flow, and traffic control plans during construction;
 - Storage and staging areas for construction equipment and materials;
 - Illustrate drainage and erosion control best management practices (BMP's)
18. Request approval of street names through Garfield County Communications to avoid any duplication of names in the county dispatch area.
19. Demonstrate that all exterior illumination shall comply with acceptable International Dark-sky Association (IDA) standards.
20. Designate locations of mailbox kiosks with written authorization from the local postmaster.
21. Submit an exhibit and conveyance document(s) in a form acceptable to the Town Attorney outlining the necessary water rights (potable and/or raw) required for Filing 11.
22. Prior to the recordation of any Filing 11 phase plat, the applicant shall enter into a subdivision improvements agreement with the Town for each phase of the development in a form acceptable to the Town Attorney.
23. The sale of individual units within Filing 11 may not occur until a plat creating the unit is recorded with Garfield County.
24. All representations of the applicant in written and verbal presentations submitted to the Town or made at public hearings before the Commission or Town Council and reflected in the minutes of such hearings shall be considered part of the Application and binding on the applicant.
25. The applicant shall comply with all applicable building, residential, electrical and municipal code requirements, including all sign code regulations, when developing the

Property according to the Plan, as amended.

26. 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 Town's outside consultants such as legal and engineering costs.
27. Submit a new combined preliminary/final subdivision application to be considered concurrently with a revised final PUD application that takes into account the conditions set forth in this Resolution.



Town of New Castle
450 W. Main Street
PO Box 90
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**Planning & Code Administration
Department**
Phone: (970) 984-2311
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Staff Report

Castle Valley Ranch - Filing 11//Portion of PA17 & Remaining PA19 Combined Preliminary/Final for PUD & Subdivision Development Plans Planning Commission – May 13, 2020

Report Compiled: 5/7/2020

Project Information

Name of Applicant:	CVR Investors, Inc and its assigns
Applicant's Mailing Address:	1038 Country Club Estates Dr., Castle Rock, CO
Phone/Email:	303-549-1916; aa@hackstafflaw.com
Property Owner:	CVR Investors, Inc. (Aaron Atkinson)
Owner Mailing Address	Same as Applicant
Proposed Use:	27 Multifamily Lots (MF1), 3-plexes and 4-plexes; 91 total residential units;
Legal Description:	Section: 32 Township: 5 Range: 90 A PCL IN THE NE4 OF SEC 31 & NW4 OF SEC 32 CONT 48.695 AC AKA PARCEL 2 Section: 31 Township: 5 Range: 90 A PARCEL OF LAND SITUATE IN THE N1/2 SEC 31 CONT 15.505 AC AKA PARCEL 5
Street Frontage:	North – Castle Valley Blvd;
Existing Zoning:	Residential (R) & Mixed Use (MU)
Surrounding Zoning:	Single Family (SF2) – North & South Wildhorse Dr. Mixed Use (MU1) & Multifamily (MF1) – Redstone Dr.

I Application Exhibits:

(Documents 1-22 submitted prior to the P&Z hearing on May 13th, 2020)

- A. PUD & Subdivision Combination Applications
- B. Application Narrative
- C. Applicant Response to Referrals - SGM
- D. Referral - Colorado Parks & Wildlife
- E. Referral - Colorado Fire River Fire and Rescue
- F. Referral - Town of New Castle Public Works
- G. Referral - Town Engineer
- H. Referral + Redlined Plat -Town Attorney
- I. Referral - Town of New Castle Police Chief
- J. Referral - Garfield RE-2 School District
- K. Resident Comment – Wayne & Virginia Shelton
- L. Will Serve Letter - Xcel
- M. Public Notice
- N. List of Property owners within 250' of Development
- O. Affidavit as to Notice of Public Hearing
- P. Agreement to Pay Consulting Fees & Expenses, February 15th, 2019
- Q. Title Commitment + Legal Description
- R. Soils Report - A.G. Wassenaar
- S. Drainage Calculations - SGM
- T. Utility Report - SGM
- U. Traffic Impact Study - SGM
- V. Snow Storage Sheet – SGM
- W. Construction Drawings - SGM
- X. Architectural Floorplans – SGM

II Progression of Application:

Sketch Plan

A sketch plan application for Filing 11 was reviewed by the Planning Commission on September 11, 2019 and by Council on October 1, 2019. At that time the development proposal contemplated 96 multi-family dwelling units comprised entirely of tri-plexes and four-plexes similar in style to existing units along Redstone Dr. and Foxwood Ln. in Castle Valley Ranch (CVR). The 15 acre proposal spanned both mixed-use and residential zones south of Castle Valley Blvd (CVB) and east of S Whitehorse Dr. The general concept of the sketch plan – lot sizes, open space, trails, & roads – tracked closely with a prior application submitted by Village Homes, Inc. in 2008. The 2008 application was for 62 single-family homes and was ultimately withdrawn.



At both meetings it was noted by the Applicant that the sketch plan demonstrated substantial compliance with the municipal code, adopted model codes, public works manual, and the Comprehensive Plan (CP). Staff acknowledged that the overall *design* conformance was substantial, however, it disputed the degree of continuity with the CP and aspects of the CVR Master Plan. Staff maintained that though strict compliance with the CP is not compulsory – and in some cases not practical – the CP is intended to provide qualitative and quantitative guidance for future land use. It is an instrument used to discover what manner of development

mutually benefits the needs of the Town and the aspirations of the developer.

The sketch plan process produced points of consensus and debate. Those included:

Points of Consensus:

- For a preliminary/final application, all submittal components need to be thorough and complete prior to meeting with Council.
- The Applicant's product – triplexes on Redstone Dr and Foxwood Ln – has generally been well received by buyers. The units are energy efficient with various modern amenities.
- The typical price-point has been competitive with Lower Valley multi-family development.
- High density residential is better suited along and south of Castle Valley Blvd. (CVB) rather than in the vacant parcels to the north of CVB.
- Land use proposals should prioritize the health and well-being of the community.
- The developer is currently party to a restrictive covenant committing them to no more than 303 additional residential units and no commercial development.
- An east-west connector trail should be integrated into the design.
- A looped raw water system is best practice for landscape irrigation.
- View planes should be preserved as much as feasible.

Points of Debate:

- Two-thirds of the proposed development consists within a mixed-use zone as specified by the CVR Master Plan. Areas of strategic, small-scale commercial development should be considered in fidelity with the vision of mixed-use in the *CP*.
- Pedestrian circulation should be improved to provide direct access to open space, parks, and other areas throughout the CVR PUD.
- Diversity of dwelling units should be included into the design rather than the same style throughout.
- The density and design of multi-family homes seemed misplaced when directly bordering larger single-family homes on S Wildhorse Dr. Transitions should be more subtle.
- Trail connectivity was limited. The proposed Open Space C was not useful. A park amenity would be a better use of that location.
- Off-street parking, though compliant with codes, would create ongoing challenges for traffic flow and snow storage given the density, road widths, attached sidewalks, and propensity of residents to have more than two cars per household or using their garages as storage.
- Snow storage was not adequately specified on the site plan.
- C Ave might be considered for a future emergency access road, in hindsight to the small fire that broke out on Mt. Medaris in the summer of 2019.
- There should be separation between the curb and sidewalk for pedestrian safety and snow storage.
- The proposal did not sufficiently represent the Smart-Growth model endorsed by the *CP*. Smart-Growth promotes sustainable communities with compact residential mixed with commercial amenities and services, all reasonably accessible without vehicles.

- There was dissatisfaction with not knowing the development plan with the neighboring parcels. Without visibility it would be difficult to assess the appropriateness of the current proposal with the overall community. A master plan amendment was recommended to flesh-out those details.

Per Council request, the Applicant presented the conceptual plan to the general public at an open house. The meeting unfortunately was not well attended, but the few attendees did provide feedback based on their perception of Redstone Dr. & Foxwood Ln. and their recollection of the original application for Filing 11 in 2008. The units have generally been well-built and at an attractive price-point to a variety of consumers. However there was comment that the build-out could have better planned for parking, traffic flow, and non-vehicular movement.

III Current P&Z Preliminary/Final Application:

On February 10th, 2020 the Applicant submitted preliminary and final applications for a combined PUD & Subdivision plan in planning areas 17 & 19 of CVR (a.k.a. Filing 11). The application was considered complete on March 23rd, 2020. A preliminary/final application with P&Z should demonstrate rigorous compliance with the adopted codes, provisions for utilities and infrastructure, substantial conformance with the CP, and minimize any adverse impacts to the Town. The Commission's recommendation shall be delivered to Council within 30 days of the close of the hearing, per MC 17.100.080. The Commission can take one of the following actions at the hearing:

- Approve the application with or without conditions;
- Deny approval of the application;
- Continue the hearing pursuant to MC 16.08.040 § G.

In what follows, the application will be assessed according to the criteria outlined in MC 17.100.090:

1. Generally compatibility with adjacent land uses;
2. Consistency with the comprehensive plan;
3. Town's capacity to serve water and sewer and provide fire and police protection;
4. Whether land uses are permitted outright or by special review;
5. Whether number of dwelling units permitted by the underlying zoning districts is not exceeded by the PUD plan;
6. Whether the PUD utilizes:
 - i. the natural character of the land,
 - ii. provides for off-street parking, vehicular, pedestrian and bicycle circulation, outdoor recreation,
 - iii. is of overall compatible architectural design,
 - iv. achieves adequate screening, buffering and aesthetic landscaping,
 - v. avoids development of areas of potential hazard, ensures compliance with the performance standards and meets all other provisions of this title.

IV CVR Purpose and Approval Criteria:

Castle Valley Ranch PUD – Purpose

According to Municipal Code section 17.104.010, the purpose and intent of the Castle Valley Ranch PUD zone district regulations are to:

1. Encourage variety in the physical development pattern of Castle Valley Ranch;
2. Provide a variety of housing densities greater than would be normally possible;
3. Encourage the use of a more creative approach to the development of land;
4. Encourage a more efficient, aesthetic and desirable use of open space;
5. Encourage a more efficient use of energy through solar orientation, native vegetation, and water conservation;
6. Provide a variety of dwelling and building designs;
7. Provide high standards of development and provide amenities appropriate to the densities involved in the project;
8. Provide an integrated open space system throughout areas as outlined on the Castle Valley Ranch PUD zoning plan as well as throughout individual districts;
9. Provide for a variety of housing types in order to best meet the housing demands of all age groups;
10. Maintain and preserve the general alignment of drainage ways for aesthetic, energy and functional purposes;
11. Provide pedestrian networks throughout the open space districts as well as throughout individual districts thereby providing an integrated network throughout the entire development;
12. Provide landscape areas and tree plantings throughout the entire development.

It is helpful to have these priorities in mind when considering an application's degree of conformance with the following approval criteria.

Approval Criteria

1) Is the proposal generally compatible with adjacent land uses?

The property is surrounded by mixed-use and residential zoning. Currently all surrounding development consists of either single family homes or multifamily dwellings. The proposed units are modeled after the tri-plexes located off of Redstone Drive – sized between 1,600sf & 1,796sf – and include four designated open spaces.

Staff Comment: Since the adjacent land uses are comprised of residential and open space, and the proposal resembles the tri-plexes built in Filing 9 on Redstone Ln. and Foxwood Dr., it is reasonable to conclude that the proposal is broadly compatible with surrounding uses.

There is some apprehension with the blunt transition from large single family homes directly to the west (3,000-4,000 sf on S Wildhorse Dr.) to the higher density 3 & 4-plexes proposed. The transition to higher density may have some adverse effects on property assessments in one way or another. Because of added congestion, noise, loss of view planes, without additional amenities the homes on S Wildhorse Dr. could suffer from external obsolescence. Conversely the close proximity of the higher value homes to the proposed development may artificially inflate the property values

of the multi-family homes. These effects might be avoided by replacing some of the multi-family lots with smaller single family dwellings, particularly on the west side of Eagle Ridge Dr. Alternatively these threats might be mitigated with increased open space and ample landscape buffers.

Finally, it is difficult to assess future compatibility of the proposal with the undeveloped properties to the east – parcels which the Applicant currently owns. For example, were the current application to be approved, how would it impact the future design of the mixed-use zone PA17 to the east? At this time the expectation for this parcel is unknown. With greater visibility, however, the Town would be in a better position to determine the suitability of the current application.

Degree of Conformance: Moderate/High

2) Is the proposal consistent with the comprehensive plan?

The CP anticipates future development to follow the Smart-Growth model (Goal CG-5). Values of smart-growth include:

- Livability
- Efficiency
- Affordability
- Environmentally Conscious

Central to this model is the concept of “place-making”. Place-making is a strategy promoting attractive, livable communities which, in turn, drive place-based business and investment while discouraging economic outsourcing. The community’s intrinsic strengths are primary to all development concepts. Incremental building, balanced housing types, transit alternatives, recreational opportunities, and even commercial services are believed to help create attractive communities which are environmentally friendly and compatible with the community’s needs. The CVR Master Plan purposely arranged mixed-use zones contiguous with residential zones to help preserve a place for services, amenities, and public wellness to achieve these ends.

Staff Comment: The Applicant proposes higher density townhomes. This is a helpful first-step in restraining sprawl and resonates with the more urban flavor specified by the CP. The proposal speculates that higher density should furnish more affordable options for young families, professionals, or those looking to downsize (CP Goal HO-2). Though this affordability is not at the level of deed restriction, the units should match an attractive price-point in the Valley.

Higher density should not, however, sacrifice health and wellness. Staff believes the current proposal risks sacrificing livability with the congestion caused by bulk residential growth. A balance might be struck by eliminating some buildings while increasing some tri-plexes to four-plexes. Or, reduce all four-plexes to three-plexes. With livability in mind this move would create greater buffer space between structures to meet the topography challenges, snow storage needs, trail placement, and parking limitations discussed below.

The CP expects a balance of land-uses particularly with development over 50 lots (CP Goal CG-4A) and especially when the development lies within a mixed-use zone. A mixture of home designs, integrated service amenities, non-vehicular connectivity, and generous open space will go a long way in improving community wellness and pairs better with the tenants of Smart-Growth.

The proposal demonstrates dedication of the required 10% of lands with a grade less than 35%. This amounts to ~1.5 acres of land. The adequacy of this dedication is discussed below. Other than space allocated to pedestrian paths, only Open Space C is reserved for potential recreation (CP Goal POST-2).

The Colorado Parks & Wildlife referral indicates that the current proposal would continue to compromise wildlife habitat. The referral concludes, "If the opportunity exists for creating wildlife movement corridors on the edges of this development, they should be reclaimed using appropriate vegetation and should contain visual and noise barriers. Some wildlife species may still attempt to access the area to the south of this development, so a vegetative barrier may provide some mitigation for the disruption at the site" (CP Goal EN-1).

Is the project sustainable? The CP (Goal CG-7) and MC (17.100.060) requires a fiscal impact study by final application to determine the future fiscal sustainability of public improvements. However because of the many variables and costs involved in a fiscal analysis, a full-on return on investment study was not requested. In theory, a fiscal analysis would indicate that the Town is better off with rather than without the proposed development. Some beta to help demonstrate this benefit:

- The Town has historical placed the burden of the initial infrastructure improvements on the developer (Goal I-1A).
- The application narrative explains that the 91 units will generate roughly \$1.66 million in permit fees, water taps, recreation fees, and use tax. However, other than use tax (~13% of permit fees or \$221,000 of the \$1.66 million) and recreation fees (\$45,500 for all 91 units), permit fees are usually a zero sum.
- The Town can expect revenues for infrastructure through a portion of the 8.551 mills on property assessments. For an average townhome in New Castle this amounts to \$210/year.
- The Town can expect revenues from sales tax (29% of all sales taxes is reserved for road maintenance and another 21% is reserved for parks and recreation).
- According to Public Works, the rule-of-thumb is that the Town typically depends on \$3,640/year per lane-mile for road paving and utility repair.

A fiscal impact study would combine these metrics with other dynamics to demonstrate the economic feasibility of development. For now it should help stimulate thought regarding known revenues and expenditures.

Degree of Conformance: Low/Moderate

3) Does the town have the capacity to serve the proposed use with water, sewer, fire and police protection?

Per the 2002 Second Amended Castle Valley Ranch Annexation Agreement, the Castle Valley Ranch PUD is has been allocated a maximum of 1400 total units. Currently an estimated 530 lots remain vacant. Dedicated water rights are still available for the proposed development.

Staff Comment: Public Works has confirmed that adequate water and sewer capacity are available for the number of lots proposed. According to the CP and the CVR Master Plan, a raw water loop for all landscape hydration should be featured. A water testing station for the Filing 11 has also tentatively been planned per Public Works recommendation.

All Staff have responded negatively to the width of the proposed road right-of-ways (ROW). Currently the proposed design is for 50' ROW or 37' flowline-to-flowline. This includes two 10.5' drive lanes, two 8' parking lanes, and two 5' attached sidewalks. This indeed is the minimum requirement for all local residential roads (MC 16.28.050 SH). To improve public safety, snow storage, and optimize the pedestrian experience, Public Works recommends detached sidewalks with an additional 5' green buffer. The result would be a 60' ROW similar to N Wildhorse Dr and other collector streets. The Police Chief would preference limiting parking to one side of street based on the poor track record of moving emergency personal and equipment in the Town's multi-family residential neighborhoods.



The 50' ROW in the higher density neighborhoods becomes increasingly problematic when snow storage is taken into account. Firstly, it is not easy to push snow down the middle of the street with 21' of total travel lane and vehicles parked on both sides. The driver must be attentive to snow "wake" or throwing snow from the blade into the sides of vehicles. Secondly, when snow storage is poorly located, snow



removal becomes highly inefficient and expensive. On heavy snow days, snow will be pushed into large piles in vacant parking spaces for staging until loaders and trucks haul it off – pushing snow is quick and inexpensive; Lifting and hauling snow is unreasonable when other alternatives for street design are available. Finally, with vehicles parked on both sides of the street, snow crews usually must return multiple times to clear area where vehicles were originally parked. In the end,

narrower ROWs usually bring a cost advantage to a developer. However for the Town of New Castle, the minimized widths have proven to be an ongoing challenge.

Degree of Conformance: Moderate

4) Are the uses proposed within the PUD permitted outright or by special review?

The proposal spans two distinct zones according to the CVR Updated Master Plan Map. A residential zone, colored in dijon, comprises the northern third of the development (5.1ac). The southern two-thirds, identified in red, is zoned mixed-use (8.8ac). The Applicant indicates that the site specific zoning is entirely multi-family MF-1, defined as a “multifamily townhouse and patio home district allowing for creative approaches to development with housing alternatives that are sensitive to existing and surrounding land uses” (17.104.080 A.3). In both residential and mixed-use zones, townhomes are permitted by right.

Staff Comment: Though the use intended is one of several permitted by right, the commitment to only residential development in a zone dedicated to mixed-use is not how the code defines mixed use in CVR (MC 17.104.080). Mixed use is purposely designated for a mixture of uses in accordance with the Smart-Growth model discussed earlier:

- MU-1: “mixed use district providing a mix of residential and nonresidential land uses within close proximity to each other that are suitably located within the community core.”
- MU-2: “mixed use district providing a mix of residential and light industrial, office uses within close proximity to each other where complementary business uses may be permitted, and where higher intensity uses will be permitted that may not be suitable within the community core.”

Nevertheless, converting the MU zones to all residential has become an all too common practice for developers in New Castle. Understandably, the alternative – nonresidential/commercial development – comes with economic risk, for it is arguably more difficult to fill commercial space. However, as noted in a previous development application, the Town struggles to correct the current imbalance between residential and commercial, which has contributed to fiscal disparities.

Staff contends that demand from the community plus demand from business interests makes provisions for commercial services and vendors more viable than in years past. The current Lakota Canyon Ranch Deli and the former veterinary clinic on 7th Street are testaments to successful business approaches integrated within predominantly residential areas. Fourmile Mountain Market in Glenwood Springs, Southside Drive in Basalt, and Eagle Ranch in Eagle are further instances of discrete commercial ventures in the heart of established residential neighborhoods.

Staff maintains, then, that the developer consider strategic locations for smart commercial options in their development plans. One suggestion might be to negotiate a zoning change which dedicates specific locations and/or functions that are deemed viable commercial areas. To move forward without any considerations means the permanent loss of another nine acres of the Town’s limited mixed-use property.

Degree of Conformance: Low/Moderate

5) Is the number of dwelling units permitted by the underlying zoning districts exceeded by the PUD plan?

The number of dwelling units in Castle Valley Ranch is restricted in two ways: 1) total number of units for all of Castle Valley and 2) minimum lot area per dwelling unit provided in tables found in MC 17.104.080 §H. Currently there are approximately 530 vacant lots in the Castle Valley PUD. With approximately 186.5 usable acres remaining, the average density would approach 2.8 units per acre. Furthermore the Applicant has elected the MF-1 zoning designation which limits the lot size for residential units to no smaller than 2,200sf. At this lot size the allowed density could approach an unrealistic 19.8 units/acre. The Castle Valley mixed-use zones are also allocated up to 100,000 aggregate square feet of commercial space which, like Lakota Canyon Ranch, has yet to be developed.

Staff Comment: The present application represents 91 units on 15ac for a density of 6.1 units per acre which, though more than double the average remaining density in Castle Valley Ranch, is far less than the 19.8 units/acre which could be allowed. If this proposal were approved the average remaining density would then fall to 2.6 units/acre. Staff believes this is manageable in theory.

In sum, though the density is significantly higher than many parts of the overall PUD, it would not affect the build-out of other parcels too adversely. For this application density, strictly speaking, should not be in conflict with the code requirements.

Degree of Conformance: High

6) Does the PUD proposal:

- i. **Provide off-street parking** – Castle Valley requires two off-street parking spaces per unit (17.104.100). The proposed design shows single-vehicle garages, with the driveway providing the second off-street parking space. As observed on Redstone Drive, the Riverpark Condos, and the Pyramid Peak Townhomes, this design is less than optimal and, as discussed above, compromises quality of life. In practice, these garages are used for storage, the driveway used for one vehicle, and the ROW used for all remaining vehicles. Together with sidewalks without green buffers, garbage bins in the driveway, and cars along the curb the congestion makes for an unpleasant pedestrian experience and undermines the appeal of the community. Other options exist. Staff encourages the Applicant to consider alternatives.
- ii. **Utilize the natural character of the land** – Due to the moderately sloped topography of the proposed 15 acres, some cut-and-fill will be required for construction feasibility. On the north two-thirds of the property, the Application will provide stepped lots. The lot lines will likely require retaining features such



as simple stacked-rock walls or wood tie retention. To date, these details have not been furnished.



Moving south in the development creates greater design challenges and topography alterations. Buildings 12 & 13 will require up to 36' of structural fill at the base of Ganley Hill. To remain below an 8% road grade the natural land contours will require alteration. At some point significant fill material will likely need to be moved or imported to the future Filing 12 to match the eastern grade with Filing 11. To retain the property's natural character measures such as these should be kept to a minimum.

- iii. **Provide pedestrian and bicycle circulation** – Proposed sidewalks help to provide safe egress from the street-to-home or from home-to-home. The CP (CP Goal T-1) envisions more for pedestrian circulation. Specifically non-vehicular trail systems should contribute to local recreation. Staff feels the current design has a solid start with 8' paths included to the north and to the west of the development. Staff maintains that trail connectivity could be increased internal to the development with small modifications to the development plan. A connecting 8' trail at the south end of Filing 11 and one that bisects the development is advised.



- iv. **Provide outdoor recreation** – Other than the existing Avenue C trail and a small centrally located pocket park, there is no realistic component of outdoor recreation to this proposal. The 2008 application included a central one acre lot that was accessible from two streets. Staff encourages the development to have more useable open space than currently proposed. Elimination of Building 20 at a minimum with some grading changes will be a positive step in creating usable recreation space. An east-west connecting trail, is included in this plan set along the south end of Eagle Ridge Dr. to Bear Canyon Dr. Adding a landscape buffer of at least three feet along this trail will provide better safety for pedestrian travel.



- v. **Is of overall compatible architectural design, achieves adequate screening, and ensures compliance with performance standards** – The overall architecture will generally follow the design aspects of the approved townhomes located on Redstone Drive and Foxwood Ln. However, many of the buildings will be enlarged to four-plexes. Landscaping and screening are identified on sheets L1.0-3.0. All landscaping shall conform to requirements set forth by the relevant Town codes and verified by the Parks Department. The Applicant will be expected to agree to the performance standards adopted by the Town.

Degree of Conformance: Moderate

V. Subdivision Approval

A subdivision application will be approved by Town Council only if it is found to be compliant with the criteria set forth in MC 16.16.030. A subdivision plat will be provided at the preliminary stage of the application and will be reviewed by the Town attorney and engineer for compliance. Per PZ 2019-5, "One or more amended plats to define the boundaries of the individual units within each building shall be prepared for each building envelope based on as-built surveys after construction, which may be approved on staff level." Sale of individual units may not occur until the amended plat is recorded with Garfield County. Any revisions and corrections will be made prior to Council meeting.

VI. Staff Recommendations:

Staff recommends the Planning Commission explore the following alternatives to the proposal prior to deciding on Resolution 2020-06:

1. Integrate areas of strategic commercial development within the mixed-use zone of the CVR master plan.
2. Soften the transition created by the juxtaposition of large single-family homes with multi-family townhomes.
3. Improve the parking arrangement and resulting traffic congestion that results from parked vehicles along both sides of the streets.
4. Expand road ROWs to include 5' green buffers between road and sidewalk.
5. Improve pedestrian circulation to provide direct access to open space, parks, and other areas of Castle Valley Ranch. Create greater trail connectivity. Possibly add an east-to-west trail corridor throughout development and along the southern property border
6. Expand Open Space C to include useable recreation space.
7. Provide a general plan for the vacant parcel east of the proposed development in order to guide considerations for how best to use the mixed-use zone, trail routing, and road configuration.
8. Eliminate Buildings 12 & 13 in order to minimize fill material at the south end of the property and retain the natural topography.
9. Consider more strategic places for snow storage to minimize removal efforts by Public Works.
10. Design C Ave as part of a greater wildlife corridor potentially accessible by emergency vehicles when needed.
11. Street names be approved through Garfield County Communications to avoid any duplication of names in the county dispatch area.

Glenwood Springs Office
901 Grand Avenue, Suite 201
Glenwood Springs, Colorado 81601
Telephone (970) 947-1936
Facsimile (970) 947-1937

GARFIELD & HECHT, P.C.
ATTORNEYS AT LAW
Since 1975

www.garfieldhecht.com

M E M O R A N D U M

TO: New Castle Planning & Zoning Commission

FROM: Haley Carmer, Assistant Town Attorney

DATE: August 20, 2020

RE: Castle Valley Ranch Filing 11 Reassessment

In February 2020, CVR Investors, Inc. (“CVRI”) submitted a combined preliminary/final subdivision and preliminary/final PUD development plan application (“Application”) to the Town concerning development of Filing 11 in Castle Valley Ranch. The Planning and Zoning Commission (“Commission”) considered the Application at a public hearing held on May 13, 2020, that was continued to May 27, 2020. After the public hearing was closed on May 27th, the Commission unanimously voted to deny the Application. Because the Commission is the approving body for preliminary subdivision and PUD applications and because a final subdivision/PUD application cannot be considered unless a preliminary application has been previously approved, the Application did not proceed to Town Council for review and decision.

Section 17.100.070(D) of the Town Municipal Code allows an applicant to take a disputed preliminary PUD decision made by the Commission to Town Council for review. CVRI exercised this option, and Council reviewed the Commission’s decision regarding the Application at its July 21, 2020 meeting. At the meeting, Town staff summarized the Application, the information presented at the public hearings, the issues the Commission identified regarding the Application, and the basis for the Commission’s decision to deny the Application. CVRI then presented its argument to Council as to why the Commission erred in denying the Application. After hearing both presentations—and without taking additional public comment or new evidence from staff or CVRI—Council decided to refer the Application back to the Commission for reassessment. Specifically, Council directed the Commission to consider whether one or more conditions proposed by Town staff to address the Commission’s concerns would justify conditional approval of the preliminary PUD portion of the Application (the “Preliminary Application”) rather than an outright denial.

Based on the direction from Council, the Commission will be reconsidering the Preliminary Application at its August 26, 2020 meeting. CVRI did not appeal the Commission’s denial of the preliminary subdivision plat application, and the final subdivision application cannot be acted on until a preliminary plat is approved, so there is nothing more for the Commission to do with respect to the subdivision portion of the original Application. Similarly,

the final PUD application cannot move forward unless and until the Preliminary Application has been approved. Thus, as explained below, the Commission's reassessment of the Preliminary Application will dictate what happens with the final PUD application portion of the original Application.

In reassessing the Preliminary Application, the Commission must decide whether the Preliminary Application (a) unconditionally satisfies the approval criteria set forth in Section 17.100.090(A); (b) can satisfy the approval criteria if one or more conditions are imposed; or (c) cannot satisfy the approval criteria regardless of whether conditions are imposed. The Commission must make its decision based on the information and evidence presented during the May 13 and May 27 public hearings; no new information or public comment will be taken at the August 26th meeting.

Considering the reasons for the Commissions' initial decision to deny the Application, Staff has developed a number of conditions for the Commission to review. Those are presented in the staff report and Resolution PZ 2020-9. If adopted, Resolution PZ 2020-9 would replace and supersede Resolution PZ 2020-6, the resolution that formally denied the Application, as to the Preliminary Application only. The conditions proposed by staff are not an exhaustive list. The Commission may decide that some conditions should be removed and others added in order for the Preliminary Application to satisfy the PUD approval criteria. Of course, the Commission may also decide that no amount of conditions will bring the Preliminary application in line with the approval criteria, in which case the Commission's previous decision will stand.

If, after its reassessment, the Commission decides to conditionally or unconditionally approve the Preliminary Application, the Commission must decide whether or not to act on the final PUD portion of the Application. As presented in Resolution PZ 2020-9, staff recommends that the Commission continue its decision on the final PUD application until CVRI submits a revised, final PUD application and combined preliminary/final subdivision application that addresses all conditions that may be imposed on the Preliminary Application. If the Commission goes this route, the Application would come back to the Commission for a new public hearing on the revised, final PUD application and preliminary/final subdivision application.

Alternatively, the Commission may approve the preliminary PUD application (with or without conditions) and recommend approval of the final PUD application subject to the same conditions, if any. In that event, the final PUD application would go to Council for review and decision at a public meeting, but there would be no additional public hearings regarding the PUD portion of the Application. CVRI would also need to submit a new combined preliminary/final subdivision application that would go to the Commission for review at a public hearing, although the scope of that hearing would be limited to issues related to the subdivision plat only.

To summarize, the Commission has the following options with respect to the Preliminary Application:

1. Approve the preliminary PUD application without conditions and recommend approval of the final PUD application without conditions;

2. Approve the Application with conditions and recommend approval of the final PUD application with those same conditions;
3. Approve the Application with conditions and continue a decision on the final PUD application pending submission of a revised final PUD application and a combined preliminary/final subdivision application; or
4. Maintain the Commission's original denial of the Application.

We will be present at the August 26th meeting to discuss the Application and applicable procedures and answer any questions you may have. Thank you.

CVR INVESTORS, INC.

5282 Red Pass Way
Castle Rock, CO 80108
303.549.1916

August 20, 2020

Via Electronic Mail

Town of New Castle
Attn: Planning & Zoning Commission
P.O. Box 90
New Castle, CO 81647

Re: *Application for Preliminary Plat Approval for Filing 11*
Parcel: Portion of PA17 and remaining PA19
Hearing: August 26, 2020

Dear Commissioners:

I am writing in regards to the upcoming hearing on our Filing 11 application. As you know, the City Council has asked the Commission and CVR Investors, Inc. to re-visit the application. Specifically, the Council has directed us to attempt to convert the objections noted during the previous hearings into conditions to the approval of the preliminary plat.

By the following, on behalf of CVR Investors, Inc. ("CVR"), I would like to submit our thoughts on the status of the application, and to point out several suggested conditions to the preliminary approval of our plat that we feel would address many of the most significant concerns expressed during the hearings. By way of introduction, the following list of proposed conditions track those concerns and, we believe, offers unique opportunities to resolve them in the interest of moving this plat forward.

DUPLEXES ON WEST SIDE OF DEVELOPMENT

Prior to the last hearing, we submitted a plat that illustrated two duplexes along the western border of the development. We did this to begin to address the concern for transitions from the South Wildhorse single-family homes to our multi-family development. At that time, we looked into this proposition had only recently discovered that the plat allowed for this change to be made without exorbitant costs or other obstacle. Unfortunately, despite our best efforts, we were unable to marshall our resources in time to submit the plat to the Commission earlier for thorough review and analysis (although we had in-depth discussions with Staff prior to the meeting during which time the concepts of the revision were thoroughly discussed).

Having looked more closely at the plat, we have concluded that we can feasibly build duplexes *all* along the stretch of Eagle Ridge Drive that borders the single-family homes on South Wildhorse Drive. While this will incur a cost to us, we are willing to do this to address the concerns on the transition. The duplexes—like the triplexes—will be designed to emulate a single-family home as much as possible.

We feel that this addresses the concern iterated by Town Staff regarding a “softer” transition from the homes on South Wildhorse Drive to the Filing 11 product. (9/9/19 Staff Report at 3.) Although still a multi-family product, the viewscape from South Wildhorse will not be of large, multi-family structures, but of smaller structures, which should substantially “soften” that transition.

SNOW MANAGEMENT PROTOCOLS

Now that the Public Works Department has had more time to review the last plat we submitted, we have spoken with Town Staff regarding concerns with the snow management protocols expressed therein. Staff has requested that we look at earmarking smaller zones for snow placement during the winter months, instead of larger sections. In particular, Staff has requested that we attempt to locate those locations on the outside edges of Eagle Ridge Road rather than on the inside corners, for ease of plowing.

We feel that we can devise a new configuration of smaller zones for snow storage at the outside corners around Eagle Ridge Drive, which should allow the snow plows to move snow more easily. This is another condition we feel is reasonable for an approval of the preliminary plat, and which we can meet prior to seeking final approval of the plat.

RECONFIGURATION OF LOTS/ENLARGED OPEN SPACE

One of the concerns expressed during the hearings was that there was insufficient open space that is usable and engenders a sense of place in residents. (9/9/19 Staff Report at 4.) We have looked critically at the revised plat to determine whether we can augment Open Space C to provide a more livable, usable community.

We have also heard the criticism that some would like to see less units in this particular development.

In this evaluation, we have also been putting together an outlay of the remaining units we have across the balance of our developable land in New Castle. We have been doing this because, as you know, we have a predefined number of units allocated by the Master Plan, which we have to reasonably disperse across our land. In looking at a possible allocation of units across the land, we discovered a possible problem that had been eluding us—there may be too many units to exhaust them across the balance of our acreage in New Castle.

In allocating the remaining density across the balance of the land using single-family homes (which has been our intent), there does not seem to be much of a problem north of

Castle Vally Boulevard. However, when you look south of the Boulevard and to the east of Filing 11, there is a portion of this vacant land that appears not to be buildable due to grade and terrain.

I offer this explanation because we are operating under certain restrictions: on the one hand, we want to offer a comfortable, livable community, and, on the other, we must use all the units that have been entitled to us. To the extent we reduce the density in Filing 11, that will have negative repercussions on what we are able to do east of Filing 11—which right now is likely going to be the last acreage in time which we develop in Castle Valley Ranch. We certainly want to avoid over-building that area in order to exhaust our units.

Finally, Staff has expressed a concern for the aesthetics and viability of the structures at the southern portion of the lots, namely, that they may have to be build upon a large amount of fill and upon piers. The suspicion is that these units will not be financially feasible to build, and they would be unsightly if they were constructed on so much fill.

To bring this around full circle, we are working on a concept that we feel addresses all of the foregoing concerns. The concept involves totally eliminating the central Falcon Ridge Court, along with the interior units surrounding the cul de sac, which will greatly open up the the open space. It drastically enlarges Open Space C, which we anticipate being a very community-friendly parcel in Filing 11 accessible by pedestrian pathways around the exterior.

With this in mind, we suggest that a plausible condition to the approval of the plat would be that we reconfigure the central area to increase the usable area of Open Space C.

WILDFIRE MITIGATION

During the last hearing on our application, Chief Moon spoke about the wildfire mitigation efforts he recommends for this area. He mentioned one area in particular near the C Avenue connection, where both the Town and CVR should engage in some mitigation efforts including clumping.

I have spoken at length with Chief Moon, who has explained to me the process of address this. He has confirmed that this must be done on the Town property as well as upon our property. The processes he described should be easily accomplished with several days of work, and will not dramatically affect the aesthetic of the area. In short, according to Chief Moon this mitigation is not a “show-stopper” for this application, but is something we can easily do in the process of construction working together with the Town.

COMPLIANCE WITH COMPREHENSIVE PLAN

The Comprehensive Plan outlined the very same problem this development is targeting: “lack of affordable housing is a persistent and growing problem in and around New Castle.” (Comp. Plan at 20.) While it is true that these units are not at the far end of the affordability spectrum, they nonetheless comprise the most modestly priced home in

relationship to the quality of the homes. This is the exact premise and goal outlined in section 5 “Housing” in the Comprehensive Plan, particularly given the “lack of affordable housing is a persistent and growing problem in and around New Castle.” (Comp. Plan at 20.)

The plat we’re proposing further complies with the following policies outlined in the Comprehensive Plan:

Policy HO-2A: New development will be required to provide a variety of housing densities, types and sizes to ensure a diversity of unit availability and unit pricing.

Policy HO-2B: The Town will favor developments with higher building densities and smaller home sizes that serve middle- and lower-income homebuyers.

Policy CG-2A: The general policy is to concentrate higher densities in and around the geographic center of New Castle.

Policy T-1G: New Castle supports concepts of traditional neighborhood design and smart growth that includes appropriately designed and compatible narrower street sections that incorporate pedestrian-friendly crossings, traffic-calming techniques, landscaping and lighting.

Policy CG-4A: Mix of Land Use types (open space, trails, non-motorized access)

Policy CG-4E: Each individual project fits into a fully-balanced community land-use structure

Policy CG-4G: The New Castle Future Land Use Map is intended to allow flexibility

Policy CG-4I: The integrity of the use classifications on the map shall be maintained to ensure a mix and sustainable balance of use types

Policy CG-5A: ... B. Incorporate compact building design...C. Create a range of housing opportunities and choices...D. Create walkable communities...E. Foster distinctive attractive communities with a strong sense of place...I. Make development decisions predictable, fair and cost-effective...J. Encourage community and stakeholder collaboration in development decisions.

Policies I-1A, I-1B, I-1C, I-1G, and I-1H (Infrastructure)

Policy T-1F: New development will ensure a high level of connectivity in on-street and off-street trail/sidewalk systems throughout the community.

Policy T-1G: New Castle supports concepts of traditional neighborhood design and smart growth that includes appropriately designed and compatible narrower street sections that incorporate pedestrian friendly crossings...landscaping and lighting.

Policy CD-1B: New Development site design should incorporate high levels of connectivity with streets, non-motorized access and convenient walkable access to services.

Policy CD-1E: Narrower street section standards should be established that encourage slower traffic speeds, separated sidewalks, on-street parking and well-placed street trees/landscaping.

All in all we are very enthusiastic about our plans to build and develop in New Castle. It is important to us that we maintain close ties and work together with the Town in this and in all other facets of our development. Thank you.

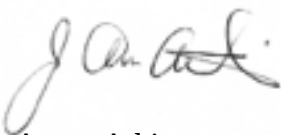
WILDLIFE DISTURBANCE

I have been exchanging voicemails with Mr. Brian Gray to get more information on his report on the wildlife disturbance. His explanation from his report indicates that vegetative barriers will alleviate the issues there, and my understanding from Staff is that this is not an obstacle to the approval of the preliminary plat. I will continue to try and speak with Mr. Gray to get a better understanding for the recommendations to minimize the impact.

CONCLUSION

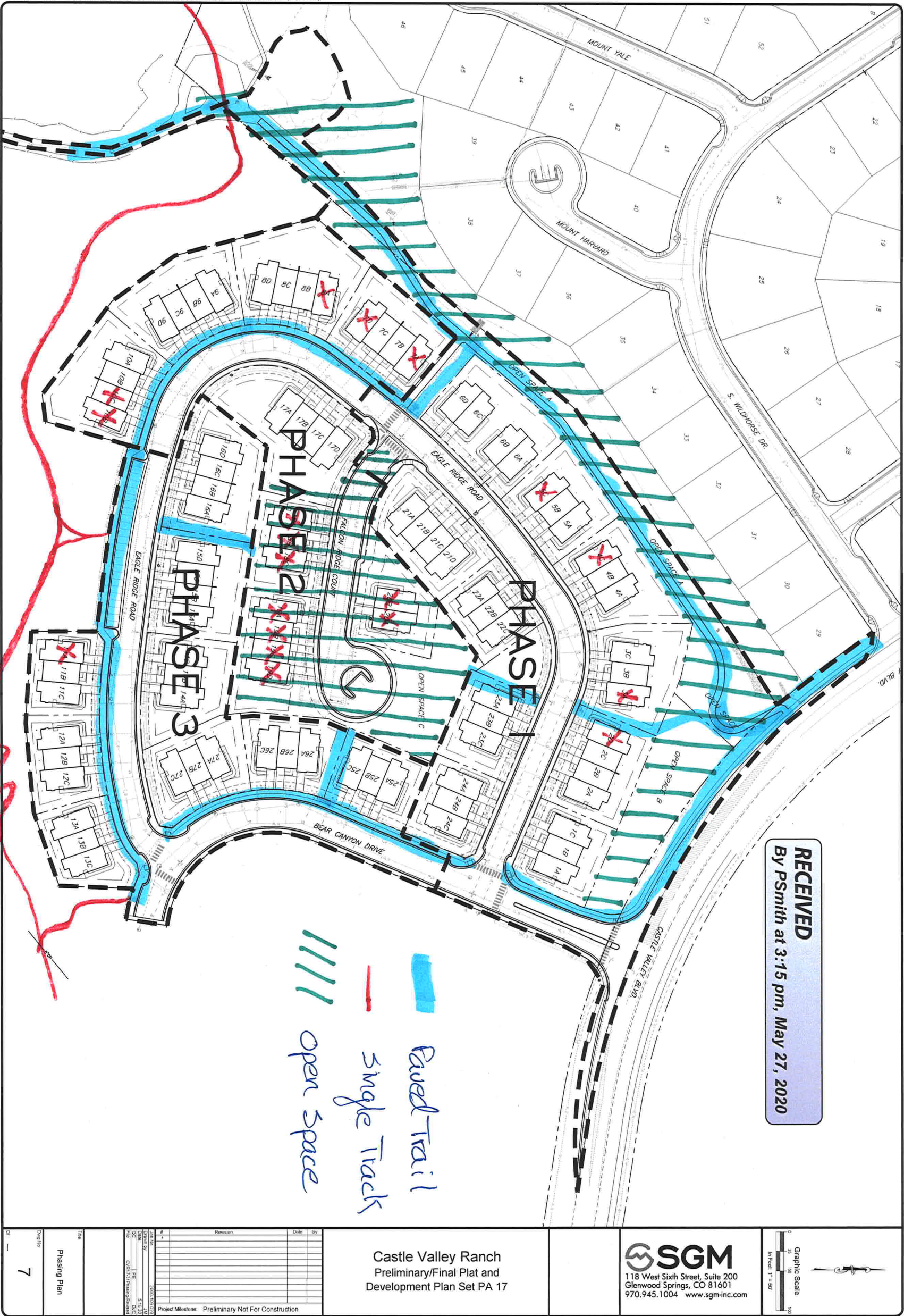
In conclusion, I appreciate the opportunity to re-convene with the Commission and to re-visit everyone's concerns (on all sides) to move this application forward for the betterment of the community as a whole.

Sincerely,

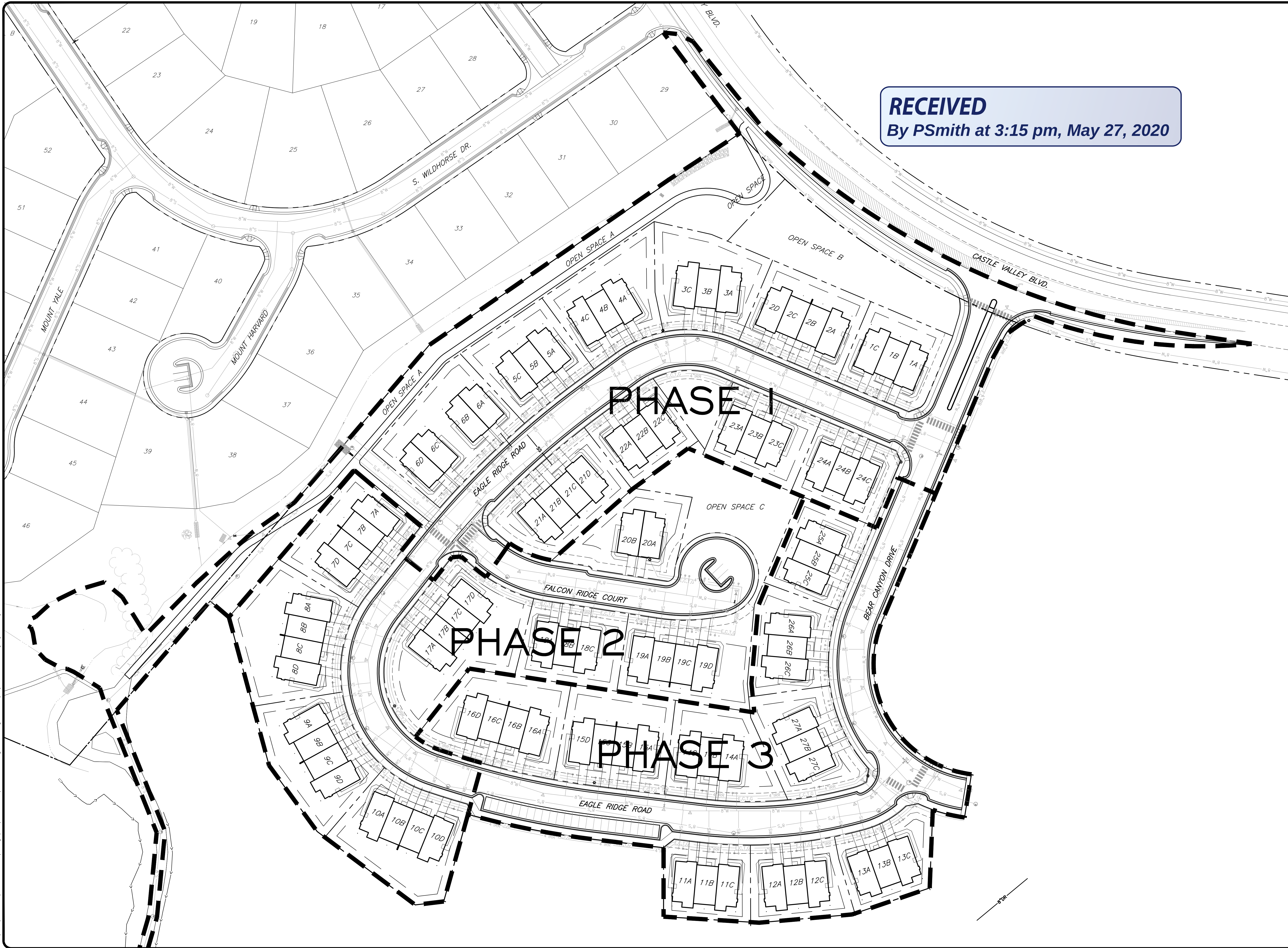
A handwritten signature in dark ink, appearing to read "J. Aaron Atkinson". The signature is fluid and cursive, with the first name "J." being prominent.

J. Aaron Atkinson
President
CVR Investors, Inc.

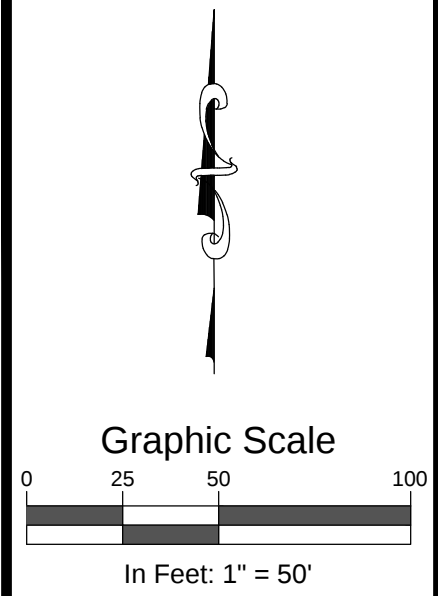
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RECEIVED
By PSmith at 3:15 pm, May 27, 2020



SGM
118 West Sixth Street, Suite 200
Glenwood Springs, CO 81601
970.945.1004 www.sgm-inc.com

Castle Valley Ranch
Preliminary/Final Plat and
Development Plan Set PA 17

Revision		Date	By
1			
2			
3			
4			
5			
6			
7			

Project Milestone: Preliminary Not For Construction

Job No. 2000-109.029
Drawn by: JM
Date: 5.18.20
QC: DJC
File: CVR17-31Phasing-Revised

Title:
Phasing Plan

Dwg No.
7

Of: ----

Excerpt from the DRAFT Town Council Minutes of July 21, 2020

MR. Haiman
Town Clerk 8.21.20

Review of Planning & Zoning Denial of Resolution PZ 2020-07, Regarding a Preliminary PUD Application for Filing 11 in Castle Valley Ranch

Town Planner Paul Smith screen-shared the following memo and staff report regarding the application from CVR Investors for a preliminary PUD application for Filing 11 in Castle Valley Ranch. He reviewed them in detail:

Memo

On May 13, 2020, the New Castle Planning Commission opened the hearing for Resolution PZ 2020-06 on a preliminary PUD application for Filing 11 in Castle Valley Ranch. The application consisted of 91 duplex, triplex, and four-plex units on approximately 13.5 acres. At the continuance on March 27, 2020, the Commission – as the approval body for preliminary PUD applications – unanimously denied the application because of noncompliance with the Comprehensive Plan, Section 17.100.090(A)(6) of the municipal code, and other grounds as reflected in the record of the public hearing pursuant to the approval criteria for PUD applications in Section 17.100.090. Specifically, the application:

- ***Is NOT generally compatible with adjacent land uses***
 - Development in the vacant parcels to the north and east remained undetermined. A master plan amendment, introduced by the applicant on February 12, 2020, intended to clarify the vision and purpose of those parcels. However, the master plan amendment was deferred by the applicant until August 26, 2020. Therefore, the application's compatibility with the neighboring parcels remained difficult to ascertain.
 - The proposed style and density of multifamily units was deemed to be out of balance with the large, single-family residential homes on South Wildhorse. Adverse impacts on aesthetics and property values would be likely.
- ***Is NOT consistent with the comprehensive plan***
 - Residential or commercial development of 50 lots/units or greater shall include a mix of land-use types that "provide effectively integrated convenience retail, employment, services, parks/open space/trails, public transit, and non-motorized access (*Goal CG-4A*). Proposed amenities are used sparingly.
 - A large-scale, multifamily development would challenge the livability of the community. Shortcomings with parking, usable open space, non-vehicular circulation, and snow storage will generate a more utilitarian experience rather than one hospitable to quality places that people want to live, work, play, and learn in (*Goal CG-5*).

- Mixed-use zoning, as defined in the master plan, Town code, and the comprehensive plan, signifies a mixture of residential and non-residential development. Mixed-use affords a community the possibility for local amenities, services, and possible employment (*Goals CG-4A thru E*);
 - Existing wildlife corridors would be displaced with little attention given to relocation habitat (*Goal EN-1*). Sensitive environmental areas will be preserved, and open space corridors will be used to break up continuous areas of development (*Goal POST-4A-B*).
 - Though marketed as competitively priced, the multifamily units would likely sell at price points at or above \$400k similarly to other townhomes in CVR. New development should embrace aspects of genuine affordability with a diversity of densities, types, and unit sizes (*Goal HO-2A*).
 - Sidewalks and trails could go further in generating connectivity between neighboring parks, open space, and other filings along CVB. Separated sidewalks and a trail easement between Ganley and Prendergast were recommended (*Goal T-1F*). The intent of the Commission is to encourage non-motorized trails and generous open space which promote recreational value (*Goal POST-3*).
 - Road designs do not adequately accommodate public safety access and will increase road maintenance. Single car garages mean owners will habitually default to using the garage as storage and at least one vehicle parked on the street. Mobility will be tight even in the best conditions. The resulting congestion, as already experienced on Redstone Dr. and Foxwood Ln., will lead to costly snow removal and at times generate obstacles for emergency equipment (*Goal T-1G*).
- ***The uses proposed are NOT permitted outright in all instances***
 - Roughly 2/3's of the site plan spans mixed use zoning. Mixed-use is purposely designated for a mixture of uses in accordance with the adopted Smart-Growth model and are meant to complement residential areas by providing needed services and amenities. The sacrifice of nearly nine more acres of mixed-use to residential will continue to fuel the Town's imbalance between residential and commercial.
 - Due to obligations with a restrictive covenant, the applicant is compelled to develop only residential on the property. This obligation, however, does not mean the applicant is forced into exclusively multifamily townhome development. Staff and the Commission offered possible solutions for development which, though forfeited the commercial, offered diversity, amenities, and enhanced livability. Unfortunately, none were advanced.

According to Section 17.100.070 § D, "the applicant may take a disputed decision of the planning commission to the town council for review. If, in the town council's sole discretion, the finding of the planning commission may have been in error, the town council shall refer the application back to the planning commission for reassessment."

The applicant contends that the proposal meets the code standards and design requirements as set forth in the Public Works Manual, zoning provisions, and adopted building codes. The satisfaction of those requirements notwithstanding, the Commission maintains that the approval criteria of Section 17.100.090 and mere design standards are not coextensive. The approval criteria have greater reach and grant the Commission the authority to determine whether a land use application substantially complies with the Comprehensive Plan and the overall community vision. The Commission concludes, then, that the application contains significant enough shortcomings in the manner discussed above to warrant denial. The Council is charged with deciding whether this conclusion was in error.

Staff Report

Staff Report

Castle Valley Ranch - Filing 11//Portion of PA17 & Remaining PA19 Combined Preliminary/Final for PUD & Subdivision Development Plans Planning Commission – May 13, 2020

Report Compiled: 5/7/2020

Project Information

Name of Applicant: CVR Investors, Inc and its assigns

Applicant's Mailing Address: 1038 Country Club Estates Dr., Castle Rock, CO

Phone/Email: 303-549-1916; aa@hackstafflaw.com

Property Owner: CVR Investors, Inc. (Aaron Atkinson)

Owner Mailing Address: Same as Applicant

Proposed Use: 27 Multifamily Lots (MF1), 3-plexes and 4-plexes; 91 total residential units;

Legal Description: Section: 32 Township: 5 Range: 90 A PCL IN THE NE4 OF
SEC 31 & NW4 OF SEC 32 CONT 48.695 AC AKA PARCEL
2
Section: 31 Township: 5 Range: 90 A PARCEL OF LAND
SITUATE IN THE N1/2 SEC 31 CONT 15.505 AC AKA
PARCEL 5

Street Frontage: North – Castle Valley Blvd;

Existing Zoning: Residential (R) & Mixed Use (MU)

Surrounding Zoning: Single Family (SF2) – North & South Wildhorse Dr.
Mixed Use (MU1) & Multifamily (MF1) – Redstone Dr.

I Application Exhibits:

(Documents 1-22 submitted prior to the P&Z hearing on May 13th, 2020)

- A. PUD & Subdivision Combination Applications
- B. Application Narrative
- C. Applicant Response to Referrals - SGM
- D. Referral - Colorado Parks & Wildlife
- E. Referral - Colorado Fire River Fire and Rescue
- F. Referral - Town of New Castle Public Works
- G. Referral - Town Engineer
- H. Referral + Redlined Plat -Town Attorney
- I. Referral - Town of New Castle Police Chief
- J. Referral - Garfield RE-2 School District
- K. Resident Comment – Wayne & Virginia Shelton
- L. Will Serve Letter - Xcel
- M. Public Notice
- N. List of Property owners within 250' of Development
- O. Affidavit as to Notice of Public Hearing
- P. Agreement to Pay Consulting Fees & Expenses, February 15th, 2019
- Q. Title Commitment + Legal Description
- R. Soils Report - A.G. Wassenaar
- S. Drainage Calculations - SGM
- T. Utility Report - SGM
- U. Traffic Impact Study - SGM
- V. Snow Storage Sheet – SGM
- W. Construction Drawings - SGM
- X. Architectural Floorplans – SGM

II Progression of Application:

Sketch Plan

A sketch plan application for Filing 11 was reviewed by the Planning Commission on September 11, 2019 and by Council on October 1, 2019. At that time the development proposal contemplated 96 multi-family dwelling units comprised entirely of tri-plexes and four-plexes similar in style to existing units along Redstone Dr. and Foxwood Ln. in Castle Valley Ranch (CVR). The 15 acre proposal spanned both mixed-use and residential zones south of Castle Valley Blvd (CVB) and east of S Whitehorse Dr. The general concept of the sketch plan – lot sizes, open space, trails, & roads – tracked closely with a prior application



submitted by Village Homes, Inc. in 2008. The 2008 application was for 62 single-family homes and was ultimately withdrawn.

At both meetings it was noted by the Applicant that the sketch plan demonstrated substantial compliance with the municipal code, adopted model codes, public works manual, and the Comprehensive Plan (CP). Staff acknowledged that the overall *design* conformance was substantial, however, it disputed the degree of continuity with the CP and aspects of the CVR Master Plan. Staff maintained that though strict compliance with the CP is not compulsory – and in some cases not practical – the CP is intended to provide qualitative and quantitative guidance for future land use. It is an instrument used to discover what manner of development mutually benefits the needs of the Town and the aspirations of the developer.

The sketch plan process produced points of consensus and debate. Those included:

Points of Consensus:

- For a preliminary/final application, all submittal components need to be thorough and complete prior to meeting with Council.
- The Applicant's product – triplexes on Redstone Dr and Foxwood Ln – has generally been well received by buyers. The units are energy efficient with various modern amenities.
- The typical price-point has been competitive with Lower Valley multi-family development.
- High density residential is better suited along and south of Castle Valley Blvd. (CVB) rather than in the vacant parcels to the north of CVB.
- Land use proposals should prioritize the health and well-being of the community.
- The developer is currently party to a restrictive covenant committing them to no more than 303 additional residential units and no commercial development.
- An east-west connector trail should be integrated into the design.
- A looped raw water system is best practice for landscape irrigation.
- View planes should be preserved as much as feasible.

Points of Debate:

- Two-thirds of the proposed development consists within a mixed-use zone as specified by the CVR Master Plan. Areas of strategic, small-scale commercial development should be considered in fidelity with the vision of mixed-use in the CP.
- Pedestrian circulation should be improved to provide direct access to open space, parks, and other areas throughout the CVR PUD.
- Diversity of dwelling units should be included into the design rather than the same style throughout.

- The density and design of multi-family homes seemed misplaced when directly bordering larger single-family homes on S Wildhorse Dr. Transitions should be more subtle.
- Trail connectivity was limited. The proposed Open Space C was not useful. A park amenity would be a better use of that location.
- Off-street parking, though compliant with codes, would create ongoing challenges for traffic flow and snow storage given the density, road widths, attached sidewalks, and propensity of residents to have more than two cars per household or using their garages as storage.
- Snow storage was not adequately specified on the site plan.
- C Ave might be considered for a future emergency access road, in hindsight to the small fire that broke out on Mt. Medaris in the summer of 2019.
- There should be separation between the curb and sidewalk for pedestrian safety and snow storage.
- The proposal did not sufficiently represent the Smart-Growth model endorsed by the CP. Smart-Growth promotes sustainable communities with compact residential mixed with commercial amenities and services, all reasonably accessible without vehicles.
- There was dissatisfaction with not knowing the development plan with the neighboring parcels. Without visibility it would be difficult to assess the appropriateness of the current proposal with the overall community. A master plan amendment was recommended to flesh-out those details.

Per Council request, the Applicant presented the conceptual plan to the general public at an open house. The meeting unfortunately was not well attended, but the few attendees did provide feedback based on their perception of Redstone Dr. & Foxwood Ln. and their recollection of the original application for Filing 11 in 2008. The units have generally been well-built and at an attractive price-point to a variety of consumers. However there was comment that the build-out could have better planned for parking, traffic flow, and non-vehicular movement.

III Current P&Z Preliminary/Final Application:

On February 10th, 2020 the Applicant submitted preliminary and final applications for a combined PUD & Subdivision plan in planning areas 17 & 19 of CVR (a.k.a. Filing 11). The application was considered complete on March 23rd, 2020. A preliminary/final application with P&Z should demonstrate rigorous compliance with the adopted codes, provisions for utilities and infrastructure, substantial conformance with the CP, and minimize any adverse impacts to the Town. The Commission's recommendation shall be delivered to Council within 30 days of the close of the hearing, per MC 17.100.080. The Commission can take one of the following actions at the hearing:

- Approve the application with or without conditions;
- Deny approval of the application;

- Continue the hearing pursuant to MC 16.08.040 § G.

In what follows, the application will be assessed according to the criteria outlined in MC 17.100.090:

1. Generally compatibility with adjacent land uses;
2. Consistency with the comprehensive plan;
3. Town's capacity to serve water and sewer and provide fire and police protection;
4. Whether land uses are permitted outright or by special review;
5. Whether number of dwelling units permitted by the underlying zoning districts is not exceeded by the PUD plan;
6. Whether the PUD utilizes:
 - i. the natural character of the land,
 - ii. provides for off-street parking, vehicular, pedestrian and bicycle circulation, outdoor recreation,
 - iii. is of overall compatible architectural design,
 - iv. achieves adequate screening, buffering and aesthetic landscaping,
 - v. avoids development of areas of potential hazard, ensures compliance with the performance standards and meets all other provisions of this title.

IV CVR Purpose and Approval Criteria:

Castle Valley Ranch PUD – Purpose

According to Municipal Code section 17.104.010, the purpose and intent of the Castle Valley Ranch PUD zone district regulations are to:

1. Encourage variety in the physical development pattern of Castle Valley Ranch;
2. Provide a variety of housing densities greater than would be normally possible;
3. Encourage the use of a more creative approach to the development of land;
4. Encourage a more efficient, aesthetic and desirable use of open space;
5. Encourage a more efficient use of energy through solar orientation, native vegetation, and water conservation;
6. Provide a variety of dwelling and building designs;
7. Provide high standards of development and provide amenities appropriate to the densities involved in the project;

8. Provide an integrated open space system throughout areas as outlined on the Castle Valley Ranch PUD zoning plan as well as throughout individual districts;
9. Provide for a variety of housing types in order to best meet the housing demands of all age groups;
10. Maintain and preserve the general alignment of drainage ways for aesthetic, energy and functional purposes;
11. Provide pedestrian networks throughout the open space districts as well as throughout individual districts thereby providing an integrated network throughout the entire development;
12. Provide landscape areas and tree plantings throughout the entire development.

It is helpful to have these priorities in mind when considering an application's degree of conformance with the following approval criteria.

Approval Criteria

1) Is the proposal generally compatible with adjacent land uses?

The property is surrounded by mixed-use and residential zoning. Currently all surrounding development consists of either single family homes or multifamily dwellings. The proposed units are modeled after the tri-plexes located off of Redstone Drive – sized between 1,600sf & 1,796sf – and include four designated open spaces.

Staff Comment: Since the adjacent land uses are comprised of residential and open space, and the proposal resembles the tri-plexes built in Filing 9 on Redstone Ln. and Foxwood Dr., it is reasonable to conclude that the proposal is broadly compatible with surrounding uses.

There is some apprehension with the blunt transition from large single family homes directly to the west (3,000-4,000 sf on S Wildhorse Dr.) to the higher density 3 & 4-plexes proposed. The transition to higher density may have some adverse effects on property assessments in one way or another. Because of added congestion, noise, loss of view planes, without additional amenities the homes on S Wildhorse Dr. could suffer from external obsolescence. Conversely the close proximity of the higher value homes to the proposed development may artificially inflate the property values of the multi-family homes. These effects might be avoided by replacing some of the multi-family lots with smaller single family dwellings, particularly on the west side of Eagle Ridge Dr. Alternatively these threats might be mitigated with increased open space and ample landscape buffers.

Finally, it is difficult to assess future compatibility of the proposal with the undeveloped properties to the east – parcels which the Applicant currently owns. For example, were the current application to be approved, how would it impact the future design of the mixed-use zone PA17 to the east? At this time the

expectation for this parcel is unknown. With greater visibility, however, the Town would be in a better position to determine the suitability of the current application.

Degree of Conformance: Moderate/High

2) Is the proposal consistent with the comprehensive plan?

The CP anticipates future development to follow the Smart-Growth model (Goal CG-5). Values of smart-growth include:

- Livability
- Efficiency
- Affordability
- Environmentally Conscious

Central to this model is the concept of “place-making”. Place-making is a strategy promoting attractive, livable communities which, in turn, drive place-based business and investment while discouraging economic outsourcing. The community’s intrinsic strengths are primary to all development concepts. Incremental building, balanced housing types, transit alternatives, recreational opportunities, and even commercial services are believed to help create attractive communities which are environmentally friendly and compatible with the community’s needs. The CVR Master Plan purposely arranged mixed-use zones contiguous with residential zones to help preserve a place for services, amenities, and public wellness to achieve these ends.

Staff Comment: The Applicant proposes higher density townhomes. This is a helpful first-step in restraining sprawl and resonates with the more urban flavor specified by the CP. The proposal speculates that higher density should furnish more affordable options for young families, professionals, or those looking to downsize (CP Goal HO-2). Though this affordability is not at the level of deed restriction, the units should match an attractive price-point in the Valley.

Higher density should not, however, sacrifice health and wellness. Staff believes the current proposal risks sacrificing livability with the congestion caused by bulk residential growth. A balance might be struck by eliminating some buildings while increasing some tri-plexes to four-plexes. Or, reduce all four-plexes to three-plexes. With livability in mind this move would create greater buffer space between structures to meet the topography challenges, snow storage needs, trail placement, and parking limitations discussed below.

The CP expects a balance of land-uses particularly with development over 50 lots (CP Goal CG-4A) and especially when the development lies within a mixed-use zone. A mixture of home designs, integrated service amenities, non-vehicular connectivity, and generous open space will go a long way in improving community wellness and pairs better with the tenants of Smart-Growth.

The proposal demonstrates dedication of the required 10% of lands with a grade less than 35%. This amounts to ~1.5 acres of land. The adequacy of this dedication is discussed below. Other than space allocated to pedestrian paths, only Open Space C is reserved for potential recreation (CP Goal POST-2).

The Colorado Parks & Wildlife referral indicates that the current proposal would continue to compromise wildlife habitat. The referral concludes, "If the opportunity exists for creating wildlife movement corridors on the edges of this development, they should be reclaimed using appropriate vegetation and should contain visual and noise barriers. Some wildlife species may still attempt to access the area to the south of this development, so a vegetative barrier may provide some mitigation for the disruption at the site" (CP Goal EN-1).

Is the project sustainable? The *CP* (Goal CG-7) and *MC* (17.100.060) requires a fiscal impact study by final application to determine the future fiscal sustainability of public improvements. However because of the many variables and costs involved in a fiscal analysis, a full-on return on investment study was not requested. In theory, a fiscal analysis would indicate that the Town is better off with rather than without the proposed development. Some beta to help demonstrate this benefit:

- The Town has historical placed the burden of the initial infrastructure improvements on the developer (Goal I-1A).
- The application narrative explains that the 91 units will generate roughly \$1.66 million in permit fees, water taps, recreation fees, and use tax. However, other than use tax (~13% of permit fees or \$221,000 of the \$1.66 million) and recreation fees (\$45,500 for all 91 units), permit fees are usually a zero sum.
- The Town can expect revenues for infrastructure through a portion of the 8.551 mills on property assessments. For an average townhome in New Castle this amounts to \$210/year.
- The Town can expect revenues from sales tax (29% of all sales taxes is reserved for road maintenance and another 21% is reserved for parks and recreation).
- According to Public Works, the rule-of-thumb is that the Town typically depends on \$3,640/year per lane-mile for road paving and utility repair.

A fiscal impact study would combine these metrics with other dynamics to demonstrate the economic feasibility of development. For now it should help stimulate thought regarding known revenues and expenditures.

Degree of Conformance: Low/Moderate

3) Does the town have the capacity to serve the proposed use with water, sewer, fire and police protection?

Per the 2002 Second Amended Castle Valley Ranch Annexation Agreement, the Castle Valley Ranch PUD is has been allocated a maximum of 1400 total units. Currently an estimated 530 lots remain vacant. Dedicated water rights are still available for the proposed development.

Staff Comment: Public Works has confirmed that adequate water and sewer capacity are available for the number of lots proposed. According to the CP and the CVR Master Plan, a raw water loop for all landscape hydration should be featured. A water testing station for the Filing 11 has also tentatively been planned per Public Works recommendation.

All Staff have responded negatively to the width of the proposed road right-of-ways (ROW). Currently the proposed design is for 50' ROW or 37' flowline-to-flowline. This includes two 10.5' drive lanes, two 8' parking lanes, and two 5' attached sidewalks. This indeed is the minimum requirement for all local residential roads (MC 16.28.050 §H). To improve public safety, snow storage, and optimize the pedestrian experience, Public Works recommends detached sidewalks with an additional 5' green buffer. The result would be a 60' ROW similar to N Wildhorse Dr and other collector streets. The Police Cheif would preference limiting parking to one side of street based on the poor track record of moving emergency personal and equipment in the Town's multi-family residential neighborhoods.



The 50' ROW in the higher density neighborhoods becomes increasingly problematic when snow storage is taken into account. Firstly, it is not easy to push snow down the middle of the street with 21' of total travel lane and vehicles parked on both sides. The driver must be attentive to snow "wake" or throwing snow from the blade into the sides of vehicles. Secondly, when snow storage is poorly located, snow removal becomes highly inefficient and expensive. On heavy snow days, snow will be pushed into large piles in vacant parking spaces for staging until loaders and trucks haul it off – pushing snow is quick and inexpensive; Lifting and hauling snow is unreasonable when other alternatives for street design are available. Finally, with vehicles parked on both sides of the street, snow crews usually must return multiple times to clear area where vehicles were originally parked. In the end, narrower ROWs usually bring a cost advantage to a developer. However for the Town of New Castle, the minimized widths have proven to be an ongoing challenge.



Degree of Conformance: Moderate

4) Are the uses proposed within the PUD permitted outright or by special review?

The proposal spans two distinct zones according to the CVR Updated Master Plan Map. A residential zone, colored in dijon, comprises the northern third of the development (5.1ac). The southern two-thirds, identified in red, is zoned mixed-use (8.8ac). The Applicant indicates that the site specific zoning is entirely multi-family MF-1, defined as a "multifamily townhouse and patio home district allowing for creative approaches to development with housing alternatives that are sensitive to existing and surrounding land uses" (17.104.080 A.3). In both residential and mixed-use zones, townhomes are permitted by right.

Staff Comment: Though the use intended is one of several permitted by right, the commitment to only residential development in a zone dedicated to mixed-use is not how the code defines mixed use in CVR (MC 17.104.080). Mixed use is purposely designated for a mixture of uses in accordance with the Smart-Growth model discussed earlier:

- MU-1: "mixed use district providing a mix of residential and nonresidential land uses within close proximity to each other that are suitably located within the community core."
- MU-2: "mixed use district providing a mix of residential and light industrial, office uses within close proximity to each other where complementary business uses may be permitted, and where higher intensity uses will be permitted that may not be suitable within the community core."

Nevertheless, converting the MU zones to all residential has become an all too common practice for developers in New Castle. Understandably, the alternative – nonresidential/commercial development – comes with economic risk, for it is arguably more difficult to fill commercial space. However, as noted in a previous development application, the Town struggles to correct the current imbalance between residential and commercial, which has contributed to fiscal disparities.

Staff contends that demand from the community plus demand from business interests makes provisions for commercial services and vendors more viable than in years past. The current Lakota Canyon Ranch Deli and the former veterinary clinic on 7th Street are testaments to successful business approaches integrated within predominantly residential areas. Fourmile Mountain Market in Glenwood Springs, Southside Drive in Basalt, and Eagle Ranch in Eagle are further instances of discrete commercial ventures in the heart of established residential neighborhoods.

Staff maintains, then, that the developer consider strategic locations for smart commercial options in their development plans. One suggestion might be to negotiate a zoning change which dedicates specific locations and/or functions that are deemed viable commercial areas. To move forward without any considerations

means the permanent loss of another nine acres of the Town's limited mixed-use property.

Degree of Conformance: Low/Moderate

5) Is the number of dwelling units permitted by the underlying zoning districts exceeded by the PUD plan?

The number of dwelling units in Castle Valley Ranch is restricted in two ways: 1) total number of units for all of Castle Valley and 2) minimum lot area per dwelling unit provided in tables found in MC 17.104.080 §H. Currently there are approximately 530 vacant lots in the Castle Valley PUD. With approximately 186.5 usable acres remaining, the average density would approach 2.8 units per acre. Furthermore the Applicant has elected the MF-1 zoning designation which limits the lot size for residential units to no smaller than 2,200sf. At this lot size the allowed density could approach an unrealistic 19.8 units/acre. The Castle Valley mixed-use zones are also allocated up to 100,000 aggregate square feet of commercial space which, like Lakota Canyon Ranch, has yet to be developed.

Staff Comment: The present application represents 91 units on 15ac for a density of 6.1 units per acre which, though more than double the average remaining density in Castle Valley Ranch, is far less than the 19.8 units/acre which could be allowed. If this proposal were approved the average remaining density would then fall to 2.6 units/acre. Staff believes this is manageable in theory.

In sum, though the density is significantly higher than many parts of the overall PUD, it would not affect the build-out of other parcels too adversely. For this application density, strictly speaking, should not be in conflict with the code requirements.

Degree of Conformance: High

6) Does the PUD proposal:

- i. **Provide off-street parking** – Castle Valley requires two off-street parking spaces per unit (17.104.100). The proposed design shows single-vehicle garages, with the driveway providing the second off-street parking space. As observed on Redstone Drive, the Riverpark Condos, and the Pyramid Peak Townhomes, this design is less than optimal and, as discussed above, compromises quality of life. In practice, these garages are used for



storage, the driveway used for one vehicle, and the ROW used for all remaining vehicles. Together with sidewalks without green buffers, garbage bins in the driveway, and cars along the curb the congestion makes for an unpleasant pedestrian experience and undermines the appeal of the community. Other options exist. Staff encourages the Applicant to consider alternatives.

- ii. **Utilize the natural character of the land** – Due to the moderately sloped topography of the proposed 15 acres, some cut-and-fill will be required for construction feasibility. On the north two-thirds of the property, the Application will provide stepped lots. The lot lines will likely require retaining features such as simple stacked-rock walls or wood tie retention. To date, these details have not been furnished.



Moving south in the development creates greater design challenges and topography alterations. Buildings 12 & 13 will require up to 36' of structural fill at the base of Ganley Hill. To remain below an 8% road grade the natural land contours will require alteration. At some point significant fill material will likely need to be moved or imported to the future Filing 12 to match the eastern grade with Filing 11. To retain the property's natural character

measures such as these should be kept to a minimum.

- iii. **Provide pedestrian and bicycle circulation** – Proposed sidewalks help to provide safe egress from the street-to-home or from home-to-home. The CP (CP Goal T-1) envisions more for pedestrian circulation. Specifically non-vehicular trail systems should contribute to local recreation. Staff feels the current design has a solid start with 8' paths included to the north and to the west of the development. Staff maintains that trail connectivity could be increased internal to the development with small modifications to the development plan. A connecting 8' trail at the south end of Filing 11 and one that bisects the development is advised.



- iv. **Provide outdoor recreation** – Other than the existing Avenue C trail and a small centrally located pocket park, there is no realistic



component of outdoor recreation to this proposal. The 2008 application included a central one acre lot that was accessible from two streets. Staff encourages the development to have more useable open space than currently proposed. Elimination of Building 20 at a minimum with some grading changes will be a positive step in creating usable recreation space. An east-west connecting trail, is included in this plan set along the south end of Eagle Ridge Dr. to Bear Canyon Dr. Adding a

landscape buffer of at least three feet along this trail will provide better safety for pedestrian travel.

- v. **Is of overall compatible architectural design, achieves adequate screening, and ensures compliance with performance standards** – The overall architecture will generally follow the design aspects of the approved townhomes located on Redstone Drive and Foxwood Ln. However, many of the buildings will be enlarged to four-plexes. Landscaping and screening are identified on sheets L1.0-3.0. All landscaping shall conform to requirements set forth by the relevant Town codes and verified by the Parks Department. The Applicant will be expected to agree to the performance standards adopted by the Town.

Degree of Conformance: Moderate

V. Subdivision Approval

A subdivision application will be approved by Town Council only if it is found to be compliant with the criteria set forth in MC 16.16.030. A subdivision plat will be provided at the preliminary stage of the application and will be reviewed by the Town attorney and engineer for compliance. Per PZ 2019-5, "One or more amended plats to define the boundaries of the individual units within each building shall be prepared for each building envelope based on as-built surveys after construction, which may be approved on staff level." Sale of individual units may not occur until the amended plat is recorded with Garfield County. Any revisions and corrections will be made prior to Council meeting.

VI. Staff Recommendations:

Staff recommends the Planning Commission explore the following alternatives to the proposal prior to deciding on Resolution 2020-06:

1. Integrate areas of strategic commercial development within the mixed-use zone of the CVR master plan.
2. Soften the transition created by the juxtaposition of large single-family homes with multi-family townhomes.
3. Improve the parking arrangement and resulting traffic congestion that results from parked vehicles along both sides of the streets.
4. Expand road ROWs to include 5' green buffers between road and sidewalk.
5. Improve pedestrian circulation to provide direct access to open space, parks, and other areas of Castle Valley Ranch. Create greater trail connectivity. Possibly add an east-to-west trail corridor throughout development and along the southern property border
6. Expand Open Space C to include useable recreation space.
7. Provide a general plan for the vacant parcel east of the proposed development in order to guide considerations for how best to use the mixed-use zone, trail routing, and road configuration.
8. Eliminate Buildings 12 & 13 in order to minimize fill material at the south end of the property and retain the natural topography.
9. Consider more strategic places for snow storage to minimize removal efforts by Public Works.
10. Design C Ave as part of a greater wildlife corridor potentially accessible by emergency vehicles when needed.
11. Street names be approved through Garfield County Communications to avoid any duplication of names in the county dispatch area.

Aaron Atkinson, CVR Investors Inc. Applicant.

Mr. Atkinson greeted the council and thanked them for putting him on the agenda. He said that the purpose of their discussion was to review the Planning & Zoning (P&Z) denial of the Filing 11 PUD and Subdivision application.

Mr. Atkinson said that he saw that P&Z had put a lot of time and effort into the Filing 11 application and he said he appreciated that. With all due respect to P&Z, Mr. Atkinson said that his discussion with the council will be about why P&Z had committed errors in the decisions that they made.

Mr. Atkinson said that he felt the fundamental error P&Z made was in regard to consistency. He quoted Colorado Revised Statute 29.20.203(B) that said, "No local government shall impose any discretionary condition upon a land use approval unless the condition is based upon duly adopted standards that are sufficiently specific to ensure that the condition is imposed in a rational and consistent manner."

Mr. Atkinson said that consistency and rationale were the two things he wanted to address because the P&Z, in response to his application, was charged with making consistent decisions, not arbitrary decisions.

Mr. Atkinson said that one of the hottest topics during the two hearings was density. Referencing the May 27 minutes and the plat map, Mr. Atkinson told the council that the plat showed 91 units on 14.958 acres or about 6.08 units per acre. He said that was completely acceptable under the code and was not prohibited by anything in the comprehensive plan. He reiterated that there was no measurable criteria anywhere that said the number of proposed units per acres was not acceptable. He noted that Commissioner Bourquin had stated that the proposed density was considered mid to low density. Mr. Atkinson said that the proposed density was the lowest that P&Z would likely see. He said that the commission cited the density as an issue, and cast a negative light on the application. Mr. Atkinson said that there was no standard that was sufficiently specific that said that 6.09 units per acre was too many. He felt that the commission in making the decision imposed a discretionary standard that was not founded anywhere. Mr. Atkinson said that more importantly and more concerning was the consistency question. He said that the council would likely recall that the last multi-family development application heard by the town was Eagle's Ridge Ranch from Mr. Jim Colombo. Mr. Atkinson tried to screen share Resolution PZ 2019-4, recommending conditional approval of the final PUD development plan for Eagle's Ridge.

Attorney Carmer cautioned that council's decision would be based on the record that was before the Planning & Zoning Commission, and any documents that Mr. Atkinson presented as part of his argument would not supplement the application. They would serve as additional points as to why the decision may have been in error as compared to aspects of other decisions made by the town in the recent past.

Mr. Atkinson said that Resolution PZ 2019-4 approved 36 residential units on 2.607 acres, or 13.8 units per acre. He said that was more than twice the density than his application proposed, yet the P&Z's conclusion was that the Eagle's Ridge application fulfilled all the requirements and met all six criteria of the code. Mr. Atkinson said that his application was defeated by a vote of 7 to nothing and part of that was based on the density question. He said his concern was the inconsistency. He felt it was a problem at the commission level and was in part why he was requesting that the council send his application back to P&Z for reassessment.

Mr. Atkinson said that another concern was the staff report that referenced the mixed-use component, which was also discussed.

Mr. Atkinson said that in the minutes of the May 27, 2020 hearing, the P&Z decided to go through each of the six criteria from the code to try to determine and make a record as to what was fulfilled and what was not fulfilled for the benefit of the record.

Mr. Atkinson said that on pages 10 and 11 of the meeting minutes, lines 47 and 48 the question was: That the application was generally compatible with adjacent land uses. The answer on line 48 was: Meets the requirement. He felt that the characterization that they did not meet the requirement was inaccurate.

Mr. Atkinson said that the discussion regarding mixed-use did come up in the fourth criteria, which was whether the land uses were permitted outright or by special review. He said that the finding was that the filing 11 development, which has an M/U-2 zoning did not meet the criteria that were permitted by the underlying zone district. He felt that the problem was that in looking back at the approval for Eagle's Ridge Ranch, Resolution PZ 2019-4, Colombo's property was also zoned M/U-2. Mr. Atkinson said that there was no mention made of any obstacle concerning the fact that there was no commercial component, and the Eagle's Ridge application satisfied, by commission standards, all six of the criteria. Mr. Atkinson said that in his perspective he wondered why there was inconsistency. Why he received a different answer even though the same factors existed.

Mr. Atkinson said that in regard to the discussion about mixed-use, he felt that the application of the fourth criteria was mistaken and he believed that it was because M/F-1, which was the zoning classification he was seeking is approved within an M/U-2 zoning district. He said it was permitted outright, so they should not have been denied upon that factor.

Mr. Atkinson said that there had been a third criteria as to whether the town had capacity to serve the proposed uses with water, sewer, fire and police protection. He said that it was something that Planner Smith had not addressed much, but Mr. Atkinson said that was important from his perspective in terms of why his application needed to go back to P&Z for reassessment. Mr. Atkinson said that prior to the first hearing on May 13, Chief Orrin Moon had submitted his review and analysis of the application materials. Mr. Atkinson said that he received that information and was able to review it in advance of the hearing. It was fairly benign and had some good points, but in no manner constituted an obstacle to have the application approved. At the May 13 hearing, the minutes reflected that Chief Moon was present, although Mr. Atkinson said he was not aware of Chief Moon's presence as he was not speaking. However, at the May 27 hearing, Chief Moon was present and was the first person to speak as a witness. Mr. Atkinson said that Chief Moon's testimony was that there had been some concerns from residents regarding wildfire mitigation. Mr. Atkinson said he knew that because he had received the letters in advance of the hearing. On page 2 of the May 27, 2020 P&Z minutes, Chief Moon

testified that he had been contacted by the town and was asked to look into the concerns. Chief Moon said that he had visited the property with an associate and took a new, fresh look at it, and concluded that "...there was somewhat of a wildfire threat to the development". Chief Moon was also concerned about having a secondary access to the development. Mr. Atkinson said that problem was that he had no idea that the (reevaluation) was taking place. All he knew was that the Chief had authored a rather benign report that had some contingencies that could have been addressed as conditions. Mr. Atkinson said that he was unaware that Chief Moon had been informed of any issue from the town; he did not know that Chief Moon had done a site inspection; he did not know that Chief Moon had changed his opinion. Mr. Atkinson said that when Chief Moon began talking about the need for wildfire mitigation, he felt sandbagged, and had no idea how to respond because he had not heard about it before. Mr. Atkinson said that thankfully, near the end of Chief Moon's analysis, he said there could be two sections of wildfire mitigation and he talked about the theory of clumping which essentially was removing some of the fuels from two sections that may cause problems, indicating that that was the extent of the mitigation. Mr. Atkinson said that it was information he should have known, but nonetheless, he said he was happy to abide by wildfire mitigation mechanisms. It would not have been an issue, because he felt it was a condition necessary for approval. Yet on page 11 of the minutes it says 'Does not meet' but does not say why. Mr. Atkinson said that he had listened to the audio recording of the meeting and realized that the point was made that the application failed the criteria but not from a wildfire perspective. Mr. Atkinson said that was not a sustainable decision in his opinion. Mr. Atkinson said he was entitled to due process which was to have fair notice of something that would be brought up, that would lead to a non-approval. He said it was something that could have been easily dealt with as a condition, and still could.

Planner Smith asked Mr. Atkinson to repeat the sections of the May 27, 2020 minutes, which he did, and he further stated that if one listened to the transcript at the end, the statement was made by one of the commissioners that "no, they do not meet the criteria for fire protection."

Mr. Atkinson he had another concern for the purposes of the record. He said that in the initial report brought by the staff in September 9, 2019 analysis that he felt was part of the record because it was part of the required procedural stuff. On the top of page 5 staff gave a high degree of conformance to criteria 3 that the town had capacity to serve the proposed uses with water, sewer, fire and police protection. Mr. Atkinson said he was further confused because the application began with a high degree of conformance, but in the end, it failed on that criteria. Planner Smith asked if the commission singled out the issues by saying 'according to Chief Moon' Mr. Atkinson said that the specific quote was by Chair Apostolik who read the particular provision and the answer was "Not for fire protection".

Town Attorney David McConaughy said that this was a change for Mr. Atkinson to make his request but the point was not to argue with or cross-examine one

another. He felt that if the council had questions for Mr. Atkinson or staff they should ask them, but both sides should refrain from cross-examining. Mayor A Riddle asked how much longer Mr. Atkinson needed, and Mr. Atkinson said between five and ten minutes.

Mr. Atkinson said that the items he outlined were really the major elements because they called on the consistency of the commission's decision-making over the past year from the Eagle's Ridge Ranch 2019 approval until now, and those were the primary issue but felt there were a few other items that required discussion. Those involved the commission's opinion that there was a failure to be consistent with the comprehensive plan, and then some items of item #6, which were unspecified at the end of the transcript.

Mr. Atkinson said that when he originally submitted his memo about what he envisioned for the project he went through a fair amount of the points that are set forth in the comprehensive plan, which he said he spent a lot of time going through. The notations regarding the failure from the staff report, and the memo of July 21 that reference things like the mix of land use types and the like. He said there had been very little consideration of the items that were shown through the two hearings that were met. One of the most significant items was policy HO-2B was "That the town will favor developments with higher building densities and smaller home sizes that serve middle and lower income home buyers". Mr. Atkinson said that he felt his development application and point made in front of the commission demonstrate that favoring had not occurred, at all. He said there were several reasons: 1. Regarding the inconsistencies. 2. Regarding Chief Orrin Moon's presentation. Mr. Atkinson said that fact was that those items had been presented in the application and memo and the entire application should not have been (blown out) because it defeated policy CG-44G which encouraged flexibility.

Mr. Atkinson said that at the end of the hearing there was a point made that did not appear in the minutes, but was in the recording. Commissioner Lucio was speaking about single-family: "I want to keep it that way. Single-family. Who are you to tell me what I have to live in? There is a dearth of multifamily offerings. What if we don't want multi-family? You start something here and you're going on down the road, and I don't want that. Enough said."

Mr. Atkinson said that Commissioner Bourquin responded to Commissioner Lucio: "We have the opportunity to work together with the applicant to develop something." And he specifically said "not for multi-family". Mr. Atkinson said in listening to the recording, and seeing what happened with Eagle's Ridge Ranch as compared to what he had been through in the process, and looking at the procedures and the evidence that was developed, he felt that a reassessment was in order. He felt it needed to be approached with the commission from the perspective of specific criteria from the code, not generalized criteria that are inconsistent or arbitrary, discretionary decisions. Mr. Atkinson said that he felt that through the two hearings they had demonstrated what they really wanted to do.

Mr. Atkinson said that he was aware that the commission had indicated towards the end that in many cases the applicant was unwilling to make changes. That the applicant had neglected to make any changes in response to the commission's requests or points of view or critiques. Mr. Atkinson disagreed with that, stating that if you looked at the plat, the original sketch plan plat showed 96 units. As things unfolded the number of units was dropped to 91, and the reason was because in the very first sketch plan hearing, Chair Apostolik said that building 30 was out of place and should not be there. At that very moment it was removed. Another change made was parking. Mr. Atkinson noted that on the south side there was a strip of parking which had not been on the original sketch plan. He further stated that the original application met the criteria of the public works manual and the code regarding parking, but at sketch, there was concern about parking so they added the necessary pavement to accommodate that. Mr. Atkinson said there were extensive concerns about snow storage, snow maintenance and snow removal. That included the aspect of greenbelts, which were the grassy sections between the street and sidewalk. Those did not appear on the sketch plan application, and there had been a rigorous debate about why. Irrespective of that and in working with the Public Works Director John Wenzel, they added the greenbelt along Eagle's Ridge. They also added fixture signs that dedicated areas to snow removal and restricted parking in those areas. He said they agreed to restrictions based on snow removal days to forbid parking in those areas.

Mr. Atkinson said that in the May 27, 2020 minutes, on page three, line 29 to 32: "Commissioner Riddile asked Director Wenzel if he was satisfied with the solutions regarding snow storage. Director Wenzel said yes".

Councilor G Riddile (who sits on the Planning and Zoning Commission and the council representative) asked what meeting that took place at, and Mr. Atkinson said the second meeting. Councilor G Riddile said he was certain that Director Wenzel had stated that he could not comment because it had been a last-minute submittal, but said he may need to listen to the recording. Mr. Atkinson agreed that had occurred later on in the hearing, but he said he was referencing specifically, was page 2, lines 39 through 46 where he described discussions with Director Wenzel regarding some concessions that could be made to meet what (he) interested in doing. On page three Director Wenzel was asked if it met with his expectations, and Director Wenzel said yes.

Councilor G Riddile stated that he definitely stated that he was unprepared to comment because there was a last-minute submittal that had not been reviewed. Mr. Atkinson agreed, saying that when Director Wenzel was asked if he could comment about the snow removal from the plat that had been submitted, he said that he had not yet had a change to review it, but that Director Wenzel's yes answer was in regard to the discussion between Mr. Atkinson and Director Wenzel regarding those conditions.

Councilor G Riddile clarified that they were changes applied to the plat that was initially submitted. Mr. Atkinson agreed they were changes from the plat that was initially submitted. Councilor G Riddile clarified again that that was not what they were talking about. Mr. Atkinson said that he thought they were talking about it because there were changes made to snow removal. Councilor G Riddile clarified

again that it sounded like Director Wenzel made one comment for one plat and another comment for another plat, and it seemed that the plat Mr. Atkinson wanted the council to consider was one Director Wenzel did not have a comment on. Mr. Atkinson agreed that was correct but that he was trying to explain that in the context of the commission's ultimate decision, almost all the commissioners noted that the applicant did not make any changes. Mr. Atkinson said that his reference was that changes were made, and they included those items that he and Director Wenzel discussed and found acceptable. Councilor G Riddile asked if they were before the new plat was submitted and Mr. Atkinson agreed. Mr. Atkinson said that he felt some of the items could be conditions that could be applicable to an acceptance of the plat and really should not interfere with approval.

Mr. Atkinson said that another change was made was trail connectivity. He said that Councilor Riddile had said during sketch that he wanted to see some east-west trail connections so the east-west sidewalk was expanded from five feet to eight feet wide. Mr. Atkinson said that the changes were made in reference to concerns expressed to the applicant. Mr. Atkinson said that they had not been intractable, and were no longer intractable now. He said that he understood there were concerns that needed to be addressed, and reassessed. He said he wanted to do that and did not want to give up on the application, not just because of the time and money invested, but because he thought it could be something that could serve the terms of the comprehensive plan. He thought it would serve the benefit of the town and something that could be developed jointly. Mr. Atkinson said that he thought that the application could be submitted back to the commission with some instructions that there could be conditions explored as conditions of approval of the plat, and he would be more than happy to look at them. Mr. Atkinson said that based on what he saw, the inconsistency should not persist because it was not equitable. Mr. Atkinson thanked the council.

Assistant Town Attorney Haley Carmer said that aside from any questions council may have for staff or the applicant before they deliberated, the next step was that council would decide whether P&Z made an error in its decision. She said they would be considering the same PUD approval criteria, whether what was heard tonight could meet the criteria, either outright or with conditions as the applicant pointed out. She said if they felt the P&Z made the correct decision, they could uphold the denial and that decision would stand. Alternatively, the council could recommend that it go back to P&Z if they felt P&Z had made an error and they could suggest if there were conditions to consider or if they did not fully consider an issue enough, the council could provide direction on that, and the commission could deliberate. Attorney Carmer said that if there were substantial changes that needed to be made in the application, that would likely require new public hearing with P&Z. Otherwise, they will consider the application as-is and there would be deliberation with the commission without more comment or materials from the applicant.

Councilor Owens said that the original layout seemed to show around 55 units of single-family homes, and now that was completely gone and it was all multi-family.

He asked what the rationale was to bring in all the multi-family with no single-family. Mr. Atkinson said that the decision was made in finishing out the townhome project in filing 89, north of Castle Valley off Redstone Drive, it became evident that there was a very real need for that product – smaller homes with a lower price point. He said that Village Homes had designed the original plan with mostly single family with three townhome structures interspersed. Mr. Atkinson said they had never seen that before and it was not typical in residential development. He said that homeowners associations generally provide different services to single-family units as compared to multi-family units. There are usually more services for multi-family units. Aesthetically, most single-family homebuyers do not want to buy a home right next to a triplex. He said clusters of particular kinds of products seems to meet the market better. Mr. Atkinson said that that the project in filing 9 was a solid product and almost all were sold before a shovel went into the ground. He said that helped them understand that it was a product that New Castle needed. Councilor Owens asked if there was any data that pointed to the benefits of having single-family homes that were at a higher cost combined with multi-family at a lower costs which would combined economic classes. He felt that all multi-family would tend towards segregation of neighborhoods that worried him when there was a desire to diversify cultures. He thought perhaps that segregation might be working against what was trying to be achieved. He said he did not have any data, but would love to see any available data on the benefits of having more of a multi-zoned site. He thought it would be healthier to have some more diversity. Mr. Atkinson said he could see where Councilor Owens was coming from and one of the points made by Planner Smith was that there had been little commitment from the applicant about what would happen on the remaining 90-plus acres they had left. Mr. Atkinson noted that anything said by an applicant in the hearings is testimony under oath and he said they wanted to make sure they were being honest and also not committing to things they could not commit to. He said that with their remaining density and acreage, there would not be an option for multi-family development, and while that did not necessarily respond to the question regarding statistical analysis. Mr. Atkinson noted that the town's comprehensive plan had some information but that was more about the disparity in 2008 between the number of smaller, affordable homes versus single family homes. It was not about mixing multi-family with single-family.

Councilor Leland said that he was on the committee that wrote the comprehensive plan and he recalled the argument about density and affordability. He said that there was another argument for density in that it allowed for more open space. He said that the P&Z had noted concern that they did not know what would be on the properties that the applicant owned around the proposed multi-family development. If there had been some indication of what open space would be there it might have compensated for the proposed density. Councilor Leland said that was his sense or memory of what was said in the comprehensive plan. Mr. Atkinson said that he was not there for the discussions regarding the comprehensive plan, but could appreciate the balance that is struck by the open space against density. He said he had some ideas along those lines, and if (the application) could go back and collaborate at the commission level that would augment some of the open space concerns. He said he did hear that those were important.

Councilor Hazelton said that he felt that the council should stick to determining whether the application should go back to the P&Z or not rather than worrying about their own concerns. He said he would withhold any other comment.

Councilor G Riddile said that if the question was that they needed to be equitable with Eagle's Ridge then it should be remembered that Eagle's Ridge had a .25% reduction in their number of units before it was approved. If that is what is thrown on the table then yes, if there is discussion about reducing the number of units then there could be a conversation with P&Z if we're talking about things being equitable.

Councilor Copeland said she did not have a comment except for one for the attorney if that was okay. Mayor A Riddile said that was okay. Councilor Copeland asked Attorney Carmer if the comprehensive plan was a legal reason to deny the application or if that was only the code. Attorney Carmer said that the comprehensive plan was referenced as a criteria when considering whether a PUD application should be approved. She said there were six criteria and one of those was compliance with the comprehensive plan. Attorney Carmer said that the code incorporates the comprehensive plan by that reference, so it was legitimate and important for the town to consider what was in the comprehensive plan and whether the proposed application does satisfy what is in that. She noted that the comprehensive plan is a large document with a lot of different policies and there was a lot of discussion about that at P&Z and is a consideration for the council. Councilor Copeland said that she felt that the P&Z has a lot of very smart people on it and felt that it would be good if the application went back to them for another look.

Councilor Mariscal agreed that the application should go back to P&Z.

Councilor G Riddile asked Councilors Copeland and Mariscal what direction should be given to P&Z if the application went back to them.

Councilor Mariscal said she did not know.

Councilor Copeland said she was unsure but that she had called in to the P&Z virtual meeting and there had been a lot of citizen comments. She thought perhaps a few more concessions could be made regarding snow storage and other items. She felt it could be worked out.

Attorney McConaughy reminded the council that earlier Attorney Carmer had outlined what their three options were:

1. To not find any error and uphold the P&Z decision. At that point, the applicant could decide if they want to reapply or not.
2. To pass a motion saying they thought that P&Z had made an error on any of the issues discussed, and directing P&Z to reevaluate that.

3. To send it back to P&Z with direction to rewrite the resolution and instead of using those factors for denial, they became conditions that the applicant may or may not be able to meet.

Councilor Mariscal said that after listening to the concerns and reading all the public comments, she felt concerned about it. She said that she felt excited to see more houses in New Castle, but did not feel the project was good right now.

Councilor Hazelton said that he felt there was enough reason to go with option #3 and to provide some conditions. He said that he felt Mr. Atkinson had some valid point that were on now record. He felt they could be readdressed.

Mayor A Riddle asked Attorney McConaughy if the council had to create a list of conditions or how that would be handled.

Attorney McConaughy said that planner Smith had laid out the code section 17.100.070 § D, "the applicant may take a disputed decision of the planning commission to the town council for review. If, in the town council's sole discretion, the finding of the planning commission may have been in error, the town council shall refer the application back to the planning commission for reassessment." Attorney McConaughy said they could say 'we think you made an error (any topic) and reevaluate that' or we think you made an error in making a motion to approve a resolution of denial as opposed to a resolution with conditions' and then leave it to them and staff on what that wording may or may not be.

Councilor Leland ask whet the difference would be between upholding the P&Z denial and telling Mr. Atkinson to reapply with a more acceptable proposal or sending it back to P&Z and directing them to change the denials to conditions. Both would require significant changes in the plan as submitted.

Attorney McConaughy said the difference would be timing, notice and procedure. If they uphold the denial and tell Mr. Atkinson to start over that meant he would have to go back to sketch. Likely a six month process, whereas the P&Z could say the application was approved subject to the following conditions.. That could move the application forward to final and they could see if they met those conditions or not. Attorney McConaughy said the primary differences were timing, notice and number of meetings.

Town Administrator Dave Reynolds said that what was denied was the preliminary, however it was a combined preliminary/final application. If it went back to P&Z and they found conditions, would the application then move from preliminary to final within P&Z before it went to council. Attorney McConaughy said that would be up to the P&Z because they never approved final because they never got to that point. The commission would have to decide if they were comfortable approving final and moving the application on to council or if there were too many conditions that had not been satisfied and they could approve preliminary and have the applicant come back for final when the conditions were met. The planning commission would have to decide which would take place.

Councilor G Riddile said that if it went back to P&Z he felt it should be specific so they knew what to do. Because Councilor G Riddile sat on P&Z as the council representative, he said he knew there were two fairly entrenched sides and although Mr. Atkinson felt that he had made significant changes, Councilor G Riddile said he felt the changes were very minor. He reiterated that he felt the council should be very specific if they were to send the application back to the P&Z.

MOTION: Councilor Hazelton made a motion to send the application back to the Planning & Zoning Commission to readdress the concerns, and for staff to give very specific direction as to what the concerns were for Mr. Atkinson and the town. Councilor Mariscal seconded the motion.

Discussion: Councilor Leland asked if it was being sent back with the denial points being turned into conditions. Councilor said yes, with staff direction on what those were because he thought Councilor G Riddile was correct in that it needed to be very specific in what they were reevaluating as well as Mr. Atkinson's points. Attorney McConaughy said that clarified that the P&Z may not do that. The council's motion is just finding an error and you're sending it back to them for to try again. It is not predetermined how any vote will go with the P&Z. They would not be obligated to approve it with conditions, the council was just telling them to try again. Councilor Leland said the P&Z could again refuse to deny it again, and Attorney McConaughy said yes. Mayor A Riddile clarified that the P&Z would consider the conditions set forth, and Attorney McConaughy said yes.

The motion passed on a roll-call vote: Councilor Owens: yes; Councilor Hazelton: yes; Mayor A Riddile: yes; Councilor Mariscal: yes; Councilor Copeland: yes; Councilor G Riddile: no; Councilor Leland: no.

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

Due to concerns related to the Coronavirus, the meeting was held as a virtual meeting only. Commission Members and the Public attended by phone, computer, smart phone or tablet.

Call to Order

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

Roll Call

Present

Vice-Chair Bourquin
Commissioner Lucio
Commissioner Riddle
Commissioner Sass
Commissioner Westerlind

Absent Chair Apostolik
 Commissioner McDonald

Also present at the meeting were Town Administrator Dave Reynolds, Town Planner Paul Smith, Assistant Town Attorney Haley Carmer and Deputy Town Clerk Mindy Andis and members of the public. All persons attended the meeting via phone computer, smart phone or tablet.

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

There were no conflicts of interest.

Citizen Comments on Items NOT on the Agenda

There were no citizen comments.

Public Hearing

Consider Resolution PZ-2020-07 Recommending Approval Zoning Text Amendment Pursuant to Sections 16.16.020 – 16.16.30 & 17.100.050 of the Town of New Castle Municipal Code Concerning the Application Process For Preliminary & Final Subdivision and Subdivision and Preliminary & Final PUD Development Plans.

Vice-Chair Bourquin opened the public hearing at 7:02 p.m.

Town Planner Paul Smith reviewed with the commission the changes that were made from the last meeting.

Vice-Chair Bourquin closed the public hearing at 8:34 p.m.

After discussion, the commission agreed to the following proposed changes discussed as summarized by Town Attorney Haley Carmer:

- Adding language regarding the slope and grade of sidewalks and trails are Americans with Disabilities Act (ADA) compliant and complies with the Public Works Manual.
- Updating the references to the flood plain study throughout the ordinance to include language recommended by Town Engineer.
- Referring to snow storage in the preliminary sections of the ordinance as the snow storage and removal plan.
- Changing the fiscal impact study time period from 5 years to 15 years.
- Updating the approval criteria for the preliminary and final plat and preliminary and final PUD to include language regarding open space and development consistent with the natural character, contours, and viewsheds of the land.
- Adding language to the final plat and final PUD public hearing section to include a reference to the referral agencies deemed necessary by the town planner to review only the final PUD for the final plat material.
- Adding conceptual landscape to the preliminary PUD submission requirements.

MOTION: Commissioner Lucio made a motion to continue Resolution PZ-2020-07 Recommending Approval Zoning Text Amendment Pursuant to Sections 16.16.020 – 16.16.30 & 17.100.050 of the Town of New Castle Municipal Code Concerning the Application Process for Preliminary & Final Subdivision and Subdivision and Preliminary & Final PUD Development Plans with changes summarized by Town Attorney Carmer Commissioner Westerlind seconded the motion and it passed on a roll call vote: Commissioner Riddle: Yes; Commissioner Sass: Yes; Vice-Chair Bourquin: Yes; Commissioner Lucio: Yes; Commissioner Westerlind: Yes.

Items for Next Planning and Zoning Agenda

Planner Smith said on August 26, 2020 there would be a conditional use permit (CUP) for a quilting shop, the Castle Valley Ranch Master plan and Castle Valley Ranch Filing 11.

Staff Reports

There were no staff reports.

Commission Comments and Reports

There were no comments or reports.

Review Minutes from Previous Meeting

MOTION: Commissioner Riddle made a motion to approve the July 8, 2020 meeting minutes as submitted. Commissioner Sass seconded the motion and it passed unanimously.

MOTION: Vice-Chair Bourquin made a motion to adjourn the meeting. Commissioner Sass seconded the motion and it passed unanimously.

The meeting adjourned at 8:52 p.m.

Respectfully Submitted,

Vice-Chair Alison Bourquin

Deputy Town Clerk Mindy Andis, CMC