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 Special Virtual Meeting
Monday, November 23, 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

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 PZ2020-9 Approving a Preliminary PUD Development Plan for Castle Valley Ranch Filing 11, Being a Portion of PA17 and PA19

Comments/Reports
-Items for Next Planning and Zoning Agenda
-Commission Comments/Reports
-Staff Reports

Review Minutes of Previous Meetings

B. Draft Minutes September 23, 2020

C. Draft Minutes October 28, 2020

D. Draft Minutes November 4, 2020

Adjournment

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

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 – November 23, 2020

Report Compiled: 11/17/20

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:	*Originally* 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 September 23rd, 2020)

A. Memo to Planning Commission 11/23/20
B. Updated applicant narrative 10/30/30
C. Revised Public Works Referral 11/3/20
D. Revised Engineering Referral 11/13/20
E. Updated Site Plan, 10/30/20
F. Revised Landscape & Snow Storage Plan 10/30/20
G. Project Renderings 10/30/20

II Sketch Plan (Unrevised from 9/23/20):

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 (Unrevised from 9/23/20)

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 (Unrevised from 9/23/20)

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 alone 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 (Revised from 9/23/20)

In response to the Council's decision, both Staff and the applicant have offered alternatives to the original preliminary PUD application over several meetings. As a result, the Commission has recommended the conditions listed in Section VI. The applicant has responded to these recommendations in the updated narrative and site plan. Resolution PZ 2020-09 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 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 (Revised from 9/23/20):

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

1. Eliminate, reorient, or reduce the following two buildings that adversely impact the natural character of the Property

    - 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
    - Eliminate Building 13 because of 30' fill and projected settlement
    - Eliminate Building 14 because of 38' fill and projected settlement

- Orient Building 29 so that the building is parallel to Eagle Ridge Drive

2. Design duplex units on Eagle Ridge Road with garages which can accommodate two vehicles to improve the housing diversity, snow storage, and on-street parking issues.

3. The covenants for Filing 11 shall prohibit the parking of boats, trailers, campers, RVs, inoperative vehicles, etc. in driveways or on public rights of way for no more than 48 consecutive hours.

4. Upgrade the open space area off of Falcon Ridge Court as a central "green" with functional active or passive space.

5. Applicant shall adequately screen the western portion of Filing 11 from the adjacent homes along South Wildhorse Drive through one or more of the following:

    - Widening the natural buffer along C Avenue to greater than 120 feet;
    - Heavily landscaping Open Space A as shown on the Preliminary Plan with trees to obscure the line-of-site; or
    - Installing at least three trees along the back lot lines of the lots along the west side of Filing 11 and including provision in covenants for Filing 11 regarding on-going HOA maintenance and replacement of the same.

6. Identify all permanent snow storage easements on the final plat and any temporary locations on the phasing drawings. In addition to the snow storage areas shown on the revised site plan submitted with the Amended Preliminary Plan, a snow storage easement shall be designated to the east of Building 11 consistent with the comments from the Public Works Director. Snow storage shall be free of all obstructions including, but not limited to, boulders, shrubs, trees, and fences.

7. Install street signage stating, NO PARKING ON STREETS 48 HOURS AFTER A SNOWFALL EVENT OF 2" OR MORE.

8. Provide 5' landscape ("green") buffers between the road and sidewalks the outer radial lane of Eagle Ridge Dr. for snow storage.

9. The boundary of the open space area at the southwestern end of Filing 11 shall be revised to incorporate the entire length of the trail that connects to Eagle Ridge Drive as shown on the revised site plan. Said open space and trail shall be owned and maintained by the HOA for the development but shall be open for public use.

10. Design Bear Canyon Dr. as a 50' right-of-way according to comments from the Public Works Director. No homes in this filing or any future filing north of the southern intersection of Eagle Ridge Drive and Bear Canyon Drive shall front or be accessed off of Bear Canyon Drive.

11. Provide water and sewer service stub-outs for future development east of Bear Canyon Drive prior to the installation of road infrastructure.

12. Provide verification that the Castle Valley Blvd right-of-way can accommodate standard turn lanes and through lanes.

13. Specify on the plat that Open Space A shall be owned and maintained by the Town and that all other open space areas within the development shall be owned and maintained by the HOA.

14. 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)

15. Request approval of street names through Garfield County Communications to avoid any duplication of names in the county dispatch area.

16. Demonstrate that all exterior illumination shall comply with acceptable International Dark-sky Association (IDA) standards.

17. Provide a conceptual landscape plan for each phase illustrating size, type and location of plant materials and an irrigation plan, if applicable. Plans submitted to obtain a building permit for any dwelling in Filing 11 shall demonstrate no more than 2,500 square feet of sod per dwelling unit as specified in 13.20.060 of the Municipal Code.

18. Designate locations of mailbox kiosks with written authorization from the local postmaster.

19. 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.

20. 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. The subdivision improvements agreement for the first phase shall address the allocation of work and costs between Applicant and the Town necessary to mitigate potential fuel hazards for wildland fires in areas identified as threats by Colorado River Fire & Rescue.

21. The sale of individual units within Filing 11 may not occur until a plat creating the unit is recorded with Garfield County.

22. 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.

23. 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.

24. 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;

25. 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.

VII. Other Discussion Items from the 9/23/20 Hearing:

1. The dedication for public use of a single-track hiking and biking easement at the base of Ganley Hill as a trail connector between Mount Medaris and Prendergast Hill.

2. The improvement of north-south & east-west trail connectors within areas gained by downzoning to duplexes.

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

WHEREAS, the Applicant 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, (the "Original Application"); and

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

WHEREAS, the Applicant intends to develop and plat the Property and the public improvements associated with the same in up to three phases; 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 Original 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 Plan") to Town Council for review; and

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

WHEREAS, at its August 26, 2020 meeting, the Commission reconsidered the Preliminary Plan based on the information and evidence presented during prior public hearings and continued a decision regarding the Preliminary Plan to September 23, 2020; and

WHEREAS, at the September 23rd meeting, Applicant elected to amend its Preliminary Plan, which amendments included a new narrative, revised site plan, conceptual landscape layout, and 3-D renderings (the "Amended Preliminary Plan");

WHEREAS, a decision regarding the Amended Preliminary Plan and a public hearing regarding the same was continued to and held on on November 23, 2020; and

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

WHEREAS, based on the testimony and other information presented, subject to compliance with the terms and conditions of this Resolution, the Commission finds:

1. that the Amended Preliminary Plan is generally compatible with adjacent land uses;
2. that the Amended Preliminary Plan 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 Preliminary Plan. The "Preliminary Plan" 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, the Commission reassessment review conducted on August 26 and September 23, 2020, and the public hearing held on November 23, 2020.

3. Action regarding Preliminary Plan, as amended: The Preliminary Plan, as amended by the Amended Preliminary Plan, proposes:

a. The construction of eighty-five (85) residential units in twenty-nine (29) multi-family buildings on twenty-nine (29) lots, with the lots, roads, and open space to be platted and developed in accordance with the site plan submitted on October 30, 2020, as part of the Amended Preliminary Plan;

b. That Filing 11 will be platted and developed in up to three phases; 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 Amended Preliminary Plan.

The Planning Commission hereby approves the Preliminary Plan, as amended, subject to subject to compliance with all conditions set forth in Section 6 of this Resolution.

5. Zoning. Upon approval of a final PUD plan for the Property, 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 Plan, as amended, is subject to and contingent up on satisfaction of the following conditions:

a. Eliminate, reorient, or reduce the following two buildings that adversely impact the natural character of the Property
   - 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
   - Eliminate Building 13 because of 30’ fill and projected settlement
   - Eliminate Building 14 because of 38’ fill and projected settlement
   - Orient Building 29 so that the building is parallel to Eagle Ridge Drive

b. Design duplex units on Eagle Ridge Road with garages which can accommodate two vehicles to improve the housing diversity, snow storage, and on-street parking issues.

c. The covenants for Filing 11 shall prohibit the parking of boats, trailers, campers, RVs, inoperative vehicles, etc. in driveways or on public rights of way for no more than 48 consecutive hours.

d. Upgrade the open space area off of Falcon Ridge Court as a central "green" with functional active or passive space.

e. Applicant shall adequately screen the western portion of Filing 11 from the adjacent homes along South Wildhorse Drive through one or more of the following:

- Widening the natural buffer along C Avenue to greater than 120 feet;
- Heavily landscaping Open Space A as shown on the Preliminary Plan with trees to obscure the line-of-site; or
- Installing at least three trees near the rear lot lines of the lots along the west side of Filing 11 and including a provision in covenants for Filing 11 regarding on-going HOA maintenance and replacement of the same.

f. Identify all permanent snow storage easements on the final plat and any temporary locations on the phasing drawings. In addition to the snow storage areas shown on the revised site plan submitted with the Amended Preliminary Plan, a snow storage easement shall be designated to the east of Building 11 consistent with the comments from the Public Works Director. 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. Provide 5' landscape ("green") buffers between the road and sidewalks the outer radial lane of Eagle Ridge Dr. for snow storage.

i. The boundary of the open space area at the southwestern end of Filing 11 shall be revised to incorporate the entire length of the trail that connects to Eagle Ridge Drive as shown on the revised site plan. Said open space and trail shall be owned and maintained by the HOA for the development but shall be open for public use.

j. Design Bear Canyon Dr. as a 50' right-of-way according to comments from the Public Works Director. No homes in this filing or any future filing north of the southern intersection of Eagle Ridge Drive and Bear Canyon Drive shall front or be accessed off of Bear Canyon Drive.

k. Provide water and sewer service stub-outs for future development east of Bear Canyon Drive prior to the installation of road infrastructure.

l. Provide verification that the Castle Valley Blvd right-of-way can accommodate standard turn lanes and through lanes.

m. Specify on the plat that Open Space A shall be owned and maintained by the Town and that all other open space areas within the development shall be owned and

maintained by the HOA.

n. 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)

o. Request approval of street names through Garfield County Communications to avoid any duplication of names in the county dispatch area.

p. Demonstrate that all exterior illumination shall comply with acceptable International Dark-sky Association (IDA) standards.

q. Provide a conceptual landscape plan for each phase illustrating size, type and location of plant materials and an irrigation plan, if applicable. Plans submitted to obtain a building permit for any dwelling in Filing 11 shall demonstrate no more than 2,500 square feet of sod per dwelling unit as specified in 13.20.060 of the Municipal Code.

r. Designate locations of mailbox kiosks with written authorization from the local postmaster.

s. 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.

t. 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. The subdivision improvements agreement for the first phase shall address the allocation of work and costs between Applicant and the Town necessary to mitigate potential fuel hazards for wildland fires in areas identified as threats by Colorado River Fire & Rescue.

u. The sale of individual units within Filing 11 may not occur until a plat creating the unit is recorded with Garfield County.

v. 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.

w. 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.

x. 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;

y. 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.

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 PUD. 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 23rd day of November, 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 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 5 67° 40' 47" E 339.36 FEET); 3. ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 115.42 FEET, AN ARC LENGTH OF 19.02 FEET (CHORD BEARS S 14° 30' 47" E 19.00 FEET); 4. ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 82.00 FEET, AN ARC LENGTH OF 110.68 FEET (CHORD BEARS S 48° 27' 33" E 102.47 FEET); 5. ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 115.42 FEET, AN ARC LENGTH OF 20.06 FEET (CHORD BEARS S 82° 08' 49" E 20.03 FEET); 6. ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 719.98 FEET, AN ARC LENGTH OF 57.30 FEET (CHORD BEARS S 41° 01' 02" E 57.29 FEET); 7. S 38° 44' 14" E 193.94 FEET TO THE POINT OF BEGINNING.

Parcel B: A PARCEL OF LAND SITUATE IN THE NE1/4 SECTION 31, TOWNSHIP 5 SOUTH, RANGE 90 WEST OF THE 6TH P.M. COUNTY OF GARFIELD, STATE OF COLORADO, SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE WEST 1/16 CORNER BETWEEN SAID SECTIONS 29 AND 32, A REBAR AND ALUMINUM CAP LS NO. 36572 SET IN PLACE; THENCE S29° 45' 20" W 2647.04 FEET TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF CASTLE VALLEY RANCH, P.U.D. AS FLED WITH THE GARFIELD COUNTY CLERK AND RECORDER'S OFFICE RECORDED AUGUST 10, 1983 UNDER RECEPTION NO. 344590, THE TRUE POINT OF BEGINNING; THENCE ALONG SAID SOUTHERLY BOUNDARY LINE THE FOLLOWING FOUR (4) COURSES: 1. N 89° 50' 34” W 450.00 FEET; 2. N 00° 09' 26" E 75.00 FEET; 3, N 89° 50' 34" W 275.00 FEET; 4, N 000 09' 26" € 150.00 FEET; THENCE DEPARTING SAID SOUTHERLY BOUNDARY LINE N00° 47' 28" W 548.03 FEET TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF CASTLE VALLEY RANCH, PA 19A & WITH THE GARFIELD COUNTY CLERK AND RECORDER'S OFFICE RECORDED NOVEMBER 29, 2005 UNDER RECEPTION NO. 687288; THENCE ALONG SAID SOUTHERLY BOUNDARY LINE N 40° 33' 51" E 273.86 FEET; THENCE DEPARTING SAID SOUTHERLY BOUNDARY LINE N 89° 56' 25" E 552.43 FEET; THENCE S 00° 0500" E 983,59 FEET TO THE POINT OF BEGINNING

EXHIBIT B

Preliminary PUD 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 - Town of New Castle Police Chief
9) Referral - Garfield RE-2 School District
10) Will Serve Letter - Xcel
11) Public Notice (for May 13, 2020, and November 23, 2020 public hearings)
12) List of Property owners within 250' of Development
13) Affidavit as to Notice of Public Hearing (May 13 & November 23, 2020)
14) Agreement to Pay Consulting Fees & Expenses, February 15th, 2019
15) Title Commitment + Legal Description
16) Soils Report - A.G. Wassenaar
17) Drainage Calculations - SGM
18) Utility Report - SGM
19) Traffic Impact Study - SGM
20) Construction Drawings
21) Architectural Floorplans
22) Updated site/phasing plan dated May 27, 2020
23) Narrative submitted October 30, 2020
24) Amended/revised site plan submitted October 30, 2020
25) Conceptual landscaping plan submitted October 30, 2020
26) 3D renderings submitted October 30, 2020
27) Public Works Director comments dated November 3, 2020
28) SGM referral comments dated November 13, 2020

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

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

Memorandum

To: Planning Commission

From: Paul Smith

Re: Agenda Item – Filing 11 Preliminary PUD Decision of Resolution PZ 2020-09

Date: 11-23-20

Purpose:

On October 30, 2020 CVRI submitted a revised site plan and narrative addressing the Planning Commission's latest recommendations expressed at the September 23rd, 2020 P&Z meeting. The revised proposal includes down-zoning from 91 units to 85 total units (6.30 units/acre) comprised of duplexes and triplexes. Duplexes now backup to the C Ave corridor as a softened transition. Buildings fronting Bear Canyon Dr. have been eliminated in exchange for landscaping and snow storage. The central open space has been replaced with an additional duplex and a neighboring triplex. Alternatively, open space has been added to the southwest corner of the development. Snow storage has been identified in familiar locations with the addition of five foot sidewalk separation on both sides of Bear Canyon Dr. Finally, two additional trails are anticipated: one along the newly designated open space and another connecting the cul-de-sac with Bear Canyon Dr.

The above revisions make concessions to some of the Commission's earlier recommendations, but not all. At the hearing the Commission will decided whether or not these concessions achieve sufficient compliance with the approval criteria. It will be helpful to observe the similarities and differences presented in the attached applicant narrative and the recommendations of the resolution to better understand where differences still remain.

Resolution PZ 2020-09 is a decision exclusively on the preliminary PUD portion of the application. Prior to Town Council consideration, the Commission must still hold a public hearing on a combined preliminary/final subdivision application and a final PUD application. A denial by the Commission would conclude the current application.

Thank you,
Paul

Received 10/30/20

CVR INVESTORS, INC.
5282 Red Pass Way
Castle Rock, CO 80108
303.549.1916

October 30, 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:	November 23, 2020

Dear Commissioners:

I am writing in regards to the upcoming continued hearing on our Filing 11 application. As you know, CVR Investors, Inc. ("CVR") will present its response to and comments on the conditions proposed by the Town Staff.

To that end, I am enclosing a sketch plan and several images of the site, which serve to illustrate our response to the Town's comments and direction for this plat.

The following represents our updated responses to the list of conditions provided by the Town Staff:

A. Soften the transition between single-family homes along South Wildhorse Drive and the multifamily homes proposed in the Application[].

As you can see in the attached, we have determined we can economically replace the triplexes originally drawn along the eastern edge of Eagle Ridge Drive to duplexes. These narrower units will soften the transition to South Wildhorse Drive. All of the yards for each home will be sodded, sprinkled, and have at least one tree in front of each home. We also plan to erect fencing behind the yards along the east side of Eagle Ridge Drive to further buffer the two filings.

B. Eliminate, reorient, or reduce the following two buildings that adversely impact the natural character o the land pursuant to approval criteria 17.100.090(A.6)[].

As set forth in the attached, this is an economical way for us to design and build these southerly units, including possibly designing walkout basements in these units.

C. Design duplex units on Eagle Ridge Road with garages which can accommodate two vehicles to improve the housing diversity, snow storage, and off-street parking issues.

We cannot build the duplexes with 2-car garages for reasons we discussed during the last P&Z meeting.

D. Upgrade Open Space C as a central "green" with useable park space by eliminating Falcon Ridge Court and buildings 18 ,19 and 20. Add off-street parking between buildings 17 and 21 for Open Space C. Open Space C shall include flat space for activities, playground equipment, or shade structures.

As we've discussed, we are doing our best to meet the Commission's request for useable open space, and at the same time capture enough units in this development so we are able to exhaust our remaining units over the rest of our developable land. To accommodate the number of units that are necessary in this filing, Open Space C will not be markedly changed. However, as you can see in the attached, we have expanded the area south of buildings 8, 9 and 10 to create a wide open space. The views from this point are beautiful and this area is uniquely positioned against the C Avenue Trail Connection. We are exploring the installation of a gazebo, and the terrain will be level to the point that the area will be as useable as possible for New Castle residents as a whole for picnics, gatherings and the like—not just for Filing 11 residents. We cannot provide playground equipment or structures, although the subassociation can do so in the future if the community so desires.

E. Wide the natural buffer along C Avenue to greater than 10 feet or heavily landcape with trees to obscure the line-of-site between adjacent homes along South Wildhorse Drive and those in Filing 11.

After further evaluation, we cannot agree to plant some trees along the corridor to obscure the line-of-site. The cost on a per-tree basis is simply prohibitive; in deciding between the costs of providing the park noted above against the costs of installing this volume of trees in Open Space C, we believe the park is a better amenity. We cannot agree to widen the buffer or to "heavily" landscape this area. However, the attached sketch plan also addresses landscaping in and around 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.

We can agree to identify the snow storage easements on the final plat and the temporary locations on phasing drawings. We can't feasibly have a snow storage easement between every single building; however, we can have locations that are addressed in the attached to accommodate snow plowing and snow management. Further, as you can see we propose the elimination of units fronting to Bear Canyon Drive, which would provide significant snow storage opportunities.

G. Install street signage stating, "NO PARKING ON STREETS 48 HOURS AFTER A SNOWFALL EVENT OF 2" OR MORE."

We need to see exactly where we would need to install these.

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.

We would like to know in more detail the areas specifically where parking would be prohibited.

I. Provide 5' landscape ("green") buffers between the road and sidewalks along both sides of Bear Canyon Drive, and the inner radial lane of Eagle Ridge Drive. All green buffers shall be lined with trees except in designated easements.

This is acceptable, particularly because we intend to remove all the structures loading on Bear Canyon Drive.

J. At the developer's sole expense, mitigate potential fuel hazards for wildland fires in areas identified as threats by Colorado River Fire & Rescue.

From discussions with Chief Moon, much of the fuels with which he is concerned are located on the Town's property—not that of the developer. These areas are of concern irrespective of the new development, as he's described the "chimney" effect of C Avenue as it exists even today. So, this cost should be shared equally between the developer and the Town. Also, as we are looking at providing open space near this area, this should substantially mitigate the fire concerns.

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 Road.

See attached and previous comments.

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 Avenue switchback ... All such connectors shall be paved or concrete.

We agree to furnish at least two paved or concrete access points from Eagle Ridge Drive/Bear Canyon Drive to Open Space C.

M. Design Bear Canyon Drive 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.

We disagree because a wider road would only increase vehicular speed and endanger people just like ClubHouse Drive in Lakota. The current span of the road is more in line with the Comprehensive Plan, which provides that "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." (Comp Plan at Policy T-1G.)

However, in order to provide better access and traffic flow, we would design this road so as not to front any units onto Bear Canyon Drive until it turns to the east at the southern end of the property. This will reduce incoming cars from driveways, and, with the tree-lined street and the greenbelts, should be very neighborhood-friendly. See attached.

N. Provide water and sewer service stub-outs for future development east of Bear canyon Drive prior to the installation of road infrastructure.

We are agreeable to this.

O. Provide verification that the Castle Valley Boulevard right-of-way can accommodate standard turn lanes and through lanes.

We will work with SGM to provide this verification.

This is acceptable.

Y. The Application shall comply with...codes.

Acceptable.

Z. The Applicant shall reimburse the Town[].

This is acceptable.

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.

This is acceptable, subject to our responses herein.

CONCLUSION

We look forward to the approval of the preliminary plat with conditions noted above, so that we can move towards the final plat stage of this filing for a successful development for everyone.

Sincerely,



J. Aaron Atkinson
President
CVR Investors, Inc.

Public Works Department
(970) 984-0669 ex200
jwenzel@newcastlecolorado.org

Town of New Castle
801 W Main Street
New Castle, CO 81647

November 3, 2020

Paul,

The Public Works Department has had the opportunity to review the revised site plan for filling 11 and has the following comments:

Comprehensive Snow Removal Plan
The Public Works Department requests that the Applicant place "No Parking On Street 48 Hours After A Snow Fall Event Of 2" Or More" signs throughout the entire neighborhood. The same approach is currently in use in other residential areas and it has proven to be extremely effective and well received by residents.

The identified snow storage sites at the southern section of Eagle Ridge Drive are approximately 600 feet apart. This is too great of distance to efficiently/effectively manage snow removable. The Public Works Department request that a mid-block snow storage location or locations be created. The snow storage site(s) should be approximately 25 feet wide and 15 feet deep.

The Public Works Departments request a snow storage site be located at the intersection of Eagle Ridge and Bear Canyon, near lot 28A.

The Public Works Departments request a snow storage site be located at the cul-de-sac, near lot 24B.

Bear Canyon Dr. as a Collector Street
As defined by our Municipal Code, Bear Canyon Dr. will function as a collector street and should be designed accordingly. The Applicants written response is in disagreeance with the 60" ROW recommendation, but the site plan does shows a 60" ROW on Bear Canyon Dr.

If residential homes are to front Bear Canyon Dr. the street should be designed to have a right-of-way of 60 feet, to include 2/12' wide travel lanes, 2/8' wide parking lanes, 2/5' wide "green belts", and 2/5' wide sidewalks.

If residential homes are **not** to front Bear Canyon Dr. then consideration should be given to eliminating the "parking lanes" and reducing the overall ROW to 50'. In a 50' ROW situation, parking must be prohibited along the entire length of the street. The street should be designed with 2/15' wide travel lanes, 2/5' wide "green belts", and 2/5' wide sidewalks.

Open space
The "green belt" on Bear Canyon Dr. and the center island of the cul-de-sac should be dedicated to the HOA and any landscape in these areas should be maintained by the HOA.

November 13, 2020

Mr. Dave Reynolds, Town Administrator
Town of New Castle
P.O. Box 90
New Castle, Colorado 81647

RE: Filing No. 11, Castle Valley Ranch Planning Area #17
Review of Preliminary Plan Revised Submittal to
P&Z Resolution PZ 2020-09

Dear Dave,

The purpose of this letter serves to provide comment, concerns and questions regarding the proposed revisions to the development of Filing Number 11, PA #17 of Castle Valley Ranch Subdivision as requested by Planning and Zoning Commission in resolution PZ 2020-09. In order to conduct this review, we are in receipt of a variety of pieces of information noted as follows:

1. Paul Smith's Letter of 11-23-20 summarizing the changes proposed.
2. A staff report for the 11/23/20 meeting of P&Z as compiled on 11/4/20.
3. A 10/30/20 letter from CVR Investors responding to the conditions of approval and transmitting additional information reflecting changes made.
4. Seven separate exhibits that reflect changes to the application as summarized by Paul's 11/23/20 letter and the 10/30/20 letter from CVR Investors. The exhibits are as follows:
    a. PA 17 Revised Plan
    b. Generalized colored landscaping plan of PA 17 Revised.
    c. A 3D rendering of the subdivision as viewed from the NE side of the site
    d. A 3D rendering of the subdivision as viewed from the SW side of the site
    e. A photo of the existing site conditions as viewed from the C Avenue open space
    f. A copy of Town Staff Conceptual Recommendations of 9/23/20.
    g. A copy of the Phasing Plan (Applicant Site Plan dated 5/27/20)
5. A copy of the November 3, 2020 letter from the Public Works Department to Paul Smith.

Following our review of the above stated documents, we understand that this review is to comment on the general character of the revisions to the plan and not to review the revisions from a preliminary/final plan standpoint. If acceptable to P & Z, the applicant will need to subsequently submit documents that address the prior issues identified in our prior April 24, 2020 letter to you regarding the prior application as it related to providing final/construction level drawings.

Considering our review of the applicant's submittal, please note the following comments:

1. The applicants have responded to the softening of the transition from the single-family homes along South Wildhorse Drive to this project by replacing the prior proposed triplex units with duplex units. This has undoubtedly increased the open space/lawn area along the west side of Eagle Ridge Drive. They do note a proposed fence to be installed behind the *east side* of Eagle Ridge Drive to further buffer the two filings. We anticipate that this is intended to be along the *west side* of Eagle Ridge Drive.

2. For the units in the south east corner of the site, they still are being shown to exist on a significant "fill". There doesn't appear to be an issue related to being able to do this other than the need to properly plan and design the foundations for the homes in this condition. The future site and foundation designs would need to consider the potential for long term settlement occurring with the "fill".

3. For the duplex units along Eagle Ridge Road, the applicant has reasserted their discussed reasons for not providing 2 car garages. Potential concerns towards not providing adequate parking (ie., spaces are taken by "toys") can be offset by providing a restriction for the parking of boats, RV's, UTV's, etc… in the protective covenants for the subdivision or providing a screened community storage area for such.

4. Relative to the Open Space C upgrade, they have provided an additional open space in the southwest corner of the site that can be combined with and enlarge the open space associated with the development on the west side of this project. This also will provide more open space for the area at the north end of C Avenue. Subsequent planning should further detail the specifics of how this area can be flattened and made more useable for the residents within this project. Grading associated with this open space should be performed and be designed to accommodate playground equipment or structures for the future if acceptable to P & Z.

5. The request to widen the natural buffer along C Avenue to greater than 10 feet or heavily landscape with trees to obscure the line of site between adjacent homes along South Wildhorse Drive and Filing 11 is not being agreed to. In note 1, above, the clarification of providing a "fence" in the back of the duplex units along the west side of Eagle Ridge Drive may help to obscure the line of site, if this is indeed the intent of the fencing.

6. The Public Works Department has opined on the snow storage and snow removal plan. The desire is to assure that the snow is not needing to be "pushed" too far from one snow storage location to the next. We would add that the driveway between the duplex units and Eagle Ridge Drive appears to be in excess of 25'. With a standard parking space for a driveway being 20', the option of providing a 5-foot buffer still exists to accommodate snow storage between the walk and the roadway. This would require the suggested signage noted by John Wenzel in his correspondence.

We would also add that there remains an opportunity to create additional snow storage locations between alternating property line locations in the duplex area. These alternating property line locations would be in those areas that would not conflict with the placement of transformers and pedestals for the dry utilities.

7. The recommended prohibition of on-street parking along the outer radial lane of Eagle Ridge Drive to improve snow removal, safety and traffic flow and to prohibit parking adjacent to any snow storage easement identified on the plat is being requested to be clarified by the applicant. Our recommendation would be to incorporate the signage requested of Public Works coupled with providing a 5-foot buffer between the roadway and sidewalk would address the snow removal and safety concerns.

8. It appears that the applicant is identifying the acceptability of the 5' landscape buffers between the road and sidewalks along both sides of Bear Canyon and the inner radial lane of Eagle Ridge Drive. We would recommend that the buffer also be provided for the outer radial lanes as well.

9. Regarding the construction and dedication of single-track hiking and biking easement at the base of Ganley Hill and Prendergast Hill the submittal information is not specific from our perspective as to what is proposed. Additional discussion in the upcoming meeting needs to clarify this issue.

10. The applicants are agreeing to provide at lease two paved on concrete access points from Eagle Ridge Drive/Bear Canyon Drive to Open Space C… which we believe is sufficient.

11. Relative to the design of Bear Canyon Drive, we would recommend that parking and direct lot access to the roadway not be allowed. Given this, we concur with the recommended section discussed by John Wenzel in his correspondence.

The remaining conditions appear to be acceptable with the applicant. We anticipate that as this plan gets refined, the requested issues/concerns and drawing clarifications will need to still be provided. We also anticipate that there will need to be revisions to the grading plan to reflect the revisions noted with this submittal. As previously noted in our prior report, although there are a variety of concerns and clarifications previously noted, we do not see that any of the issues noted cannot be technically resolved.

Upon your receipt and review, if you have any questions, please don't hesitate to call.

Respectfully,
Jefferey S. Simonson, P.E.
Principal



Received 10/30/20

Graphic Scale

0 25 50 100

In Feet: 1" = 50'

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

Castle Valley Ranch
New Castle, CO

No.	Revision	Date	By:

Project Milestone: Preliminary Not For Construction

Job No.	2000-109.029
Drawn by:	JJM
Date:	9.24.20
QC: RM	PE: DJC
File:	CVR-SketchPlan-2020

Title:

PA 17
REVISED PLAN

Dwg No.

1

Of : 4

PHASE 1

CASTLE VALLEY BLVD.

EAGLE RIDGE DRIVE

BEAR CANYON DR.

EAGLE RIDGE DR.

OPEN SPACE

Snow Storage

8' ASPHALT TRAIL

Serenity Park
Open Space 25,000 sf

Open Space 17,000 sf

5' landscape buffer to property line

BOULDER RETAINING WALL
510± S.F. FACE
BOT. WALL 5784
TOP WALL 5788

BOULDER RETAINING WALL
465± S.F. FACE
BOT. WALL 5778
TOP WALL 5782

I:\sgmfile1\projects\2000\2000-109\02sht\17-Entrance\VP-Dwgs\Cover\MiscDwgs\2020 Revisions\CVP-SketchPlan-2020.dwg Plotted: 10/29/2020 3:08 PM By: Jason Mehlhop

Received 10/30/20

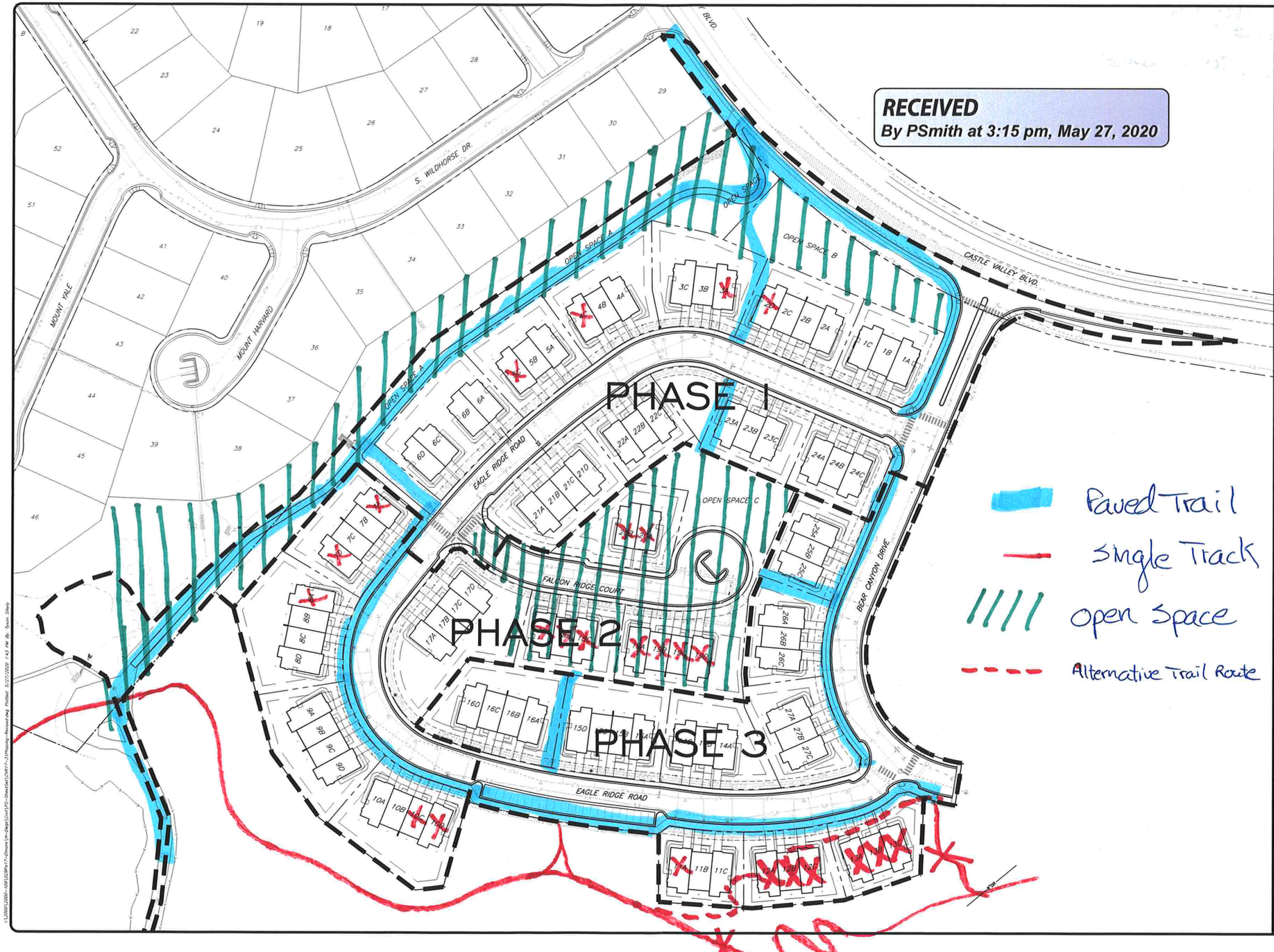



SGM


SGM



Town Staff Conceptual Recommendations 9/23/20



Graphic Scale
0 25 50 100
In Feet: 1" = 50'

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

Preliminary Not For Construction
Project Milestone
Revision
Date

Job No 2000-109.002
Drawn by JM
Date 5.18.20
QC DJC
File CVR17-31Phasing-Revised

Title: Phasing Plan

Dwg No 7
Of —

Applicant Site Plan 5/27/20

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

PHASE 1

PHASE 2

PHASE 3

S. WILDHORSE DR.
MOUNT YALE
MOUNT HARVARD
CASTLE VALLEY BLVD.
OPEN SPACE A
OPEN SPACE B
OPEN SPACE C
EAGLE RIDGE ROAD
FALCON RIDGE COURT
BEAR CANYON DRIVE

Graphic Scale
0 25 50 100
In Feet: 1" = 50'

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:

Project Milestone: Preliminary Not For Construction

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

Title: Phasing Plan

Dwg No. 7

Of : ----

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November 18, 2020

TO: Planning and Zoning Commissioners and Paul Smith, Planner

FR: Denise and Steve Scheberle; Virginia and Wayne Shelton

RE: Preliminary Filing 11 application and Resolution PZ-2020-9

As the Commission begins its deliberations over the preliminary plan for Filing 11 in light of the staff report, several meetings, and Resolution PZ-2020-9, we urge you to continue to work to bring the development more in-line with the comprehensive plan and more responsive to the letter dated May 1 and signed by 70 New Castle residents.

The points made in that letter are still valid. Though the conditions set forth by the Town of New Castle in the resolution represent an improvement over the sketch plan, issues of great concern still exist, such as insufficient attention to public safety, natural landscapes, open spaces, traffic, wildfire evacuation, wildlife corridors, parking, storm water, and additional crosswalks for pedestrians. In particular, the open spaces proposed by the developer are insufficient, with only a narrow walking path proposed along the South Wildhorse side of the development and a second open space adjacent to Castle Valley Boulevard, which is not usable space. Also, inadequate consideration has been paid to traffic loading on Castle Valley Boulevard (for example, why not connect to the existing roundabout to improve traffic flow and give drivers leaving the development a reasonable chance at making a left-hand turn?). Third, many residents remain wary of a concentrated development and its impact on the ability to safely evacuate all residents on just one road (Castle Valley Boulevard). A C-Street connection would alleviate loading on the boulevard and might just save lives. Fourth, we have not heard discussion of how water entering the development from the other side of Castle Valley Boulevard will be handled. Fifth, parking has not been resolved for residents inside the development. Sixth, should the plan for a walking path go forward, there is a need for a second crosswalk, as the only crosswalk now is on the north side of the Wildhorse/Castle Valley Boulevard intersection and is inadequate for safely accessing the trail.

While these issues and more are vital for all residents, we would like to highlight a significant issue of great concern to us: **the loss of property value for the residents of South Wildhorse and Mount Harvard** without a much larger buffer between the single-family and multi-family units, or a shift by the developer to building single-family homes. The pertinent condition set forth in Section 6 (e) of the Resolution reads as follows: "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." **We urge the commission to adhere to the condition of at least a 120-foot buffer and not allow trees to substitute for the open space needed between the development and existing homes.**

Trees are a welcome addition but will not sufficiently address the loss of property value for adjacent homeowners. The staff report acknowledges a loss of property value for these homes. We have spoken to realtors who agree with the town's assessment and estimate a lost value around 10 to 15 percent per home, provided that the multi-family development is *properly built and attractive*. Taking the low range of these estimates (10 percent) and multiplying it by the number of affected homes (12) with an approximate value of $550,000 each results in $660,000 of total lost property value. As a matter of equity and fair sharing of costs, this is an unacceptable burden to place on adjacent homeowners. Like

most homeowners, our savings are invested in our home. Home values, of course, vacillate with the market. However, this development as currently designed will have an immediate and lasting negative impact on home values.

A question was asked at the May meeting about why existing homeowners did not determine what was planned for the development behind their homes. To remind commissioners, our answer and that of our neighbors was we did our due diligence by examining the map that was on the town website and visiting the town hall to inquire about potential building before buying our South Wildhorse property in 2010. The map showed lot lines with no indication of multiple-family units. Any reasonable person examining a plat map with lot lines assumes one house per lot, unless otherwise indicated, and that was what we were told.

We urge the town and developer to work together in moving the development forward. For example, the town could return the $45,000 park/recreation fee to the developer in exchange for an open space buffer of at least 120 feet (a buffer that should not include the hill owned by the town). The developer could make this a conservation easement if desired. Perhaps a public/private partnership could be arranged. This would provide compensation for the developer, improve property values and resident satisfaction within the development, and help maintain property values for adjacent homeowners. It would also serve as an inviting walking path for all residents and help meet open space goals in the comprehensive plan as well as protect the wildlife corridor that follows the natural drainage in this area. Eventually, a similar buffer situated behind North Wildhorse could potentially allow residents to walk from Mt. Medaris to the Sunset Trail, creating a distinct and enjoyable pedestrian experience and moving us that much closer to the goals of the comprehensive plan.

CVR Investors has opposed opening the development by widening the buffers and/or reducing the number of units. They state that: “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 Valley 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.”

We feel that this argument does not stand up to scrutiny for three reasons: first, there is nothing that prevents multiple-family housing north of Castle Valley Boulevard or farther down the hill, closer to existing multi-family units. We wonder if CVR Investors seeks to divide the community, letting the major costs of development be borne by residents on the south side of Castle Valley Boulevard, specifically homeowners on South Wildhorse and Mount Harvard by condensing housing in a way that is unprecedented in the town. Poor development anywhere hurts all of us, as it hurts the image of the town and does not create the comfortable, livable community the developer seeks.

Second, the fact that all of the 120 acres owned by CVR Investors is not buildable does not therefore entitle the developer to increase density over just one section of land. Entitlement to build a maximum number of units does not mean that all units must be built nor does it suggest that they must be built in the area adjacent to single-family homes. As the commissioners know, **leaving more open space around**

developments increases the value of all units built, helping both developer and homeowners inside and outside the development retain value. It also meets the value of open spaces acknowledged in the comprehensive plan, as was mentioned in the community letter to the Planning and Zoning Commission in May.

Third, to our knowledge at the time of this writing, there is no PUD plan or sketch plan for the entire area owned by CVR Investors. Absent a full plan, including where all units will be built, where substantial and usable open space will be located, a deeper consideration of multiple-use zoning within the town, and harmony with the comprehensive plan, we do not see a basis for the argument put forward by the developer.

CVR Investors paid just $700,000 for 120 acres of land and the triplex lots on Redstone Drive and Foxwood Lane. If the preliminary plan is approved as is, twelve sets of homeowners stand to lose nearly that amount in their homes' property value. We sincerely hope that the commission, and the town leaders, will see that this is an unfair burden for adjacent homeowners to bear. We also, in conclusion, point to the remaining issues in the community letter submitted to the commission in May. **We urge the commissioners to make the same decision they did in May: deny this preliminary application until it more fully addresses remaining and significant concerns voiced by residents and represents a fairer treatment of adjacent property owners.**

If you are considering a vote in favor of this development, we urge you to think about the vision for the town. Is New Castle to be a town represented by little attention to proper growth principles, or a model of smart growth and a desirable place for families to settle? Is this open space adequate in terms of public and wildlife use? Is public safety, parking, drainage, and traffic flow adequately addressed? Consider if you lived on South Wildhorse or Mount Harvard: would you be okay with losing property values? **We believe that commissioners and the developer would feel the same way we do if they owned a home adjacent to this proposed development.** Please do not approve the application because the developer applies pressure saying that he is tired; commissioners and residents are tired, too. **Equitable solutions exist and the result will be a better community for all.**

Thank you for the opportunity to provide comments.

Dear P and Z

Regarding the application for CVR investors. Please consider long and hard how we want our sweet little town to proceed. The over building of this project is not only a fire hazard and I see no good outcome in a natural disaster as we all have to evacuate but it will restrict all of our activities that we all moved here for. The open views and spaces we love and appreciate! The animal corridors are going to be severely closed off! Keep in mind the Romero group who bought Lakota golf course is planning on developing what 400 lots with tri and duplexes from what I understand.
Please don't don't squeeze us out like Eagle is doing. They are over building so much one can't breathe. In Willits you can't even see the sky.
Why did we all move to Colorado and specifically New Castle?? Openness!! Outdoors and sports not cluttered housing!!
These builders do not live here and will be gone once they leave behind cluttered over built buildings,traffic and rob us of our skies and mountains to enjoy. Please do not approve.
Thank you,
Sally Linden
Sally Linden Photo Art
970-536-6151

New Castle Planning and Zoning Commission Meeting
Wednesday, September 23, 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	Chair Apostolik
	Commissioner Bourquin
	Commissioner Lucio
	Commissioner McDonald
	Commissioner Riddile
	Commissioner Sass
	Commissioner Westerlind arrived at 7:09pm
Absent	None

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

Items for Consideration

Consider Resolution PZ-2020-09, 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 PA17 and PA19.

Town Planner Paul Smith said that staff was continuing the reassessment of the application and that he had reviewed the audio of the prior meeting and had revised his staff report to reflect the comments from the commission.

Assistant Town Attorney Haley Carmer said that the reconsideration of the application was requested by the Town Council. The purpose of the reconsideration

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was to determine whether there were any conditions that the commission felt were appropriate to add to the approval of the preliminary plan for Filing 11 which would bring the application into compliance with the necessary approval criteria which is set forth in the Municipal Code for approving PUD plans. She said that At the last meeting the commission went through a series of conditions that staff had put together based on concerns from the commission expressed at the end of the public hearing process in May. Based on the requirements the commission felt were not met with respect to the application which resulted in the initial decision to deny the filing 11 preliminary PUD application.

Attorney Carmer explained that at the last meeting the commission reviewed the conditions for the filing 11 preliminary PUD application and gave some recommendations. They also got some feedback from the applicant if they would be able to meet the conditions. Attorney Carmer said it was ultimately the commission's decision to determine if any of the conditions would be appropriate to impose on the application to bring it into compliance. She said that the applicant had gone through the list of conditions and had submitted a response to those conditions as to what may be feasible.
Attorney Carmer said that the purpose for the meeting was to make a final decision on the filing 11 PUD application; whether to up hold the original decision of denial of Resolution PZ2020-06, or to determine if there were some conditions which would be sufficient to bring the application into compliance. In that case, it would require a conditional approval of the filing 11 preliminary PUD. One of the conditions that was included in the proposed resolution was how the application would proceed if the decision was to conditionally approve. That would be to have the applicant come back with a combined preliminary and final subdivision application as well as a final PUD plan. The final PUD plan would need to address or include all of the conditions in the resolution.
Attorney Carmer said that since there had not been any action taken on the preliminary plan, the commission could add additional conditions or amend the proposed conditions.

Attorney Carmer explained that there will not be any new evidence or public comments accepted on the application, and that the reconsideration will based on what was presented and heard during the public hearing process to the commission.

Planner Smith said the resolution that was presented at the last meeting has not be altered. The changes were made in the staff report to reflect the amended conditions (Exhibit A). He reviewed the redline for the commission.

Commissioner McDonald asked if the changes were provided to the applicant.

Planner Smith said the redline changes were in the packet.

After a brief discussion, the commission decided to review the applicants' responses with the applicant.

Aaron Atkinson, applicant. Mr. Atkinson said he want to make sure to convey that the commission and staff critiques of Filing 11 had been taken to heart. He said

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they had expended a great deal of time and resources to revise the original plan to account for as many of the points as possible, given their business model and economic feasibility of the project. The modified plan they were drawing with the town engineer's approval, was still in full compliance with all the town codes, the Public Works Manual and was substantially compliant with the Comprehensive Plan. Mr. Atkinson said that they had been working diligently on the plan for over one year and were extremely disappointed to have missed the opportunity to put lots on the market in 2020. He said that it was nearing a point at which 2021 may also be in jeopardy.

Mr. Atkinson said that his response was related to the conditions listed in the resolution that was presented at the last meeting and not to the redline version of the staff report.

Resolution conditions list:

A. Soften the transition between single-family homes along South Wild Horse Drive 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.

Chair Apostolik said that he felt a primary concern was softening the transition between the single-family homes and the multifamily homes. Chair Apostolik noted that Mr. Atkinson was electing to reduce down to duplexes. He also noted that each unit would have sod and one tree behind the building.

Chair Apostolik asked Mr. Atkinson if he was still considering reducing some of the triplexes down to duplexes.

Mr. Atkinson said they had determined they could economically replace the triplexes on the eastern edge of Eagle Ridge Drive with duplexes. The narrower units would soften the transition to South Wild Horse Drive. He also said that the yards for each home will be sodded, sprinkled, and have at least one tree behind each home.

Chair Apostolik asked if the reduction to a duplex would include building 8 or would it become a triplex.

Mr. Atkinson said the anticipation was that building would 8 be a triplex and everything to the north would be a duplex.

Chair Apostolik asked if the HOA would require a certain number of trees or shrubs to be planted.

Mr. Atkinson said that the development would have a sub-association of the Castle Valley Ranch Master Association. The sub-association will have requirements regarding landscaping.

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Commissioner Riddile asked if buildings 1-8 would be duplexes.

Mr. Atkinson said buildings 1-7 would be duplexes and the balance as triplexes.

Commissioner Riddile asked if there would be an extra duplex since there would be some additional space from reducing the number of units.

Mr. Atkinson said that could be a consideration but he would need some sketch work on it. He said that they could certainly agree on the condition of softening the transition with duplexes from South Wild Horse Dr. to the development.

Commissioner Riddile said everything would be going to triplexes, and he asked if that would be just on the exterior of Eagles Ridge Road or throughout the entire PUD.

Mr. Atkinson said there would be no quadraplexes in rest of the PUD as everything would be something smaller.

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.

Chair Apostolik said condition B was basically eliminating buildings 12 & 13 or reorienting them, and that the applicant still was not sure.

Mr. Atkinson said that was correct. He said that the original plan showed the buildings as 10 and 11, not 12 and 13. Mr. Atkinson said regarding units 10 & 11 he cannot agree on eliminating the buildings. He felt that the back yards could be stepped in such a way that there is no an eye sore.
Mr. Atkinson said that with respect to buildings 12 and 13, they would not eliminate those either because his engineer said he believed there may be an economical way to design and build the southerly units 12 and 13 with walkout basements. If he determined that was not available, Mr. Atkinson said they will have to investigate re-orienting the designs so the structures were buildable and aesthetically pleasing.

Commissioner Bourquin said she would prefer to see units there because of the single-loaded roadway without any units. It made more since from an infrastructure and development standpoint to have units on that side if you are going to build. She said that she would also like to see a grading plan to better understand the disruption to the site.

Mr. Atkinson said there would be a grading plan submitted at final approval.

Commissioner Bourquin asked if having walk-out basements was a new concept.

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Mr. Atkinson said yes. The walk-out basements were a new concept for the project. He said that the first concern was to make the foundations work, and one way is to have walk-out basements. Again, Mr. Atkinson said that they were currently unable to agree with eliminating buildings 12 and 13.

Planner Smith said having walk out basements would reduce the amount of fill needed because you would lowering the structure down the hill.

Commissioner McDonald asked what the south side of the units would look like.

Mr. Atkinson said the HOA would have landscaping requirements at the rear. There would be softening transition to the Hogback.

Commissioner Riddile said one of his priorities was to maintain a soft east/west trail connector between Prendergast and Mt. Medaris.

C. Design duplex units on Eagle Ridge Road with garages which can accommodate two vehicles to improve the housing diversity, snow storage, and off-street parking issues.

Mr. Atkinson said he could not agree to the condition because he cannot build the duplexes with 2-car garages because they would have to be built much wider and the project would lose a lot of density. Also, he said it would change the whole price structure of the units in the wrong direction. The way the homes were currently designed they have a garage with an attractive front porch, which makes it look more like a single-family home in a neighborhood.

Commissioner Westerlind asked Mr. Atkinson how he would address the parking issues that had been created in similar areas of Castle Valley Ranch.

Mr. Atkinson said he had met the on and off-street parking requirements in terms of the number of units that will be built. He said he was looking into additional ways to provide on-street parking.

Commissioner Bourquin said the parking issue in similar areas in Castle Valley Ranch could be that there was not enough storage in the garage. Therefore, the garage is being used for storage and the parking was overflowing onto the street.

Mr. Atkinson said that additional storage was an option that he would consider.

Commissioner McDonald asked what would be done with the additional space gained since there will be two units eliminated.

Mr. Atkinson said he was not sure because of the reconfiguration and lot lines changing. He said he was trying to create usable open space and keep a unit count that was still acceptable for the project.

D. Upgrade Open Space C as a central "green" with useable park space by eliminating Falcon Ridge Court and buildings 18 ,19 and 20. Add

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off-street parking between buildings 17 and 21 for Open Space C. Open Space C shall include flat space for activities, playground equipment, or shade structures.

Mr. Atkinson said they were looking into expanding the area south of buildings 8, 9 and 10 to create a wide open space. The area was interesting because the views from that point were beautiful and the area was uniquely positioned against the C Avenue Trail Connection. He said they were exploring the idea of installing a gazebo and leveling the terrain to make the area as useable as possible for New Castle residents for picnics, gatherings and the like. At the same time, he said they would be enhancing the access to the trails up the hill as requested by the town staff. He noted that they were doing their best to meet the commission's request for useable open space, and at the same time capture enough units in this development so they were able to exhaust their remaining units over the rest of their developable land. He said they had been working with senior engineer Dan Cokely at SGM to do so. He said they could not provide playground equipment or structures, although the sub association could do so in the future if the community so desired.

Commissioner Riddile said unit 20 felt very cramped due to the parking and open space issues. He felt the area could be better utilized for off-street parking and open space concerns, which would also take the pressure off of having 2 car garages.

Mr. Atkinson said as far as that condition was concerned, he was confident that they could provide open space that would be more useable, that's not less that is currently showing on the plan for open space "C".

Chair Apostolik asked if the current application was being treated as a preliminary plan.

Attorney Carmer said yes. The commission was considering Castle Valley Ranch Filing 11 preliminary plan with the conditions. The understanding was the final plan will take into account all the conditions.

Chair Apostolik said that if the preliminary plan was approved, the commission would have another opportunity to look at the plan at the final hearing.

Attorney Carmer said yes. If the preliminary was approved, then the application would go to a final hearing before the P&Z Commission. The commission would make a recommendation to council on the final application and council would make a final decision on the final PUD plan application.

E. Wide the natural buffer along C Avenue to greater than 10 feet or heavily landscape with trees to obscure the line-of-site between adjacent homes along South Wild Horse Drive and those in Filing 11.

Mr. Atkinson said he could agree to plant some trees along the corridor to obscure the line-of-site, but he cannot agree to widen the buffer or to "heavily" landscape the area.

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Chair Apostolik asked if the trees would be evergreen or conifer trees. Trees that would not drop their leaves.

Mr. Atkinson said yes.

Commissioner Bourquin suggested instead of sod she would like to see natural landscaping.

Commissioner Westerlind asked for the sagebrush in the area not to be disturbed. If possible, to not have the excavators get near it.

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 plow able street area. Snow storage shall be free of all obstructions including, but not limited to, boulders, shrubs, trees, and fences.

Mr. Atkinson said he could agree to identify the snow storage easements on the final plat and the temporary locations on phasing drawings. He said they couldn't feasibly have a snow storage easement between every single building; however, they can have an easement at the outer radials of Eagle Ridge Drive and elsewhere in order to accommodate snow plowing and snow management. Further, he said they were investigating the elimination of units fronting Bear Canyon Drive, which would provide significant snow storage opportunities. Because of the way the units on Bear Canyon Drive had shifted had changed the snow storage, the traffic concerns and the parking opportunity that might exists if there are no driveways onto Bear Canyon Drive. It gave new perspective on the look of Bear Canyon Drive.

G. Install street signage stating, "NO PARKING ON STREETS 48 HOURS AFTER A SNOWFALL EVENT OF 2" OR MORE."

Mr. Atkinson said he would need to see exactly where they would need to install the signs.

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.

Mr. Atkinson said he would like to know in more detail the areas specifically where parking would be prohibited.

I. Provide 5' landscape ("green") buffers between the road and sidewalks along both sides of Bear Canyon Drive, and the inner radial lane of Eagle Ridge Drive. All green buffers shall be lined with trees except in designated easements.

Mr. Atkinson said this was acceptable, particularly because they intended to remove all the structures loading on Bear Canyon Drive.

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Commissioner Riddile asked if the buffer would also be in the inner radial lane of Eagle Ridge Drive.

Mr. Atkinson said that was something he would not like to do. The liability perspective was a great concern. However, Mr. Atkinson felt he could accomplish good snow management with some targeted areas within the development to help mitigate some of the need. Part of that was due to the reduction in the density which would produce extra surface area. The reason for agreeing to the condition on Bear Canyon Drive was that he did not want the condition for rest of the development.

J. At the developer's sole expense, mitigate potential fuel hazards for wildland fires in areas identified as threats by Colorado River Fire & Rescue.

Mr. Atkinson said that from discussions with Chief Moon, much of the fuels with which he was concerned were located on the town's property not that of the developer. Those areas are of concern irrespective of the new development, as he's described the "chimney" effect of C Avenue as it existed now. So, he felt the cost should be shared equally between the developer and the town. In addition, with the current discussions, they were looking to provide open space near the area which would mitigate the fire concerns.

Chair Apostolik asked if Mr. Atkinson would provide an estimated cost for the mitigation to the town, so the town was aware.

Mr. Atkinson said yes.

Chair Apostolik asked if Mr. Atkinson was going to have Chief Moon sign off on the mitigation, just to make sure it is done correctly.

Mr. Atkinson said yes, if Chief Moon would be part of the mitigation.

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 Mt. 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 Road.

Mr. Atkinson said he would agree to reorient the development to provide open space south of Eagle Ridge Road at the southerly border of the development, provided all such open space was counted against the covenant of developers to dedicate open space to the town.

Commissioner McDonald asked if this open space would be actual usable open space for the community.

Mr. Atkinson said the main factor in the usability was the grade. He said that his engineer had confirmed it could be done in such a way to make the open space usable.

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Mr. Atkinson asked about the requirement of 10 percent dedication for public use. He wanted to make sure when the open space south of Eagles Ridge Road was dedicated that would count towards the dedication requirement.

Planner Smith said yes, and that until the full 10 percent dedication requirement in the entire Castle Valley Ranch Subdivision was met, there will be 10 percent dedication requirement per PUD.

Commissioner Riddile said if Mr. Atkinson was to dedicate buildings 12 & 13 as open space that would be fine. However, there are steep slopes that he would not want to count as part of the required dedication percentage.

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.

Mr. Atkinson said he could agree to furnish at least two paved or concrete access points from Eagle Ridge Drive/Bear Canyon Drive to Open Space "C".

M. Design Bear Canyon Drive 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.

Mr. Atkinson said he disagreed because a wider road would cause increased vehicle speeds and endanger people similar to Club House Drive in Lakota. Hehe said that the current span of the road was more in line with the Comprehensive Plan, which provided that "New Castle supports concepts of traditional neighborhood design and smart growth that included appropriately designed and compatible narrower street sections that
incorporate pedestrian-friendly crossings, traffic calming techniques, landscaping and lighting." (Comp Plan at Policy T-1G.)

Mr. Atkinson said that in order to provide better access and traffic flow, they would design the road so as not to front any units onto Bear Canyon Drive until it turned to the east at the southern end of the property. This will reduce incoming cars from driveways and with the tree-lined street and the greenbelts, it should be very neighborhood friendly.

Commissioner Riddile said if the houses ware not fronting Bear Canyon Drive, then a parking lane becomes less important.

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Mr. Atkinson said the green belt and sidewalk along both side of Bear Canyon Drive would still exist and provide for some snow storage with no parking on the street.

N. Provide water and sewer service stub-outs for future development east of Bear Canyon Drive prior to the installation of road infrastructure.

Mr. Atkinson said there was no need for the stub-outs for future development because it will be back yards on the east side of Bear Canyon Drive.

Chair Apostolik said the taps would be on future development.

Mr. Atkinson said yes that was correct.

O. Provide verification that the Castle Valley Boulevard right-of-way can accommodate standard turn lanes and through lanes.

Mr. Atkinson said he would work with SGM to provide the verification.

P. Specify on the plat that Open Space "A, B, and C" shall be maintained by the HOA.

Mr. Atkinson said per previous discussions and meetings, the sub association will maintain Open Space "B and C", but not open Space "A" which is to be maintained by the town as a trail connector.

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)

Mr. Atkinson said this was acceptable.

Chair Apostolik asked if this was part of the permitting process for the development.

Planner Smith said the phasing plan was part of the requirement for the new preliminary and final plans. Also part of the Subdivision Improvement Plan (SIA).

Attorney Carmer said also for the infrastructure phasing particularly if the infrastructure phasing happens at different times during the development of the subdivision. Also will need to see the plan to determine what the securities will be for the various aspects of the project and the public improvements.

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Commissioner Westerlind asked about the sewer cut on N. C Avenue, if the repairs would be done after the fact by the town or will CVR Investors be making the repairs.

Mr. Atkinson said he was not sure.

Planner Smith said it would be up to the developer to repair.

Planner Smith said that as part of his staff report, he was requesting a landscaping plan. The landscaping plan would be more of the interior common spaces that the town will be maintaining.

Commissioner Bourquin said that anything the town will be taking ownership of should have a landscaping plan submitted because the town should know what they are taking ownership of. She also said that they should know what the HOA will be maintaining for the open spaces and to understand if the requirements were being met. Having a landscaping plan will also help the commission understand what the landscaping will look like in the usable open space.
Commissioner Riddile said what he would like to see was native landscaping.

Chair Apostolik said he does not mind if the landscaping plan was generic, but he was concerned about open space "A" because of the citizen comments that were heard during the public hearings. He felt that landscaping plan needed to be more specific.

Planner Smith said the landscaping would go to the Parks, Open Space, Trails and Recreation (POSTR) Committee for their approval.

Commissioner Westerlind said he would like to see the landscaping plan up front. Especially if the landscaping would block the construction activity in the next building phase.
Attorney Carmer said the location as well as the type of trees would be required in the landscaping plan.

Mr. Atkinson said he would agree to provide a detailed landscaping plan for all of the open spaces in filing 11.

R. Request approval of street names through Garfield County Communications to avoid any duplication of names in the county dispatch area.

Mr. Atkinson said this was acceptable.

S. Demonstrate that all exterior illumination shall comply with acceptable International Dark-Sky Association (IDA) standards.

Mr. Atkinson said this requirement should be imposed by way of the sub association covenants, which he could do.

T. Designate locations of mailbox kiosks with written authorization from the local postmaster.

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Mr. Atkinson said this was acceptable.

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.

Mr. Atkinson said this was acceptable.

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.

Mr. Atkinson said this was acceptable.

W. The sale of individual units within Filing 1 may not occur until a plat is recorded with Garfield County.

Mr. Atkinson said this was acceptable.

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.

Mr. Atkinson said this was acceptable.

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.
.

Mr. Atkinson said this was acceptable.

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.

Mr. Atkinson said this was acceptable.

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.

Mr. Atkinson said this was acceptable.

Commissioner Riddile asked Mr. Atkinson if conditions R-AA was still acceptable.

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Mr. Atkinson said yes.

Commissioner Riddile asked what the next action was.

Attorney Carmer said it would be a motion to approve the resolution. However, she said there were a few changes to the conditions. Since there were recommendations from the commission at the last meeting and now from the applicant what was agreeable and what was not. It is up to the commission what conditions were appropriate in order to bring the application into compliance. There was some work on a few of the conditions where are there are differences of opinion between the commission and the applicant. If the commission approved with referral to the staff report that could be on an option and changes could be made based on what was heard tonight.

Commissioner Bourquin asked if the resolution was approved would the application then go to final, or was there any way the application could come back to P&Z for another review as preliminary, as an amendment and open the application back up to a public hearing. She said she did not feel the application was ready for final. On the other hand she did not want the application to stall. Commissioner Bourquin said she felt very optimistic about the direction the application was going.

Chair Apostolik said the public hearing portion of the preliminary application was closed or it would need to be a new application.

Attorney Carmer said the public hearing was closed on what had been submitted. If the applicant wanted to amend the application, then there would be a notice requirement for a public hearing. The only way to require the applicant come back for a public hearing was to deny the preliminary application. The commission could continue the decision on the resolution and ask the applicant to come back with an amended preliminary subject to the public notice hearing process. Therefore, the commission would not be making a decision on the resolution or the application; rather, the commission would be continuing the decision until the amended preliminary update was provided. Attorney Carmer said it depended on what else the commission would like to see added to the plan.

Commissioner Riddile asked if the final application would be a public hearing.

Attorney Carmer said the final application before P&Z would be a public hearing, but not before town council.

Commissioner McDonald asked about condition # 25 which was to submit a new combined preliminary/final subdivision application.

Attorney Carmer said that was the platting portion of the subdivision. Splitting the property into individual lots. Because that portion of the application was denied and was not appealed. The PUD application was the more substance of the application and wouldn't necessarily become part of the plat. It is just to make sure the final plat was ready for review by P&Z.

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Commissioner Bourquin said she would like to take the new conditions to the public and open the public hearing and allow the public to see the progress being made on the application and see if the public is more comfortable with the project.

Chair Apostolik asked Mr. Atkinson his thoughts on the application since he was still uncertain of some of the conditions. As a commission, he said the general consensus was to move forward but they would like to see little more information. Chair Apostolik asked Mr. Atkinson what sort of risk he wanted to take. If the commission was to act on the resolution and approve it with all the conditions listed in the resolution that had been discussed in the last meeting and the current meeting, how much time would you need to get information together, if the commission were to continue the discussion for another meeting.

Mr. Atkinson said there had been a lot of work done. He said he knew it will be a lot of risk, but he said he could be ready to present something at final PUD and preliminary/final Subdivision that the commission would be comfortable with. He further stated that he understood there will be a public hearing with public comment. The changes that needed to be made were substantial in writing, but not on the page. Mr. Atkinson said he does not want to go back to preliminary but understands the reasoning from the commission for going back to preliminary, although he voiced concern that there would be 3 or 4 more meetings to get the application moving forward.

Chair Apostolik asked Mr. Atkinson again how much time he would need to provide more information to satisfy, and Mr. Atkinson said he could be ready in four weeks.

Administrator Reynolds asked Attorney Carmer at what point would the changes in the current application be significant enough to require a new application.

Attorney Carmer said P&Z could not require the applicant to come back for a preliminary public hearing on the existing application. What could happen is the commission could continue on with an amendment of the application. However, if the application was changed from what the commission has considered that would have to happen at a public hearing, where the public could provide comment.

Chair Apostolik asked Attorney Carmer if based on the current number of conditions was it acceptable for the commission to continue the resolution without the applicant needing to come back with a full preliminary application.

Attorney Carmer said that it seemed that what the commission needed was the site plan and the layout including the configuration of the units and the number of units that would be considered an amendment of the current PUD plan. She did not think it was a full-blown new application in the sense that all the materials were resubmitted, but the big issue was the public comment. It would require noticing a public hearing and publishing. The meeting would need to be set far enough out to meet the public hearing notice requirement. So, if the commission wanted to see and consider a new plan then a public hearing would be required. Because what the commission was considering was the prior plan with conditions and the conditions would be shown at the final. That was a risk for the applicant to go that far because they would need to submit a complete PUD plan application along with all the

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required materials. At that point it would be up to the commission to determine if the final complied with the conditions proposed on the preliminary with the understanding the application will look different because the commission was asking for it to look different in order to make the application fit into the approval criteria.

Commissioner Bourquin said that she was optimistic about the application going back to preliminary through an amendment process and having another public hearing for public comment. She apologized for the added time it would take for the developer, but said she felt that by amending the application it would expedite the process moving forward to final because there would less material to submit creating a smoother final process.

Mr. Atkinson said the conditions list was derived from the public comments that were made in prior meetings. He said they were addressing what the public had said as well as staff comments. He said he expected there would be more public comments at final because there always were, but they were addressing what was brought up thus far.

Commissioner McDonald said Mr. Atkinson had addressed a lot of the concerns and there have been improvements made and he expected they would receive some positive comments from the public. He said it was hard to move forward when the commission cannot visualize exactly what the project will look like because don't know the orientation of the lots will look like.
Commissioner Riddile said the new plan would be provided at final, and he was will to risk moving to final if Mr. Atkinson was. Commissioner Riddile like to see something addressing the conditions, but advised that Mr. Atkinson not come back with the same material that the commission currently had.

Mr. Atkinson said that his perspective was to put it all on the line for the next meeting and if it did not work then he may have to start all over again.

The Commission discussed the particulars with Attorney Carmer regarding the need for a public hearing noting that if the commission wanted to see a new plan that addressed all the conditions as listed, it would be necessary to have a public hearing on the amended plan, and that necessitated a fifteen-day public notice. If the commission simply needed more time to think about it, they could meet again in two weeks and post notice of the meeting 24-hours before the meeting. It was the public *hearing* that required the fifteen-day notice.

Chair Apostolik asked Mr. Atkinson if he was willing to take the risk to go to a preliminary/final PUD application or in the same time frame redo the preliminary.

Mr. Atkinson said he would rather go to a preliminary/final PUD application. The reasoning for going to preliminary/final PUD application was because the application was started in September of 2019 and he wanted to get the application to some kind of resolution. Mr. Atkinson said if he had to start all over again after final because the conditions were not satisfied then he would do it.

Chair Apostolik said based on the applicants answer he did not have an issue going through the resolution with the conditions.

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Break: 8:40 p.m.
Reconvene: 8:52 p.m.

Mr. Atkinson said CVR Investors had originally filed the application in September of 2019 and been to countless hearings. They had spent over $130,000 on the plan, and it was an enormous weight on their shoulders. Mr. Atkinson understood that the commission was trying to do the right thing. The idea of going through another 4-7 hearings was not something CVR Investors wanted to do. He said CVR Investors believed in the plan. Mr. Atkinson wants the commission to be informed on what is happening by visual but he could not do it because the attorney told him it would cause the application to go back to preliminary PUD.

Mr. Atkinson asked the commission without going to a vote what the thoughts were of each commissioner. He said he wanted to know how the commission felt about approving the preliminary knowing the developer would assume the risk at final by bringing a plan that would satisfy the conditions vs. going back to preliminary and having a public hearing. Mr. Atkinson said he would prefer to go to final.

Commissioner McDonald said there was a lot of support for the project. The commission was trying to help Mr. Atkinson with the process as much as the commission could without having it go to 4-7 hearings. At the final PUD there will be a public hearing and the public will be invited. He stated that Mr. Atkinson was running the risk of not being able to satisfy the concerns of the public and if those concerns over ride where the commission saw the project, that was the chance Mr. Atkinson would be taking. Commissioner McDonald said that by having the application go back to preliminary so the commission would have a chance to look at the changes and address the concerns should set the application up for success at the final PUD. Commissioner McDonald said he would be alright moving on to final and leaving at chance with Mr. Atkinson.

Commissioner Westerlind said he agreed with Commissioner McDonald and the risk was Mr. Atkinson's to take if he feels like moving on to final PUD. He said there had been improvements made to correct some of the concerns. He thought that the commission will hear from people who live in the project and the surrounding neighbors to the project.

Commissioner Bourquin said the commission did want to set Mr. Atkinson up for success and would like for the project to be developed. She wanted to do it in a way that matched the community vision by creating great places for the future neighbors to live. Commissioner Bourquin felt optimistic, but did not feel comfortable agreeing to move onto final PUD with what had been presented to the commission.

Chair Apostolik agreed. He felt the biggest concern was the number of conditions in the resolution, and he said he would like to see the application come back as an amended preliminary PUD so there would not be a denial later, but has no problem moving the application forward as it was Mr. Atkinson's risk to take.

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Commissioner Riddile said there was still a lot of conditions that were currently unknown. There had been great progress from where the application was several months ago. Commissioner Riddile said that the application the way it was could not be approved, however the application was moving in the right direction.

Commissioner Sass agreed with the other commissioner's comments. She also said she could move the application forward. However, Commissioner Sass thought transparency was important, and the public did not know there had been a lot of conditions met. Having the public input one more time at an amended preliminary PUD should make the final application go smooth. It was up to Mr. Atkinson to take the risk and move to final and potentially have to go back to the drawing board. If the public could see the good changes that would be a plus and a show good faith.

Commissioner Lucio said he appreciated the significant changes Mr. Atkinson had made. The only concern was the public because he did not want them to feel like they had been left out and not heard. The public should have the opportunity to see the changes and the progress made.

Mr. Atkinson said CVR Investors would amend the Preliminary plat and go to a public hearing.

Attorney Carmer said to clarify this would not be a whole new application just amending the layout to address the conditions in the resolution. It was what the applicant would need to submit to satisfy the conditions. The reason for the public hearing again because this would be new information and new plan for the project. The requirement is noticing the public hearing and giving the public a chance to comment on any new material that would be submitted.

Chair Apostolik asked Attorney Carmer if it would it be considered new information or compliance with the conditions.

Attorney Carmer said it was new information because the commission had not imposed any conditions because the commission has not voted on the resolution. What the commission has been discussing was the issues with the application and how the issues might be resolved. The problems the commission saw with the application that was originally presented plan and why the application did not comply with the approval criteria for PUD plans as required in the New Castle Municipal Code. The commission had been discussing the deficiencies and how those might be cured. The applicant would like to have the opportunity to cure the deficiencies through the amendment that would be presented at a public hearing. The applicant would present and the community would have an opportunity to provide comment on the amended plan.

Commissioner Bourquin clarified that at that point the commission would vote to move the application to final.

Attorney Carmer said that was correct. The commission would vote to approve the preliminary PUD with conditions or without conditions.

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Commissioner Bourquin asked if the vote of approval could happen in one meeting then the application would move to final.

Attorney Carmer said yes.

MOTION: Chair Apostolik made a motion to continue Resolution PZ 2020-09 to November 25, 2020. Commissioner Westerlind seconded the motion and it passed unanimously.

Items for Next Planning and Zoning Agenda
There were no items for the next meeting.

Staff Reports
There were no staff reports.

Commission Comments and Reports
There were no comments or reports.

Review Minutes from Previous Meeting
MOTION: Chair Apostolik made a motion to approve the August 26, 2020 meeting minutes as submitted. Commissioner Westerlind seconded the motion and it passed unanimously.

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

The meeting adjourned at 9:11 p.m.

Respectfully Submitted,

_____
Chair Chuck Apostolik

_____
Deputy Town Clerk Mindy Andis, CMC

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Town of New Castle
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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
Preliminary PUD Development
Planning Commission – September, 23 2020

Report Compiled: 9/18/2020

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:	*Originally* 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 alone 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 units along the west side of Eagle Ridge Road ~~homes of this proposal~~ by exchanging triplexes and quadplexes for duplexes.~~:~~ Consider integrating single-family home architectural features into the duplex design.

    - ~~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**)
    - Eliminate building 12 because of 30' of fill and likelihood of excessive settlement; (Less 3 units)
    - Eliminate building 13 because of 38' of fill and likelihood of excessive settlement; (Less 3 units)

3. Design duplex units on Eagle Ridge Rd. with two-vehicle garages to improve ~~which can accommodate two vehicles to improve the~~ housing diversity, on-street snow ~~storage~~removal, and on-street parking ~~issues~~ congestion.

4. Upgrade Open Space C as a central "green" with ~~useable park~~functional active or passive 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**)~~

5. Widen the natural buffer along C Avenue to greater than 120 feet *or* heavily landscape with drought resistant trees and vegetation 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.

6. Provide a comprehensive snow removal plan which identifies sufficient snow storage easements, sidewalk separation, signage, and improved off-street parking.

~~6. 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.~~

~~7. Install street signage stating, NO PARKING ON STREETS 48 HOURS AFTER A SNOWFALL EVENT OF 2" OR MORE".~~

~~8. 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.~~

~~9. 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.~~

~~10.~~7. At the developer's sole expense, mitigate potential fuel hazards for wildland fires in

areas identified as threats by Colorado River Fire & Rescue.

~~11.~~8. ~~Construct and d~~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.

~~12.~~9. 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.~~10. 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.~~11. Provide water and sewer service stub-outs for future development east of Bear Canyon Drive prior to the installation of road infrastructure.

~~15.~~12. ~~Provide verification~~ Verify that the configuration of turn lanes and through lanes at Castle Valley Blvd and Bear Canyon Dr ~~right-of-way~~ will not interfere with the turn lane distances at N & S Wildhorse.~~can accommodate standard turn lanes and through lanes.~~

~~16.~~13. Specify on the plat that ~~Open Spaces A, B, and C~~Open Space A shall be maintained by the Town and Open Spaces B and C shall be maintained by the HOA.

~~17.~~14. 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.~~15. Request approval of street names through Garfield County Communications to avoid any duplication of names in the county dispatch area.

~~19.~~16. Provide a lighting plan demonstrating ~~Demonstrate~~ that all exterior illumination shall comply with acceptable International Dark-sky Association (IDA) standards.

17. Provide a landscape plan illustrating size, type and location of plant materials and an irrigation plan, if applicable.

~~20.~~18. Designate locations of mailbox kiosks with written authorization from the local postmaster.

~~21.~~19. 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.~~20. 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.~~21. The sale of individual units within Filing 11 may not occur until a plat creating the unit is recorded with Garfield County.

~~24.~~22. 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.~~23. 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.~~24. 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.~~25. 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.

New Castle Planning and Zoning Commission Meeting
Wednesday, October 28, 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 7:01 p.m.

Roll Call

Present	Chair Apostolik
	Commissioner Bourquin
	Commissioner Lucio
	Commissioner McDonald
	Commissioner Riddile
	Commissioner Sass via ZOOM
Absent	Commissioner Westerlind

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

Items for Consideration

Consider Resolution PZ-2020-10 Recommending Approval of an Amendment to The New Castle Municipal Code to add Chapter 17.74 Wireless Communications Facilities and Equipment

Town Planner Paul Smith said communities across the country and around the world were facing the next wave of communications technology broadly referred to as "5G" (5th Generation mobile network). 5G technology can utilize higher frequencies, or shorter, "millimeter wave" with the capability to accommodate significantly higher data needs than current 4G/LTE technologies. The physical limits of some of the higher frequencies require that the transmitters be installed at a much reduced spacing, and may ultimately be roughly 300 feet, which was similar to the spacing of streetlights or fire hydrants rather than 2+/- mile or

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greater distances that 4G/LTE technologies accommodate. The result of the physical need was that the public rights-of-way were often the optimal location to install the required equipment. Importantly, the new network has the potential to impact the safety, aesthetic values, and enjoyment of our community in a manner and to a degree that was far more extensive than cellular phones and other types of recent technology.

In September of 2018, the Federal Communications Commission (FCC) adopted the Declaratory Ruling and Third Report and Order, known as FCC 18-133. The Order outlines the extent to which local agencies may or may not regulate the installation of small cell facilities within the public rights-of-way and the use of existing public infrastructure.

In July of 2017, more than a year before the adoption of the FCC Order, House Bill 17-1193, the State of Colorado, Small Cell Facilities Permitting and Installation Act (the Act), became effective. In general, the Act specifies how local authorities throughout Colorado, may regulate the attachment of small cell facilities.

Similar to the advent of the telephone which required extensive wires, switch boxes, poles and other structures to provide these services, small cell communications technology will ultimately require a structure to mount a transmitter approximately every 300 to 600 feet most often with fiber optic cable and power conductor cable connections to each one.

Absent the adoption of standards to assure that installations are context sensitive, service providers would be free to install equipment with no concern for the visual impact that they create. This ordinance seeks to accommodate the implementation of the new technology while assuring that the new infrastructure is installed using context sensitive solutions which limit interference with safety, aesthetics, and the general wellbeing of the community. (Adapted from City of Aspen Design Guidelines).

Planner Smith reviewed the proposed council ordinance.

Planner Smith explained **Wireless Definitions.**

All words used in this Chapter, except where specifically defined herein, shall carry their customary meanings when not inconsistent with the context. Definitions contained elsewhere in this Code shall apply to this Chapter unless modified herein.

Accessory Wireless Equipment. Any equipment serving or being used in conjunction with a WCF, including, but not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

Alternative Tower Structure. Man-made trees, clock towers, bell steeples, light poles, traffic signals, buildings, and similar alternative design mounting structures that are intended to be compatible with the natural setting and surrounding structures, and camouflage or concealment design techniques so as to make the presence of

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antennas or towers compatible with the surrounding area pursuant to this Chapter. This term also includes any antenna or antenna array attached to an Alternative Tower Structure and a Replacement Pole. A stand-alone Monopole in the Public Right-of-Way that accommodates Small Cell Wireless Facilities is considered an Alternative Tower Structure to the extent it meets the camouflage and concealment standards of this Chapter.

Antenna. Any device used to transmit and/or receive radio or electromagnetic waves such as, but not limited to panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devices and configurations. Any exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of wireless communications signals.

Base Station. A structure or equipment at a fixed location that enables Federal Communications Commission ("FCC") licensed or authorized wireless communications between user equipment and a communications network. The definition of base station does not include or encompass a tower as defined herein or any equipment associated with a tower. Base station includes, without limitation:

(1) Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the Town pursuant to this chapter has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support; and

(2) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks) that, at the time the relevant application is filed with the Town pursuant to title 16 of the Code has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

The definition of base station does not include any structure that, at the time the application is filed with the Town under this chapter, does not support or house equipment described herein in sub-paragraphs 1 and 2 of this definition.

Camouflage, Concealment, or Camouflage Design Techniques. A WCF is camouflaged or utilizes Camouflage Design Techniques when any measures are used in the design and siting of WCFs with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF site utilizes Camouflage Design Techniques when it (i) is integrated in an outdoor fixture such as a flagpole, or (ii) uses a design which mimics and is consistent with the nearby natural, or architectural features (such as an artificial tree) or is incorporated into (including, without limitation, being attached to the exterior of such facilities and painted to match it) or is integral within,

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incorporated on or replaces existing permitted facilities or vertical infrastructure located in the right-of-way (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not readily apparent.

Collocation. (1) Mounting or installing a WCF on a pre-existing structure, and/or (2) modifying a structure for the purpose of mounting or installing a WCF on that structure. Provided that, for purposes of Eligible Facilities Requests, "Collocation" means the mounting or installation of transmission equipment on an Eligible Support Structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Eligible Facilities Request. Any request for modification of an Eligible Support Structure that does not Substantially Change the physical dimensions of such Eligible Support Structure involving: (i) collocation of new Transmission Equipment, (ii) removal of Transmission Equipment, or (iii) replacement and/or addition of Transmission Equipment.

Eligible Support Structure. Any Tower or Base Station as defined in this Section, provided that it is existing at the time the relevant application is filed with the Town under this Chapter.

Existing Tower or Base Station. A constructed Tower or Base Station is existing for purposes of this Chapter if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

Micro Cell Facility. A small wireless facility that is no larger than 24 inches in length, 15 inches in width, 12 inches in height, and that has an exterior antenna, if any, that is no more than eleven inches in length.

Monopole. A single, freestanding pole-type structure supporting one or more Antennas.

Public right-of way. Any public way or public thoroughfare dedicated or devoted to public use, including street, highway, road, alley, lane, court, boulevard, sidewalk, public square, mall or like designation.

Replacement Pole. An Alternative Tower structure that is a newly constructed and permitted traffic signal, utility pole, street light, flagpole, electric distribution, or street light poles or other similar structure of proportions and of equal height to a pre-existing pole or structure in order to support a WCF or Small Cell Facility or to accommodate collocation and remove the pre-existing pole or structure.

Small Cell Facility. A WCF where each Antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an Antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and primary equipment enclosures are

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no larger than seventeen cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch. Small cells may be attached to Alternate Tower Structures, Replacement Pole, and Base Stations.

Substantial Change to a WCF. A modification substantially changes the physical dimensions of an Eligible Support Structure if after the modification, the structure meets any of the following criteria:

(1) For Towers, other than Alternative Tower Structures or Towers in the Right-of- Way, it increases the height of the Tower by more than ten percent (10%) or by the height of one (1) additional antenna array, with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other Eligible Support Structures, it increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater;

(2) For Towers, other than Towers in the Right-of-Way, it involves adding an appurtenance to the body of the Tower that would protrude from the Tower more than twenty (20) feet, or more than the width of the Tower Structure at the level of the appurtenance, whichever is greater; for Eligible Support Structures, it involves adding an appurtenance to the body of the structure that would protrude from the side of the structure by more than six (6) feet;

(3) For any Eligible Support Structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or

(4) For Towers in the Right-of-Way and Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other existing, individual ground cabinets associated with the structure;

(5) For any Eligible Support Structure, it entails any excavation or deployment outside the current Site;

(6) For any Eligible Support Structure, it would defeat the concealment elements of the Eligible Support Structure. For purposes of this definition, any change that undermines concealment elements of an eligible support structure shall be interpreted as defeating the concealment elements of that structure; or

(7) For any Eligible Support Structure, it does not comply with conditions associated with the siting approval of the construction or modification of the Eligible Support Structure equipment, unless the non-compliance is

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due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs (1), (2), (3) and (4) of this Definition. For purposes of determining whether a Substantial Change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height are measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.

Tower. Any structure that is designed and constructed for the sole or primary purpose of supporting one or more any FCC-licensed or authorized Antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The term includes self-supporting lattice towers, guyed towers, monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, Alternative Tower Structures and the like.

Transmission Equipment. Equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Wireless Communications Facility or WCF. A facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or Smart City, Internet of Things, wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an Antenna or Antennas, including without limitation, direction, omni-directional and parabolic antennas, support equipment, Alternative Tower Structures, and Towers. It does not include the support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or hand-held radios/telephones and their associated transmitting Antennas, nor does it include other facilities specifically excluded from the coverage of this Chapter.

Town Planner Smith explained **Design Standards.**

The requirements set forth in this section shall apply to the location and design of all WCFs governed by this section as specified below; provided, however, that the Town may waive these requirements if it determines that the goals of this

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Chapter are better served thereby. To that end, WCFs shall be designed and located to minimize the impact on the surrounding area and to maintain the character and appearance of the Town, consistent with other provisions of the Code.

A. *Camouflage/concealment.* All WCFs and any transmission equipment shall, to the greatest extent possible, use camouflage design techniques including, but not limited to the use of materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the WCF to the surrounding natural setting and built environment. Design, materials and colors of WCFs shall be compatible with the surrounding environment. Designs shall be compatible with structures and vegetation on the same parcel and adjacent parcels.

(1) Camouflage design may be of heightened importance where findings of particular sensitivity are made (e.g. proximity to historic or aesthetically significant structures, views, and/or community features). In such instances where WCFs are located in areas of high visibility, they shall (where possible) be designed (e.g., placed underground, depressed, or located behind earth berms) to minimize their profile.

(2) The camouflage design may include the use of alternative tower structures should the Town Planner determine that such design meets the intent of the Code and the community is better served thereby.

(3) All WCFs, such as antennas, vaults, equipment rooms, equipment enclosures, and tower structures shall be constructed out of non-reflective materials (visible exterior surfaces only).

B. Wall-mounted WCFs shall not extend above the roofline unless mounted to a penthouse.

C. Roof-mounted WCFs shall be approved only where an applicant demonstrates a wall-mounted WCF is inadequate to provide service and shall be evaluated for approval based upon the following criteria:

(1) Roof mounted whip antennas shall extend no more than 12 feet above the parapet of any flat roof or ridge of a sloped roof or penthouse to which they are attached;

(2) Roof mounted panel antennas shall extend no more than seven feet above the parapet of a flat roof or ridge of a sloped roof to which they are mounted; and

(3) Other roof mounted related accessory equipment shall extend no more than seven feet above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof.

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D. Hazardous materials. No hazardous materials shall be permitted in association with WCFs, except those necessary for the operations of the WCF and only in accordance with all applicable laws governing such materials.

E. Siting.

(1) No portion of any WCF may extend beyond the property line of the lot upon which it is located.

(2) *Collocation.* WCFs may be required to be designed and constructed to permit the facility to accommodate WCFs from at least two wireless service providers on the same WCF unless the City approves an alternative design. No WCF owner or operator shall unfairly exclude a competitor from using the same facility or location.

(3) WCFs shall be sited in a location that does not reduce the parking for the other principal uses on the parcel less than Code standards.

F. Lighting. WCFs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the Town may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Approved lighting shall be shielded and directed downward to the greatest extent possible so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.

G. Landscaping and fencing requirements.

(1) WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the parcel, below Code standards.

(2) WCFs shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from adjacent residential property. The standard buffer shall consist of the front, side, and rear landscaped setback on the perimeter of the site.

(3) In locations where the visual impact of the WCF would be minimal, the landscaping requirement may be reduced or waived altogether by the Town Planner.

(4) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as WCFs sited on large, wooded lots, natural growth around the site perimeter may be a sufficient buffer.

(5) No trees larger than four inches in diameter measured at four and one-half feet high on the tree may be removed, unless authorized by the Town Planner. To obtain such authorization the applicant shall show that tree removal is necessary, the applicant's plan minimizes the

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number of trees to be removed and any trees removed are replaced at a ratio of 2 to 1.

H. *Noise.* Noise generated on the site must not exceed the standards permitted in the Code, except that a WCF owner or operator shall be permitted to exceed Code noise standards for a reasonable period of time during repairs, not to exceed two hours without prior authorization from the Town.

I. Additional design requirements shall be applicable to the various types of WCFs as specified below:

(1) *Base stations.* If an antenna is installed on a structure other than a tower, such as a base station (including, but not limited to the antennas and accessory equipment) it shall be of a neutral, non-reflective color that is identical to, or closely compatible with, the color of the supporting structure, or uses other camouflage/concealment design techniques so as to make the antenna and related facilities as visually unobtrusive as possible.

(2) *Alternative tower structures and small cell facilities.*

a. Shall be designed and constructed to look like a building, a component of a building, a facility, or structure typically found in the area;

b. Height or size of the proposed alternative tower structure or small cell facility should be minimized as much as possible and shall be subject to the maximum height restrictions of the zoning district in which they are located, with a maximum height limit of 45 feet;

c. Shall be sited in a manner that is least obtrusive to residential structures and residential district boundaries;

d. Shall take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses;

e. Shall be compatible with the surrounding topography, tree coverage, and foliage;

f. Shall be designed utilizing design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and

g. Visual impacts of the proposed ingress and egress shall be minimized.

(3) *Alternative tower structures and small cell facilities located in the right-of-way, (requirements in addition to those set forth herein sub-section I.2).*

a. Shall be no higher than 35 feet.

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b. Shall be no more than 10 feet higher (as measured from the ground to the top of the pole) than any existing utility or traffic signal within 500 feet of the pole or structure.

c. Any new pole for an alternative tower structure or small cell facility shall be separated from any other existing WCF facility by a distance of a least 600 feet, unless the new pole replaces an existing traffic signal, street light pole, or similar structure as determined by the Town Planner. These separation requirements do not apply to attachments made to existing alternative tower structures. The Town Planner may exempt an applicant from these separation requirements if:

    i. The applicant demonstrates through technical network documentation that the minimum separation requirement cannot be satisfied for technical reasons, or

    ii. The Town Planner determines, when considering the surrounding topography, the nature of adjacent uses and nearby properties, and the height of existing structures in the vicinity, that placement of a WCF at a distance less than 600 feet from another small cell facility will meet the intent of reducing visibility and visual clutter of small cell facilities to the greatest extent possible.

d. Pole-mounted components shall be located on an existing utility pole serving another utility; or be located on a new utility pole where other utility distribution lines are aerial, if there are no reasonable alternatives; and

e. Shall be camouflaged/concealed consistent with other existing natural or manmade features in the right-of-way near the location where the alternative tower structure will be located.

f. Shall to the greatest extent possible, be consistent with the size and shape of pole-mounted equipment installed by communications companies on utility poles near the alternative tower structure; and

g. Shall when located near a residential property, be placed in front of the common side yard property line between adjoining residential properties. In the case of a corner lot, the facility must be placed in front of the common side yard property line adjoining residential properties, or on the corner formed by two intersecting streets.

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h. Shall be designed such that antenna installations on traffic signals are placed in a manner so that the size, appearance, and function of the signal will not be considerably altered.

i. Facility antennas, mast arms, equipment, and other facilities shall be sized to minimize visual clutter.

j. Any ground mounted equipment shall be installed in an underground or partially underground equipment vault (projecting not more than 36 inches above grade), or co-located within a traffic cabinet of a design approved by the Town Planner.

k. Shall not alter vehicular circulation or parking within the right-of-way or impede vehicular, bicycle, or pedestrian access or visibility along the right-of-way. Must comply with the federal Americans with Disabilities Act and all applicable local, state, and federal law and regulations. No alternative tower structure nor small cell facility may be located or maintained in a manner that causes unreasonable interference. Unreasonable interference means any use of the right-of-way that disrupts or interferes with this use by the Town, the general public, or other person authorized to use or be present upon the right-of-way, when there exists an alternative that would result in less disruption or interference. Unreasonable traffic, any interference with public utilities, and any other activity that will present a hazard to public health, safety, or welfare.

(4) *Towers.*

a. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness as determined by the Town;

b. Tower structures should use existing land forms, vegetation, and structures to aid in screening the facility from view or blending in with the surrounding built and natural environment;

c. Monopole support structures shall taper from the base to the tip;

d. All towers, excluding towers in right-of-way, shall be enclosed by security fencing or wall at least six feet in height and shall also be equipped with an appropriate anti-climbing device. No security fencing or any portion thereof shall consist of barbed wire or chain link material; and

e. Towers shall be subject to the maximum height restrictions of the zoning district in which they are located, subject to a maximum height limit of 60 feet. Towers in right-of-ways shall not exceed 35 feet in height and shall meet all of the design requirements of alternative tower structures in the right-of-way;

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f. Towers should be sited in a manner that that is least obtrusive to residential structures and residential district boundaries where feasible;

g. Towers should take into consideration the uses on adjacent and nearby properties and the compatibility of the tower to these uses;

h. Towers should be designed utilizing design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

i. Visual impacts of the proposed ingress and egress shall be minimized;

j. No new towers shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Town that no existing WCFs can accommodate the needs that the applicant proposes to address with its tower application. Evidence submitted to demonstrate that no existing WCF can accommodate these needs may consist of the following:

(i) No existing WCFs are of sufficient height and are located within the geographic area required to meet the applicant's engineering requirements;

(ii) Existing WCFs do not have sufficient structural strength to support applicant's proposed WCF;

(iii) The applicant's proposed WCFs would cause electromagnetic interference with the WCFs on the existing WCFs or the existing WCF would cause interference with the applicant's proposed WCF; and

(iv) The applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for colocation.

k. A tower, located outside of the right-of-way, shall meet the greater of the following minimum setbacks from all property lines:

(i) The setback for a principal building within the applicable zoning;

(ii) Twenty-five percent of the facility height, including WCFs and transmission equipment; or

(iii) The tower height, including antennas, if the tower is in or adjacent to a residential district or residential zoned property.

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(iv) Towers over 40 feet in height shall not be located within one-quarter mile from any existing tower that is over 40 feet in height, unless the applicant has shown to the satisfaction of the Town that there are no reasonably suitable alternative sites in the required geographic area which can meet the applicant's needs.

(5) *Related accessory equipment.* Accessory equipment for all WCFs shall meet the following requirements:

a. All buildings, shelter, cabinets, and other accessory components shall be grouped as closely as technically possible;

b. The total footprint coverage area of the WCF's accessory equipment shall not exceed 350 square feet;

c. No related accessory equipment or accessory structure shall exceed 12 feet in height;

d. Accessory equipment, including but not limited too remote radio units, shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the accessory equipment shall be camouflaged or concealed.

Commissioner Lucio asked there would be a requirement to place the structures on the backside of buildings where they would be out of view from the general public.

Town Planner Smith said the town can't inhibit companies from placing the structures in town right of ways. It would be a good idea to have strategic places for the structures. The town may contact a consultant to get a better idea for strategic placement of the structures.

Commissioner Bourquin asked if the code would apply to private property or town owned property.

Attorney Carmer said it would apply to both. The structures wouldn't go onto private property without the owner's approval. What you would see in right-of-ways would be light poles and traffic lights. The camouflage and screening requirements may apply for both private and right-of-way. Certainly with respects to heights, roofs, property boundaries, fencing and landscaping is more private property. Putting a tower on town hall or the community center is not an automatic approval that the company can do. The company would still need to get approval from the town and go through the process.

Attorney Carmer said there have been other municipalities that have tried to ban wireless communications facilities and equipment and been sued by the telecommunication companies. The bases for those lawsuits were health and safety concerns. Which most of the science so far that it's not a hazard. At this point there is not much municipalities can do at all to prohibit the infrastructure but what the

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town can do is what the commission is doing with the proposed resolution and ordinance. For now the town can have some restrictions on placement, how the infrastructure is installed and what it looks like. Until there are court rulings on whether it's permissible to prohibit, the town is doing what it can to make sure the infrastructure fits within the town. The town can't make the restrictions so restrict that the infrastructure couldn't be placed anywhere in town. The state law did was make small cell facilities a permitted use in every zone district in the state. Therefore, the town couldn't make the small cell facilities a prohibited use which has been regulated at the state level.

Commissioner Sass asked if the wireless communications facilities needs to be closer than the current 4G towers the town currently has.

Planner Smith said in the long term there would be talk about retrofitting from 4G to make it work with 5G. The structures look like stop lights or light poles heights were the retrofitted boxed antennas on those types of structures. The structures would be closer. There wouldn't be 100's of 100 or 50ft towers all over town, there would be a handful of towers placed strategically around town. There might be 100 small cell facilities throughout town as a network much closer together.

Commissioner Riddile asked if the companies coming into town to place the structures be similar to what the town does with Xcel Energy as a franchise.

Attorney Carmer said that could be one way. Also, the guidelines the commission is look at would at least make the company who would be installing the structures in the town right-of-way would have to get a license from the town to install. It would depend on the size of the company that would be coming in that is a startup company may be installing as a street by street basis. There certainly be a written agreement in place with whomever would come in, may not necessarily be a franchise. But certainly have a licensed agreement from the town to authorize the use of the right-of-way.

Town Planner Smith explained **Application Review Procedures.**

No new WCF shall be constructed and no Collocation or modification to any WCF may occur except after a written request from an applicant, reviewed and approved by the Town in accordance with this Chapter.

A. *Review Procedures for certain WCFs, including Base Stations, Alternative Tower Structures, and Alternative Tower Structures within Public Rights-of-Way, but excepting Eligible Facilities Requests, and Small Cell Facilities in the Right-of-Way.*

   In all zone districts, applications for these WCF facilities shall be reviewed by the Town Planner for conformance to this Chapter. For WCFs in the rights-of-way, except for Small Cell Facilities in the Right-of-Way, that are found to have a significant visual impact (e.g. proximity to historical sites, obstructing views) or be incompatible with the structure or surrounding area, or not meet the intent of these provisions, the Planning Department may refer the application

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to Planning and Zoning Commission or Historic Preservation Commission, as applicable, for a conditional use review.

B. Review Procedures for Towers.

In all zone districts, Towers, other than those defined or excepted in A above, must apply for conditional use approval. These WCFs shall be reviewed for conformance using the procedures set forth in Chapter 17.84. All applications for Towers shall demonstrate that other alternative design options, such as using Base Stations or Alternative Tower Structures, are not viable options as determined by the Town.

C. Review Procedures for Eligible Facilities Requests.

(1) In all zone districts, Eligible Facilities Requests shall be considered a permitted use, subject to administrative review. The Town shall prepare, and from time to time revise, and make publicly available, an application form which shall require, among other things, submittal of information necessary for the Town to consider whether an application is an Eligible Facilities Request and payment of the applicable application fee as set forth in the Town's fee schedule. Such required information may include, without limitation, whether the project:

a. Constitutes a Substantial Change; or

b. Violates a generally applicable law, regulation, or other rule codifying objective standards reasonably related to public health and safety.

The application shall not require the applicant to demonstrate a need or business case for the proposed modification or Collocation.

(2) Upon receipt of an application for an Eligible Facilities Request pursuant to this Section, the Town Planner shall review such application to determine whether the application so qualifies.

(3) Timeframe for Review. Subject to the tolling provisions of subparagraph 4 below, within 60 calendar days of the date on which an applicant submits a complete application seeking approval under this Section, the Town shall approve the application unless it determines that the application is not covered by this Subsection, or is otherwise in non-conformance with applicable codes.

(4) Tolling of the Timeframe for Review. The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the Town and the applicant, or in cases where the Town Staff determines that the application is incomplete:

a. To toll the timeframe for incompleteness, the Town must provide written notice to the applicant within thirty (30) days of receipt

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of the application, specifically delineating all missing documents or information required in the application;

b. The timeframe for review begins running again the following business day after the applicant makes a supplemental written submission in response to the Town's notice of incompleteness; and

c. Following a supplemental submission, the Town will notify the applicant within ten (10) days that if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in paragraph (a) of this subsection. In the case of a second or subsequent notice of incompleteness, the Town may not specify missing information or documents that were not delineated in the original notice of incompleteness.

(5) Failure to Act. In the event the Town fails to act on a request seeking approval for an Eligible Facilities Request under this Section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The request becomes effective when the applicant notifies the Town in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

(6) Interaction with Telecommunications Act Section 332(c)(7). If the Town determines that the applicant's request is not an Eligible Facilities Request as delineated in this Chapter, the presumptively reasonable timeframe under Section 332(c)(7) of the Telecommunication Act, as prescribed by the FCC's Shot Clock order, will begin to run from the issuance of the Town's decision that the application is not a covered request. To the extent such information is necessary, the Town may request additional information from the applicant to evaluate the application under Section 332(c)(7) reviews.

D. Review Procedures for Small Cell Facilities in the Public Right-of-Way.

(1) Small Cell Facilities in the Public Right-of-Way may be approved pursuant to a Master License Agreement or similar form of authorization or individually in accordance with the provisions of this subsection.

(2) Within ten (10) days of receipt of an application for Small Cell Facilities in the Public Right-of-Way and payment of the applicable application fee set forth in the Town's fee schedule, the Town Planner shall provide written comments to the applicant determining completeness of the application and setting forth any modifications required to complete the application to bring the proposal into full compliance with the requirements of this Chapter.

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a. The Town Planner shall review the completed application for conformance with the provisions in this Chapter and may approve or deny an application within 90 days of the date the application is submitted for new stand-alone facilities or 60 days for facilities collocated on Town infrastructure.

b. To toll the timeframe for incompleteness, the Town must provide written notice to the Applicant within ten (10) days of receipt of the application, specifically delineating all missing documents or information required in the application;

c. The timeframe for review resets to zero (0) when the Applicant makes a supplemental written submission in response to the Town's notice of incompleteness; and

d. Following a supplemental submission, the Town will notify the Applicant within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in paragraph (a) of this subsection. In the case of a second or subsequent notice of incompleteness, the Town may not specify missing information or documents that were not delineated in the original notice of incompleteness.

(3) Consolidated applications. The Town shall allow a wireless provider to file a consolidated application for up to six (6) small cell facilities and receive a single approval for the consolidated application. The Town's denial of any individual small cell facility is not a basis to deny the application as a whole or any other small cell facility incorporated within the consolidated application.

E. General.

Except for applications under subsections C and D above, the applicant shall conduct a pre-application conference with the Town Planner. The Planner shall then prepare a pre-application summary describing the submission requirements and any other pertinent land use material, the fees associated with the reviews and the review process in general. A pre-application conference is not required, but is recommended, for Eligible Facility Requests or Small Cells in the Right-of-Way.

F. Administrative review.

Except for applications under subsections C and D above or as otherwise provided in this Chapter, after the pre-application summary is received by the applicant, said applicant shall prepare an application for review and approval by the Town Planner and any necessary Town consultants, including the Town Engineer. In order to proceed with additional land use reviews or obtain a

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development order, the Town Planner shall find the submitted development application consistent with the provisions, requirements and standards of this Chapter.

G. Decision.

Any decision to approve, approve with conditions, or deny an application for a WCF, shall be in writing and supported by substantial evidence in a written record. The applicant shall receive a copy of the decision.

H. Appeal of Planner's determination.

The Town Planner may apply reasonable conditions to the approval as deemed necessary to ensure conformance with applicable review criteria. If the Town Planner determines that the proposed WCFs and equipment do not comply with the review criteria and denies the application or the applicant does not agree to the conditions of approval determined by the Town Planner, the applicant may apply for conditional use review (Chapter 17.84) by the Planning and Zoning Commission and such application must be made within fifteen (15) calendar days of the day on which the Town Planner's decision is rendered. All appeals shall require public hearings and shall be noticed by the applicant in accordance with Section 16.08.050 of this Code.

I. Historic Preservation Commission review.

With the exception of Eligible Facilities Requests and Small Cell Facilities in the ROW, proposals for the location of WCFs or equipment on any historic site or structure, shall be reviewed by the Historic Preservation Commission (HPC). Review of applications for WCFs and/or equipment by the HPC shall replace the need for review by the Town Planner but shall not replace the need for any conditional use review required under this Chapter. In the event HPC review is required under this Subsection I for an application subject to conditional use review, the HPC will review the application and provide a recommendation regarding the same to the Planning and Zoning Commission. Likewise, if the HPC determines that the proposed WCFs and equipment do not comply with the review criteria and denies the application or the applicant does not agree to the conditions of approval determined by the Historic Preservation Commission, the applicant may appeal the decision to the Town Council, and such appeal must be filed within fifteen (15) calendar days of the day on which the Historic Preservation Commission's decision is rendered. All appeals shall require public hearings and shall be noticed by the applicant in accordance with Section 16.08.050 of this Code.

J. Building Permit.

A Building Permit, shall be submitted concurrently with the Land Use Application. Depending on the nature of project, a full Building Permit may be necessary, or, as would be the case for most Eligible Facilities Requests, an Electrical Permit. A contractor for the proposed work must be identified with the submitted application. A Building or Electrical Permit without an identified

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contractor will be deemed incomplete - and the application will be tolled until the contractor is identified.

K. Right of Way License.

For all facilities located or to be located in the public right-of-way, a evidence of a licenses agreement or other permit from the for use of such right-of-way shall be submitted with the application. If the applicant has not previously been granted a right-of-way license or permit, a request for a license from the Town to locate such facilities in the public right-of-way shall be submitted concurrently with the Land Use Application. Any such request shall be reviewed and approved by Town Council in its discretion. A contractor for the proposed work must be identified with the submitted application. Any such application submitted without an identified contractor will be deemed incomplete - and the application will be tolled until the contractor is identified. Additionally, an Electrical Permit shall be required for any installation that involves line voltage.

L. Conditional Use Review.

An application requesting a variance from the review standards as set forth in this Chapter or an appeal of a determination made by the Planner, shall be processed as a conditional use review in accordance with the procedures set forth in Chapter 17.84 of the Code. A request for a variance from the design standards set forth in this Chapter shall be submitted to the Board of Zoning Adjustment and processed according to Chapter 17.12. The conditional use review or design standard variance request shall be considered at a public hearing for which notice has been posted and mailed, pursuant to Section 16.08.050.

Chair Apostolik asked if there was an "out" for the town. For example a structure is put in and the town finds out after the fact how extrusive the structure has become. Can the structure be taken down and modified. Because as it looks now once it's approved it's approved.

Attorney Carmer said for that reason the commission needs to be particular about the kind of information is provided as part of the application. So, if it mean submitting plans, diagrams and visuals so the town can understand what the structure will look like and where it will go. That would need to be provided up front, if the install doesn't match what was approved. Then the town can take action under the code for enforcement.

Attorney Carmer said the application for the administrative approval is where the town would want the visual to be part of the application process. Its matter of the town being detailed in the application submission material requirements. The point of the regulations is to govern what the structure will look like because the town can't keep the structures from going certain places.

Town Planner Smith said the application has been left open for amendments. There would be a design manual created which would be very specific as to alternative

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towers that are permissible and locations. Otherwise it would be up to the town planner and or the town administrator to decide what is compatible.

Planner Smith said he will be creating a check list to go with the application which would include all the required documents such as plans, diagrams and visuals.

Attorney Carmer said the town may approve or deny an application within 90 days of the date the application is submitted for new stand-alone facilities or 60 days for facilities collocated on Town infrastructure. Time limits are federally required.

After some discussion Planner Smith said he would change the wording in D3 in the application process of the ordinance from "The Town shall allow a wireless provider to file a consolidated application for up to six (6) small cell facilities and receive a single approval for the consolidated application", to read "The Town shall allow a wireless provider to file a consolidated application for multiple small cell facilities and receive a single approval for the consolidated application".

Chair Apostolik closed the public hearing at 8:19 pm.

MOTION: Commissioner Riddile made a motion to approve Resolution PZ-2020-10 a Resolution of the New Castle Planning & Zoning Commission Recommending Approval of Amendments to the New Castle Municipal Code to add Chapter 17.74 Wireless Communications Facilities and Equipment as amended. To change D3 in the Application Review Procedures. To state "The Town shall allow a wireless provider to file a consolidated application for multiple small cell facilities and receive a single approval for the consolidated application". Commissioner McDonald seconded the motion and it passed on a roll call vote: Commissioner Lucio: Yes; Commissioner Riddile: Yes; Commissioner McDonald: Yes; Commissioner Bourquin: Yes; Commissioner Sass: Yes; Chair Apostolik: Yes.

Items for Next Planning and Zoning Agenda

Planner Smith said the next Planning and Zoning meeting is November 11, 2020 which is Veterans Day, therefore that meeting will be cancelled.

Planner Smith said Castle Valley Ranch Filing 11 is still scheduled for November 25, 2020 which is Wednesday before Thanksgiving.

Commissioner Bourquin asked what is the process to change the meeting to another date.

Attorney Carmer said she can reach out to the applicant to find out if they were comfortable with changing the date. Then, Planning and Zoning Commission would need to hold a special public meeting to change the date since the original date was set in a public meeting.

Staff Reports

There were no staff reports.

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Commission Comments and Reports

Commissioner Riddile stated his term is up on the commission at the end of October.

Commissioner Sass asked about the signage that has recently went up at VIX Park for the trails.

Town Administrator David Reynolds said the signage was a result of a license agreement with the land owner. The land owner was in a position where his attorney approached him to protect his liability on the property. The town worked with the property owner and CVR Investors to come up with a license agreement which works in the protection and interest of the property owner, so the property owner wouldn't have to post signs of "No Trespassing". Also, to keep in the trails open for public use since the trails do go onto private property.

Commissioner Bourquin asked about the Port-A-Potty at Alder Park that was burnt. Was there and insurance claim to replace the Port-A-Potty?

Administrator Reynolds said yes there was a claim, however it takes time with the insurance to process claims. Should be spring to have it rebuilt.

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

The meeting adjourned at 8:28 p.m.

Respectfully Submitted,

_____
Chair Chuck Apostolik

_____
Deputy Town Clerk Mindy Andis, CMC

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New Castle Planning and Zoning Commission Special Virtual Meeting
Monday, November 4, 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 7:06 p.m.

Roll Call

Present	Chair Apostolik
	Commissioner Bourquin
	Commissioner Sass
	Commissioner Westerlind
Absent	Commissioner Lucio
	Commissioner McDonald
	Commissioner Riddile

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.

Items for Consideration

Consider Rescheduling Public Hearing Regarding Castle Valley Ranch Filing 11 Preliminary PUD Application for November 23, 2020.

Chair Apostolik asked the commission if Monday, November 23, 2020 would work for everyone.

The commission agreed.

Attorney Carmer stated the date would also work for the applicant.

MOTION: Commissioner Bourquin made a motion to consider rescheduling public hearing regarding Castle Valley Ranch Filing 11 preliminary PUD

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application for November 23, 2020. Commissioner Westerlind seconded the motion and it passed unanimously.

Consider Scheduling a Special Meeting Regarding Castle Valley Ranch Filing 11 Preliminary PUD Application for November 23, 2020.

MOTION: Commissioner Bourquin made a motion to consider schedule a special meeting regarding Castle Valley Ranch Filing 11 preliminary PUD application for November 23, 2020 at 7:00 p.m. Commissioner Westerlind seconded the motion and it passed unanimously.

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

The meeting adjourned at 7:11 p.m.

Respectfully Submitted,

_____
Chair Chuck Apostolik

_____
Deputy Town Clerk Mindy Andis, CMC

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