

**New Castle Town Council Regular Meeting  
Community Center, 423 W Main Street  
Tuesday, May 03, 2022, 7:00 PM**

Virtual Meetings are subject to internet and technical capabilities.

To join by computer, smart phone or tablet:

<https://us02web.zoom.us/j/7096588400>

If you prefer to telephone in:

Please call: 1-346-248-7799

Meeting ID: 709 658 8400

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

**Call to Order**

Mayor A Riddile called the meeting to order at 7:00 p.m.

**Pledge of Allegiance**

**Roll Call**

|         |                     |
|---------|---------------------|
| Present | Councilor Mariscal  |
|         | Councilor Carey     |
|         | Councilor Hazelton  |
|         | Mayor A Riddile     |
|         | Councilor Copeland  |
|         | Councilor Leland    |
| Absent  | Councilor G Riddile |

Also present at the meeting were Town Administrator Dave Reynolds, Town Clerk Melody Harrison, Deputy Town Clerk Mindy Andis, Administrative Assistant Remi Bordelon, Town Planner Paul Smith (virtual), Public Works Director John Wenzel, Town Treasurer Loni Burk, Town Engineer Jeff Simonson, Town Attorney David McConaughy and members of the public.

**MOTION: Mayor A Riddile made a motion to excuse Councilor G Riddile's absence. Councilor Hazelton seconded the motion and it passed unanimously.**

**Meeting Notice**

Town Clerk Melody Harrison verified that her office gave notice of the meeting in accordance with Resolution TC 2022-1

**Conflicts of Interest**

There were no conflicts of interest.

**Agenda Changes**

There were no agenda changes.

**Citizen Comments on Items not on the Agenda**

There were no citizen comments.

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## **Consultant Reports**

Consultant Attorney – present for agenda items.

Consultant Engineer – present for agenda items.

## **Items for Consideration**

### **Consider Ordinance TC 2022-9, an Ordinance of the New Castle Town Council Approving a Final Development Plan and Phase I Final Subdivision Plat for Portions of PA17 & 19, Castle Valley Ranch PUD (1st reading)**

Town Administrator Dave Reynolds told the council that the Town Planner Paul Smith was out sick but had joined the meeting via Zoom. He said that he would review the staff report on Planner Smith's behalf.

Administrator Reynolds introduced the town staff present for the meeting which included himself, Town Planner Paul Smith, Public Works Director John Wenzel, Planning & Zoning Commission Chair Chuck Apostolik, Town Attorney David McConaughy, Town Engineer Jeff Simonson, and Fire Prevention Chief Orrin Moon.

Administrator Reynolds also introduced representatives of the Filing 11 application which included Aaron and Ron Atkinson, Attorney David Mylar, and Planner Davis Farrer.

Mayor A Riddle said that there was some feedback in the audio and asked if that could be corrected. Clerk Harrison said they were working on it.

Administrator Reynolds addressed those who were 'zooming' into the meeting and said that staff was aware they were there. He said that the clerk had them on mute for the time-being. He said the staff report on the application would be presented first and then the applicant will present. After that, if there was time, the mayor will call for public comments. He asked that those who were virtual to raise their hands to be called on to comment.

Administrator Reynolds explained to the council that there were several packet items in front of them which included a notebook with the application; a packet of all the final application drawings; and a packet that began with a staff report and attached to that were some drawings. He held up his copies to demonstrate to the council which items he was referring to.

Administrator Reynolds said they will begin with the staff report and it's attached drawings, all of which were found in the larger packet. Administrator Reynolds said that Planner Smith had written the report and he had done some work on it as well. Assistant Town Attorney Haley Carmer had also reviewed it.

Administrator Reynolds reviewed the following staff report in detail:

### **Staff Report**

#### **Castle Valley Ranch Filing 11**

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**Combine Final PUD & Subdivision Development Plan  
Town Council – May 3, 2022**

Report Compiled: 4/28/2022

**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:** 85 dwelling units on 30 individual lots, zoned MF-1

**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:** Castle Valley Blvd

**Master Plan Zoning:** Residential (R) & Mixed Use (MU)

**Surrounding Zoning:** Single Family – North & South Wildhorse Dr.  
Multifamily – Redstone Dr. & Foxwood Ln.  
Mixed Use & Residential General Zoning – Parcels North & East of proposed

**I General History:**

The application for Filing 11 was initially submitted for sketch plan review on August 2<sup>nd</sup>, 2019 followed by a combined preliminary/final PUD and subdivision application submitted on February 10<sup>th</sup>, 2020. After several amendments, the application was denied by the Planning Commission (P&Z) on June 20<sup>th</sup>, 2020, as reflected in resolution PZ 2020-6 for reasons summarized in the staff report dated August 26<sup>th</sup>, 2020 and further discussed on page 4 of this report. Upon appeal of this decision to Town Council, the applicant was granted an opportunity for re-evaluation with P&Z. On January 13<sup>th</sup>, 2021, after a lengthy process of review and changes to the application, P&Z advanced the application from preliminary application status to final application status with the conditional approval set forth in Resolution PZ 2020-9. Resolution PZ 2020-9 was issued with the understanding that only the preliminary portion of the original application was under consideration, and that the applicant would return to P&Z with a completed final application addressing the conditions issued, as well as provide the required additional information needed to meet the submittal requirements of a final application.

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Pursuant to municipal code (MC 17.100.070) P&Z is authorized to make binding decisions only on preliminary PUD applications. Final PUD applications are subject to review and recommendation by P&Z and a final and binding decision by Town Council only. After Resolution PZ 202-9 was adopted, Applicant's attorney submitted a letter arguing that a combined preliminary/final application should be viewed as and subject to the procedures applicable to a final application with all preliminary elements included. Therefore, the applicant argues, when P&Z denied the original combined preliminary/final application on June 20<sup>th</sup>, 2020, P&Z should have only been functioning as a *recommending* body (See Attorney David Myler's letter dated, November, 22, 2021) and the application should have proceeded to Council to make the ultimate binding decision on the application.

On January 4<sup>th</sup>, 2022, Town Council considered Applicant's procedural argument and decided that, all things considered, it was best to consider the application on its current merits and not require a new final PUD application submittal and related process, including another public hearing before P&Z. Instead, Council agreed to consider the preliminary/final application submitted in February 2020, subject to any amendments the Applicant chose to make in response to Resolution PZ 2020-9. Following staff review of updated application materials submitted on January 12, 2022, the Council meeting regarding the application was set and officially noticed for May 3<sup>rd</sup>, 2022. The applicant and the town agreed that public comment will be taken during the meeting, and that a representative from P&Z will be allowed to comment.

The application packet presented to Council contains the original preliminary/final application materials submitted in February 2020, and amendments to those materials made by applicant in response to negotiations between P&Z and the applicant as well as the conditions recommended by P&Z in Resolution PZ 2020-9. Ordinance TC 2022-9 presents a proposed determination regarding the application. Council may approve the application, with all, some, or none of the conditions proposed in Ordinance TC 2022-9, or deny the application. If Council votes to deny the application and ordinance on first reading, no further action is required. If Council votes to approve the application and ordinance on first reading, the ordinance, as may be amended by Council on first reading, will be presented to Council again at its next regular meeting for approval on second reading.

#### **A. Sketch Plan – 10/1/2019**

A sketch plan application for Filing 11 was reviewed by P&Z on September 11, 2019, and by Council on October 1, 2019. At that time the 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. The 13.5 acre proposal spanned both mixed-use and residential zones south of Castle Valley Blvd 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 and Chapter 17.100 of the New Castle Municipal Code.

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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 P&Z and Town 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.
- 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 Castle Valley Ranch Master Plan. Areas of strategic, small-scale commercial development should be considered in fidelity with the vision of mixed-use in the *Comprehensive Plan*.
- The developer is currently party to a restrictive covenant committing them to no more than 303 additional residential units and no commercial development. The Town is not a party to this agreement and takes a position that this restrictive covenant does not change the approved zoning for the area, or relieve the applicant from developing this area as currently zoned.
- Pedestrian circulation should be improved to provide direct access to open space, parks, and other areas throughout the Castle Valley Ranch 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 D 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 *Comprehensive Plan*. Smart-Growth promotes sustainable communities with compact residential mixed with commercial amenities and services, all reasonably accessible without vehicles.

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- 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 comparisons with 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.

### ***B. Denial of Preliminary/Final Application 5/13/2020 to 8/7/2020***

On May 13, 2020, the New Castle Planning Commission opened the public hearing for Resolution PZ 2020-06 on a combined preliminary/final PUD and subdivision application for Filing 11 in Castle Valley Ranch. Based on feedback received during sketch plan, the application was modified to 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 preliminary portion of 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, P&Z determined that 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, was pondered as a way to rezone all remaining lands owned by the applicant in Castle Valley Ranch from mixed use to residential use. The intent was to clarify the nature of future development of those parcels. However, the application was ultimately withdrawn and thus Filing 11'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

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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 Castle Valley Ranch. 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 Castle Valley Blvd. Separated sidewalks and a trail easement between Ganley Hill and Prendergast Hill 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 often means that owners will habitually default to using the garage as storage and at least one vehicle will be forced to park on the street. Single car garages that are served by single car driveways can lead to vehicle stacking issues which often results in heavier parking loads on the streets. 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. Development of only residential units in the mixed-use zone does not comply with the purpose of the zone district.
- Due to the applicant's obligations to a restrictive covenant which does not involve the town, the applicant is compelled to develop only residential units 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 a commercial element, offered diversity, amenities, and an enhanced quality of life. Unfortunately, none were advanced.

### **C. Applicant Appeal – 7/21/2020**

According to Section 17.100.070 § D, "the applicant may take a disputed [PUD] 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 Colorado Revised Statutes 29.22.03.**

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- 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 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 Eagle’s Ridge Ranch and Lakota Senior Housing also demonstrate a blunt transition across from large single-family homes north of Castle Valley Blvd. Yet those applications were deemed compliant with the approval criteria.
  - Filing 9 townhomes on Redstone Dr and Foxwood Ln are merely replicated in the current application. Again Filing 9 was deemed compliant while the current application was not.
- **Multi-Family is a permitted use on the list of uses within the Mixed Use general zoning**
  - Irrespective of the definition of mixed-use in the Code and Comprehensive Plan as a mixture of residential and non-residential uses, the applicant argued any use-by-right listed in the MU zoning is an approved option for development whether in part or in whole. The Commission, therefore, was mistaken in its conclusion that the elected use was not permitted in the underlying zoning district by virtue of the absence of a non-residential or commercial use.
- **Compromises with the design were made at the Commission’s request**
  - Density was reduced to 91 units upon initial review from sketch plan
  - Greenbelts were added along Bear Canyon Dr per request of Public Works
  - Snow storage areas were specified per request of the Commission and Public Works
  - Off-street parking was added along Eagle Ridge Rd
  - An east-west trail connector was added from the C Avenue connector, along Eagle Ridge Rd, to Bear Canyon Rd

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

#### ***D. Revised Application – 8/26/2020 to 1/13/2021***

Resolution PZ 2020-9 was the result of Council’s direction to have P&Z reassess the application. In their reassessment P&Z provided the conditions they felt were necessary to bring the application into compliance with the PUD approval criteria. The last site plan reviewed by P&Z was submitted by the applicant prior to the November 23<sup>rd</sup>, 2020 meeting. From this plan and the ensuing discussion, P&Z generated the list of approval conditions in section II below.

#### **II. P&Z Recommended Conditions for Preliminary Application:**

On January 13<sup>th</sup>, 2021, P&Z voted for conditional approval of the preliminary PUD portion of the application. In doing so, P&Z approved Resolution PZ 2020-9, which included the following conditions:

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Note: Conditions in green text are those agreed upon by the applicant per the letter from applicant submitted on November 9<sup>th</sup>, 2021. All other conditions, or portions thereof, are P&Z conditions with which the applicant has *not* agreed to comply.

- a. Eliminate, reorient, or reduce the following buildings that adversely impact the natural character of the Property and the livability of the community:
  - Eliminate Buildings 23 and 24 to make central open space more usable and to promote outdoor recreation
  - Orient Building 29 so that the building is parallel to Eagle Ridge Drive
- b. The covenants for Filing 11 shall prohibit the parking of boats, trailers, campers, RVs, and inoperative vehicles in driveways or on public rights of way for no more than 48 consecutive hours.
- c. Upgrade the open space area off of Falcon Ridge Court as a central "green" with functional active or passive space.
- d. Applicant shall adequately screen the western portion of Filing 11 from the adjacent homes along South Wild Horse Drive and Mt. Harvard Court 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 line of each Jot 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.
- e. 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 fences.
- f. Install street signage stating, NO PARKING ON STREETS 48 HOURS AFTER A SNOWFALL EVENT OF 2" OR MORE.
- g. Provide 5' landscape ("green") buffers between the road and sidewalks along the outer radial lane of ~~Eagle Ridge Dr.~~ Serenity Park Circle for snow storage.
- h. 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 Dr.~~ Serenity Park Circle 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.
- i. Design Bear Canyon Dr. as a 60' 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. Parking shall be allowed on both sides of Bear Canyon Drive.

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- j. 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.
- k. 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);
- l. Request approval of street names through Garfield County Communications to avoid any duplication of names in the county dispatch area.
- m. Demonstrate that all exterior illumination shall comply with acceptable International Dark-sky Association (IDA) standards.
- n. 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.
- o. Designate locations of mailbox kiosks with written authorization from the local postmaster.
- p. 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.
- q. 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.
- r. The sale of individual units within Filing 11 may not occur until a plat creating the unit is recorded with Garfield County.
- s. 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.
- t. 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.
- u. 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;
- v. 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

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consultants such as legal and engineering costs.

- w. 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.
- x. Diversify color and texture of the buildings within the subdivision.

### **III. Submission of Final Application and Staff Comments:**

On January 13<sup>th</sup> 2022, one year after the issuance of Resolution PZ 2020-9, the applicant submitted a final application package for staff review. During the completeness check, staff worked with the applicant for several weeks to make changes and clarify areas which were deficient. After such time it was settled that the application was complete enough to schedule a meeting date of May 3<sup>rd</sup>, 2022. Staff anticipated that remaining deficiencies would be resolved before the meeting. Deficiencies include, but are not limited to:

- Unresolved errors and questions with the amended plat per redline comments submitted by the town attorney dated April 8<sup>th</sup>, 2022;
- Unresolved engineering concerns per the town engineer's letter dated April 1<sup>st</sup>, 2022;
- Unresolved utility questions provided by the public works director dated March 16, 2022;
- Additional conditions provided below;

No further updates have been made since the completeness review. To be sure, the deficiencies are more technical in nature and should not have significant bearing on the general design of the project. ***Nevertheless staff recommends that if Council is inclined to approve the application, an approval should only be conditioned upon resolution of all deficiencies to staff's satisfaction.*** A thoroughly consistent and correct submittal packet will minimize confusion and mistakes during the typical rush to issue permits and most certainly reduce staff and applicant stress.

Therefore in addition to the conditions specified by P&Z in Resolution PZ 2020-9, staff suggests adding the following conditions (Note: the following conditions were not considered by P&Z):

- 1.) (Revises condition e from PZ 2020-9) Identify all permanent snow storage easements on the final plat and any temporary locations on the phasing drawings. Except for the off-street parking area south of Serenity Park Circle, snow storage easements will include all areas identified in the final application packet in addition to easements between buildings 28 & 29 and buildings 26 & 27. Snow storage shall be free of all obstructions including fences.
- 2.) (Revises condition j from PZ 2020-9) Specify on the plat that trails for Open Space A & B will be *constructed* by the applicant as agreed upon at the public hearing dated May 13<sup>th</sup>, 2020.
- 3.) (New condition) The construction phasing plan shall conform to all requirements and specifications approved by the fire marshal concerning temporary access for each phase including, but not limited to, temporary hammerhead turnarounds at dead end streets and any necessary ingress/egress routes for emergency personnel and equipment during construction.
- 4.) Applicant shall satisfy and otherwise comply with all recommendations of the Town Engineer and Town Public Works Director set forth in their letters dated April 1, 2022, and March 16, 2022, respectively. All phase plats and amended final plats must be approved by the Town Attorney before recordation.

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#### **IV. Application Approval Criteria:**

Town Council has the responsibility to review the information provided and determine if the final application as presented meets the approval criteria-in *Municipal Code 17.100.090*.<sup>1</sup> For final approval 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.

The May 13, 2020, staff report that was prepared for the first P&Z public hearing in included in Council's packet. The staff report is based on the initial preliminary/final PUD and subdivision application and provides staff's analysis of the above review criteria.

#### **V. Exhibits:**

- Plat & Site Plan – February 18, 2022
- Final Phasing & Snow Storage Plan - February 18, 2022
- Final Civil Drawings – February 18, 2022
- Final Landscaping Plan - February 18, 2022
- Example Floor Plans - February 18, 2022
- Draft Declaration of Covenants - February 18, 2022
- Utility Report - March 18, 2020
- Traffic Impact Study - March 18, 2020
- Applicant Response to Recommended Conditions – November 16, 2021
- Applicant's Attorney Response ("Myler Letter") to Procedures – December 11, 2021
- Architectural Renderings – February 17, 2020
- Plat with Annotations – April 11, 2022
- Town Engineer Comment – April 1, 2022
- Public Works Director Comment – March 16, 2022
- Fire Marshal Comment – April 5, 2022
- Public Comment Letter – May 11, 2020

Mayor A Riddile asked Public Works Director John Wenzel if he wished to comment.

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<sup>1</sup>The review criteria applicable to preliminary and final PUD applications were amended in August 2020. Because the application was submitted before the code amendments were implemented, the review criteria in effect at the time the preliminary/final application was submitted in February 2020 apply.

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Director Wenzel said that he was very familiar with the development, and he said it posed some challenges, specifically with snow removal services. He noted that he had heard from residents in similar neighborhoods that they were not satisfied with snow removal services. Director Wenzel said that was from a combination of factors: high density, the relative narrow roadways and the lack of continuous snow storage. Another concern was the cost of snow removal in the proposed type of neighborhood, and Director Wenzel said that it was not an exaggeration to say that the cost of snow removal services was approximately 300% more in the proposed type of neighborhood than in a typical neighborhood, again because of the high density, because vehicles park in parking lanes, in rights-of-way which prohibits continuous snow storage.

Director Wenzel said that safety was another concern. He said that as residents shovel snow from sidewalks into parking lanes, cars park further and further off the curb, pinching the drive lanes causing a potential issue in restricting emergency vehicle access. Director Wenzel said they had made some suggestions and some concessions in identifying snow storage areas on the plat which was not as ideal as a separated sidewalk and continuous snow storage. He said it was certainly a concession, and that concession will cost the town about 300% more for snow removal services.

Director Wenzel said he also asked for some street signs to be placed that said 'No Parking 48 Hours After Snowfall Event'. He said it was a model that the town had used very successfully in other neighborhoods. He said it was a very simple request. He said they had almost 100% participation from the residents, and they loved it and the level of snow-removal services was much improved as a result.

Mayor A Riddile asked Town Engineer Simonson for his comments.

Engineer Simonson said that he had submitted the following three-page report that generally addressed the concerns of the engineers from a technical perspective of how the subdivision would be built. Engineer Simonson reviewed his report, specifically addressing items 1, 2, 3, 11, 12 and 14.

April 1, 2022

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  
Preliminary and Final Plan Review

Dear Dave,

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

1. A 47-sheet set of drawings prepared by SGM dated February 2022

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2. Supplemental Information packet dated February 2020 containing the following:
  - a. Development Application
  - b. Certificate of Development Ownership
  - c. Application
  - d. Warranty Deed
  - e. Cost Estimates
  - f. Drainage Report
  - g. Soils Report
  - h. Architectural Renderings
3. March 18, 2020 PA 17 Utility Report
4. March 18, 2020 PA 17 Traffic Impact Study
5. November 16, 2021 Letter to the Town from CVR Investors
6. Zoning Overlay of project site
7. CC&R's of Castle Valley Ranch Townhomes
8. Example Floor Plans

Following our review of the above stated documents, we have determined that a variety of additional details will need to be provided to bring the drawings to a construction level and to be definitive on the magnitude of public improvements that will ultimately need to be secured for this project. That being said, please note the following comments:

1. Prior to approval of the construction plans, additional specificity needs to be provided for the proposed phasing of this project. Specifically, although phasing lines are noted on the street plans and the utility plans, additional detail is necessary to assure that the Phase 1 improvements are properly terminated. Likewise, drainage and erosion control best management practices (BMP's) specific to the Phase 1 public improvements need to be provided. Finally, the elements relative the phasing construction such as topsoil storage and treatment of roadway subgrade (ie., reclamation and/or revegetation) need to be provided so as to assure that the total visual impact of the construction of the improvements can be evaluated by the Town. Likewise, timing for moving from one phase to the next needs to be provided to determine the level of permanence and costs for reclamation in the latter phases of the development can be determined.
2. The project involves extension of water lines, sewer lines and the raw water lines in public right of way. Also, excavation area in excess of 22" exceeds 1,000 sf. As such, the project is subject to the Subsurface Utility Engineering (SUE) requirements of SB 18-167. Prior to construction plans approval, the project will need to provide SUE locates and engineering in accordance to SB 18-167.
3. Note that because of SB 18-167, all utilities will need to be installed in such a fashion and to be electronically locatable. Details will need to be revised to provide instruction to the contractor that provide tracer wire, magnetic tape, etc... on all subsurface utilities.
4. For the offsite utilities, the extents of pavement repair and surface restoration needs to be better defined. As an example, for the sewer installation on C Avenue, such information as the saw cut lines, paving patching and surface restoration needs to be identified. For the surfacing on C Avenue and the North Alley, surface restoration will require the need to replace the asphalt milling and asphalt surfaces that currently exist with similar material. Road base replacement in lieu of millings is not acceptable. Other improvements such as potential impacts to driveway slabs,

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retaining walls and fences need to be identified and detailed for repair/replacement.

5. Existing property line locations depicted along the west side of C Avenue do not appear to be complete (ie., 114 N. C Avenue and 151 N. C Avenue). Concern exists as to the proposed sewer line location being able to be installed in the location proposed. If easements exist to aid in installation, then these need to be identified.
6. For the sewer line installation on C Avenue, additional information is necessary. Locations of the storm drain, culvert and waterline main and service crossings need to be identified. Also, specific details of how the manhole tie onto the existing sewer line is to be performed needs to be provided.
7. For the offsite water tie in the north east corner of the site in Castle Valley Boulevard right of way, the air vent for the air release valve needs to be shown with a “bollard” protection to assure that snow plowing and mowing of CVBLVD will not result in damaging the vent.
8. Note that all water line fittings are to be polywrapped ductile iron pipe fittings and not PVC. Also note that we will need to have the waterline be PVC C900 pipe, not ductile iron pipe.
9. Provide locations of transformers, pedestals and gas meter locations relative to providing electric, cable, telephone and gas service to the buildings. Provide this information in the context of assuring ample room remains for snow storage and is consistent with the landscape plan intent.
10. Clarify on street plans and profiles of how Phase 1 improvements are to be terminated regarding how curb, gutter, sidewalk, finish grading, pavement, temporary revegetation and erosion control are to be terminated.
11. Clarify on the respective utility plans of how Phase 1 improvements are to be properly terminated regarding how water, sewer and dry utilities are to be terminated. With the clarification, provide information on how testing, sanitizing, flushing, air release and subsequent phase operation of the utilities is performed.
12. Assure that all water/sewer crossings can be provided with a minimum separation of 18”. This also holds true for all water/storm drain crossings. Assure that water/storm drain crossings provide adequate freeze protection at each crossing.
13. Provide details identifying how new concrete improvements are to tie to existing.
14. Provide verification that the curb and gutter has the capacity to carry the 25 year event without spreading flow into the travel lanes of the proposed streets. Likewise, assure that the roadway and curb and gutter system has the capacity to carry the 100 year event. The drainage computation previously provided in 2020 to provide the anticipated flow rates, but do fall short in providing the capacity of the curb and gutter, inlets and storm drain pipes.

Please note that as there are a variety of concerns and clarifications noted/requested, we have held back on the review of the cost estimate for the Subdivision Improvements Agreement. Once we

confirm the specific scope of work and final construction drawings are prepared, we will provide a review of such. Although there are a variety of concerns and clarifications noted, we do not see that the issues cannot be technically resolved during final construction drawing preparation. We would recommend that if a recommendation of approval to approve the project is provided, it contains a condition that requires submittal of construction drawings for staff approval that address the concerns within this letter as well as revised cost estimates for the construction of the public improvements prior to recording any final plat.

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

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

Engineer Simonson offered to answer any questions.

Mayor A Riddile asked Fire Prevention Chief Orrin Moon if he had any comments.

Chief Moon said that most of the conditions stated in his report from 2021 had been met. He said of primary concern was the phasing for the fire truck turnaround because in phase 2, it was simply a dead-end road. Chief Moon said that he had commented that the fire hydrants were adequately spaced, but he had concerns regarding the placement of the trees that were shown almost directly where the fire hydrants were going on Serenity and by buildings 12C, 11A, 30A and 28A. He said that it was somewhat difficult to jump between plans, but it was a concern that the trees were covering the hydrants. Chief Moon said that the road names were cleaned up and they were satisfactory as far as communications was concerned. Chief Moon said that the last item was that there needed to be sequential address numbering. Currently there was opposite numbers on either side of the street, and that needed to be adjusted to sequential, all the way around.

Mayor A Riddile asked Planning & Zoning Commission Chair Chuck Apostolik to comment.

Chair Apostolik said that the main concerns from P&Z were put into the P&Z resolution as conditions. He said a big concern was based on density was the open space that was going to be where what was now buildings 13A – 13D. That area, in reviewing the grading plan, had about an 18-foot incline and was not a usable space in P&Z's opinion. That was why they wanted the buildings removed and that area as a central location based on the amount of density that was there. Chair Apostolik said another concern was trail connectivity, but the biggest issue were the concerns off S Wildhorse Drive and Mt. Harvard, where the citizens there wanted a buffer zone, an ability to screen out since there was no diversity in the types of buildings that were going in. Chair Apostolik said P&Z wanted to see a buffer zone as well as the textures of the buildings being changed. He clarified that P&Z had not specifically asked for architectural changes, although it would be nice to see that happen, but they definitely wanted to see some texture changes, which was something already a part of some areas of Castle Valley Ranch and Lakota.

Chair Apostolik said that what P&Z put in their resolution was what they felt very strongly about. In particular, the center park section was a very large concern for P&Z. When the application came back to P&Z, they did have all the conditions, and P&Z had provided an approval when the council asked P&Z to look at the application again. He recalled that the vote at that time was six to one to approve, only reason there had been a no vote was because of the number of conditions. He said that they had been considering the application for several years and P&Z wanted to see those concessions made. The fact that the area is zoned mixed-use, the private agreement made amongst the developers was not the town's problem. Chair Apostolik said that he wanted to clarify that back in 2008 when the original application came in and was all single-family homes, it never went to a final vote and in fact the application was withdrawn. He said that the current application did conform to what was basically a single-family development but had changed from 20+ units to 91 units. Chair Apostolik said that was why there were many concessions that needed to be made.

Town Attorney David McConaughy offered some procedural direction. First, he said there was a draft of a subdivision improvements agreement (SIA) in the packet but it was incomplete. In order to complete it, he will need to know what ultimately the council would do, and typically those revisions would be made between first and second reading. He said his office will revise the SIA based on the council decisions. Attorney McConaughy said that similarly, the ordinance will need revision based on council decisions, and things such as the building number change, and the four additional conditions from Planner Smith will need to be added.

Attorney McConaughy noted for the record that the letters from Engineer Simonson and Director Wenzel of April 1, 2022, and March 16, 2022 were public documents and are available, and the applicant agreed they had received them although they were not in the public packet.

Attorney McConaughy said that technically, they were not holding a public hearing, but that the public would be allowed to speak. That had been part of the agreement in the application skipping the planning commission and going directly to the town council. For the benefit of the public, he said that next the applicant will provide their presentation, after which the public will have a chance to comment. The applicant will then have a chance to respond to those comments, and then it will go back to the council for consideration. Attorney McConaughy advised the council that they could ask questions at any time but told them that they should hold their opinions about how they might vote until such time that all comments had been made and they could base their decision on the whole record.

Last, Attorney McConaughy said that council may hear some discussion from the applicant regarding their vested rights, and it was correct that Castle Valley Ranch had vested rights that were granted in 2002 under the second amended annexation agreement. Those were later extended prior to expiration. He pointed out that the version of Title 13 PUD regulations for the town that was in effect in 2002 had the same criteria for approval that Administrator Reynolds had reviewed in his presentation. He said the criteria were exactly the same. The wording was moved around, but the substance of it is the same as it was in 2002.

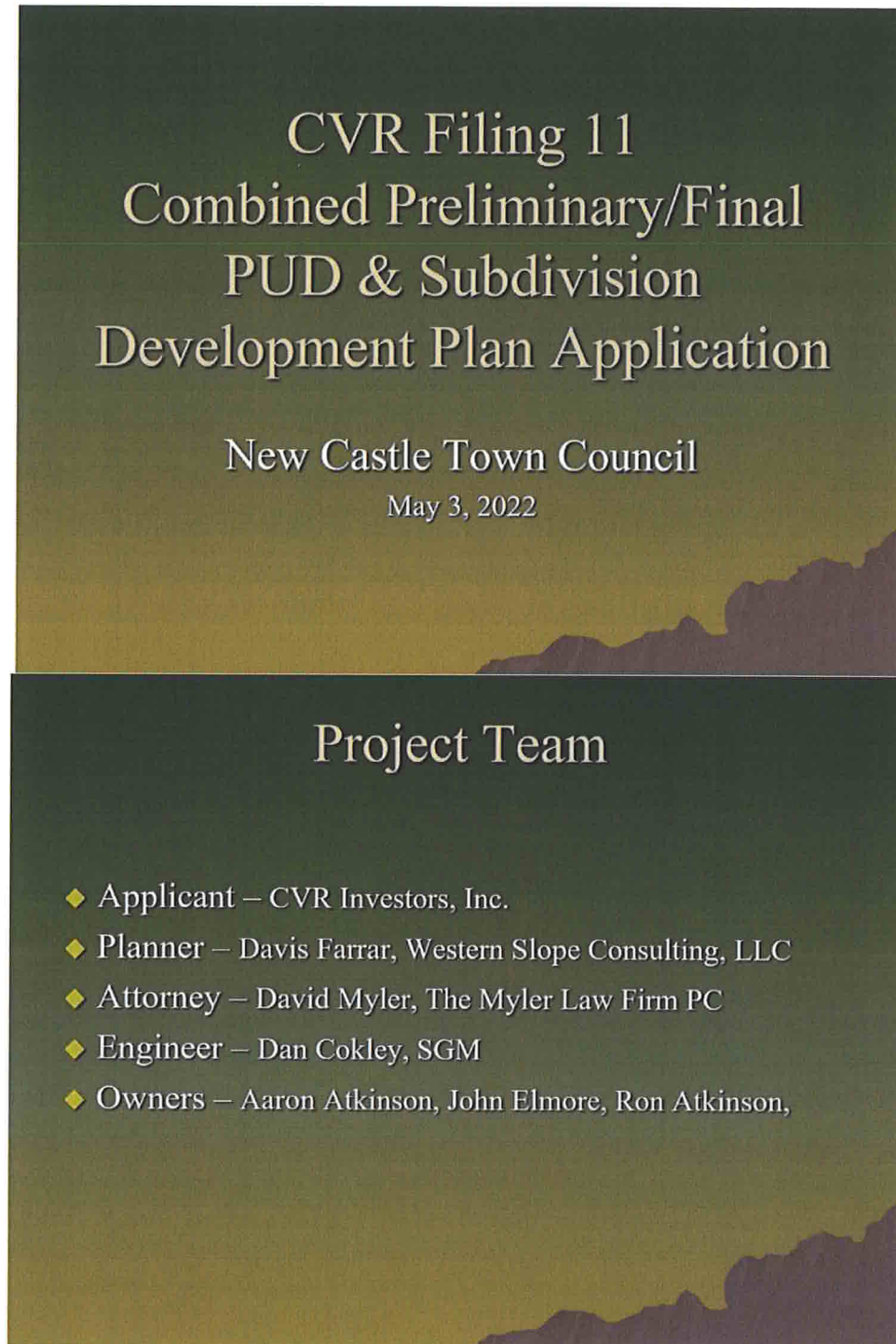
Administrator Reynolds, Director Wenzel and Engineer Simonson offered their places at the table to applicant Aaron Atkinson, Planner Davis Farrer and Attorney David Myler.

Planner Farrar said he needed a few minutes to set up.

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Planner Farrar greeted the council. He told the council that he was the planner for New Castle from 2002 to 2012. He said that he was the lead planning consultant on the town comprehensive plan along with Councilor Leland.

Planner Farrar provided the following power point presentation, describing the project in detail:



Planner Farrar introduced the team: Applicant, CVR Investors Inc., himself the Planner, and David Myler, Attorney. He said that Attorney Myler had been a land use attorney in

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the region for many years representing private development. Planner Farrar said that he worked with Attorney Myler when Lakota Canyon Ranch came in. Engineer, Dan Cokley, who was attending virtually. Planner Farrar also introduced the owners of the project and they were Aaron Atkinson, John Elmore and Ron Atkinson. Planner Farrar said they were all familiar with the development community and New Castle. He noted that John Elmore had been involved in Lakota Canyon Ranch, and the Atkinson's had done development in Castle Valley Ranch, and he felt that it was quality development and a great addition to the community.

### CVR Background

- ◆ CVR was annexed and PUD Master Plan approved 1983
- ◆ Density Reduced - 2,500 Units to 1,400 Units in 2002
- ◆ PUD Master Plan & Annexation Agreement amended by Ordinance 2002-2
  - Included Site Specific Development Plan
  - Granted Vested Rights – Currently to 2043
  - Established Permitted Land Uses & Bulk & Density Standards
  - Established Recreational Facilities Development Fee



Chapter 15.40 - RECREATIONAL FACILITIES DEVELOPMENT FEE

Sections:

15.40.010 - Purpose.

The purpose of this chapter is to obtain funding for the development of parks and recreational facilities by imposing a recreational facilities development fee, to be assessed by the town, upon each new residential dwelling unit constructed in or approximate to the town.

(Prior code § 10-14-010)

15.40.030 - Use of funds restricted.

All funds received under this chapter shall be used solely for the purpose of developing and equipping recreational facilities of the town, which purpose shall not include the operation and maintenance of such facilities.

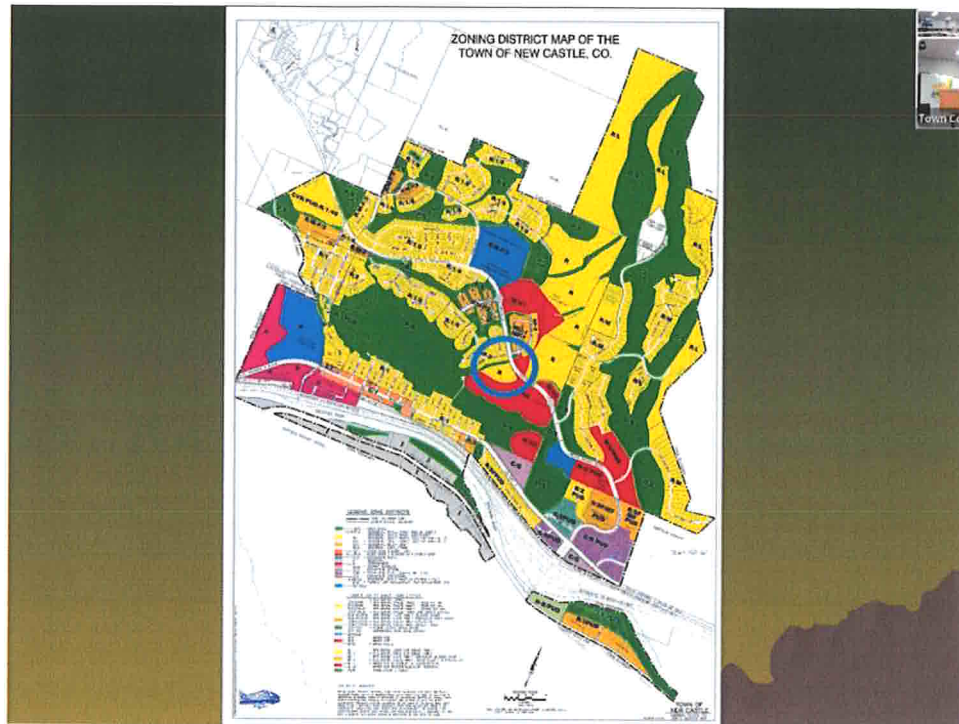
Planner Farrar said that Castle Valley Ranch (CVR) had been PUD Master Plan approved in 1983. Originally the density was 2,500 units but was reduced to 1,400 units in 2002. He said that Steve Craven was the key player in that process. The PUD Master Plan & Annexation Agreement was amended by Ordinance 2002-2, which he said was an important document in terms of vested rights, obligations of the developer, open space dedications, water rights and more. Planner Farrar said the ordinance included a site-specific development plan, it granted vested rights which were valid through 2043, it established permitted land uses and bulk and density standards for the project, which Planner Farrar said would be important for the council's current consideration. Planner Farrar said the ordinance also established the recreational facilities development fee; a fee charged on each dwelling unit that is constructed. He said the fees went to the construction of recreation facilities. Another important issue to keep in mind. He referenced the current municipal code section 15.04 which was the current code regarding the recreation development fee that specified uses of those funds. He said that the funds could not be used to build a new town hall or to purchase police vehicles – it was restricted to recreational facilities.

## CVR Background

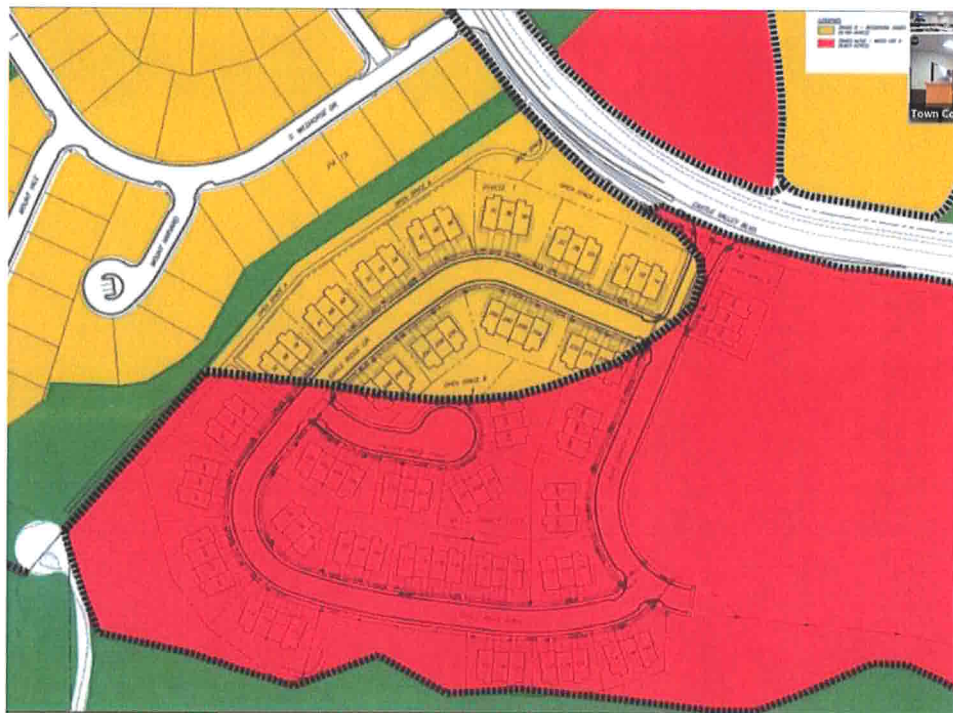
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  - Granted Vested Rights – Currently to 2043
  - Established Permitted Land Uses & Bulk & Density Standards
  - Established Recreational Facilities Development Fee
  - Required 10% Open Space & Land Dedication (66.55 Ac)
  - Required Town Maintenance Responsibilities on O/S
  - Required Water Rights Dedication
  - Required Castle Valley Blvd & Infrastructure Const.
  - Created Architectural Control Approval
- ◆ New Castle Comprehensive Plan Excluded CVR & Lakota because they were Master Planned PUDs

Planner Farrar said that CVR was required to have a ten percent open space and land dedication requirement. That amounted to 66.55 acres, however more land than that had been dedicated. Planner Farrar said that the annexation agreement specified that the town had maintenance responsibilities for the publicly dedicated open space areas. He said that the town was keenly aware of how much that was. He said it required water rights dedication, so the filing 11 project will be dedicating water rights to the town to offset the development impacts and demands on water. Planner Farrar said that CVR was also required to construct Castle Valley Boulevard, which they had done. Castle Valley Boulevard was designed to handle full buildout traffic of the project, subsequently, Lakota Canyon Ranch contributed to some of those costs because of their impacts on those roadways. Planner Farrar said that in terms of contribution to infrastructure, they (CVR) build that (Castle Valley Boulevard) in advance of the impacts. He said that he knew the town was seeing some of those impacts now, but in addition to the road infrastructure improvements, there was water and sewer and other public infrastructure development. Planner Farrar said that the annexation agreement also created an architectural control approval process. There is a committee that will review all applications for development. He said that was also an important issue that will be discussed shortly in terms of the planning commission who made a recommendation for color and texture. He said that there was a potential conflict in what the P&Z recommended and what the council may approve and the authority of the architectural committee. Planner Farrar said that it was important to note that the New Castle Comprehensive Plan excluded Castle Valley Ranch and Lakota Canyon Ranch (LCR). That exclusion was based on conversations with developers who said that they had a master planned PUD and they did not want the comprehensive plan to change that. Referring to a zoning map, Planner Farrar stated that it could be seen by the zoning associated with CVR and LCR that there was an exclusion in the comprehensive plan.

Planner Farrar apologized that the public could not see the power point presentation and he encouraged the public to gather around him if they wished.

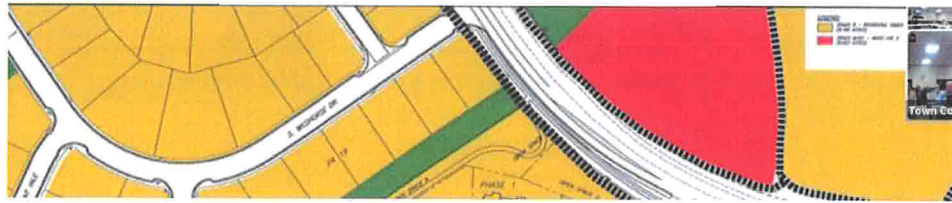


Planner Farrar showed a zoning map of the town. A blue circle indicated the location of the proposed Filing 11 project.



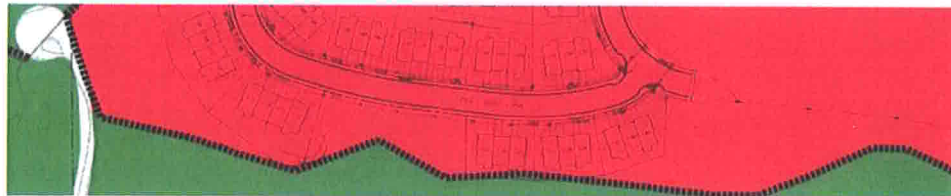
The next slide was a close-up of the project site with an overlay of the zoning designations. He noted that the site plan shown was an old one that indicated triplexes adjacent to the C Avenue open space area or open space A. Nonetheless, it was illustrative of how the project was laid out in the zone districts.

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### Zoning

As an aspect of the Second Amended Annexation Agreement, the zoning for Castle Valley Ranch was completely revised. The purpose was to create the most flexible tool possible to respond to the ever-changing nature of the marketplace. Exhibit F to the agreement defines this zoning. Please note that the zoning map is divided up into residential and mixed use districts. Within those districts, one can choose a diversity of options. For example, in a residential district, one can choose any of the residential designations, or a combination thereof. This provides for extreme flexibility as to the product offerings that can be pursued.



Planner Farrar said they were PUD planning areas under the regulations. The zoning was established during the process. He noted that the excerpt was from one of the documents related to CVR. Quoting the document: "The purpose was to create the most flexible tool possible to respond to the ever-changing nature of the marketplace". Further "This provides for extreme flexibility as to the product offerings that can be pursued". Planner Farrar said that the idea with the zoning designations on the screen it was to allow flexibility within certain parameters.



#### Established Zone Districts

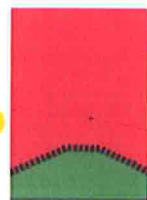
Castle Valley Ranch, a Planned Unit Development District, is further divided into the following Zone District Classifications:

- (1) Residential
  - (a) SF-1: Large lot single family detached residential district providing lower density housing in areas for larger lots.
  - (b) SF-2: Small lot single family detached residential district allowing for a variety of single family housing alternatives within Castle Valley Ranch.
  - (c) MF-1: Multi-family townhouse and patio home district allowing for creative approaches to development with housing alternatives that are sensitive to existing and surrounding land uses.
  - (d) MF-2: Multi-family district allowing higher density including apartments.
- (2) Mixed Use
  - (a) MU-1: Mixed use district providing a mix of residential and non-residential land uses within close proximity to each other that are suitably located within the Community Core. All residential uses shall conform to the requirements of the SF-1, SF-2, MF-1, or MF-2 zones described above, which shall be determined (or may be modified) at the time of approval of a PUD Development Plan for property within an MU-1 zone.
  - (b) MU-2: Mixed use district providing a mix of residential and light industrial, office uses within close proximity to each other where complementary business uses may be permitted, and where higher intensity uses will be permitted that may not be suitable within the Community Core. All residential uses shall conform to the requirements of the SF-1, SF-2, MF-1, or MF-2 zones described above, which shall be determined (or may be modified) at the time of approval of a PUD Development Plan for property within an MU-2 zone.

As an aspect of the project was complete to the ever-changing. Please note that those districts can choose an extreme flexibility.



Castle Valley Ranch is to respond to this zoning. Within the district, one provides for



Planner Farrar showed the detail of the established zone districts. He did not go through the details but did point out that it ranged from single family large lot to single family small lot (such as S Wildhorse), to multi-family 1 and the mixed-use designations.



#### Established Zone Districts

Castle Valley Ranch, a Planned Unit Development District, is further divided into the following Zone District Classifications:

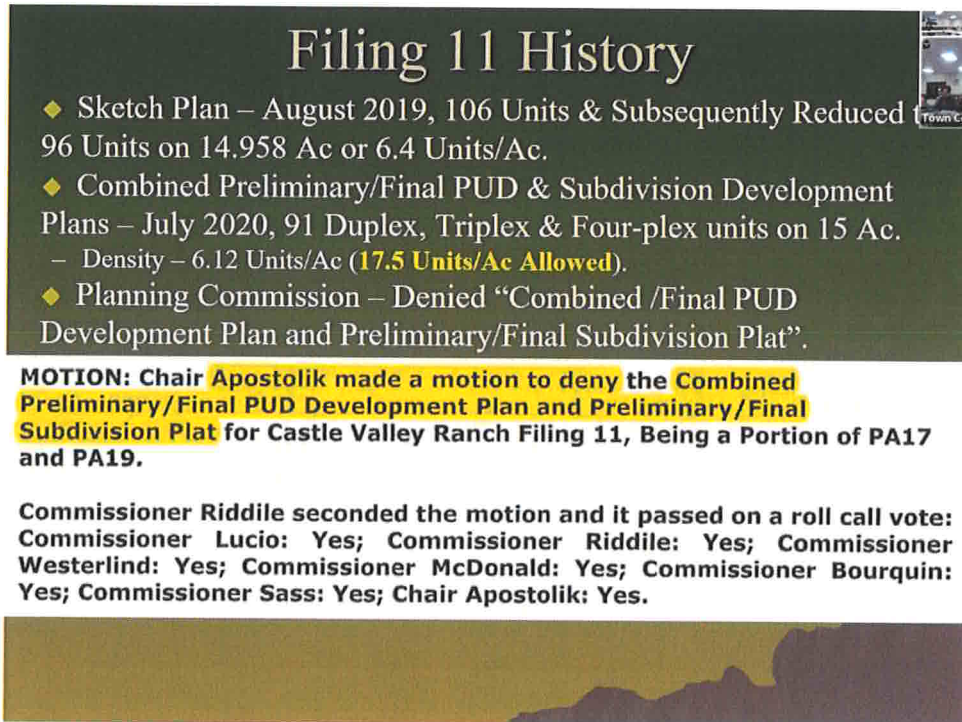
| Use                                                                  | OS/P | SF-1 | SF-2 | MF-1 | MF-2 | MU-1 | MU-2 |
|----------------------------------------------------------------------|------|------|------|------|------|------|------|
| Detached dwelling units                                              | ★    | P    | P    | P    | ★    | P    | P    |
| Attached dwelling Units with rear yards                              | ★    | ★    | ★    | P    | P    | P    | P    |
| Patio homes/dwelling units oriented to the side of the lot           | ★    | ★    | P    | P    | P    | P    | P    |
| Attached dwelling units in structures containing more than two units | ★    | ★    | ★    | P    | P    | P    | P    |
| Including detached garages/studios and granny flats                  | ★    | P    | P    | P    | P    | P    | P    |
| Child care facilities                                                | ★    | C    | C    | C    | C    | P    | P    |
| Churches, synagogues, chapels and temples                            | ★    | C    | C    | C    | C    | P    | P    |
| Fire stations                                                        | C    | C    | C    | C    | C    | C    | C    |
| Technical & administrative                                           | ★    | ★    | ★    | ★    | ★    | P    | P    |

determined (or may be modified) at the time of approval of a PUD Development Plan for property within an MU-2 zone.

Planner Farrar shared a portion of the use table in the PUD regulations identifying the uses that were allowed. He said they could see what was permitted in the various zone districts. He said that he was aware that there were questions about the mixed-use aspects of the project and said that would be discussed. He said that the mixed-use

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concept was a great planning concept and that he supported it and the comprehensive plan supported it. An important part of that discussion was the market. Planner Farrar said that they could designate all the mixed-use areas they wanted, but if the market was not there to make it viable, it doesn't happen.



## Filing 11 History

- ◆ Sketch Plan – August 2019, 106 Units & Subsequently Reduced 96 Units on 14.958 Ac or 6.4 Units/Ac.
- ◆ Combined Preliminary/Final PUD & Subdivision Development Plans – July 2020, 91 Duplex, Triplex & Four-plex units on 15 Ac.
  - Density – 6.12 Units/Ac (**17.5 Units/Ac Allowed**).
- ◆ Planning Commission – Denied “Combined /Final PUD Development Plan and Preliminary/Final Subdivision Plat”.

**MOTION: Chair Apostolik made a motion to deny the Combined Preliminary/Final PUD Development Plan and Preliminary/Final Subdivision Plat for Castle Valley Ranch Filing 11, Being a Portion of PA17 and PA19.**

**Commissioner Riddle seconded the motion and it passed on a roll call vote: Commissioner Lucio: Yes; Commissioner Riddle: Yes; Commissioner Westerlind: Yes; Commissioner McDonald: Yes; Commissioner Bourquin: Yes; Commissioner Sass: Yes; Chair Apostolik: Yes.**

Planner Farrar reviewed the history of the Filing 11 project.

Planner Farrar said that the original sketch plan pre-application conference took place in the 1980s. Then he corrected himself saying “No. This project”.

Planner Farrar said that the preapplication meeting for the Filing 11 project took place in 2019. Originally there were 106 units, and that was subsequently reduced to 96 units, or a density of 6.4 units per acre. He said that was an important number to keep in mind because there had been a lot of discussion about high density. Looking at the averaging of units per acre, Planner Farrar did not feel the project had high density. He said there was a multi-family configuration between duplexes and triplexes, but it was still not high density.

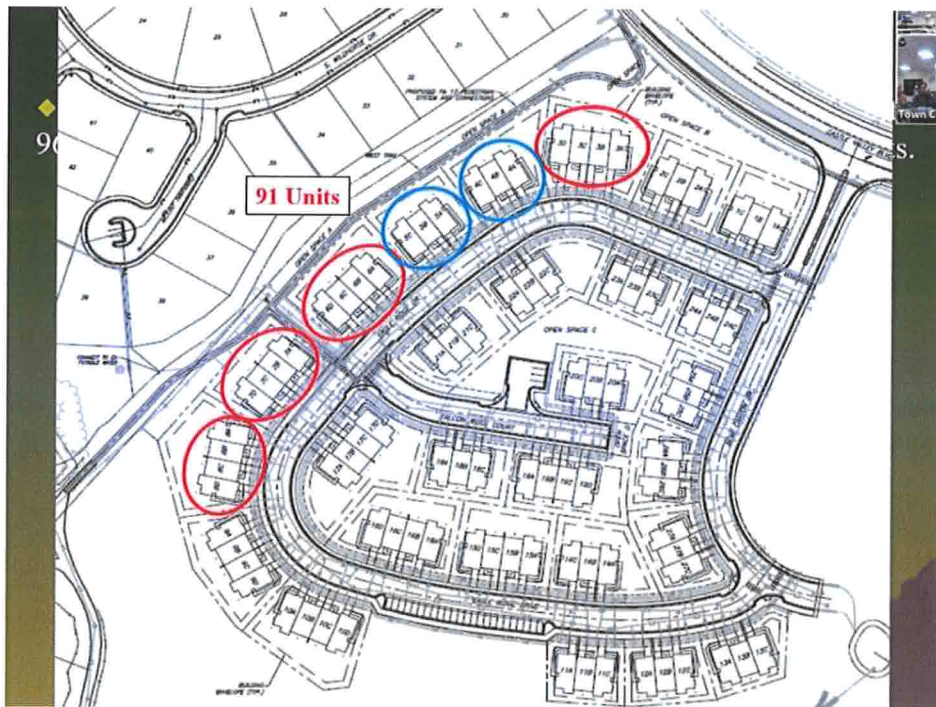
Planner Farrar said that the current application was a combined preliminary and final PUD plan and subdivision development plan, submitted in July of 2020 and consisted of 91 duplex, triplex and fourplex units on 15 acres, and that density was 6.12 units per acre. He said that the zone district would allow up to 17.5 units per acre, so the project was coming in well below that threshold.

Planner Farrar said that the P&Z denied the combined final PUD development plan and preliminary/final subdivision plat. He shared an excerpt from the commission minutes that showed the motion for denial for that particular application.

## Filing 11 History

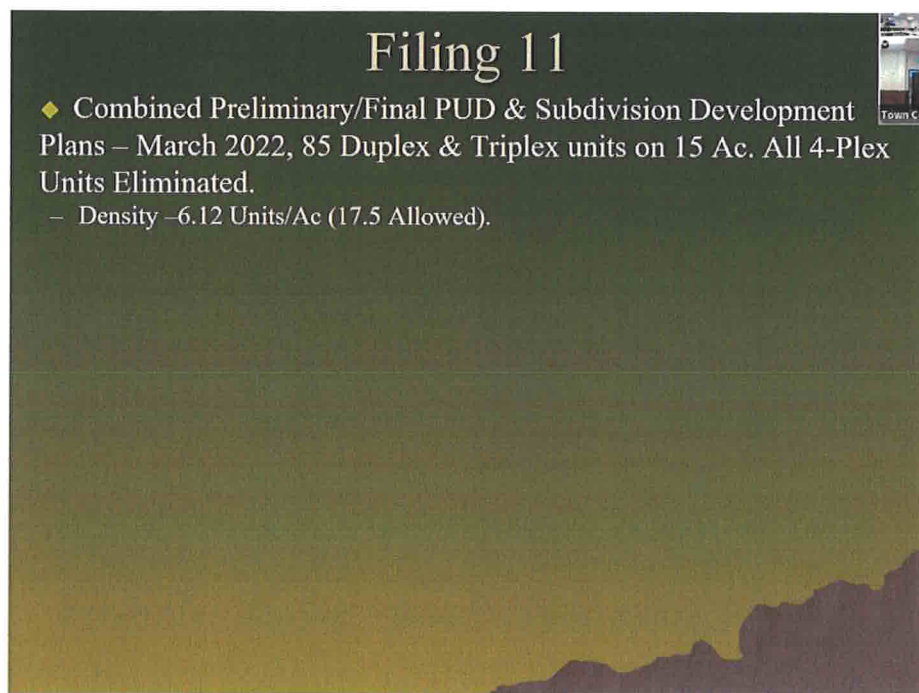
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- ◆ Planning Commission – Denied “Combined /Final PUD Development Plan and Preliminary/Final Subdivision Plat”.
- ◆ Council Considered Appeal on Denial 6/21/20 & Sent Application Back to P&Z. “Councilor Hazelton made a motion to send the application back to the Planning & Zoning Commission to readdress the concerns, and for staff to give very specific direction as to what the concerns were for Mr. Atkinson and the town. Councilor Mariscal seconded the motion.”
- ◆ P&Z Reconsidered Application:
  - 9/23/2020, 11/23/2020, 12/9/2020, 1/13/2021 (Approved Res. PZ2020-09)
- ◆ Council Decision to Consider Application at Noticed Meeting 5/3/2022

Planner Farrar said that the applicant sent a letter to the town to appeal the denial of the application. On June 21, 2020, the town council considered it and sent the application back to P&Z for further consideration. Planner Farrar said that P&Z reconsidered the application on September 23, 2020, November 23, 2020, December 9, 2020 and January 13, 2021, ultimately approving it with conditions by Resolution PZ 2020-9, leading to the current consideration of the application by town council. He asked the council to consider approval of the application.



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Planner Farrar shared a site plan which he said was the original concept plan for 91 units, with triplex and fourplex units adjacent to the S Wildhorse neighborhood.

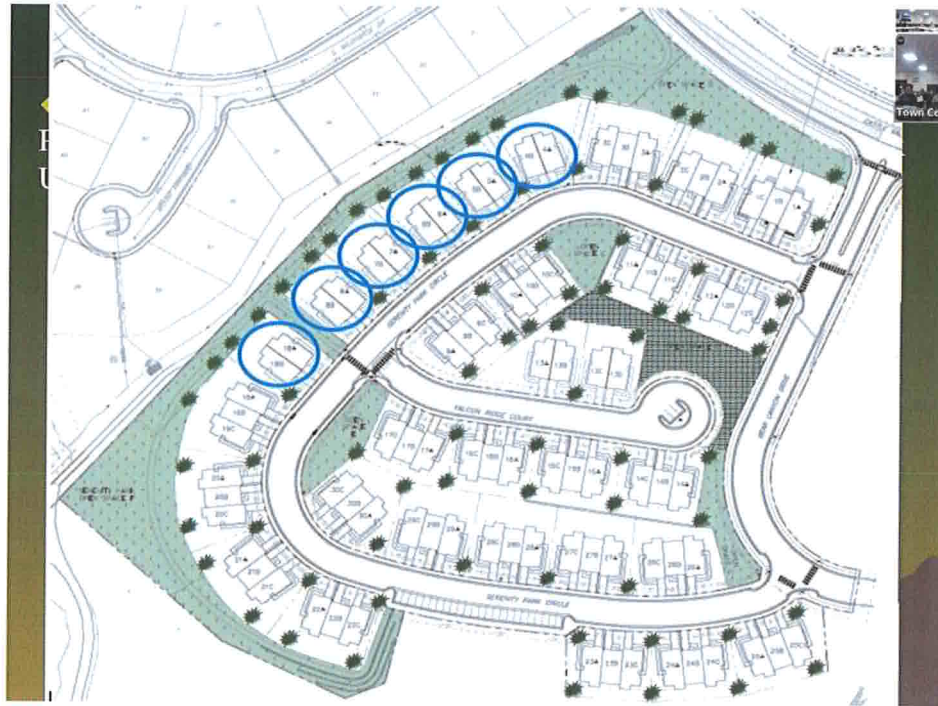


Planner Farrar said they considered the input from P&Z and the public and reduced that density, coming back in March of 2022 with a total unit count of 85, consisting of duplexes and triplexes, on 15 acres. All the fourplex units were eliminated from the project, reducing the density to 6.12 units per acre in a zone district that allowed 17.5 units per acre.



Planner Farrar shared an overview drawing of the project that showed the bulk and location of the different types of units.

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Planner Farrar showed the landscape plan that he felt was a good site plan to talk about compatibility with the adjacent single-family units since the fourplex units were replaced with duplexes. He said it also showed location of the landscaping. He said the comments from Chief Moon were heard and they would do whatever modifications were necessary so as to not interfere with fire hydrants.

Mayor A Riddile said that buildings 1A, B and C showed shrubs in front of it, but none of the other buildings showed them.

The applicant's engineer, Dan Cokley, said that was a typical representation, but they had not gone through the trouble of showing that on each unit. He said that the landscape plan in the submitted plan set used building 1 as the example of what would be done in front of each unit.

## Compatibility w/ Adjacent Uses

- ◆ Adjacent Zoning – SF-2
  - 4,000 Min Lot Size – 7.0 Units/Ac
- ◆ Filing 11 – MF-1
  - 6.12 Units/Ac proposed. Allows 12.6 Units/Ac
- ◆ Duplex units are a commonly accepted transition from Single Family
- ◆ CVR Has many areas where Single-Family adjoins Multi-Family

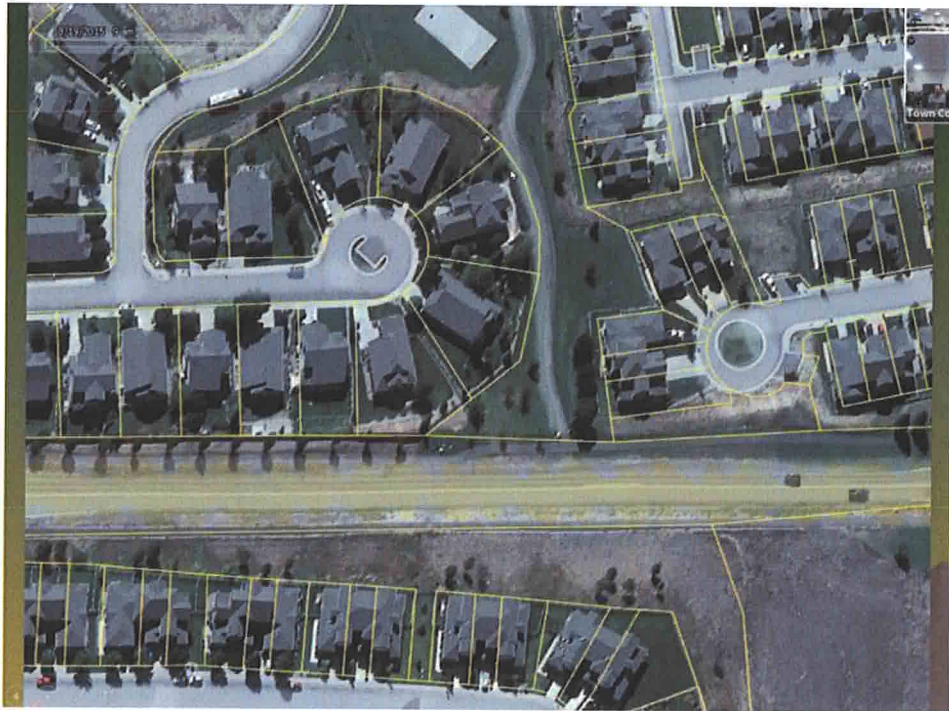
Planner Farrar reviewed compatibility with adjacent uses. He said that the adjacent zoning was SF-2 which allowed a minimum 4,000 sf lot, equaling 7 units per acre. He said that Filing 11 was zoned MF-1 and the project proposed 6.12 units per acre whereas MF-1 allowed 12.6 units per acre. He said he had previously mentioned 1705 units per acre, and that was in the MF-2 zone district. He noted that the project was well below the allowable density. Planner Farrar said that duplex units are a commonly accepted transition from single-family, and in many communities duplex and single family are allowed in a low-density residential either as a use by right or special review. Single-family next to a duplex unit is not an unusual configuration. Planner Farrar said the CVR had many areas where multi-family adjoins single-family directly. He said that LCR had the same configuration.



Planner Farrar noted here that in the immediate area there were many places where multi-family units were immediately adjacent to single-family units.



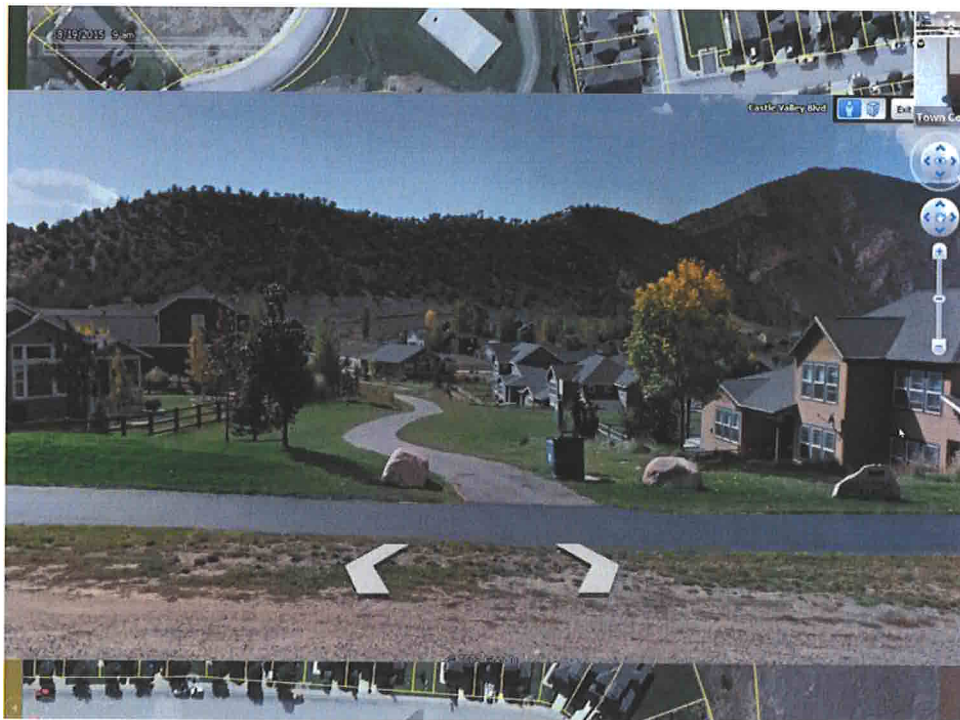
Using the same aerial view, Planner Farrar showed a location of open space that he would focus on.



Planner Farrar noted that there were single-family homes on the left cul-de-sac, across a narrow (40 to 70 feet) open space from triplexes.

At this point, the public complained that they could not see the presentation. Staff rearranged the televisions in the room so the public could view the screen.

Planner Farrar backed up one slide for the benefit of the public.



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Planner Farrar showed the same area from street view, noting the single-family homes on the left and triplex homes on the right. He also pointed out that the triplexes were all the same color, and he would speak to that later in the presentation.

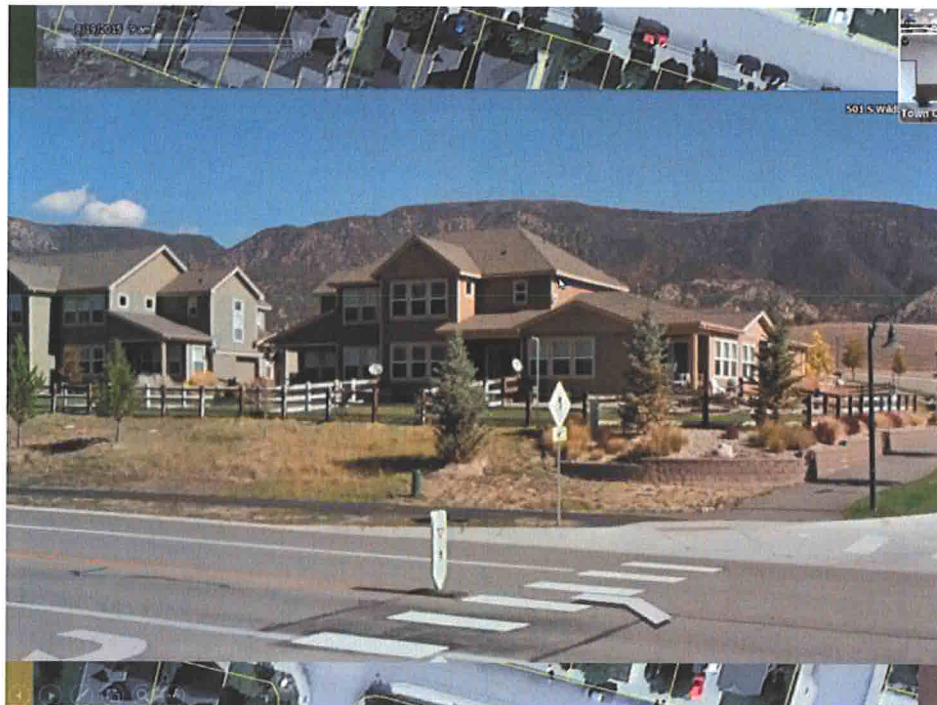


Planner Farrar showed the aerial view again, with another location that he wanted to focus on at the intersection of Castle Valley Boulevard and N Wildhorse Drive.

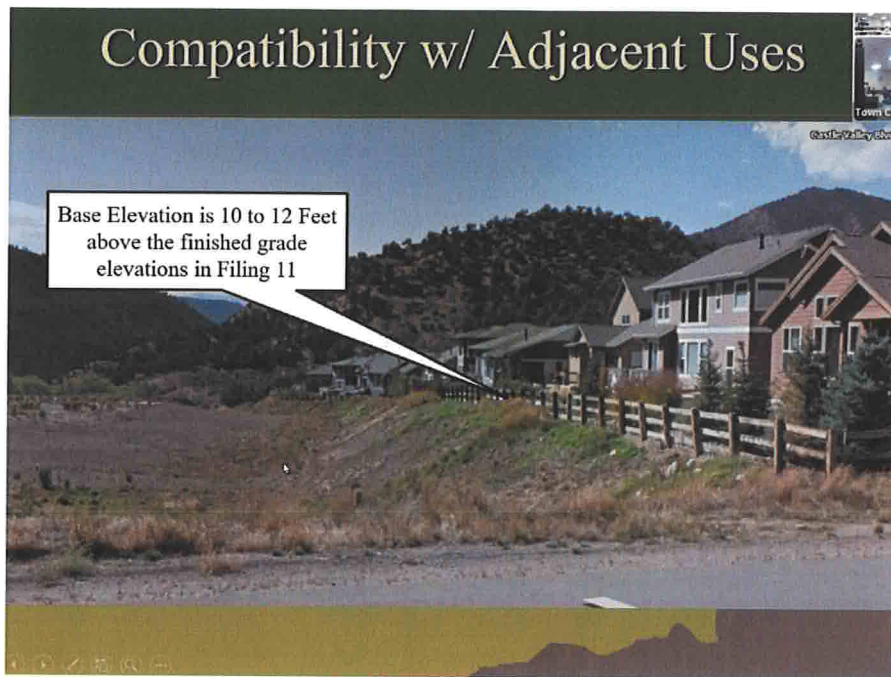


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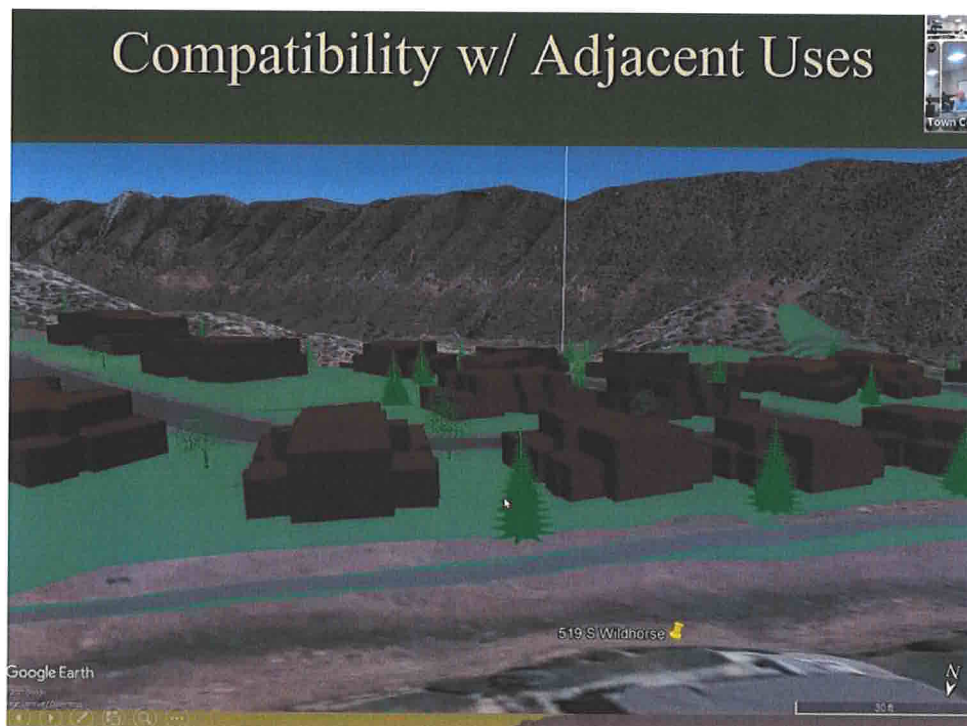
Planner Farrar pointed out the intersection to the right, single family homes at the bottom of the screen, directly across Castle Valley Boulevard from triplex homes at the top of the screen. The red arrows represent the view from the single-family homes on the south to the triplex homes to the north, as shown in the next slide.



Planner Farrar that the distance was about 100 feet, and that absent the two satellite dishes, the triplex could look like a large single-family home. He said it was all the same color and there were architectural articulations.

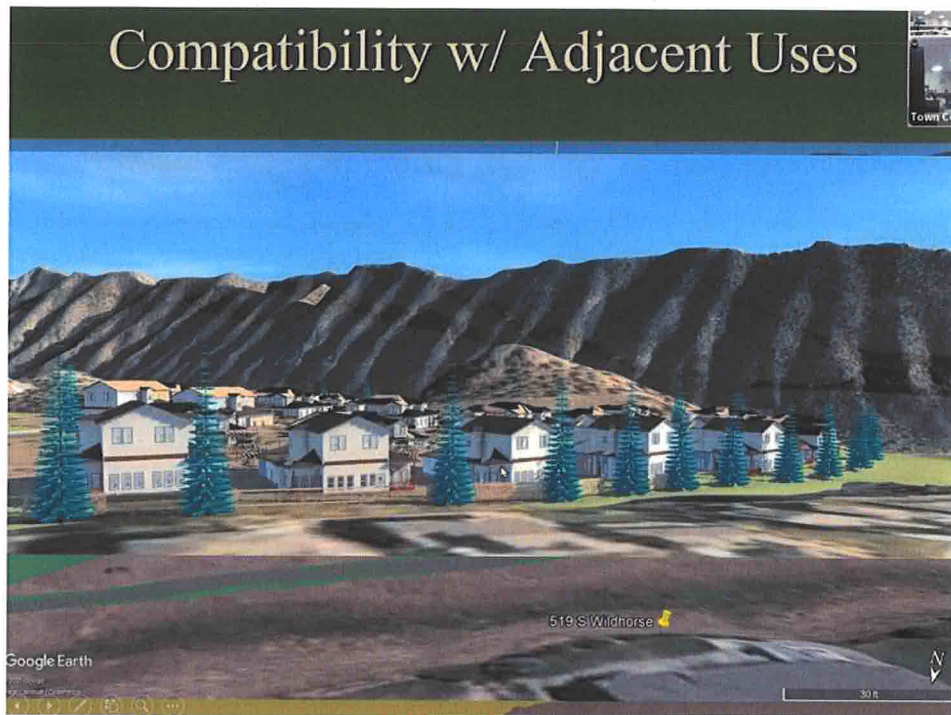


Planner Farrar told the council that on the right were the homes along S Wildhorse Drive, and to the left (east) was the Filing 11 property which was 10 to 12 feet lower than the S Wildhorse homes.



Planner Farrar stated this was illustrative of the view or the Filing 11 project from S Wildhorse Drive. The picture gave a sense of what it would look like. He noted that the trees depicted are not in the exact configuration.

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Planner Farrar apologized, saying that the representation was not great, because the trees looked like psychedelic Christmas trees rather than spruce trees, but was another illustration of the view of the project from S Wildhorse Drive. Planner Farrar said they were committed to planting two trees opposite, not between, but opposite the duplex units. He said they also proposed to build a six-foot opaque fence to separate.



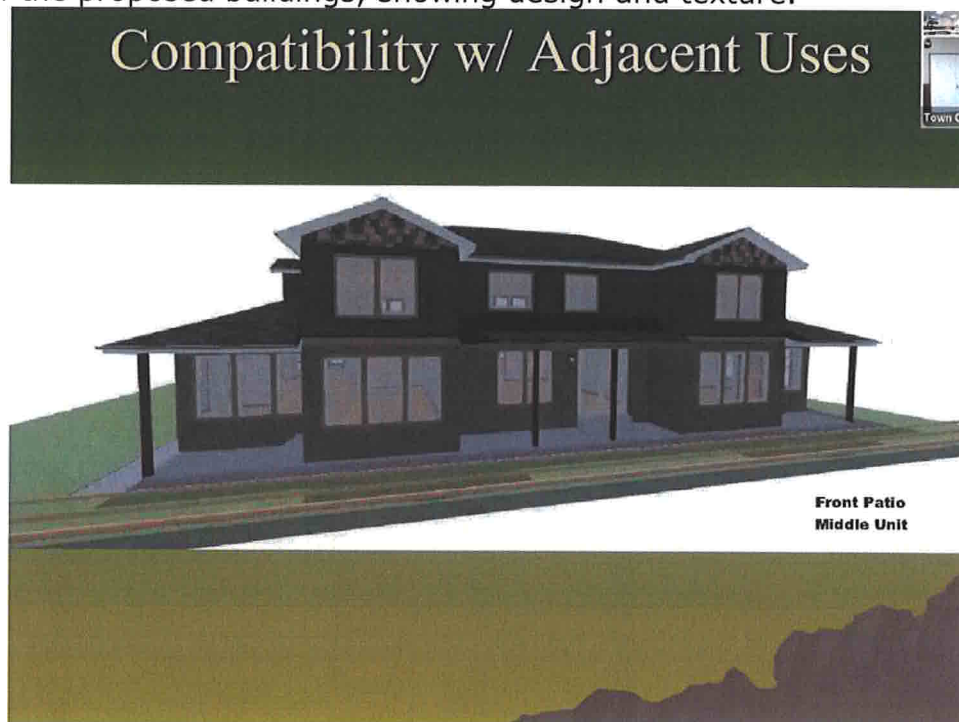
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Planner Farrar showed this streetside view of a triplex. He said that P&Z had suggested that they change color and texture, and he said they were willing to change color. He further said that if you changed the color of each of the units, then the building would look like a triplex rather than a single-family. Visually, he said they felt that a single color per building, and they would change by building, would provide a much better effect.



Front

Front view of the proposed buildings, showing design and texture.

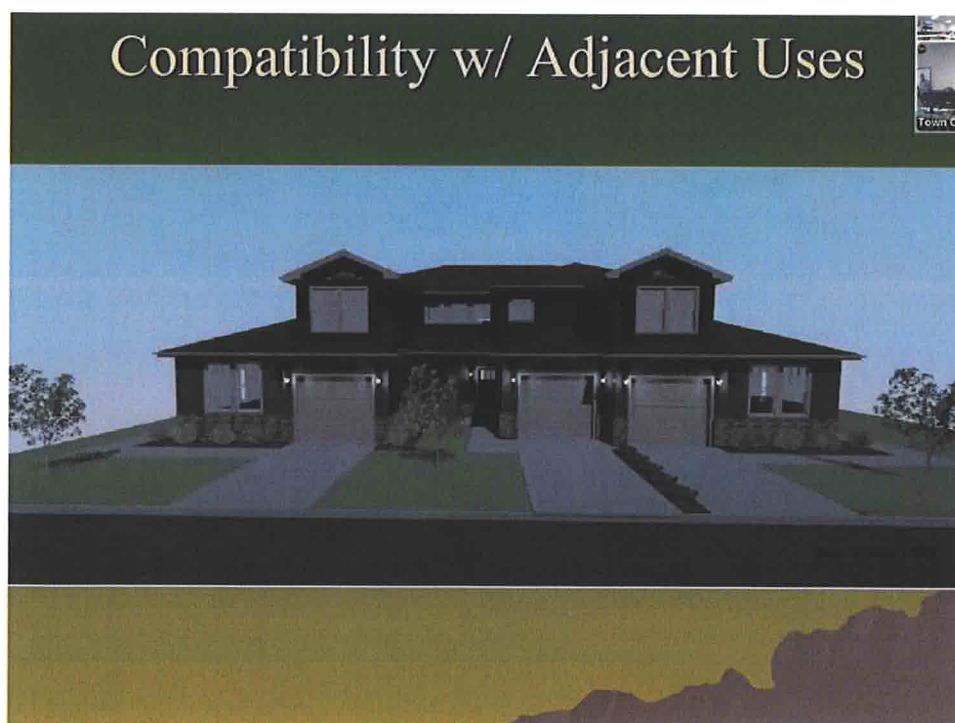


Front Patio  
Middle Unit

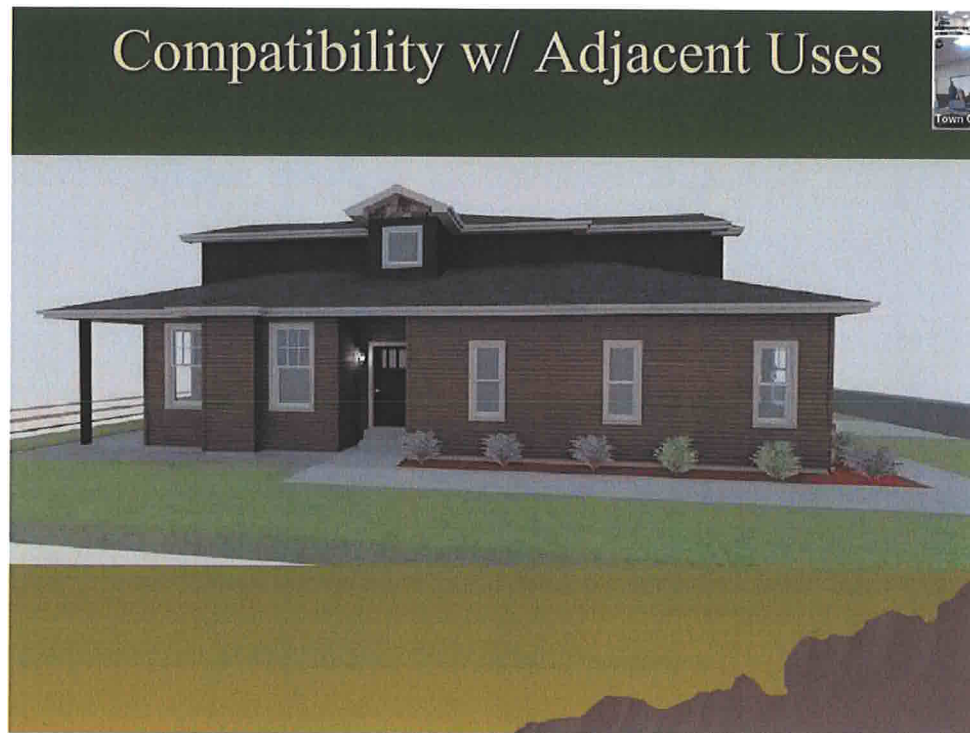
Planner Farrar said this would be the view from S Wildhorse Drive. He stated again that it was difficult to tell if it was a duplex or triplex. He said again that if you change each unit color it would look more like a triplex.



Another view of a triplex structure.



Streetside view again. Planner Farrar said the illustration were all included in the council packet.



An end view of the building. He said it was another illustration of the type and quality of the development.

## Open Space

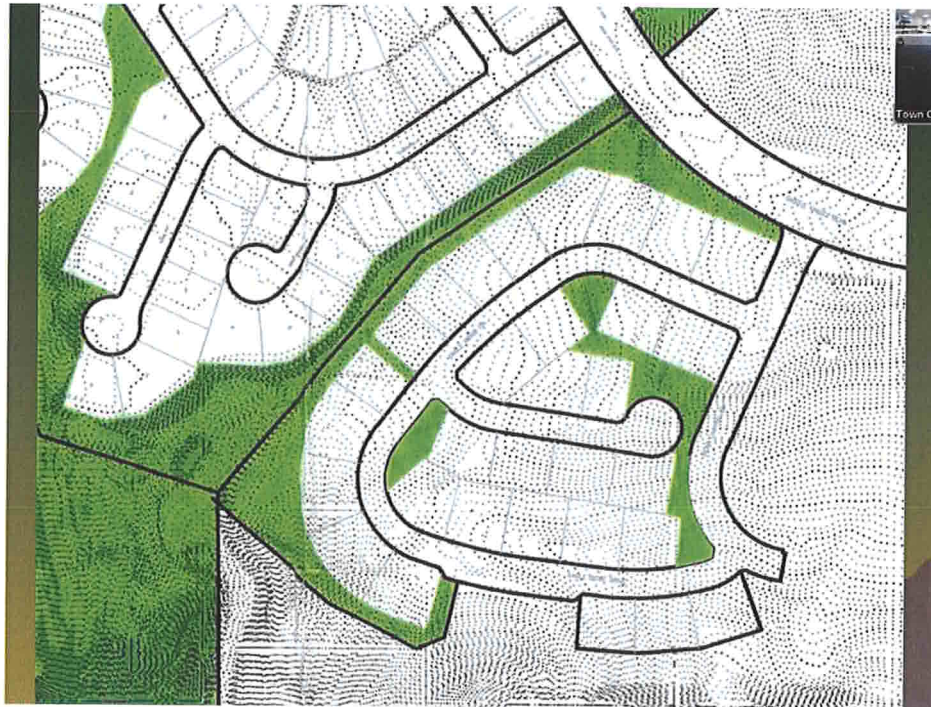
- ◆ CVR has met ALL O/S obligations
  - 10% of 665.53 Ac = 66.55 Acres
  - Filing 11 is contributing 19.8% of the site as O/S above the 66.55 Ac; an additional 2.97 Ac
- ◆ Public Open Space and Parks in CVR are for ALL residents and are strategically located in the PUD

Planner Farrar said that in terms of open space, CVR had already met all of its open space obligations. Ten percent of 665.53 acres is 66.55 acres. That obligation had been met. He said there was no other requirement other than a developer's desire to contribute to open space, however, Filing 11 will contribute an additional 19.8% of the project site as open space, an additional 2.97 acres.

Planner Farrar said that all public open space and parks in CVR are for all community members, rather, for any member of the public, and they are strategically located throughout the entire PUD. He said there were illustrations of trails and several parks throughout the site, and they contributed a school site which was not counted in the overall open space calculation.



Planner Farrar said that all of the lighter green was the open space dedicated to the town in CVR. He noted that anything over a 35% grand did not count (the dark green areas are indicated). He indicated the largest light green space and identified it as the school site, and offered that they could remove that from the open space calculations and the thought that the PUD would still meet the open space requirement at 72+ acres. He also indicated the Filing 11 project in the lower far right and pointed out the C Avenue connection.



Planner Farrar indicated in this slide the open space A, which is along the C Avenue Trail connection that would be dedicated to the town, which meant that the town would be responsible for maintenance. There will also be water and sewer connections to the development through Open Space A. Engineer Cokley said that Town Engineer Simonson was happy with the specifics of the water and sewer connections as proposed. Planner Farrar said that all the other open space areas in the project would be the responsibility of the project or homeowner's association to maintain.



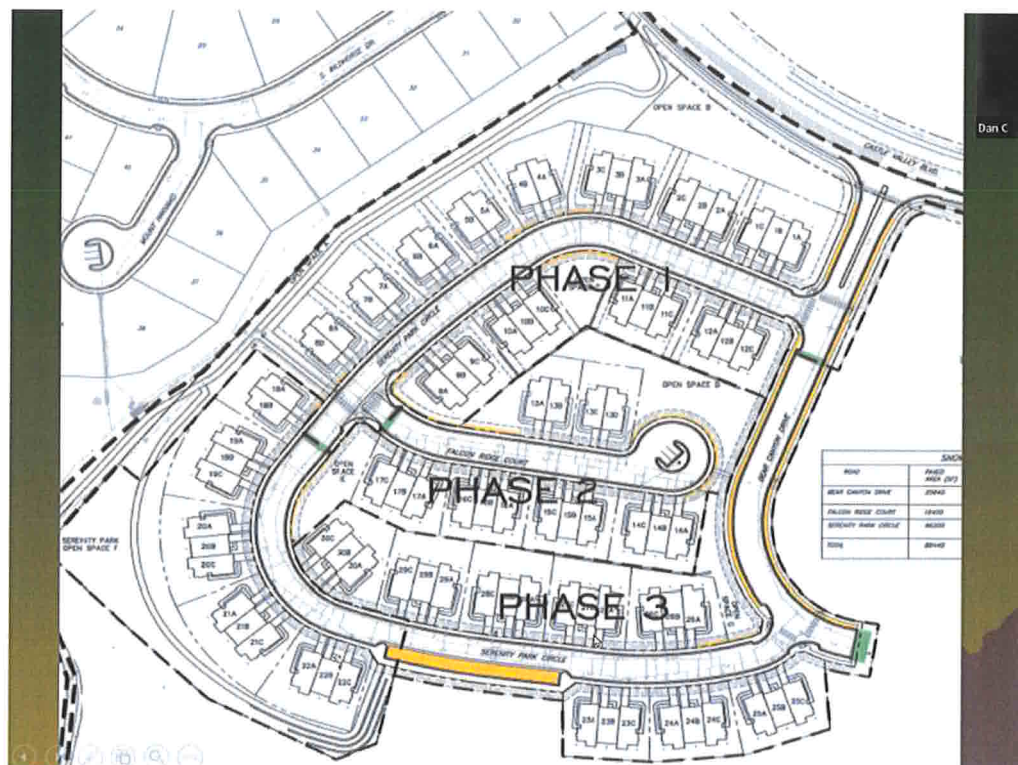
CASTLE VALLEY RANCH OPEN SPACE AREAS

|                       | OPEN SPACE<br>PER TOWN ORDINANCE | ADDITIONAL<br>OPEN SPACE | TOTAL<br>OPEN SPACE |
|-----------------------|----------------------------------|--------------------------|---------------------|
| FILING 1              | 12.81AC                          | N/A                      | 12.81AC             |
| FILING 2              | 2.28AC                           | N/A                      | 2.28AC              |
| FILING 3              | 9.06AC                           | N/A                      | 9.06AC              |
| FILING 4              | 6.60AC                           | 2.70AC                   | 9.30AC              |
| FILING 5              | 4.69AC                           | 1.72AC                   | 6.41AC              |
| FILING 6              | 4.17AC                           | 1.32AC                   | 5.49AC              |
| FILING 7              | 4.16AC                           | 5.41AC                   | 9.57AC              |
| FILING 8              | 5.91AC                           | 1.55AC                   | 7.46AC              |
| FILING 9              | 1.62AC                           | 0.07AC                   | 1.69AC              |
| FILING 10             | 0.00AC                           | 0.00AC                   | 0.00AC              |
| ALDER RIDGE TOWNHOMES | 1.67AC                           | N/A                      | 1.67AC              |
| CASTLE PINE TOWNHOMES | 2.52AC                           | N/A                      | 2.52AC              |
| SCHOOL                | 30.00AC                          | N/A                      | 30.00AC             |
| SKATE PARK            | 2.86AC                           | N/A                      | 2.86AC              |
| VIX PARK              | 0.00AC                           | N/A                      | 9.55AC              |
| MT MEDARIS            | 14.23AC                          | 60.57AC                  | 74.80AC             |
| TOTALS                | 102.58AC                         | 73.34AC                  | 185.47AC            |

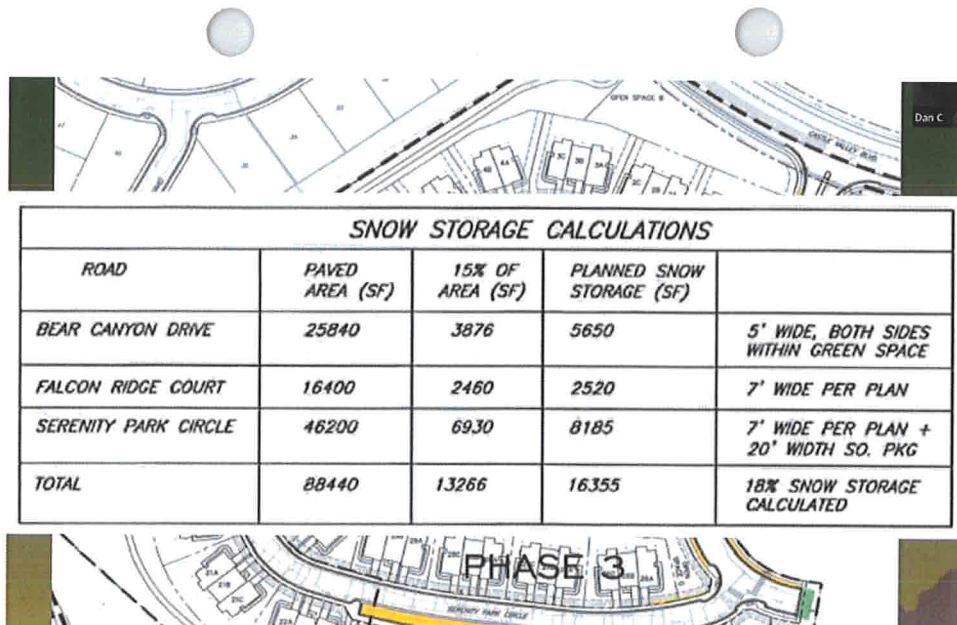


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Planner Farrar shared a table of the open space calculations in CVR. The requires open space was 102.58 acres which included 30 acres for the school. There was 73.34 acres of additional open space for a total of 185.47 acres of open space, not including the open space from Filing 11.



Planner Farrar said that the issue of snow storage had come up. He said the Engineer Cokley had worked with Director Wenzel on the snow storage areas. Engineer Cokley said that he had worked with Director Wenzel a few times over the past two years and the submitted plan is what they had agreed to, and although Director Wenzel mentioned concessions, Engineer Cokley said that Director Wenzel felt the snow storage plan will work. He said he will let Director Wenzel's comments on the cost and how it worked stand, but the plan will allow the town areas to push the snow, and the areas will be on the final plats.



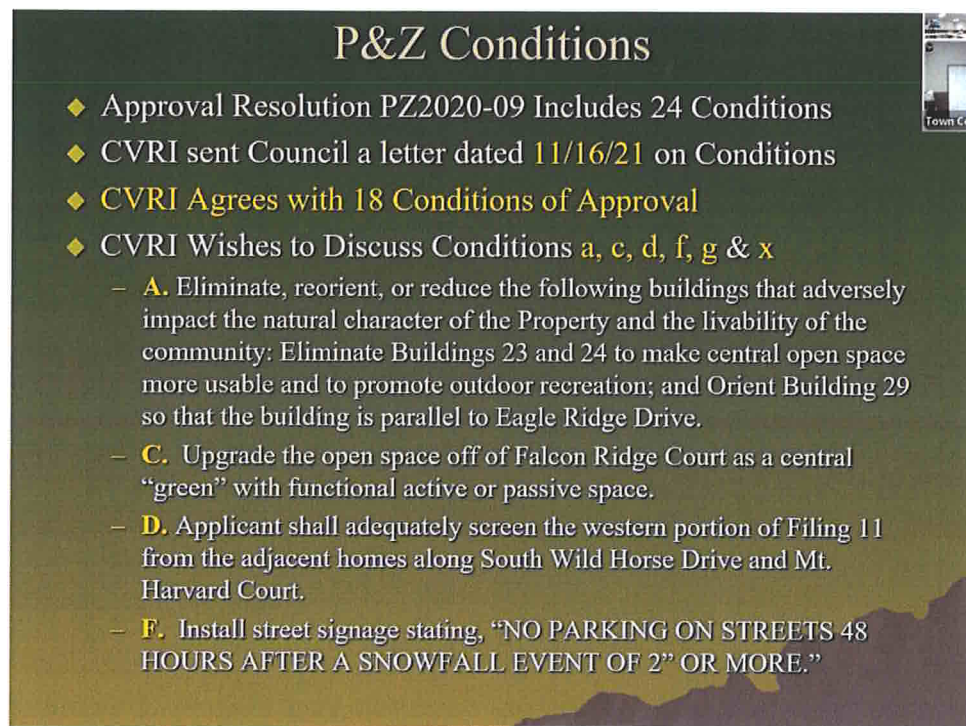
Engineer Cokley said that the town did not have snow storage calculations, so he used Glenwood Springs of 15% as an example. Engineer Cokley said Filing 11 was providing 18% of the paved area for snow storage. Planner Farrar said that New Castle averaged 11 inched of annual snowfall according to the town comprehensive plan.

## Parking

- ◆ 85 units x 2 spaces/unit = 170
- ◆ On-street parking internal - 90
- ◆ Serenity Park Circle/ Falcon Ridge perpendicular parking- 27
- ◆ Bear Canyon - 30
- ◆ **Total - 317**

Planner Farrar said the issue of parking had also come up. He said they exceeded the parking requirements of the town, but that there were 85 units with two off-street parking spaces each which equaled 170 spaces. There are 90 internal on-street parking spaces. Serenity Park Circle and Falcon Ridge perpendicular parking spaces were 27, and on Bear Canyon there were 30 on-street spaces for a total of 317 parking spaces in the project.

Planner Farrar reviewed the P&Z conditions. P&Z approve resolution PZ 2020-9 included 24 conditions. As a result of those conditions, CVR Investors sent a letter to the council on November 16, 2021 on each of those conditions, offering their response to them. Planner Farrar said that CVR Investors agreed with 18 of the conditions of approval, but wanted to discuss conditions a, c, d, f, g & x.



### P&Z Conditions

- ◆ Approval Resolution PZ2020-09 Includes 24 Conditions
- ◆ CVRI sent Council a letter dated 11/16/21 on Conditions
- ◆ CVRI Agrees with 18 Conditions of Approval
- ◆ CVRI Wishes to Discuss Conditions a, c, d, f, g & x
  - **A.** Eliminate, reorient, or reduce the following buildings that adversely impact the natural character of the Property and the livability of the community: Eliminate Buildings 23 and 24 to make central open space more usable and to promote outdoor recreation; and Orient Building 29 so that the building is parallel to Eagle Ridge Drive.
  - **C.** Upgrade the open space off of Falcon Ridge Court as a central “green” with functional active or passive space.
  - **D.** Applicant shall adequately screen the western portion of Filing 11 from the adjacent homes along South Wild Horse Drive and Mt. Harvard Court.
  - **F.** Install street signage stating, “NO PARKING ON STREETS 48 HOURS AFTER A SNOWFALL EVENT OF 2” OR MORE.”

Condition A. Planner Farrar said that Eagle Ridge Drive was now renamed to Serenity Circle. He said that they had already reoriented building 29, but they objected to eliminating any more units from the project. He said that they felt that the central area that P&Z suggested as an active or passive open space location was better located in Serenity Park in the southwest portion of the project. He reiterated that they had no more obligation to contribute any more open space, but they were willing to do that. Planner Farrar said eliminating those two dwellings after reducing the density from the original 106 units to 85 was pushing the limits of financial viability for the project. When units are removed, particularly from the cul-de-sac, you are taking a double-loaded street (buildings on both sides) to a single-loaded street, adding cost to remaining units in the project. He said that did not make things more affordable. He said they partially agreed with condition A, but there was part they did not agree with.

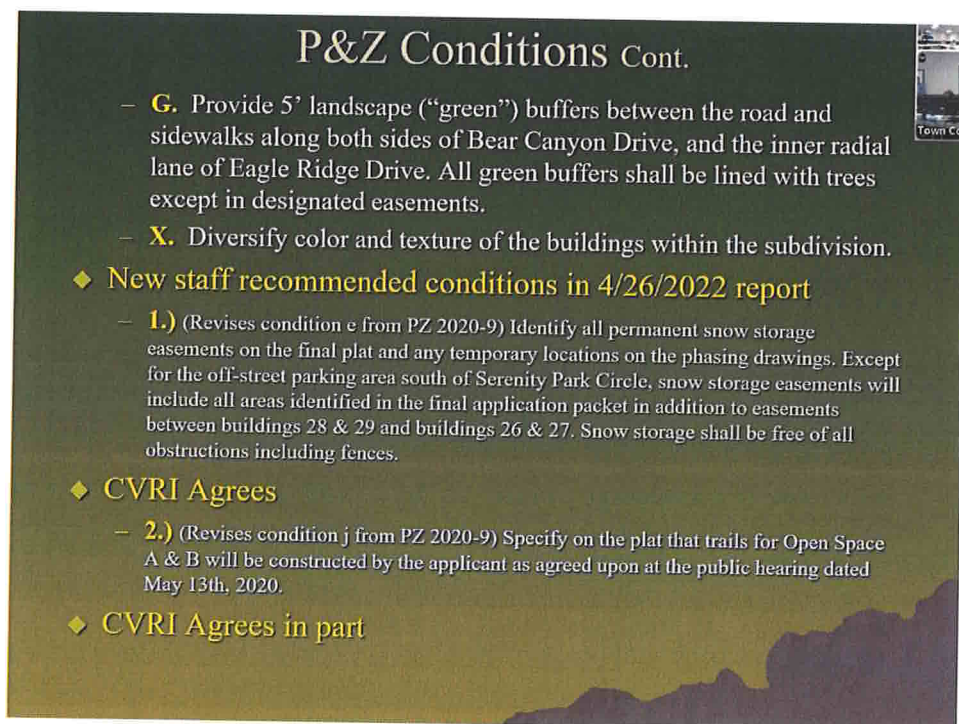
Condition C. Planner Farrar said that he deferred to prior comments in the they believed Serenity Park was a better to do it.

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Planner Farrar said that in the central cul-de-sac there would be private open space. They believed their target audience or buyers will be older folks who are less likely to be less receptive to having a playground or active open space right outside their first-floor bedroom.

Condition D. Planner Farrar said he had shown the illustrations, aerial shots and actual ground views of areas across open space that exist in town that work very well, they were triplexes, not duplexes and they felt that a compatible transition of housing type. Planner Farrar said they were willing to plant one tree per unit, so two trees per duplex. They will be evergreen trees, not deciduous and lose their leaves. He said they will also put in a six-foot opaque fence along the boundary of the project.

Condition F. Planner Farrar said that they appreciated the challenges of snow removal. He said he had been a town manager and knew first-hand about the complaints and about the struggles of the public works departments. However, he said that if the town had an ordinance for the provision for snow removal, he said they will be happy to comply. Otherwise, they felt was a dangerous precedent to have customized snow-plowing in various locations throughout town. He again said that if there was a standard, they will be happy to comply, but they did not believe a customized snow removal provision in the project was a viable solution.



**P&Z Conditions Cont.**

- **G.** 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.
- **X.** Diversify color and texture of the buildings within the subdivision.
- ♦ **New staff recommended conditions in 4/26/2022 report**
  - **1.)** (Revises condition e from PZ 2020-9) Identify all permanent snow storage easements on the final plat and any temporary locations on the phasing drawings. Except for the off-street parking area south of Serenity Park Circle, snow storage easements will include all areas identified in the final application packet in addition to easements between buildings 28 & 29 and buildings 26 & 27. Snow storage shall be free of all obstructions including fences.
- ♦ **CVRI Agrees**
  - **2.)** (Revises condition j from PZ 2020-9) Specify on the plat that trails for Open Space A & B will be constructed by the applicant as agreed upon at the public hearing dated May 13th, 2020.
- ♦ **CVRI Agrees in part**

Condition G. Planner Farrar said that they agreed to have a separate sidewalk on Bear Canyon Drive as a green buffer, but internal to the project, he said the town's ordinance required that the sidewalk be connected to the curb. He said they understood some of the thinking on that, but it was not consistent with the town's own regulations.

Condition X. Planner Farrar said that they were willing to change the color of the units, but texture becomes a problem as it added to the cost of the units. He said they thought the design of the structures, the final design was up to the architectural review committee. He said that if the town council or P&Z add their own version of an architectural and design approval, it could be in conflict with the ultimate decision of the architectural committee. He said they felt it should be left to that committee for those types of decisions. That was how it was in Lakota, and that was how it was in CVR for probably all the other units, although he was not sure.

Planner Farrar said that staff had come up with four additional conditions in their April 26, 2022, report.

Condition 1. Planner Farrar said that they agreed with condition 1 and were willing to comply.

Condition 2. Planner Farrar said that a portion of open space A will be dedicated to the town. He said that they had pushed the trail to the base of the hill below units on S Wildhorse Drive so they could plant trees on the border of the project, so at maturity, they will not interfere with the trail. He further stated that there will be a park dedication that will be paid to the town at the time of building permit, and they felt that the property will be dedicated to the town, and it will be the town's obligation to construct the trail A in that open space.

Regarding open space B, Planner Farrar believed that related to a sidewalk along Castle Valley Boulevard. Presently, there was no sidewalk existing on either side of the project boundary, and he asked where that sidewalk should end heading west. Mr. Aaron Atkinson said he thought it would end at S Wildhorse Drive. Planner Farrar said that was the closest sidewalk and he believed it to be a 5-foot sidewalk, not an 8-foot sidewalk, and it was asphalt. Downhill, heading east from the project there was no sidewalk until you got to the senior housing. He said they would be willing to construct the sidewalk, but it will terminate where there was no sidewalk until there was further development. Planner Farrar said they agreed in part as they will construct the sidewalk in open space B, but the trail in open space A they felt was the obligation of the town.

Condition 3. Planner Farrar said CVR Investors agreed. It made sense.

Condition 4. Planner Farrar said they agreed in part. He said they agreed with the Town Engineer. Regarding the Town Public Works Director letter and comments. He said they agreed with most of those. They did agree with the phase plats and amended final plats being approved by the town attorney before recordation. Planner Farrar said they will come back to the public works letter.

## Closing Comments

- ◆ Filing 11 is consistent with the development pattern in CVR
- ◆ An additional **19.8%** of the site will be dedicated as O/S & Serenity Park (Additional **2.97 AC**)
- ◆ There is both vertical and horizontal separation between units (**10 to 12 feet vertical & 100 to 120 feet horizontal between units**) in Filing 11 & homes to the west
- ◆ One evergreen tree per unit will be planted in the O/S on the west project boundary and an opaque fence will be constructed for additional buffering.
- ◆ The well designed attractive multi-family units add to the diversity of housing and range of pricing in New Castle
- ◆ Filing 11 has been well engineered and meets all requirements of the town
- ◆ Filing 11 will be a positive addition to New Castle

Planner Farrar made the following closing comments:

Filing 11 was consistent with the development patterns in Castle Valley Ranch. That they were providing an additional 19.8% of the site will be dedicated as open space and Serenity Park (an additional 2.97 acres).

There was both vertical and horizontal separation between until (10 to 12 vertical and 100 to 120 feet horizontal) in Filing 11 and the homes on S Wildhorse Drive.

They will plant one evergreen tree per unit in the open space on the west project boundary. (someone interrupted) Planner Farrar said he stood corrected in that they will provide a tree for each unit for the town to plant in the area that will be dedicated to the town. He said that CVR Investors will construct the opaque fence on the west side of the units to provide additional buffering.

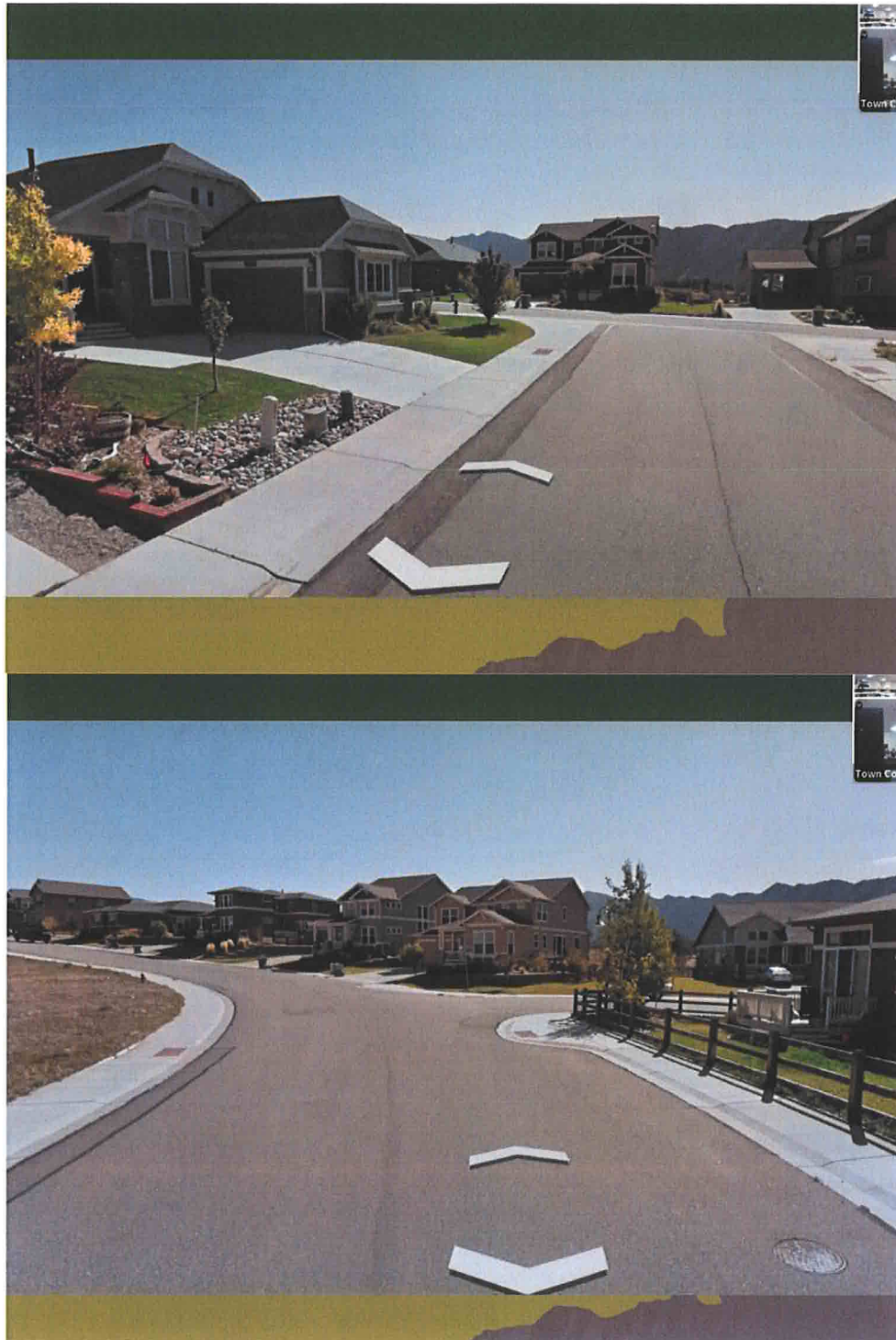
The felt they had a well designed attractive multi-family units that added to the diversity of housing and range of pricing in New Castle.

Filing 11 had been well engineered and met all the requirements of the town. He noted that they were happy to work out any details with the town engineer.

Filing 11 will be a positive addition to the town of New Castle.

Planner Farrar said they will come back to the public works letter.

He thanked the council for their time.



Planner Farrar shared some Google Earth photos of the street view from Kit Carson Peak, looking west towards S Wildhorse Drive and from S Wildhorse looking northeast. He noted that in phased development, what happened was the homes that developed last in undeveloped areas will be homes that block your view. It was the natural sequence of events in a development. The point being that someone was going to look through homes. He said the photos depicted something more obstructive than their project where the S Wildhorse homes will be 10 to 12 feet above the Filing 11 units and there will be opaque fences and heavy landscaping to mitigate the impact.

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March 16, 2022, Letter from Public Works Director John Wenzel:

**From:** John Wenzel

**To:** Paul Smith; jeffs (jeffs@sgm-inc.com)

**Cc:** David H. McConaughy; Haley Carmer (hcarmer@garfieldhecht.com); Dave Reynolds

**Subject:** RE: CVR Filing 11 20220113 FinalPlanResubmittal - Updated

**Date:** Wednesday, March 16, 2022 3:53:32 PM

**Attachments:** image001.png

Hi Paul,

I have had the opportunity to review the "final" application for filling 11 and have the following comments:

Plat Notes: Ownership and maintenance responsibilities for open space tracts D, E, F, & G are not defined. They must be the responsibility of the HOA.

Trail construction in Open Space A is listed as being performed by the Town. It must be performed/constructed by the Developer. 8' wide asphalt trail with 6" of structural base material. Trail construction parallel to Castle Valley Boulevard is list as 5 feet wide. It must be 8 feet wide.

The Cul-de-sac island surface must be 4" concrete. No landscaping or irrigation.

If the HOA is to maintain all of the exterior landscaping, than individual raw water supply services are not necessary.

A potable water service line and curb stop, for a sample station, must be installed. Preferably near Unit 14A. The town will provide and install the station. All we need is the service line and curb stop.

A water main line gate valve at the connection point in Mount Harvard should be installed.

C Ave is shown as asphalt millings . It is asphalt paving south of 171 C Ave. The roadway must be repair with like materials.

Fire Hydrant manufacturer is not listed. Fire Hydrants must be Kennedy K-81.

The storm water utilities seems insufficient. Storm water from Bear Canyon must travel more than 1,200 feet before it is picked up by a drain inlet near Falcon Ridge. This could be a problem in the winter months, especially because this neighborhood is on the shady side of Mount Madras. I think Jeff S. should take a look at the design.

Thank you.

John

Referring the public works letter, Planner Farrar said that regarding ownership and maintenance responsibilities, everything in the project, including Serenity Park, will be the responsibility of the HOA.

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Regarding trail construction in open pace A, Planner Farrar said they felt that was an obligation of the town, and that was the purpose of the park dedication fee. He said those funds will go towards that as spelled out in the second amendment to the annexation agreement.

Regarding Trail construction along Castle Valley Boulevard, Planner Farrar said that they will match the sidewalk that was there because is made no sense to build an 8-foot wide sidewalk that went to an existing 5-foot or 6-foot wide sidewalk. He again said they were willing to match what was out there, and he reminded the council that it will end at their project.

Regarding the cul-de-sac island being 4" of concrete – Planner Farrar agreed they will do that.

Regarding the HOA to maintain all the exterior landscaping. Planner Farrar noted that they will do that on the properties that are within the project.

Regarding the water sampling station, Planner Farrar said they were happy to do that as they understood the value of that.

Regarding the water main line gate valve at Mt. Harvard Planner Farrar said they would do that.

Regarding C Avenue repairs, Planner Farrar agreed they will replace that and put it back the way it was.

Regarding the Kennedy K-81 fire hydrant, Planner Farrar agreed they will comply with that request.

Regarding the comments about storm water utilities being insufficient, Planner Farrar said that they will defer to the Town Engineer's recommendations on storm water management and drainage.

Planner Farrar asked for comments from the team.

Engineer Cokley agreed that they would adhere to Engineer Simonson's comments and address those comments in terms of the constructability and phasing so that it could be included in the subdivision improvements agreement (SIA). Engineer Cokley said that was the main thing, that they would comply with Engineer Simonson's comments and make it a successful project.

Attorney McConaughy said that when Planner Farrar ran through the list of conditions and noted which they could and could not agree with in the staff report, he wanted to make sure they agreed with condition W which was not in green in the staff report.

*Condition W: 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.*

Planner Farrar said he thought they were willing to do that, and he said he also said that they were willing to have discussions about dedication of that area that encompassed

Ganley Hill and Prendergast wherever they had ownership. Hopefully they would be able to move forward on that constructively, and they would be open to discuss dedication of that area to the town as public land. Which again, was way above what they were required to dedicate. He said they would provide an easement in there for a trail.

Mayor A Riddile asked the owner if he had any questions.

Mr. Aaron Atkinson said that he did not because Planner Farrar had done a great job, but that he would be happy to respond to questions.

Attorney David Myler said that he had come into the project late, but that he had been doing (land use) for a very long time. He said that the review the project had undergone, particularly with P&Z was very thorough, very exhaustive and to get to the point where there were just 5 conditions to talk about, that they did not agree on, was pretty remarkable. He felt that everyone involved should applaud themselves for all the hard work that had been done. Attorney Myler said that there were common sense, practical reasons that came into play with the 5 disputed conditions that should be the basis for a resolution so that he and attorney McConaughy did not have to 'arm wrestle' over vested rights issues.

Attorney Myler thanked the council.

Mayor A Riddile said that he would open it up to public comments and he told the audience the rules:

1. State your name and address for the record
2. You will have three minutes to speak. The Clerk will keep time.
3. Please don't be repetitive. If someone complains about density, someone else doesn't need to restate that compliant, simply say 'I agree'.

Bronwyn Rittner, 720 W Main Street. Ms. Rittner said that there were a few things she wanted to point out as a concerned citizen.

There was a letter from Adam Cornely concerning that open space for trail use behind that development. She pointed out that the letter was not included in the presentation packet. Clerk Harrison said that letter was included in the full council packet.

Ms. Rittner said another item that was not mentioned was the police department. She said there was no mention of what stresses this may place on them. She noted that the subdivision would add approximately 170 vehicles to the roadways. It will also add about 230 people to the community, and a national average of 136 more dogs. She said that not only did these things stress our code, and issues for the police to handle, but it also stressed the town's laws. She said she would like to hear from the police chief about how it will affect the department. She said she also knew that it was difficult to find housing for additional officers and she felt that was another consideration for the development.

Mayor A Riddile said for the record there were some citizen letter included in the packet. There was one from Bonnie Daniels, one from a group of citizens in CVR and LCR with approximately 35 signatures on it, and one from Adam Cornely.

Myrna Candreia, 26 Foxwood. Ms. Candreia asked Planner Farrar what he meant that they were excluded from the comprehensive plan. Planner Farrar said that when the (town) was beginning the process of updating the comp plan, they heard from the developers of CVR and LCR and they were asking if the comp plan would change their projects because they were already PUDs, master planned communities. The decision/discussion was that it would not include them. He thought Councilor Leland may remember some of that. Planner Farrar said that most of the time was spent on other parts of the town, and a lot of it was regarding the McInnis property east of town. Ms. Candreia said that regarding condition 4, that he would come back to the letter from the public works director, and she asked if he had done that. Planner Farrar said that was the last letter he had covered. Ms. Candreia asked that the council take their time because this was their legacy. She said they all lived and worked here, and she wanted them to give the application careful thought.

Denise Scheberle, 507 S Wildhorse. Ms. Scheberle said that she was one of those adjacent to the project. She said she had been concerned about the project and she understood there were public values that they wanted to maximize for the town. She thought if the council were not careful, what was unique and special about New Castle will become the same-old nothing special at all. Ms. Scheberle said that she felt the developer had gone some distance in making improvements, but she felt there was more to go. She said that the open space A being talked about was the town's own hill. She said that really there was only a very narrow space that the developer has contributed and the rest of it was the town hill. Ms. Scheberle said that as a learning organization and town, we needed to learn from our mistakes and she a lot of what had transpired over the past few years where people who lived on Redstone and Foxwood and Cathedral Court and Capital Court saying AH! Parking is very challenging and it was very difficult getting in and out of the units. She said that we needed to be careful and don't repeat the mistakes of the past, and that meant that we had to learn from what was not working well in other parts of the town. Ms. Scheberle asked to draw to the council's attention to page 218 where a walkway went up the hill and connected to S Wildhorse. She said that it was a very steep little hill and people her age might find that a little bit challenging. Also, there was rip rap that went up. The main storm drain that fed into the pond behind the houses and the development would run into that. She said it looked like the rip rap would direct water into the town hill and then bypass it down to the walkway Ms. Scheberle said she did not think it was altogether the right thing to do.

Mayor A Riddile told Ms. Scheberle that her time was up.

Sally Linden, 805 Ute Circle. Ms. Linden said that there were two things that had not been detailed. Wildfires, and she understood that people poo-pooed it, but she came from California where her family had lost homes on multiple occasions. She said you cannot predict wildfires, and the winds that we get (here) were unbelievable. She said that the configuration of the project, the fire marshal was concerned about the trucks getting out. No one took into consideration people trying to evacuate. Trucks were coming in and people trying to evacuate out. Ms. Linden said that if we had learned anything at all from the Marshall Fire in Superior, they got out in seconds, but it took then an hour and a half to get out of the project. She said that Castle Valley needed to be widened. The sidewalk

they talked about that the developer wanted to match, she felt should be a lane made in Castle Valley. Ms. Linden said that if there we got into a wildfire, we would be toast. We will not be able to get out of here. She said she had been told that there would be a roundabout put down by City Market in 2025. She felt that if there was a fire this year, we were screwed, and adding that many more people in that project where it winds around and people are trying to get out with two to three-plus cars, we aren't going to make it. Ms. Linden said her other concern was the wildlife corridor. She said that where she lived she had more than 50 elk in her front yard for at least two weeks, and they came up from Castle Valley to C Street. Ms. Linden said the wildlife needed to be taken care of in the wildlife corridor.

Wayne Shelton, 501 S Wildhorse. Mr. Shelton said that he had been there for 13 years. He pointed out that if you Googled snowfall in New Castle it is 46.5 inches per year, not 11 inches. Mr. Shelton said that if you look at the pictures, on the single-family dwellings, there was nowhere to park on the street. If you talk to the people who live on Foxwood, cars park everywhere. He said that parking on Serenity Circle would not work if that was the temporary snow removal place. He asked where the people were going to park when it snowed. People had issue on Foxwood with people blocking driveways. If you have single-family dwellings they have parking for four places. There is only two places for parking in (this) development. He said it would be a mess.

Connie Davis, 818 Ute Circle. Ms. Davis said that when it comes to comprehensive plans, which she always encourages when she speaks in Carbondale or here, we should stick to comprehensive plans. She said she saw them as a guideline and we don't exceed what was in the plans, but as time progressed and small towns grew, you start seeing the reality of comprehensive plans. She said that last week going to Carbondale where she had lived for 35 years, she was aghast as what she saw and was very disappointed. The cars and the three-story building right up on the walking path at the entrance to town. She said everyone knew about the car thing and it wasn't about the density of the project, it was about the density of the town, and she would like to see it slowed down. With the zoning projects going along Castle Valley Boulevard, she assumed there had been impact studies on Castle Valley Boulevard as it addresses not just one project, but all the project there are going forward. The grocery store. Ms. Davis said she did not see why going slow, creating .. she said she liked what the last gentleman said about single family homes. She felt it should be more of a mix like LCR with duplexes, patio homes and very expensive homes, a variety of socio-economic reality of peoples that mix when you have that. Ms. Davis said that was basically her comment but specified to the the variety of architectural design the other project in New Castle whose name she couldn't remember, triplexes, all those nice colors but they were still cookie-cutter. Ms. Davis said she was sick of Colorado looking like cookie-cutter stuff all over the place anywhere in the state you go all in the name of affordable housing and all that, none of which turns out to be very affordable and the rents were outrageous, they have to be. She said she understood the market though. Ms. Davis said that she understood the point of making a duplex look cohesive so that it sort of looked like a single family home. Ms. Davis said she did not understand why there could not be diversity in the architectural materials that are being used. She suggested that because there were three phases, could one sort of flow one way with certain materials and each phase could be different so it looked like three small neighborhoods. No cookie cutters. Ms. Davis thanked the council for what they do.

Mary Gervais, 140 Lakota. Ms. Gervais thanked the council for being public servants and she said that being in a volunteer job was not an easy thing. She said that she basically agreed with everyone, and she thanked people who wrote letters and people who were not in attendance. Ms. Gervais said that participating that made a community, people willing to take time. She said that she was disappointed to see that initially, it appeared that in the conditions that P&Z was asking for, five of them related to open space, paths and recreational opportunities that keep a community healthy, that make a desirable place to live. Initially, she said that all five conditions were rejected by the developer. She said at the end when there was the discussion about connecting Medaris and Prendergast with a trail, then only four of the five were rejected. Ms. Gervais said that she hoped that the town realized that having trails and open space was what made neighborhoods and towns desirable and healthy, and don't allow just the minimum. She asked for New Castle to be better.

Daniel Leifeld, 51 Mt. Yale Court. Mr. Leifeld said he had purchased his home in January 2021, knowing there would be development around it. He said he certainly understood how it worked. He commented that when the rest of the development was built, after these three phases, and he felt there was clearly more development coming, he was not worried about Filing 11 breaking the infrastructure of New Castle, he did not think that was an issue, but he was worried about future development. He said he was worried about being able to get out in a fire. Mr. Leifeld said he lived at 218 Capital Court for five years and if he had a dollar for every time his driveway was blocked, including the night his daughter was born, he would likely be able to upgrade to a little bigger house. He said that parking situation was tough, and if no one believed him it was close to 10 o'clock at night and he invited everyone to drive through Capital Court and see if they could get down the street, turn around and get back. Mr. Leifeld said it was not efficient, did not work and if you've not lived there, you would not understand. He said that the other big difference between the Filing 11 townhomes and the ones referred to in Lakota as being next to single-family homes, he said there was no comparison. The Lakota townhomes were not even close to what was proposed.

Mayor A Riddile asked if anyone in the virtual world if they had a comment. There were none.

Aaron Atkinson, Owner of Filing 11. Mr. Atkinson said that he had been in front of council before, and he thanked them for hearing their application. He said he wanted to address a few things he heard. Regarding wildfire, police department and those types of concerns. He said they had been living it for years and there had been comments at previous hearing from the police department and addressing wildlife and things like that. He said those things had been considered and addressed in previous hearings. Mr. Atkinson appreciated everyone for attending and expressing their concerns for the community because they were concerned with it as well. Mr. Atkinson wanted to reiterate a concern that someone had voiced about not just meeting the minimum requirements, and he said they absolutely agreed with that. As a result they had exceeded the parking allotment by a substantial amount; they had demonstrated their willingness to work with the town by reducing the number of units they wanted to bring online substantially from 106 to 85; they were still allocating and designating open space because even though that allocation in the second amended annexation agreement at 10% was already done, they wanted to continue to do that. Mr. Atkinson said that not meeting the minimum standards was something they agreed with. Regarding concerns about texture and color and mixture of

products: one of the things that was driving them was the homeowners association design review guidelines that CVR had, and they did not want to get into a granular discussion about what each building would look like in terms of texture and siding, those had to be in conformance with the design review guidelines, they had to be approved by the design review committee of CVR, by people who were dedicating their time and wanted to offer their insight. Mr. Atkinson said that not meeting the minimum standards was very important to Filing 11. He thanked the council again for hearing what he had to say.

Mayor A Riddile said that regarding the time and the fact that there was other important business that needed to be taken care of, he said he wanted to continue the meeting. He asked if that would be okay with the Filing 11 team. Planner Farrar said that they would love to get it done but he said they recognized the late hour and said they did not want to pressure the council into making a decision.

Mr. Atkinson said it had been a very long time coming and they were anxious to get it done, but he said he did not want to pressure them either.

Mayor A Riddile asked Attorney McConaughy if it was okay to continue.

Attorney McConaughy said that the town code said they had sixty days after a decision by P&Z, but that step had been skipped by agreement, so it was difficult to calculate that. It said sixty days or as otherwise agreed, and everyone agreed to the meeting tonight, so he did not know where to begin counting.

Mayor A Riddile said he didn't want to go sixty days, and he asked if all the council members would be in attendance in two weeks or four weeks, because he wanted to see a full council. Clerk Harrison said those meeting would be either May 17 or June 7.

Mayor A Riddile asked how long it would take Clerk Harrison to get tonight's minutes complete. She said she would complete them immediately.

Mayor A Riddile said they could then continue to May 17. Attorney McConaughy said he would be in Delta on May 17, but Assistant Town Attorney Haley Carmer could attend May 17.

**MOTION: Mayor A Riddile made a motion to continue the Filing 11 meeting on May 17, 2022. Councilor Mariscal seconded the motion and it passed unanimously.**

### **Consider Approval of a Trail License Agreement with Garfield RE-2 School District**

Attorney McConaughy told the council that at the last council meeting the agreement had been approved, and then it went to the school board. He said that the town had proposed a license agreement for the parking, and a permanent easement for the trail, and the school district would like a license for both. He said that the difference was that it could, theoretically, be revoked, but all the other terms and conditions remained the same. Administrator Reynolds said that the initial term of the agreement was 5 years. Attorney McConaughy said the agreement will automatically renew for additional five-year terms.

**MOTION: Mayor A Riddile made a motion to approve the Trail License Agreement with Garfield RE-2 School District. Councilor Mariscal seconded the motion and it passed unanimously.**

### **Consent Agenda**

April Bills of \$490,571.15

**MOTION: Councilor Hazelton made a motion to approve the consent agenda. Mayor A Riddile seconded the motion and it passed unanimously.**

### **Staff Reports**

Town Administrator – Administrator Reynolds said that the department heads will interview a potential candidate for the treasurer position. He said that if that worked out, there will be a council interview at next council meeting. Administrator Reynolds said that Treasurer Burk and he were looking at a new budgeting tool called Clear Gov. He said that he had mentioned it in his managers report the previous week. He said the program would help with the budget process and make it easier for everyone. He also felt that the timing was great for a new treasurer coming in. Administrator Reynolds said that Councilor Hazelton had asked about the text program that the Town of Silt was using. He said they had looked into it, and the program was called Text My Gov. It was an annual subscription that would cost \$6k per year. He said they had found out Silt was paying only \$2k per year. He said that Administrative Assistant Rochelle Firth was heading up that project. Administrator Reynolds said that New Castle Gardens had a program where they had door hangers that were "What to do if you see a bear". He said there was a community member that wanted to distribute them to residents. In addition, the Roaring Fork Valley Bear Coalition was offering free straps that go on people's garbage can. He said in a conversation with Mountain Waste, they were not thrilled about straps. He thought the door hangers sounded okay, and it was a resident wanting to distribute the door hangers. Administrator Reynolds said that the project underway on CR 335, the Dow Rippy project. he said that staff had been in contact with Garfield County regarding that project and some stop work orders had been issued, and the county was trying to work them through the process of coming into compliance with the code. Administrator Reynolds said that there was a new program in Colorado called FAMLI, the Family Medical Leave Insurance Program that had been approved by the voters a few years ago. Essentially it was an insurance program that provided up to 12 weeks of paid time off for family medical. He said that the town had until December to opt out of the program, otherwise it would be a substantial cost to the town at approximately 1% of payroll. He said there will be more on that very soon. Administrator Reynolds said that Debbie Wilde with the Detox Center will be coming to council on May 17 to ask for funding. Councilor Carey said that she thought the door hangers would be most effective along Buckthorn Road, because there were a lot of bears there last year. She also thought that homes that abutted open space. Administrator Reynolds said they would look into that.

Town Clerk – Clerk Harrison told the council that she thought all the invoices had come in for the election, and the total was just under the budgeted amount of \$10k, so there were a few dollars left in that account. Clerk Harrison said she had met with Drifters Coffee Shop, and they had completed their liquor license application. She said that she would be meeting with the new owner and representatives of the Black Bear Bar & Grill regarding a liquor license transfer. Clerk Harrison said that Administrative Assistant Remi Bordelon will be attending her second year of Clerk's Institute in the summer.

Town Council Meeting  
Tuesday, May 3, 2022

Mayor A Riddile thanked Deputy Town Clerk Mindy Andis and Administrative Assistant Remi Bordelon for attending the council meeting and providing the extra help.  
Town Treasurer – Treasurer Burk said that the pay increases for council members who were recently elected will be reflected in the next pay checks. Treasurer Burk said that the audit was going very well, and it should wrap up by the end of the week.  
Town Planner – not present.  
Public Works Director – not present.

### **Commission Reports**

Planning & Zoning Commission – nothing to report.  
Historic Preservation Commission – nothing to report.  
Climate and Environment Commission – Councilor Leland said that Earth Day was great.  
Senior Program – Clerk Harrison said that they went over March statistics for meals, classes and the traveler. She said they also received an executed copy of the Senior Programs MOU.  
RFTA – nothing to report.  
AGNC – nothing to report.  
GCE – nothing to report.  
EAB – nothing to report.

### **Council Comments**

There were no council comments.

**MOTION: Mayor A Riddile made a motion to adjourn. Councilor Mariscal seconded the motion and it passed unanimously.**

The meeting adjourned at 9:56 p.m.

Respectfully submitted,

  
Mayor Art Riddile

  
Town Clerk Melody Harrison, CMC

