

**New Castle Town Council Regular Meeting
Tuesday, May 17, 2022, 7:00 PM**

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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 Councilor G Riddile
Absent	None

Also present at the meeting were Town Administrator Dave Reynolds, Town Clerk Melody Harrison, Town Planner Paul Smith, Town Treasurer Loni Burk, Public Works Director John Wenzel, Town Engineer Jeff Simonson and members of the public.

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.

Town Council Meeting
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Consultant Reports

Consultant Attorney – arrived at 7:30 p.m.

Consultant Engineer – not present.

Mayor A Riddle asked everyone to stand for a moment of silence for former Council Member Mary Metzger who had passed away.

Items for Consideration

Mayor A Riddle told the guests that the council would go into executive session, but instead of asking everyone to leave, the council will adjourn to the conference room to conduct the executive session.

MOTION: Councilor Leland made a motion at 7:03 p.m. to go into Executive Session for discussion of a personnel matter under C.R.S. Section 24-6-402 (f)(I) regarding an interview of Karen Frye for the Town Treasurer position and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees. Councilor Carey seconded the motion and it passed unanimously.

The council then adjourned to the conference room to conduct the executive session.

The council returned to the meeting room at 7:31 p.m. Mayor A Riddle thanked the guests for their patience and noted that the council had one housekeeping item to complete before moving on with the agenda, and that was to schedule a special meeting.

After a brief discussion the council agreed to schedule a special meeting the following evening.

MOTION: Councilor Leland made a motion to hold a special meeting on Wednesday, May 18, 2022 at 8:00 p.m. Councilor Mariscal seconded the motion and it passed unanimously.

Update and Funding Request: Mind Springs Health Regional Detox Center

Administrator Reynolds told the council that present was Debbie Wilde who was representing a project that council had heard about previously, the Regional Detox Center. He also introduced Roger Sheffield.

Ms. Wilde greeted the council and said that they had come to council several times before there had been a COVID pause that had delayed the project. She said that she felt the project was one for the community of Garfield County, and now, rather than calling it detox, they were calling it Social Setting Withdrawal Management. Ms. Wilde said that the project was not a Mind Springs project; Mind Springs had been chosen as the operators for the project, so they were doing the operations piece. Ms. Wilde said that it was community stakeholders coming together and determining the services they wanted and who would operate it for them. She said that the other thing that Mind Springs brought to the table was a location, which had been an issue for many years and had held the project

up. Mind Springs had a new building in Glenwood Springs, and the stakeholders decided that was a good location.

Ms. Wilde provided a power point presentation that included data from hospital emergency rooms that indicated how they were being used as detox centers. It showed a six-month period from Valley View Hospital and Grand River Hospital information that indicated they were equally used for detox. Ms. Wilde said that the information included where the patients were from, and the stats included people from the unincorporated county, so inside New Castle and the surrounding county as well. She said that New Castle accounted for approximately 9% of the folks needing assistance.

Ms. Wilde said that the rest of the information in the presentation was data that was necessary to build the program, such as how many beds were needed for male and female, what were their ages, etcetera. She said that another interesting item was that approximately 41% of referrals were from self and friends and family. The referrals from police were a small number, and she said she knew this was something the chief had spoken about. She said that most referrals were from emergency medical services and self. Ms. Wilde said that the other thing they looked at was the homeless population, but that turned out to be a small amount as well, at 8%.

Councilor Copeland asked for an explanation about detoxing: whether someone was there for a few days or a month. Ms. Wilde said that typically people were in for 72 hours which was the time it took for them to be safely sober. What was different about the detox program was that once a person was safe and sober, then they talked about what was going on, what services could be put together for them and how they got there.

Mr. Sheffield said that a therapist, a case manager, and a peer would all be working with the people as they come out and work towards sobriety. He said that day one was just detoxing, Day two was when the three people came in and they began discussions about what services the patient needed to remain sober, what was happening in the family. He said that a peer was someone with limited experience, so it was similar to an AA sponsor, talking about those specific issues. He said another concern was whether there were mental health or trauma issues involved, so they would be connected with a mental health counselor while there in still in detox, so when they leave, there will be a plan of action for them that includes scheduled therapy sessions and group sessions to help them continue to be sober.

Ms. Wilde said that very importantly in the continuum of care, when the patient leaves, they are not on their own trying to figure out how to get to the therapist because that was where things broke down again. She said that someone would be there checking on them. Also, on the front-end, encouraging people who may need help to go to the detox center.

She said they knew there were people in AA meetings walking people to the emergency rooms, so peers were already an important part. Ms. Wilde said they saw this as a much larger thing than just getting sober. She also said that it would not be a 30-day stay, it would be less than that, and based on the data they felt that ten beds would be sufficient.

Mr. Sheffield said that if it was needed, Mind Springs operated a men's, up to 90-day facility and a women's, up to 90-day facility, both in Clifton, Colorado. He said that if longer stays were needed, those services were available.

Councilor Carey said that in the information provided there were minors, and she asked if they were separated from the adults. Ms. Wilde said the detox center will not be a facility for minors, and that there were very few included in the data, just two. Councilor Carey asked how minors were handled. Ms. Wilde said that she had worked for Youth Zone for many years, so she paid particular attention to that. She said that if a minor got drunk and ended up in the emergency room, they would be released to their parents or guardian

rather than into a program, so the data was not great on that piece although certainly there were minors who had issues. She said that it was another level of the recovery continuum they were working on. She said that if that number for minors had shown up very high it would have been a cause for concern, but it had not.

Councilor Mariscal said that the data was from 2020 and she asked if there had been any changes in the data since the pandemic was essentially over, because it could be that it was worse in 2020 as compared to current day. Ms. Wilde said they were talking with hospitals recently, and they felt the timing had been great for the data collection because it had been done right before the pandemic and things began to be crazy in the emergency rooms. She said that they did not know if things had gotten worse after the pandemic.

Mr. Sheffield said that Mind Springs has seen an increase because of COVID but that was somewhat leveling off, and they were thinking that it may go back down to what it was pre-pandemic.

Ms. Wilde said that the buildout of the facility and start of operations would be funded by an Office of Behavioral Health grant. She said that their pro-forma was based on a 50% occupancy so that it was a worst-case scenario. She said that New Castle at 9% of emergency room visits, at the beginning of 2023, their ask from the town was \$10k. She said that the total cost of operations for the project was one billion, two hundred thousand dollars (\$1,000,200,000.00). New Castle's contribution was one percent of that. She said that the local stakeholder gap was three percent or \$376,000.00. She said that some organizations had committed to providing additional funds once the project was in operation; the County understood that a lot of the numbers were unincorporated Garfield County; Glenwood Springs was willing to help, and the Rifle council had approved their \$40k. Ms. Wilde said that the last page of her presentation spoke about the governments and that there would be an intergovernmental agreement (IGA), which was being written. Mayor A Riddle asked when the IGA would be available. Ms. Wilde said when the attorney's finish with it, and she thought it would be available in a few weeks.

Administrator Reynolds said that all the county managers had seen a draft of the IGA and had commented on it, but he said he had not seen a corrected draft yet. He said that it will go to the town legal staff before it came to the council again, but basically the IAG was needed as a stipulation for the grant from the state. He said that the grant provided \$700k for the buildout of the facility and to get that grant, they needed backing on the funding for a period of five years. The IGA supported the grant so that the grantor was happy, and funding was secured, and it will create a governance body so that each government body that signed the IGA will have a seat on the governance board.

Administrator Reynolds said they were determining what that governance board's role will be, what they would review and not review and what oversight they will have over operations and budget.

Administrator Reynolds said that what Ms. Wilde was asking for was funding of \$10k for 2023, and beyond that it would be up to the towns what they want to contribute for the remainder of the five-year commitment period.

Ms. Wilde said they understood that municipalities could not commit funds except a year at a time, but they could commit to the program piece of the project. She said it also depended on their billing and it could be that in 2023 they were more graphed financially and hopefully they would need less from the stakeholders. She said they had built their proforma to be as sensible and as easy as possible for all the participants.

Mr. Sheffield added that Mind Springs Health will be looking for other alternative funding sources for the project during the five-years as well. It would not be completely on the cities.

Councilor G Riddile said he thought it was an appropriate project.

Councilor Copeland asked if the financials were intermingled with the Mind Springs corporation and if the town will be able to review financials quarterly.

Ms. Wilde agreed and said programming as well. She further stated that if the council had read the background information she had provided it explained the network, and this was only one piece of it. She said that reviewing things quarterly could be changed if it didn't work.

Mayor A Riddile said that he would be more comfortable reviewing the IGA before the council decided, and if that was in a few weeks, he was okay with it coming back to council. He asked the council how they felt.

Councilor Leland asked that if what they had been reading about Mind Springs recently led to the worst-case scenario, and they were in serious trouble, what would happen to the program.

Ms. Wilde said they would look at that. She said they were not concerned about it or they would not have gotten this far, but if it were the case it is possible they would have to find another operator. She reiterated that the program was not a Mind Springs program, it was a Garfield County program.

Councilor Mariscal said that Silt also had 9%, and their contribution was \$2,000.00 compared to New Castle's \$10,000.00. She said that Parachute was 155 and their contribution was \$2,000.00. Ms. Wilde said that a lot of the people are in an unincorporated part of the county, especially in Parachute. She said that it was not necessarily a fair division of things, but what they looked at was the communities who expressed a need for the project and who have some resources and they tried to balance it out. She said that once they had actual numbers and kept the ongoing data, they could come back to organizations and make that case.

Councilor G Riddile pointed out that Silt, Rifle and Parachute were tax-paying entities into the Grand River Hospital District, and Grand River Hospital will pay a sizeable amount into the program. New Castle did not pay taxes to Grand River Hospital District, so he thought it may be a way to see the equity in the contribution amounts.

Administrator Reynolds said that part of the job of the governance committee was to look at the data and determine how to split the costs best evenly among the towns going forward after 2023.

The council agreed they wanted to see the IGA.

Ms. Wilde said that she sensed that the council supportive of the project and its intent; that the money portion seemed okay, and that the council wanted to see the IGA.

Mayor A Riddile said he wanted to think about it.

Councilor Hazelton said that he felt rushed, and he did not want to feel rushed about anything, but it was a better presentation than the previous one by which he was not impressed. He said that he appreciated the program, but still wanted to think about.

Ms. Wilde apologized that she had a medical procedure and had been unable to attend the previous presentation.

The council thanked Ms. Wilde and Mr. Sheffield.

Consider a Motion to Approve Grants to Outside Agencies

Administrator Reynolds said that Administrative Assistant Rochelle Firth was in attendance. He said she was the person who worked on the grants to outside agencies. He said that she had reached out to various organizations that had applied for the town's grant program previously. He said she had also reached out to new organizations. He invited Admin. Asst. Firth to review the staff recommendations for the council.

Admin. Asst Firth greeted the council. She said that each year the town distributed \$20k to organizations that support the residents of New Castle. The grants were done in two rounds, one in late spring, and one in late fall.

Admin. Asst Firth said there were nine non-profits that requested funding, and there were no new applicants, and that all of them received funding from other entities, other than the town.

Admin. Asst. Firth described each non-profit, what services they provided and how much they had requested, as well as the staff suggestions for awards.

Regarding the Ambleside School request, Mayor A Riddile said that he was glad that the town was not giving the full amount requested because there had been a lot of in-kind work done for the school as well as the town paying for the new front doors of the school.

MOTION: Councilor Leland made a motion to approve grants to outside agencies with staff recommendations. Councilor G Riddile seconded the motion and it passed unanimously.

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)

Administrator Reynolds reminded the council that two weeks earlier they had heard and discussed the Filing 11 application. He said that council had heard from staff: himself, Town Planner Paul Smith, Town Engineer Jeff Simonson, and Town Attorney David McConaughy. In addition, he said they heard from the applicant: Planner Davis Farrar, Attorney David Myler and Applicant Aaron Atkinson. Last, Administrator Reynolds said that the council had heard from residents of the town who had concerns.

Administrator Reynolds said by that time, they had run out of time, and the council continued the Ordinance to this evening. He said that it was up to the council if they wanted to hear from more residents. He said that the applicant was in attendance as well as staff.

Administrator Reynolds said that in the prior two weeks staff had met with the applicant and attorneys to try to walk through some of the outstanding issues. He said that in front of the council was a redlined edited document that the applicant wanted to review with the council. He said that staff could comment if the council wished, and that Planner Smith had the redline and could review it for the council. They could hear from residents or not, and once the discussions were closed, the council could deliberate. During deliberations, the council was free to ask questions of the applicant or staff or attorney. Mayor A Riddile said that at the previous meeting, he said that they would probably not take any more public comment, and he said he wanted to stay with that decision if the council agreed.

Councilor Hazelton said that would be fine.

Mayor A Riddile asked if the Filing 11 team had any comments.

For clarification Planner Smith noted the documents in front of the council which included:

1. the Ordinance that Attorney Carmer wrote. 2. A second version of that ordinance that had redlines done by the applicant.

Planner Smith said the second version was the one they would focus on because it included suggestions from the applicant to better conform with what the Planning & Zoning Commission's conditions were in the original ordinance.

Councilor Hazelton asked when the edited documents were received.

Administrator Reynolds said it had been received earlier in the day, and was based on a meeting that staff had with the applicant the day before. He said that himself, Planner Smith, Attorneys McConaughy and Carmer met with Planner Farrar, Attorney Myler, Aaron Atkinson, Ron Atkinson and John Elmore at their request. The purpose was to see if any headway could be made, and the idea was to walk through the conditions in the ordinance and the applicant wanted to know where, if anywhere, the conditions could be adjusted. During that meeting, the applicant's team adjourned to another office, and when they returned the applicants made the proposals. Administrator Reynolds said that staff had reviewed the proposals but were not offering any endorsements. He said that they could discuss the proposals one at a time, and the applicant can certainly share their thinking. Administrator Reynolds reiterated that staff was not necessarily in agreement with all the proposals. There were some that staff agreed with, some that staff needed more clarity on, and there were some that staff's recommendation was to stand by the original condition.

Administrator Reynolds said they will review all those and the applicant will have the opportunity to speak to them as well. Administrator Reynolds said that the document was simply to address the conditions that were in front of council. It was not meant to be an approval or non-approval, there were certainly things in the application that were outside the conditions that could be considered by council. He said that the council was welcome to discuss anything that needed to be discussed.

Mayor A Riddile said that he was miffed about receiving a submittal just a few minutes before the council will be discussing it because he had not had a chance to read it previous to the meeting. He said he was almost inclined to continue the meeting so they could study the documents. He said that he was disappointed.

Councilor Leland said that if Mayor A Riddile had not said that he would have done so. Mayor A Riddile invited Planner Smith to review the edited ordinance.

Planner Smith said that the P&Z was charged with reviewing the application originally to see if it was in conformance with the municipal code, the PUD and the comprehensive plan. He said that they had the good fortune in that they had a comparable development at Redstone and Foxwood. He said that when they originally were looking at the filing 11 application, they did a comparison between the filing 11 proposal and (Foxwood) and what P&Z determined was that list of conditions to help optimize what they saw that was good in the Redstone/Foxwood area, but to make improvements on it. Planner Smith said that was the original conditions list that was in Ordinance 2020-9, and those were the ones that they came up with at the time, several years ago.

Planner Smith said now they had the updates they just received, and he said that they will go through the ones that were contested at the last meeting.

Turning to page four of the applicant's edits, Planner Smith said that P&Z had asked for the middle units be removed for more useable open space. The applicants proposed to maintain those 85 residential units, which was condition B.

Planner Smith referred to the next page, conditions, section 7. The first condition A from P&Z was to eliminate, reorient or reduce the following buildings that adversely affected natural character of the property and building community. Those buildings were 13 A and B and 13 C and D. Where there was strikethrough, that meant the applicant did not want to

comply with that condition. He said the applicant wanted to keep those four units within the open space is what the strikethrough meant, and it was non-negotiable.

Planner Smith said that the sequence shifted, but what was letter P is fine.

What was letter B: Upgrade the open space area off of Falcon Ridge Court as central green space with functional active or passive space. Again, it was really to have useable open space that was centrally located for residents. He said that it was premised off of what the P&Z read through the comprehensive plan. He said they were hoping to have trails that led into the area for a community amenity or community gathering place. He said it was struck through because they did not want to remove any more buildings, so they did not want to increase that open space or make it more useable.

Planner Smith said that letter C was added: *Include additional open space shown on drawings identified as "Serenity Park" to function as a park area with a connection to C Avenue and a trail connection to the parking area shown along southerly portion of Serenity Park Circle as shown on the preliminary plan.* He said that the idea was basically to move the open space D over to Serenity Park, and there will be a walk path to C Avenue and to a parking area. Planner Smith clarified that this was not a condition of P&Z. It is something added by the applicants.

Councilor G Riddile asked if there had been any details added as to what Serenity Park was. Administrator Reynolds said no, with the exception of what was on a grading plan and landscape plan which provided the greatest detail as to what that park would be. Councilor G Riddile asked if there would be grass, a playground. Administrator Reynolds said they could ask the applicant.

Councilor Mariscal said that at one point there was a gazebo drawn in the plans in that area, and she asked if it was gone. Planner Smith said again that the applicant could answer that.

Planner Smith said that the applicant was retaining the units in the center and providing the Serenity Park open space, and he said that the current topography was tough to have a soccer game, so if that is what was being asked, he suggested that council ask for that to be upgraded. Planner Smith clarified again that the P&Z had not requested the condition.

Letter D: Applicant shall adequately screen the western portion of filing 11 from adjacent homes along South Wild Horse Drive and Mt. Harvard Court.

Planner Smith said that the P&Z was trying to figure out a way to smooth out transitions between single family homes and higher density multi-family homes. He said P&Z had provided some options: 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 sight: Installing at least three trees near the rear lot line of each lot along the west side of Filing 11 and including a provision in covenants for Filing 11 regarding ongoing HOA maintenance and replacement of the same. Planner Smith said those were struck through by the applicant and they added:

Purchasing and planting one (1) tree per duplex unit (two (2) trees per duplex building) outside of the westerly residential lot line and adjacent to the property line in Open Space A of the duplex buildings.

Councilor Copeland asked if the applicant was now willing to plant the trees. Planner Smith said yes, but there was the last sentence: *Irrigation, replacement (beyond warranty.) and maintenance of the subject trees shall be the responsibility of the Town of New Castle.*

Planner Smith said he was unsure if that last part was ideal having the town install the irrigation, but he will let Public Works Director John Wenzel speak to that.

Director Wenzel said yes, he could, but he was seeing it for the first time and that made it difficult to intelligently comment on it. He recapped what he understood: that the applicant would purchase the trees, plant the trees but not provide the irrigation. Administrator Reynolds that was the applicant's proposal.

Director Wenzel said that was unequal, like a car with three wheels. He said he did not know why the town would complete something so elementary as watering the trees that the applicant had planted.

Councilor Leland clarified that the town wouldn't run an irrigation line along the path, next to their irrigation line. Director Wenzel said that in his experience in the past, that was a service the developer provided. They provide trees, they plant trees, and they irrigate trees and when the warranty period expired, the town took over maintenance of the trees and irrigation system.

Planner Smith said that there was another conversation that took place that was not in the edited ordinance regarding an opaque fence. He said his understanding was that was a six-foot privacy fence that will assist in the screening strategy for privacy of the new residents in the duplexes. Planner Smith said that it was not something the P&Z would prefer. He felt they would prefer a split-rail design as seen in South Wild Horse area and also in the Redstone area. He said it was not a condition, but it was brought up at the last meeting.

Letter E: Planner Smith said this was just an edit to clarify that there was snow storage editing done at the last meeting so that the building numbering needed to be corrected, and there was additional snow storage added on the south end of the development along Serenity Park Circle between buildings 29 and 30, 27 and 28.

Letter F: Planner Smith said letter F addressed snow storage. He said that P&Z looked at it long and hard in that it was going to cause the same issues as those on Redstone. He said it was not an optimal alternative for the community. Planner Smith said a lot of alternatives had been discussed, but he would clarify what the council saw on the site plan. Planner Smith said that beginning with Bear Canyon Drive, the applicant had agreed to do separated sidewalks on the east, so snow storage will be in that buffer zone. He said that was ideal. Planner Smith said that P&Z had also asked for separated sidewalks along the outer radial, Serenity Park Circle. The applicant did not want to do that because it would shorten the driveways, so it is shown with attached sidewalks, and no buffer zone from the street. The applicant has shown areas beyond the sidewalk where the town could store snow. On the map, those areas were in yellow.

Councilor Hazelton clarified that the snow storage would be on the other side of the sidewalk from the road. Planner Smith confirmed that.

Planner Smith said that additional parking had been added on Serenity Park Circle that helped with the parking density issues, but that it had also been designated as snow storage space which was counter-productive. He invited Director Wenzel to comment.

Director Wenzel said that it was obvious that snow storage could not be in parking spaces, particularly if parking will be restricted during a snow storm. People will need somewhere to park. He said he was unsure why that area was highlighted as snow storage, perhaps a miscommunication between himself and the applicant, nonetheless, it could not be snow storage. Director Wenzel said he had identified several alternative sites for snow storage that will make it much easier for the town to manage snow.

Director Wenzel further commented that this was a concession to the greenbelts that the town would prefer to see. He said that at the last meeting he commented that the snow removal efforts were magnified by 300%, that was not an estimate. He said it was what they were dealing with in the real world of residential areas where there was high-density

and close proximity of driveways. He offered to provide details if the council wished. Administrator Reynolds asked him to give those details so everyone understood.

Director Wenzel said that in a typical residential area, it was very efficient to push snow from the center of the road to the side of the road. That is what snowplows do, and it might take a single snowplow operator to clear a typical residential neighborhood where there is adequate snow storage. In the proposed scenario there were many remote snow storage areas where snow could not be pushed, it must be carried. Director Wenzel said that snowplows were not designed to carry snow, so they had to go into those areas with two plow truck operators to plow the snow into piles, and then they had to have a third operator and heavy equipment to stockpile the snow out of the right-of-way and into the remote storage areas. Director Wenzel said that his 300% was not an exaggeration because they had to have three people and three pieces of equipment to clear snow from these types of neighborhoods as compared to a typical residential neighborhood.

Councilor Leland said that the snow storage was now east of Bear Canyon Drive, in what was now open space that was not platted yet. Director Wenzel said that what staff would prefer was that the snow storage areas be removed from the parking and pushed north to the other side of the street between buildings 29A, 28C, 27A and 26C. Councilor Leland said that since the building had been renumbered, he was not certain the area referred to. Director Wenzel said that the snow storage should be removed from the parking areas and pushed north between the buildings. He said it was not a lot of space, but it was preferable to monopolizing parking spaces for snow storage. Councilor Leland said that it seemed to him that it was inadequate snow storage. Director Wenzel agreed but said it was the compromise.

Councilor Leland said it compromised the public works crew, and New Castle does get snow storms several times per year and in the downtown where there is plenty of room, the snow sits in the middle of the road for a long time before it melts. Dumping snow in small areas adjoining townhouses was not desirable.

Councilor Carey asked about logistics and said that if three staff members were needed to clear the neighborhood, would they have to get into for at 3 or 4 a.m. to get it done before the morning rush hour. Director Wenzel said no, it was opposite in that the neighborhood that required special attention they did what they called 'one-in, one-out' where they simply clear the road enough so people can get out of their driveways and get onto the main roads. He said once they were done with all their snow removal responsibilities, they went back to those neighborhoods later in the afternoon with the necessary resources.

Planner Smith asked Director Wenzel about the island in the cul-de-sac. Director Wenzel said that was another detail that was new to him that he had not had a chance necessarily comment on. He said that the parking was great, more would be better, but he requested that the island be concrete and not turf so that it did not require maintenance.

Letter F: Planner Smith said that P&Z talked about installing street signs and had suggested language of "NO PARKING ON STREETS 48 HOURS AFTER A SNOWFALL EVENT OF 2" OR MORE". The applicant has struck through that and offered the following language: "*ALTERNATE SIDE PARKING IS IN EFFECT FROM DECEMBER 15 - MARCH 15, SEVEN DAYS A WEEK". On-street parking shall only be permitted on the EVEN house numbered side of the street on even numbered days from 1:00 am – 7:00 am and on-street parking shall only be permitted on the ODD house numbered side of the street on odd numbered days from 1:00 am – 7:00 am.*"

Councilor Leland said that the parking regulation would only be in effect overnight, and the point of the alternate side of the street parking was to allow the snowplows room to

get through. He asked for clarification of his understanding that basically, this regulation told the snowplowers that they only had between 1 and 7 a.m. to plow.

Administrator Reynolds confirmed that was what it said.

Letter G: Provide 5' landscape ("green") buffers between the road and sidewalks along the outer radial lane of Serenity Park Circle for snow storage. Planner Smith said that the applicant had struck through the condition and not agreed to by the applicant.

Administrator Reynolds clarified the item and said that the primary purpose of the condition was to provide snow storage, but also to provide walkability for the community. He said that the municipal code did call for attached sidewalks, but the comprehensive plan looked at it more deeply and called for detached sidewalks. He felt that item G fell back to trying to figure out a way to have snow storage work properly. One of the things that P&Z said was that they wanted to use a model that was used successfully in Castle Ridge, and if they were not going to get separated sidewalks a different model in asking for vehicles be removed from the streets on snow days so they could be plowed. He said the two went hand in hand, but in all fairness, the municipal code and comprehensive plans were admittedly on conflict regarding sidewalks.

Letter K: Planner Smith said that this was regarding Open Space A, otherwise known as the C Avenue connector that goes from Main Street/US Highway 6 up to a private property use path to Castle Valley Boulevard. What was letter K: Specify on the plat that Open Space A shall be owned and maintained by the Town, all other open space areas within the development shall be owned and maintained by the HOA. The struck through part was: and trails within Open Spaces A & B will be constructed by the Applicant as agreed upon at the public hearing dated May 13th, 2020. He said the applicant had originally agreed to with the P&Z. he said what the applicant wanted to change it to was: *"the developer shall pay the town \$50,000 as the sole contribution toward construction of a C-Avenue secondary emergency access roadway or construction of a pedestrian trail in the C-Avenue open space."* Planner Smith said that there was an idea brought back that was thought of early on at P&Z about the possibility of an emergency egress from Castle Valley Boulevard down to Main Street. It would potentially allow the upgrade of that path to a surface that vehicles could drive on.

Councilor Hazelton said, "For fifty-thousand dollars?"

Planner Smith agreed, that was the offer. He said that the preference with P&Z and staff was that the original commitment be upheld, and the developer build the path.

Administrator Reynolds said that one complication is that staff was unsure where \$50k would land, but the developer will be the ones out there with heavy equipment moving earth, the town would not be. He said that if the town accepted this, that the applicant would have to assure that all the earth was moved, cut and filled, everything was landscaped out so that the town was not in a position of doing that. He said that the proposal for the town to take over a portion of that was highly unusual, and he was not certain how that would work out. Administrator Reynolds said the town appreciated the offer, but in speaking to public works, it was difficult to understand what amount that would be without the details. Administrator Reynolds said that the commitment all along was that the developer would pay for that trail. Staff's recommendation was to leave the condition as stated.

Letter V: 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 Smith indicated on a map the location of the trail. He said that the complicated part is where the trail will potentially come down a steep grade and then encounter a fill

section. He said it seemed possible that the trail could go across the area where the terrain benched, although it was just speculation at this point.

Councilor G Riddile said that it seemed a bit different than what he was accustomed to in that when a PUD has land that was unbuildable because it was too steep, that has been incorporated into the open space although it doesn't meet the open space dedication definition. He said that the reason he brought it up was because the condition states an easement, so that assumed the applicant would retain the property south of lands that they could plat and sell, in perpetuity.

Attorney Carmer said she was not clear on it, and that question would have to be asked of the applicant, but for now that was the case. Eventually the land could be dedicated to the town and the easement would merge, but as long as CVR Inc. or some future successor owner was there the easement remained.

Planner Smith said that the applicant had added to Letter V: *"..with a centerline location mutually agreed to by the developer and Town of New Castle staff."* He said that staff's position was that there was not enough specificity, and it was unknown whether the trail would be able to go there.

Letter U: Planner Smith said that this went back to the comprehensive plan, and one of the first things talked about with P&Z was the diversification of buildings. Originally this condition said: Diversify color and texture of the buildings within the subdivision.

Planner Smith said that understandably, the applicant had stated that adding texture added cost. He said they had changed that to: *"Diversify color and vary the siding pattern orientations of the buildings to create visual differences of the residential structures within the subdivision. Final design approval of the buildings and building appearances shall remain with the CVR Architectural Design Review Committee."*

Planner Smith said that staff wanted to see, as they would with any other subdivision, what those different siding patterns would look like before approval.

Administrator Reynolds said that he felt there was some confusion regarding the condition and that the applicant thought the P&Z wanted to see varying textures and colors within a triplex, on each unit. He said that he felt P&Z always intended that each building look different, not each individual unit. Administrator Reynolds said that in the conversation with the applicant the previous day, they suggested that they provide a different look and feel to each building. Administrator Reynolds said that he felt the applicant's edit went a long way towards meeting that condition, although he agreed that staff would like to see drawings.

Administrator Reynolds asked if the council had any questions for Director Wenzel or Engineer Simonson.

Councilor G Riddile asked if Bear Canyon Drive was classified as a commuter road, similar to Alder Drive, because there was parking on Bear Canyon and there was no parking allowed on Alder. Engineer Simonson said that he thought it had been classified as a collector road. Director Wenzel said that the right-of-way had been sized appropriately, unless something had changed, it was sized to accommodate parking, similar to Clubhouse Drive which was a little narrower, but appropriate for parking and traffic. Engineer Simonson added that there would be no vehicles backing out onto Bear Canyon Drive, so it was okay to have parallel parking. Councilor G Riddile asked if the property to the east developed, would that affect Bear Canyon. Director Wenzel said that buildout had been considered when they sized the right-of-way.

Attorney Carmer said that one of the conditions in the agreement said that no homes could be accessed off that road or off the southern terminus of Serenity Park Circle.

Engineer Simonson said that related to the separated sidewalk request, if they looked at Filing 2, Castle Valley Ranch, there were separated sidewalks in those areas that worked quite well. He said that care was taken to make sure proper drainage took place. He said that there had been an issue on Faas Ranch Road, but there had been good success with the soils in Castle Ranch.

Mayor A Riddile asked if the applicant would like to speak.

Davis Farrar, Western Slope Consulting, greeted the council and said that he represented the applicant. He introduced the applicant's attorney, David Myler.

Planner Farrar said that there had been a suggestion that the applicant and staff get together to discuss the conditions that the P&Z had forwarded to the town council. He said they had agreed to the meeting, and the intent was to work through a list that worked for both the applicant and the town. Planner Farrar said they had met the previous day for several hours, and he apologized that the council had not received the documents earlier so they could digest it. He said that he wanted to explain their position on the conditions. He noted that the applicant had also not heard until the council meeting the feedback from the staff on the proposal.

Attorney Myler said that the objective was to try to close the gaps so that it worked for everybody. He said that Planner Farrar was going to talk through the common sense, practical reasons why they wanted to change the conditions. He also said that he would talk through the legal issues which he was sure no one wanted to hear, but there were legal issues that they wanted to call the council's attention to.

Planner Farrar said that at the last meeting he had provided a power point presentation that Councilor G Riddile had not seen, but it was in the council packet. He said that the original pre-application concept meeting there were 106 units, which was throttled back to 96 units, then 90 units and then ultimately submitted at 85 units. He felt that was important because the zoning allowed for up to 12 units per acre. He said that they were almost half the density that was allowed. He said there was another application down the street in Lakota where they were asking for more than the 12 units per acre. Planner Farrar said that by comparison, their project was much lower that, and was comparable to the single-family units to the west. He also noted that they had reduced the triplex units to duplexes, and it was not unusual for single-family units and duplex units to be together in a development. He said that it was financially critical that they have the 85 units in the project.

Planner Farrar said that in regard to condition C redline, there had been discussion at P&Z to remove four units from cul-de-sac portion of the project to improve outdoor recreation and livability to the project. He said that it was their proposal was that the cul-de-sac area would include outdoor open space, but that it would be private open space adjacent to those homes which will have first-floor master bedrooms. He said that they felt the livability of those units was enhanced by that private open space. He said they understood the concerns of the P&Z and he said they offer Serenity Park on the south side of the project, and they have modified that so that it will connect to the C Avenue open space and have a wrap-around connection that will tie into the parking area on Serenity Park Circle. Planner Farrar said they felt it was a better configuration and it had additional area

at Serenity Park. Planner Farrar noted that the project added an almost three acres of open space which was 19% of the project site, above the satisfaction of open space dedication requirements in Castle Valley Ranch which had been met years before. He said it was over and above the standard that had already been met.

Planner Farrar said there was a question about a gazebo which he did not have an answer to. He said they were not showing a gazebo in the active/passive open space area. Planner Smith said that it was shown on the January 13, 2021, P&Z documents in Serenity Park. Planner Smith said that it was thought to be a more manicured area at that time.

Planner Farrar said that regarding the buffering between the project and the homes to the west, there was both vertical and horizontal separation between those units. They were also talking about single-family units to duplexes, not higher-density type units. He said that there was about 10 and 11 vertical feet of separation, so South Wild Horse was above, but there was also 70 feet of horizontal separation. In addition, Planner Farrar said that they will plant one tree per unit, or two trees per building and they will be outside the lot lines because the yards were small. He said that they felt it was better to plant trees outside the lot lines in Open Space A which will ultimately transfer to the town and would become town property. Planner Farrar said they will plant the trees and then there would be access to irrigation. In the conversations the previous day, one of the thought he had was that the irrigation would be tied into the water main that ran east-west, but after speaking to their engineer, they understood there was a pipe under Castle Valley Boulevard that had access to non-treated irrigation water. He invited Engineer Dan Cokley to comment.

Engineer Cokley said that they were connecting to an existing irrigation line that west of S. Wild Horse Drive, south of Castle Valley Boulevard. He said there was a sleeve there that will connect and run the irrigation through the road network for the lots and the open space in the development. He said it will go through the open end of Open Space A.

Planner Farrar moved on the Condition F which was alternate side of the street parking between December 15 and March 15. He said that it went back to the idea of attached versus separated sidewalks. He said that had been noted that the ordinance in town provided for attached sidewalks. He said that there was reference to the comprehensive plan, which he helped author, and while he appreciated that it was a visionary document the ordinance was the rules and he said they simply wanted to follow the rules in the development process.

Planner Farrar said that at the suggestion of the staff from the day before to look and come up with something, he researched alternate side of the street parking. He said there were a number of different methodologies used for this in climates at least as snowy as New Castle and perhaps more. He said that they felt the proposed timeframe they suggested would work, but if that was problematic or if there was fine-tuning, he said they were open to that. He further stated that to simply say that with 2 inches of snow on the ground there was no parking on the street was not something they agreed with. He said that 2 inches was a low threshold and that 4 inches was the standard. He said they were willing to talk about it a reasonable alternative to no parking on the street with 2 inches of snow.

Planner Farrar said there had been quite a bit of discussion the day prior regarding Condition I. He said that Fire Marshall Orrin Moon had made the suggestion of a connecting street, a secondary access from Castle Valley Boulevard to Main Street in the event of a fire or some other event. He said that was a last-minute thing but they thought it could be discussed. He said that he will have Engineer Cokley speak to it.

Engineer Cokley said that in terms of the emergency access, C Avenue was very steep, more than 12%, closer to 15%, and he was not sure it was useable as an emergency access road, and it could not be altered to a lesser grade, but he thought it could be used as a very low-speed exit route. Engineer Cokley said that he did not see it as a viable emergency access route out of town.

Planner Farrar said that as a lack of options and not having a blank check on that, they decided they could offer \$50k to the town to go towards a roadway there, or trail or whatever the town felt was the best use.

Planner Farrar referenced page 7 in the redline ordinance and said that there had been a suggestion at one of the P&Z meetings that he had not been at, of a single-track hiking/biking trail easement at the base of Ganley Hill, as a connector of Mt. Medaris and Prendergast Hill. Planner Farrar said that he had a lot of experience laying out single-track. They decided they could come up with a centerline for a non-motorized trail and see what could happen. He said that staff noted they were not sure about it, and Planner Farrar said they were not sure either. He said they wanted to try to accommodate the request of the P&Z, and he thought the best way might be on the ground with topo maps and flagging to see what could be done. Planner Farrar noted that where Bear Canton ended there was a very steep drop-off, and future phases of Castle Valley in that zone may have single-family homes in it and they wanted to make sure the trail did not compromise the backyards of those homes.

Planner Farrar addressed Condition U that dealt with diversifying color and texture. He said that after discussion with staff the previous day, they thought perhaps they could vary the siding panels from horizontal to vertical to provide the diversity or the appearance of the units, and they came up with the proposed language based on the conversation with staff. He noted that the last sentence of that referenced the design review committee of Castle Valley Ranch who ultimately, by the PUD plan, made the final decision on the design of buildings. He said that they felt the final design on the buildings should be up to the design review committee.

Attorney Myler said that there were 25 conditions posed by P&Z, and they were talking about just 6 or 7 of them, so he felt the process was working very well. He said they appreciated the opportunity and for the council taking the time to evaluate the common-sense position they had on why those conditions they found objectionable should be removed or modified as proposed. To get there, Attorney Myler said there were vested right issues involved and issues regarding limitations on the discretion of the town, of both P&Z and the council when it comes to posing conditions. Attorney Myler said that he was sure they were aware of Ordinance 2002-2 and the second amended annexation agreement that established statutory vested rights for the properties in Castle Valley Ranch. What was vested was the PUD master plan and map as they existed at that time in

2002, as well as the terms of the annexation agreement and the provisions of titles 13 and 14 which were zoning and subdivision provisions. He said that the purpose of vesting was to protect the right of property owners who make significant investments in land within, particularly in a PUD, from having changes to those rules, to the master plan, to the map, or changes to the ordinance, during the vesting period. Attorney Myler said that another way that was stated occasionally was that it imposed a limitation on the town's ability to change the rules in the middle of the game. People who buy property and make significant investments were entitled to rely on the rules that were in place when the vesting was established. Attorney Myler said that a number of the conditions had the effect of reducing their allowable density that was established in the vesting documents and increasing open space requirements or imposing conditions that were not contemplated in the vesting documents. He said that he was not going to address all the conditions because there was not a lot of time, but the one he was most concerned about was what used to be condition 7A. He said that was the one that eliminated four units in order to improve livability. He said he searched through Ordinance 2002-2, through the amended annexation agreement, through the CVR PUD zoning regulation contained in titles 13 through 14 which governed subdivision activity in Castle Valley Ranch, and he said he could not find the term 'livability of the community' mentioned anywhere. He said he did not find any standards or criteria that he could utilize to objectively decide whether a condition actually promoted livability of a community. Attorney Myler said that he understood the P&Z was trying to improve the project, but they did not agree that the condition resulted in any improvement. Furthermore, he stated that he felt it exceeded P&Z's jurisdiction and their ability to impose conditions. Attorney Myler said that condition requiring them to eliminate four units seemed arbitrary, based on subjective judgement, and not based on any objective criteria or standards, and for that reason, unenforceable and should be removed. He said that condition was also inconsistent with vested rights. He said that he explained earlier they were entitled to rely on the allowable densities and open space requirements. He said the project was below allowable densities and they were providing more open space, and he felt the town did not have the ability to, on its own, require a reduction in density or an increase in open space. Attorney Myler said that perhaps that was not the objective, but it was certainly the result. He said there were also discussions about which zoning ordinance and subdivision ordinance applied. He said that was important because it was where they looked to find the standards that support the conditions. He said that by the language of the annexation agreement, it was quite clear that titles 13 and 14 applied to all development within Castle Valley Ranch, not titles 16 and 17 which replaced them. Attorney Myler said they were entitled to be judged under those particular regulations. He said it stated it quite clearly in ordinance 2002-2. Attorney Myler said that even in title 17, which was recently amended, it provided quite clearly that 13 and 14 applied to the project, not 16 and 17. He said that the recent amendment eliminated the reference to 13 and 14, but at the same time it was provided in that ordinance that it not adversely affect vested rights, which he felt was currently at work. Attorney Myler said that another issue they had discussed was whether the 2009 comprehensive plan applied to the project, and he said they did not believe it did. Section 12B of the amended annexation agreement that was adopted by Ordinance 2002-2 said that future development in Castle Valley Ranch needed to be consistent with the Castle Valley Ranch Master Plan, not any other master plan that might be adopted after the vested rights were established. He said it was clear, and it was consistent with planner Farrar's recollection of what was going on in 2009 when the comprehensive plan was adopted, that it did not apply. The master plan that applied was the Castle Valley Ranch

Master Plan, and there was no reason to have anything overlay the top of it. He said the language did not say the 'Castle Valley Master Plan as amended' it just says the master plan that was in effect in 2002.

Attorney Myler said that he was not present to be critical of P&Z so much as there are limitations to their jurisdiction and authority and he hoped that the council kept that in mind as they consider the tweaks they were asking for in the 6 or 7 conditions out of 25. He thanked the council for their time and offered to answer questions.

Planner Farrar asked the Engineer Cokley to address the snow storage and removal issue.

Engineer Cokley said that New Castle did not have a snow storage standard, so he used the City of Glenwood Springs' standard which he found reasonable at 15%. He said the project was offering 18% based on the plans submitted in February. He said that if the parking area on Serenity Park Circle was removed and replaced with the areas that Director Wenzel had suggested, they will still be above that 15%, so the project still meets the standard.

Councilor Leland said that they had referenced the 2009 com plan that he had worked on with Planner Farrar. It replaced an existing comp plan, and Planner Farrar agreed it had. Councilor Leland agreed that the 2009 comp plan did not affect Castle Valley, but the previous comp plan did, and that stood. Councilor Leland said that they probably needed to consult that previous comp plan if they were going to talk about comp plan requirements. Planner Farrar said that Steve Craven had voiced his objections at the time to having the new plan affecting Castle Valley. Councilor Leland said that they will need to see what the prior existing comp plan said about all the issues. He suggested that staff will need to locate than older plan.

Councilor G Riddle apologized for not having attended the last meeting. He asked why only phase I was on the plat and why they had not platted the whole thing. Planner Farrar said that it was a phased development. Councilor G Riddle said that it was typically built phased, and he wanted to know why it was being platted phased.

John Elmore, Applicant. Mr. Elmore said (unintelligible).

Councilor G Riddle said that he disagreed, and that he was certain that PUDs were platted fully. Mr. Elmore said that was not the case, and that he had done Lakota and that was platted one phase at a time. He further stated that Jim Colombo had done the same, as was Romero. Councilor G Riddle said that they were asking the council to approve the whole PUD, but they've only platted a third of it. Planner Farrar said it was common, and Aaron Atkinson said there was a similar situation in Lakota, in Whitehorse Village where those were platted by lot, not the entre thing.

Councilor G Riddle asked if they were committed to building it. Mr. Elmore agreed they were. Mr. Atkinson said that nothing about it would be changed.

Attorney Carmer said that the way it would work is what was being approved is what was on the site plans so if there to ever be a change they would have to come back for what was likely a major amendment to the PUD even though it was not being platted that way. She said she could not speak to the applicants' intent, but some reasons why only a

portion would be platted was because potentially the way it was taxed. If it was cut up into lots, you're taxed differently than if it was a larger portion.

Councilor G Riddile asked the applicant that if they were fine that if they decided to change the product, they would come back and go through the process. He asked if they were comfortable with that. The applicants agreed that they would have to come back. Planner Farrar added that once a portion of a project was platted, the subdivisions improvement agreement uses collateralization of the improvements associated with a phase. If the entire thing was platted, unless there was some unusual language that would exclude the other phases from collateralization, that's typically how it was done.

Attorney Carmer said that the way it was written in the ordinance was that with each new phase they come back with a phase plat that was consistent with what was approved, and if it is different then it would come back to council for review, but if it was exactly what was seen in the current document, and the plat itself was approved, then it was applicable for those initial phased, provided they also got subdivision improvements agreement. She said she thought there was something similar happening in Filing 6 in Lakota where there was a larger part that was in preliminary and final PUD plan, but then they developed in phases.

Councilor Hazleton said that roughly two-thirds was mixed-use zoning and the rest residential, but the project was 100% residential. He said the applicant had alluded to (unintelligible), but he wanted to know how the council was supposed to look at it.

Attorney Myler said that the mixed-use zone permitted a mix of uses but did not require it. He said there was language in the operative provisions that gave the developer some degree of flexibility to decide where the market was and what market provisions would prevail. He said they also looked at Filing 8 in Lakota in which there was a substantial amount of commercial proposed. He said they felt that was enough commercial for the area due to the current market conditions, and they were going to help them get that project. Attorney Myler said they had made a market decision that he felt they were entitled to and told them that it should be residential project. Councilor Hazleton said that he would use the same argument to say that the council had to look at it and determine what the town needed, whether commercial or residential. Attorney Myler said he respected Councilor Hazleton's opinion, but he felt the applicant had the authority to decide what sort of development should go in a mixed-use project, and although mixed-use was allowed, it was not required.

Councilor Carey said that while she was reading titles 13 and 14 she found that the mixed-use was essentially the same and it said "the mixed-use district providing a mix of residential and light industrial." Councilor Carey said that it said and, not exclusive residential or commercial. She said that she thought that Councilor Hazleton was saying that the zoning was in place, the zoning was two-thirds mixed-use, therefore the 'and' requirement applied.

Councilor Carey said that another item that was referenced was that the applicant wanted the town to adhere to the sidewalk ordinance 100%, yet they wanted the town to vary another part of the code to meet their requests. She said that she found it interesting that they wanted perfection in one regard and to their liking in the other and in both situations, it was a detriment to the town.

Attorney Myler said that he felt they were compromising in both cases, and he did not recall the slide in Planner Farrar's presentation that allowed flexibility in the market conditions when deciding what the mixes should be in a mixed-use zone district. He said that from their perspective there was not a market in a property of this size for commercial, and industrial did not really fit. The only thing they found that could possible fit was some sort of commercial and there was no market for it.

Councilor Carey said that the applicant referenced marketability, and it had been discussed. She said she was new on town council, and she had gone back and read everything since 2020 within the past few weeks. Another conversation was affordability. She said that everyone knew the current market was not the same market from 2020, and she asked if the price point would be around the same \$400k as discussed previously.

Mr. Elmore said they he would not be able to say exactly what the prices would be. He said they were building in Lakota and the costs had gone up about 33%, the cost of infrastructure had also gone up. He said he dealt with it every day and there was no way to know what the units would sell for.

Councilor Carey said that her concern was that the project was a multi-family development. Multifamily developments are typically geared toward more affordability for families. She said that New Castle was family-friendly, there were a lot of kid amenities. There were two elementary schools which was quite unique, plus a private elementary and a middle school. She said New Castle was a family town and if the units were going to be \$800 or \$900k because that was the cost of building them, she felt that was something that needed to be taken into consideration as they discussed marketability.

Mr. Elmore said they could not tell the council what the cost would be, but said that he the home sitting at the corner Castle Valley Boulevard and Blackhawk Drive with multi-family behind it just went under contract for \$975k and it was 2200sf. He said another on Deer Valley went for a million dollars. Mr. Elmore said that he had been involved in New Castle, he built Lakota Canyon and his money provided the golf course. He said he put together the first phase and built a lot of the houses. Mr. Elmore said that Engineer Simonson referenced water coming from the side of the street under Faas Ranch Road and that was not what happened. He said that there had been a mandatory arbitration and the judge found the construction company guilty of fraud in construction.

Mayor A Riddile said that he did not think Mr. Elmore's comment regarding fraud was relevant, and asked Attorney Carmer if there was anything she wanted to add.

Attorney Carmer said that she felt the council should finish up with final questions to the applicant about their proposals on the conditions, and then she thought they could hear from the applicant as well and any final questions for them on what they were proposing on the changed to the conditions.

Attorney Carmer commented to the point as to whether the comprehensive plan applied. She said the comp plan was a document of general ability in town. She said the Attorney Myler referenced titles 13 and 14 versus 16 and 17. The approval criteria in 13 and 14 were worded differently but were substantially the same as what the council will consider under title 17 now. Those criteria also referenced compliance with the comp plan. She

said that was not a new thing for CVR. She said it was a valid criteria that the council to consider. The one caveat there is to the extent that it could diminish vested rights and that was the rub, so the comp plan was relevant, but they had to figure out if there was a condition that infringed on a vested right that would be the calculation there, but to say that the comp plan was fully irrelevant was incorrect. Councilor Leland clarified that the 2009 comp plan applied so far as it did not infringe on vested rights and Attorney Carmer agreed.

Attorney Carmer said that there were six criteria in the comp plan that they were looking at in whether to approve or not, which was one element in the basket.

Attorney Carmer said that in regard to the questions about zoning, the uses being proposed are permitted in the mixed-use zone district, and has council approved solely residential in a mixed-use district, yes. The question was at what point does all residential development in a mixed-use zone comply with the intent and purpose of that zone district. She asked if perhaps the point had been reached all residential has superseded and swallowed up the intent of the mixed-used zone district. P&Z considered the problem as well, and they were trying to figure multiple facets of the application that they were weighing and that was what the conditions were intended to address to being the application into compliance with all the criteria the council was looking at: comp plan, zoning, livability, walkability, circulation and all the other criteria the council was looking at.

Attorney Carmer said that another point on the comp plan she said that Attorney Myler referenced section 12B of the annexation agreement where it references the master plan map and the master plan guide, but it does not say that it shall only comply with those things so that is where the comp plan comes along with other standard provisions.

Councilor Leland said that he appreciated the explanation because that did change things.

Administrator Reynolds said that Planner Farrar had mentioned that in the pre-application meeting the project had 106 units and that was the case. The point of the preapplication meeting was to discuss how that development fit the zoning and what the town needed. During that meeting it was very clear that they were coming into a mixed-use area with all residential and that P&Z may have questions about that. What was represented during the P&Z meetings was that the applicant had a covenant agreement with other developers to only do residential and they had held firm on that. They can only do residential, legally they could only do residential, and they were only willing to do residential. He said that they had been asked to look into the viability of commercial. He said that it was one thing to say that the area was not ready for commercial, but how would they know without asking. Administrator Reynolds said this was the elephant in the room; this was a question at P&Z and one of the reasons there was an initial denial. Administrator Reynolds said that P&Z's attempt was to get the application to a point of being palatable since the town was giving up mixed-use. He said that the reason for the push back on the four units in the center was to try to get the application to a place that worked given that the town was giving up that large area of mixed-use zoning. He said that the debate over whether or not the mixed-use should be applied by the town or the developer. The developer's claim throughout the process was that they legally cannot do mixed-use. He said it was a little bit different, a bit less complete than what was being heard, and it had been the

elephant in the room since the preapplication meeting. He said it was still the elephant in the room.

MOTION: Mayor A Riddile made a motion to 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 on 1st reading.

Discussion: Councilor G Riddile asked for clarification on which ordinance was being voted on since there were several versions in the packet. Attorney Carmer said there was one in the packet that had been modified by Attorney McConaughy and herself because there were some discrepancies in it, so it was updated from that last meeting. Councilor G Riddile said they were not considering the one edited by the applicant, rather than one without redlines. Attorney Carmer agreed that it was the ordinance presented by staff. Attorney Carmer asked the council if they wanted further discussion before they considered a motion. Councilor Hazelton said he thought it deserved a vote.

Councilor Hazelton seconded the motion.

Discussion: Councilor Leland said that they would be wise to confirm that the six conditions on pages two and three had been met. He said he was not sure that it was compatible with adjacent land use. He said that he was not sure that it was consistent with the comprehensive plan. He said that he was pretty sure that there had been steps to meet the other four criteria, but Councilor Leland said he was reluctant to say the application met all six requirements. He said he could discuss it at length, but it was five minutes from the 10:00 adjournment.

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

Consent Agenda

April 5, 2022 minutes

May 3, 2022 minutes

88 Grill Hotel & Restaurant Liquor License Renewal

MOTION: Mayor A Riddile made a motion to approve the consent agenda.

Councilor Mariscal seconded the motion and it passed unanimously.

Staff Reports

Town Administrator - nothing to report.

Town Clerk – Clerk Harrison said that Roaring Fork Outdoor Volunteers was setting up an online site where a person could go to locate volunteer opportunities. She said that when the site was live, she would let them know.

Town Treasurer – nothing to report.

Town Planner – nothing to report.

Public Works Director – nothing to report.

MOTION: Mayor A Riddile made a motion to allow the meeting to extend past 10:00 p.m. Councilor G Riddile seconded the motion and it passed unanimously.

Commission Reports

Planning & Zoning Commission – nothing to report.

Historic Preservation Commission – nothing to report.

Climate and Environment Commission – nothing to report.

Senior Program – nothing to report.

RFTA – Mayor A Riddile said that there would be service cutbacks due to the labor shortage.

AGNC – nothing to report.

GCE – nothing to report.

EAB – Mayor A Riddile said they had a discussion about the economic issue with the lack of drilling. He also said that at the Inter Mountain Regional Transportation Planning meeting he found out that New Castle will be getting the roundabout. He said that the decision was made two week ago, however it will be in two phases in 2023 and 2024.

Mayor A Riddile asked if they needed to make any points of denial. Attorney Carmer said that the motion was to approve, and it failed so that was done. The points would be everything up to this point in the record: the application, the presentations, the staff analysis, council questions and discussion.

Council Comments

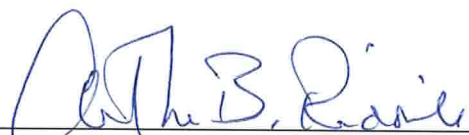
Councilor Mariscal thanked staff for the newsletter and said that she had some requests for it to be in Spanish.

Councilor Leland said that the dog park was moving along, and fundraising would begin soon.

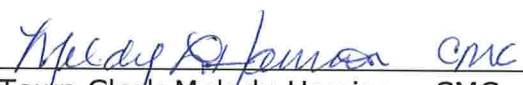
MOTION: Mayor A Riddile made a motion to adjourn. Councilor seconded the motion and it passed unanimously.

The meeting adjourned at 10:02 p.m.

Respectfully submitted,



Mayor Art Riddile



Town Clerk Melody Harrison, CMC



Town Council Meeting
Tuesday, May 17, 2022