

DATE: May 15, 2025
TO: New Castle Town Council
FROM: Karp Neu Hanlon, P.C.
RE: Approval of Subdivision Improvement Agreement with modifications

As part of the approval of the final plan and final plat for 9 North Wildhorse subdivision is the approval of a Subdivision Improvements and PUD Development Agreement (SIA). The SIA memorializes all of the commitments made during the subdivision process, identifies documents that need to be executed as part of the final plat recordation, and guides the development activities on the property including provision of security for public improvements, acceptance of constructed public improvements and warranty of the improvements. Council approved a SIA for 9 North Wildhorse at its March 4, 2025 meeting in Resolution No. TC2025 – 7.

The Developer has requested a couple of changes to the SIA. These changes are material enough that staff wanted to bring this matter before Council to approve the updated version. The updated SIA is the subject of Resolution No. TC2025 - 14. If approved, this version of the SIA will replace the version approved in Resolution No. TC2025 – 7.

R2 Partnership, LLC has assigned its interest in the development to Wildhorse Apartments, LLC. Barry Rosenberg remains principally involved in the development.

Section 9 involves the timing to complete the public improvements. The Developer is requesting 18 months for completion due to the price instability caused by new tariffs.

Section 12 involves the security for the public improvements – normally a bond or a letter of credit. Developer desires to record the final plat which triggers posting security with the Town. The Developer, however, also would like the ability to wait for the start of construction for several months due to price instability. Because there is an upfront cost to obtain a bond or a letter of credit, the Developer is proposing to post alternative security for an interim period of time. The posting of alternative security is allowed under Code section 16.32.010. The alternative security proposed by the developer is the three development lots - lot numbers 1, 2 and 3 identified on the final plat. The town would receive a deed of trust on these lots that could be foreclosed in the event of a default. The developer will also provide the town with title insurance in the amount of \$1 million to ensure that the deed of trust is a first priority lien. The edits to the SIA require that the developer post either a bond or letter of credit prior to the issuance of any permit by the Town or

Mail to:

Glenwood Springs
201 14th Street
Suite 200
Glenwood Springs, CO 81602

Aspen
0133 Prospector Road
Suite 4102-J
Aspen, CO 81611

Basalt
200 Basalt Center
Suite 200
Basalt, CO 81621

Ridgway
565 Sherman Street
Suite 6
Ridgway, CO 81432

the start of any construction activities. Staff feels comfortable with this alternative interim security because in the event of a default the town could take control of the lots and sell them to a new developer who would then post security (bond or letter of credit) with the town at the time of a transfer.

At the time that the developer posts a bond or letter of credit with the Town, the developer will also provide an updated engineers cost estimate to the town. This will ensure that the security provided to the Town aligns with current pricing in the market.

This section also clarifies that this security is in the amount of 110% of the engineers cost estimate. The version of the SIA presented in March had this number at 115% which was in conflict with Exhibit K that had been prepared by the developers engineer and reviewed by town staff which had security at 110%.

Included with these materials is an updated version of the final plat. This version of the plat fulfills a requirement of approval that the trail easements be depicted on the plat. The plat has been reviewed by Jeff Simonson.

Finally, on tonight's agenda is the approval of a water line easement with Lakota to connect supplies between the Lakota tank and Castle Valley Ranch. This provision similarly fulfills a condition of approval.

The applicant and its representatives will be present at the Town Council meeting to give an update on development efforts and answer any questions that the council may have.