

SETTLEMENT AGREEMENT

29.00

THIS SETTLEMENT AGREEMENT (“**Agreement**”) made and entered into this ____ day of May, 2024 (“**Effective Date**”), by and between the TOWN OF NEW CASTLE, COLORADO, a Colorado home rule municipality, and the TOWN COUNCIL, TOWN OF NEW CASTLE, COLORADO (collectively, the “**Town**”) and CVR INVESTORS, INC., a Colorado corporation (“**CVRI**”) (CVRI, and together with the Town, the “**Parties**”).

WHEREAS, the Town is a Colorado home rule municipality in Garfield County, Colorado; and

WHEREAS, the Castle Valley Ranch PUD is located within the jurisdictional boundaries of the Town and comprises the real property legally defined and described in the Second Amended Castle Valley Ranch Annexation Agreement and Site Specific Development Plan Agreement (the “**Development Agreement**”) recorded in the real property records of the Garfield County Clerk and Recorder (the “**Records**”) on April 26, 2002 at Reception No. 602245, which legal description is incorporated herein by reference (“**CVR**”); and

WHEREAS, CVRI is the owner of certain vacant real property within CVR including, but not limited to, the property commonly known as CVR Planning Areas 15 and 17 and more fully defined in CVRI’s PUD Application (“**Filing 11**”) and CVR Planning Area 19 (“**Filing 12**”); and

WHEREAS, development in CVR is subject to, among other things, the contractual and vested rights and obligations set forth in that certain Amended Castle Valley Ranch Annexation Agreement recorded in the Records on May 30, 1989 at Reception No. 401812 (the “**Annexation Agreement**”); Town of New Castle Ordinance 2002-02; the Development Agreement; and that certain Third Amended Castle Valley Ranch Annexation Agreement and Site Specific Development Plan Agreement last signed on August 20, 2013 (the “**Extension Agreement**” and collectively with the documents identified in this recital, the “**Entitlements**”); and

WHEREAS, Ordinance 2002-02, the Development Agreement, and the Extension Agreement granted vested rights in the CVR PUD Master Plan Map attached as Exhibit E to the Development Agreement (the “**PUD Map**”) and the Updated Planned Unit Zoning Guide attached as Exhibit F to the Development Agreement (the “**PUD Guide**”) (collectively, and solely for purposes of this Agreement, the “**Vested Rights**”) through July 11, 2043; and

WHEREAS, the Parties acknowledge that, based upon development in CVR as of the Effective Date, 518 of the 1,400 residential dwelling units allowed under Paragraph 12.b of the Development Agreement remain available in CVR; and

WHEREAS, as of the Effective Date, the Town has received an application for commercial development within a portion of CVR zoned Mixed Use; and

WHEREAS, in 2020, CVRI submitted a land use application to the Town seeking PUD development plan and preliminary/final subdivision plat approval for Filing 11 (the “**PUD Application**”); and

WHEREAS, on June 7, 2022, the Town adopted Resolution TC 2022-13 denying the PUD Application (the “**Denial Resolution**”); and

WHEREAS, in response to the Denial Resolution, CVRI filed a lawsuit against the Town in Garfield County District Court styled as *CVR Investors, Inc. v. Town of New Castle*, Case No. 2022CV30089 (the “**Lawsuit**”); and

WHEREAS, in the Lawsuit, CVRI asserted five claims against the Town related to Filing 11 and its contractual and Vested Rights for its CVR holdings, which claims included the following: (1) reversal of the Denial Resolution under C.R.C.P. 106(a)(4) (“**Rule 106 Claim**”); (2) breach of C.R.S. § 24-68-105; (3) declaratory judgment regarding applicability of certain municipal code chapters and the Town’s comprehensive plan; (4) breach of the Development Agreement; and (5) regulatory takings under the state and federal constitutions (collectively, the “**Lawsuit Claims**”); and

WHEREAS, following a case management conference, the Court stayed all of the Lawsuit Claims except for the Rule 106 Claim pending the Court’s ruling on the Rule 106 Claim; and

WHEREAS, the Court issued its order regarding the Rule 106 Claim on September 6, 2023, finding in favor of the Town; and

WHEREAS, after request by CVRI, the Court certified its ruling on the Rule 106 Claim as a final judgment for purposes of appeal and stayed the Lawsuit pending resolution of the Rule 106 Claim on appeal; and

WHEREAS, CVRI filed its Notice of Appeal of the Rule 106 Claim on December 22, 2023, initiating Colorado Court of Appeals Case No. 2023CA2206 (the “**Appeal**”); and

WHEREAS, as of the Effective Date, no land use application has been submitted for development of Filing 12; and

WHEREAS, as of the Effective Date, the Town has not adopted any affordability or affordable housing requirements for new developments within the Town; and

WHEREAS, as of the Effective Date, the public land dedication requirements set forth in Section 7.a of the Development Agreement have been satisfied; and

WHEREAS, the Parties desire to clarify how they process, analyze, and resolve disputes concerning development applications for Filings 11 and 12 without altering the contractual rights, Vested Rights, and obligations set forth in the Entitlements; and

WHEREAS, the Parties acknowledge that this Agreement does not address the Parties’ rights and obligations with respect to other real property in CVR owned by CVRI, the construction and application of which the Parties anticipate will be addressed at the time CVRI or its successor(s) submits a development application or applications concerning that property; and

WHEREAS, the Town acknowledges that it has the authority to enter into this Agreement and that the provisions set forth herein do not constitute an improper delegation or the Town's legislative, quasi-judicial, or administrative authority; and

WHEREAS, without admitting any liability by any party to any other party, the Parties now desire to settle, compromise, and resolve the Lawsuit, the Lawsuit Claims, and the Appeal on the terms set forth below.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Recitals. The foregoing recitals are incorporated by this reference.
2. Stay of Appeal. On the business day immediately following the Effective Date, the Parties will file a joint motion to stay the Appeal pending completion of the proceedings set forth herein.
3. Resolution of Rule 106 Claim. To resolve the Rule 106 Claim, the Parties agree as follows:
 - a. The Town agrees to reopen the PUD Application and conduct a public hearing for the purpose of considering a revised site plan for Filing 11 that eliminates all triplex and duplex units and includes single-family homes only, as generally depicted in Exhibit 1 attached hereto (the "**Amended Application**").
 - b. Within sixty (60) days of the Effective Date, CVRI will submit to the Town the Amended Application that includes the supporting materials identified on Exhibit 2 (the "**Supporting Materials**"). Within seven (7) business days of receipt of the Supporting Materials, staff will make a completeness determination and request any additional information needed from CVRI to evaluate the Amended Application.
 - c. Upon Town staff's finding the Supporting Materials to be complete and sufficient, the Town will schedule a public hearing regarding the Amended Application for the next available Town Council meeting that is at least twenty-one (21) days after the completeness determination.
 - d. The Town will complete the public noticing requirements of Sections 13-10-080(C) and 14-14-060 of the New Castle Municipal Code as the same was in effect on April 1, 2002.
 - e. Subject to the further requirements set forth in Sections 5 and 6, Town staff will prepare a staff report recommending approval of the Amended Application, with or without conditions, based on the Supporting Materials and the approval criteria set forth in Section 13-10-090 of the Code in effect as of April 1, 2002 (the "**Approval Criteria**"). Staff shall further recommend a vesting period of ten years based on CVRI's request for the same.

- f. Any conditions proposed by staff will be discussed with CVRI before the staff report is submitted for the Town Council packet. One such condition will be a requirement that CVRI and the Town enter into an SIA/development agreement based on the Town's standard and customary form, the final form of which shall be subject to mutual review and approval by the Parties.
 - g. The Town Attorney will draft a proposed approval ordinance including findings supporting approval, the Approval Criteria, and any proposed conditions of approval, subject to the obligations and limitations set forth in Sections 3.e-f. The ordinance will also propose a 10-year vested rights period for Filing 11.
 - h. Town Council will consider and make a decision regarding the Amended Application based on the merits of the application, the staff report, information and testimony (including public comment) presented at the public hearing, and the Approval Criteria. The Parties agree that, regardless of whether a public hearing is legally required, Town Council will take public comment regarding the Amended Application and may consider such comments as part of the record for any decision on the Amended Application. Nothing herein compels or otherwise binds Town Council to approve the Amended Application.
 - i. The Lawsuit (including the Appeal) will remain stayed at least until CVRI receives Final, Non-Appealable Approval (defined below) of the Amended Application, subject only to conditions agreed to by CVRI in its reasonable discretion. Alternatively, if the Amended Application is denied or approved with conditions unacceptable to CVRI, then the stay will be lifted, and litigation will proceed. The Town acknowledges and agrees that, should the Lawsuit and/or Appeal proceed as the result of a denial of the Amended Application or approval thereof on terms unacceptable to CVRI, the Denial Resolution shall remain the operative decision in the Lawsuit and the Appeal, and the Town shall not assert that the Denial Resolution has been vacated or superseded, that the Rule 106 Claim is moot, or otherwise attempt to argue that the proceedings contemplated in this Section 3 diminish CVRI's right to pursue the Lawsuit Claims or a court's authority to hear them. If an approval is challenged by a third party, then the Parties will cooperate to defend the Town's decision regarding the same and the Lawsuit will remain stayed pending the outcome of that third-party challenge.
4. Dismissal of Lawsuit. CVRI shall cause the Lawsuit, all of the Lawsuit Claims, and the Appeal to be dismissed with prejudice within 35 days of Final, Non-Appealable Approval of the Amended Application. "**Final, Non-Appealable Approval**" shall mean the passage of any time periods within which any referendum, administrative appeal, or request for review of such approval pursuant to C.R.C.P. 106(a)(4) must be brought, without any such referendum, administrative appeal, or C.R.C.P. 106(a)(4) action having been filed, commenced or asserted, or, if filed, commenced or asserted, after any such referendum, administrative appeal, or C.R.C.P. 106(a)(4) action is resolved with affirmation that such approval is effective.

5. Application of the Code and Other Matters. CVRI's PUD development plan applications for Filing 11 and Filing 12 shall be considered and processed in accordance with the version of Title 13 of the New Castle Municipal Code in effect as of April 1, 2002, and attached hereto as Exhibit 3 ("**Title 13**"). CVRI's subdivision applications for Filing 11 and Filing 12 shall be considered and processed in accordance with the version of Title 14 of the New Castle Municipal Code in effect as of April 1, 2002, and attached hereto as Exhibit 4 ("**Title 14**" and collectively with Title 13 the "**Code**"). The Parties further agree to, and each staff report and proposed resolution or ordinance for Filing 11 and Filing 12 shall reflect, the following interpretations of certain of the Approval Criteria and other matters:

- a. Residential uses listed in the PUD Guide as permitted uses in the Residential district are "uses permitted outright" in compliance with Code Section 13-10-090(A)(4). Additionally, residential uses listed in the PUD Guide as permitted uses within the MU district are "uses permitted outright" in compliance with Code Section 13-10-090(A)(4) without any requirement for commercial use in the same filing because the MU zone district is considered as a whole and not on a filing-by-filing basis.
- b. A showing of "general compatibil[ity] with adjacent land uses" under Code Section 13-10-090(A)(1) does not require an applicant to identify its intended uses of neighboring applicant-owned properties. Each staff report and proposed resolution or ordinance will further acknowledge that a permitted use in each zone district, as identified in the PUD Guide is presumptively compatible with the other permitted uses in the zone district, and it shall be the burden of the person or entity opposing the presumption to demonstrate otherwise.
- c. Subject to Section 6 of this Agreement, the applicable comprehensive plan to be considered under Code Section 13-10-090(A)(2) of the Code for Filing 11 and Filing 12 will be that certain 1997 Community Plan Report, New Castle, Colorado for Future Land Use and Growth in the Surrounding 3-Mile Area (the "**1997 Comp Plan**") attached hereto as Exhibit 5.
- d. Subject to Section 6 of this Agreement, in addition to the requirement set forth in Section 5.c., and consistent with Section 2 of Extension Agreement, CVRI shall "demonstrate consideration of the value statements of New Castle Comprehensive Plan then in effect." The Parties desire to clarify said requirement as follows:
 - i. For Filing 11 and Filing 12, the "New Castle Comprehensive Plan then in effect" shall be the Town of New Castle Comprehensive Plan 2009 (the "**2009 Comp Plan**").
 - ii. The "value statements" of the 2009 Comp Plan shall be Guiding Principle Nos. 1 – 9, 11 and 12, which begin on page 50 of the 2009 Comp Plan.
 - iii. The term "demonstrate consideration of" shall be satisfied upon CVRI's explaining, in writing, how a development application addresses, accounts for, or incorporates the concepts discussed in each Guiding Principle. If the Town determines that a development application has satisfied Section 13-10-090(A)(2) of the Code as provided in Section 5.c. of this Agreement, the

Town shall not deny the development application on the grounds that the application lacks consistency or compliance with one or more Guiding Principles.

- e. Pursuant to Paragraph 7.b of the Development Agreement, CVRI has no obligation to construct parks or recreational facilities or to fund construction of the same, except as set forth in Paragraph 4.b. of the Development Agreement, and nothing in the Approval Criteria shall be construed as adding such an obligation. The parties acknowledge and agree that paths or sidewalks within the Castle Vally Ranch Boulevard right-of-way and sidewalks adjacent to any street constructed within a filing do not constitute “recreational facilities” and will be the responsibility of CVRI. Further, to the extent the Town requires installation of a bike or pedestrian path within a filing as a condition of approval, the Town will fund the construction of such path, provided that (i) an easement for the path is dedicated in the first phase of development of the filing that includes residential lots, and (ii) the recreational facilities development fees for each lot within said phase are paid at the time of recordation of the subdivision plat.
- f. Construction of buildings withing Filing 11 and Filing 12 shall be subject to compliance with all applicable building codes then in effect within the Town. Filing 11 and Filing 12 shall also comply with the Public Works Manual in effect at the time of review of each such filing, except as follows:
 - i. Collector streets, as that term is defined in Section 14.02.020(H)(3), which includes Bear Canyon Drive shown on Exhibit 1, shall comply with the standards for collector streets set forth in the current Public Works Manual, provided that sidewalk widths shall be reduced to 5 feet, thereby reducing total right-of-way width to 60 feet.
 - ii. The local residential streets, as that term is defined in Code Section 14.02.020(H)(4), shown on Exhibit 1 shall comply with the width and sidewalk standards in Title 14.
 - iii. Greenbelts between any sidewalk and street may be counted towards a filing’s snow storage requirements.

6. Comprehensive Plan. The Town shall not construe or apply the 1997 or 2009 Comp Plans in a manner that alters, impairs, prevents, diminishes, imposes a moratorium on development, or otherwise delays development in accordance with the Vested Rights. Nothing in this Agreement shall be construed as modifying Section 2 of the Extension Agreement, and the provisions set forth in Section 5.d are for clarification only.

7. Dispute Resolution. For any dispute between the Town and CVRI arising under Sections 5 and 6 of this Agreement, the Parties’ exclusive remedy shall be to refer the matter to Steve Rippy or, if Steve Rippy is unavailable or unable to serve, then another third-party mutually agreeable to the Town and CVRI (collectively with Steve Rippy, the “**Arbiter**”) as more particularly set forth in this Section 7. The Arbiter is not a representative or agent of either party.

The Arbiter's determination shall be binding on the Town and CVRI for Filing 11 and Filing 12 only. The purpose of this Section 7 being to resolve disputes regarding the construction and application of the Approval Criteria and 1997 and 2009 Comp Plans before the Town renders a final decision on an application, nothing in this Section 7 shall be construed as delegating to the Arbiter the Town's ultimate authority and obligation to determine whether an application satisfies the Approval Criteria, and the Town's final decision (as that term is used in C.R.C.P. 106(b)) that an application does not satisfy any of the Approval Criteria shall not be subject to review under this Section 7. The process for submitting matters to the Arbiter is intended to be informal, speedy, and decisive, without opportunity for judicial review or appeal. That process shall be as follows:

- a. Subject to the exception set forth in Section 7.b, below, a dispute shall be deemed "at-issue" on the date a Party submits electronic or written notice to the other Party identifying, with reasonable particularity, the nature of the dispute to be submitted to the Arbiter.
- b. If a dispute arises in the context of a public meeting or public hearing, any Party may inform the other Party of the dispute at the meeting or hearing, and the "at-issue" date shall be the date of the hearing. Upon the identification of a dispute, the Party asserting the dispute shall request a continuance to allow for the dispute's resolution before the Arbiter. The Party asserting the dispute shall send notice of the dispute in accordance with Section 7.a as soon as practicable following the meeting or hearing.
- c. Within seven days of the "at-issue" date, the Parties shall submit their positions, limited to five, double-spaced pages (exclusive of a caption, signature block, and any exhibits), to the Arbiter and shall serve a copy of their position statement on the other Party. No responses or replies shall be permitted.
- d. It is the Parties' desire that any dispute be decided upon the written submissions alone, and hearings are discouraged. Nevertheless, any Party may submit a request for a hearing in its position statement. The Arbiter may grant the request if, in the Arbiter's sole discretion, the Arbiter believes a hearing would materially assist his disposition of the dispute. No Party's hearing request shall be granted unless presented in that Party's position statement. Hearings shall be limited to thirty minutes, with each Party limited to fifteen minutes to present its position. The Parties shall not be permitted to call witnesses, and the rules of evidence and civil procedure shall not apply.
- e. The Arbiter shall issue a decision within the later of 28 days after the at-issue date or 21 days after any hearing requested and held pursuant to Section 7.d.
- f. The Arbiter's decision shall be final, non-appealable, and binding upon the Parties.
- g. Each Party shall bear its own fees and costs incurred in the pursuit of dispute resolution pursuant to this Section 7, and the general fee-shifting provision set forth in Section 20 of this Agreement shall not apply to fees and costs incurred with dispute resolution pursuant to this Section 7.

8. Vested Rights. Each staff report and proposed resolution or ordinance concerning a Filing 11 or Filing 12 application will recommend a ten (10) year vested rights period for each of said filings to the extent the application requests such a vested rights period.

9. SGM. The Parties agree to make a good faith effort to secure a conflict waiver agreement with SGM in substantially the form attached hereto as Exhibit 6.

10. Litigation Fees and Costs. Each party will bear its own attorney fees and costs incurred in connection with the Lawsuit. CVRI's obligation to reimburse the Town for its consultant costs incurred in the review and analysis of CVRI's current and future land use applications—including the Amended Application—will remain unchanged and governed by the Town's Agreement to Pay Consulting and Administrative Costs.

11. Mutual Release. Upon dismissal as provided in Section 4 hereof, each Party shall be deemed to have waived and released any and all demands, liabilities, damages, claims, counterclaims, and causes of action, of whatever type or nature, it may have against the other Party that were or could have been brought in the Lawsuit or that otherwise arise out of or relate to the Property, the Development Agreement, or the facts and circumstances giving rise to the Lawsuit as of the date of dismissal; provided, however, that the Town shall be entitled to recover its consultant costs as provided in Section 10 of this Agreement. Except as set forth in Section 7 of this Agreement, nothing in this release shall be construed as preventing CVRI from protecting its contractual rights and Vested Rights under the Entitlements, including, without limitation, its right to pursue an action under C.R.S. Section 24-68-105 to protect its rights if, after dismissal as provided in Section 4 hereof, the Town acts contrary to those rights.

12. No Admissions. This Agreement is made as a compromise to avoid expense and to resolve the Lawsuit. None of the Parties to this Agreement admits liability of any sort, nor have any of the Parties made any agreements or promises to do or omit to do anything or act except as set forth herein.

13. Limited Purpose. The Parties acknowledge and agree that this Agreement is limited to Filings 11 and 12. It shall not be used for any purpose, municipal, judicial or otherwise, in connection with any properties other than Filings 11 or 12. For the avoidance of doubt, the Agreement shall not be introduced as evidence, for impeachment, or for any other purpose in connection with any development application concerning properties other than Filings 11 and 12 and/or any quasi-judicial or judicial proceeding arising out of a development application concerning property other than Filing 11 and 12.

14. Voluntary Agreement. The Parties acknowledge that they have read this Agreement, have had the assistance of legal counsel, and understand all of its terms, and that this Agreement is executed voluntarily, without duress, and with full knowledge of its legal significance.

15. Authority. The individuals executing this Agreement on behalf of the Parties represent and warrant that they have the authority to execute this document and bind the Party for which they are signing.

16. Counterparts. This Agreement may be signed in counterparts and, when each party has signed one counterpart hereof, it shall be a binding and enforceable agreement.

17. Complete Agreement. This Agreement, with all Exhibits, contains the entire, integrated agreement between the Parties regarding the subject matter discussed herein and supersedes all prior agreement and representations, written or verbal. This Agreement may not be modified in any manner, nor may any rights provided for herein be waived, except by an instrument in writing signed by the party to be charged in such modification or waiver.

18. Severability. In the event that any provision of this Agreement is determined to be void, illegal, or unenforceable, all remaining provisions shall remain and in effect and shall be construed to effectuate, as nearly as possible, the original intentions of the Parties based on the entire Agreement, including the invalidated provision.

19. Binding Upon Successors. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns and shall run with the land.

20. Colorado Law; Venue; Remedies. This Agreement shall be construed in accordance with and governed by the laws of the State of Colorado. Except as set forth in Section 7 of this Agreement, in the event of litigation to enforce this Agreement, the exclusive venue shall be in Garfield County District Court, and the prevailing party in any such lawsuit shall be entitled to recover its costs and attorney fees.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date of the last signature set forth below:

**TOWN OF NEW CASTLE, COLORADO, AND
NEW CASTLE TOWN COUNCIL**

By: 
Art Riddile, Mayor

Attest: 
Mindy Andis, Town Clerk

CVR Investors, Inc.

By: _____
Name:
Title:

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date of the last signature set forth below:

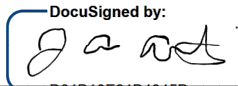
**TOWN OF NEW CASTLE, COLORADO, AND
NEW CASTLE TOWN COUNCIL**

By: _____
Art Riddile, Mayor

Attest: _____
Mindy Andis, Town Clerk

CVR Investors, Inc.

By: _____ 5/29/2024
Name: J. Aaron Atkinson
Title: President

DocuSigned by:


DocuID: 18E21B4845D

EXHIBIT 1
Single-Family Site Plan

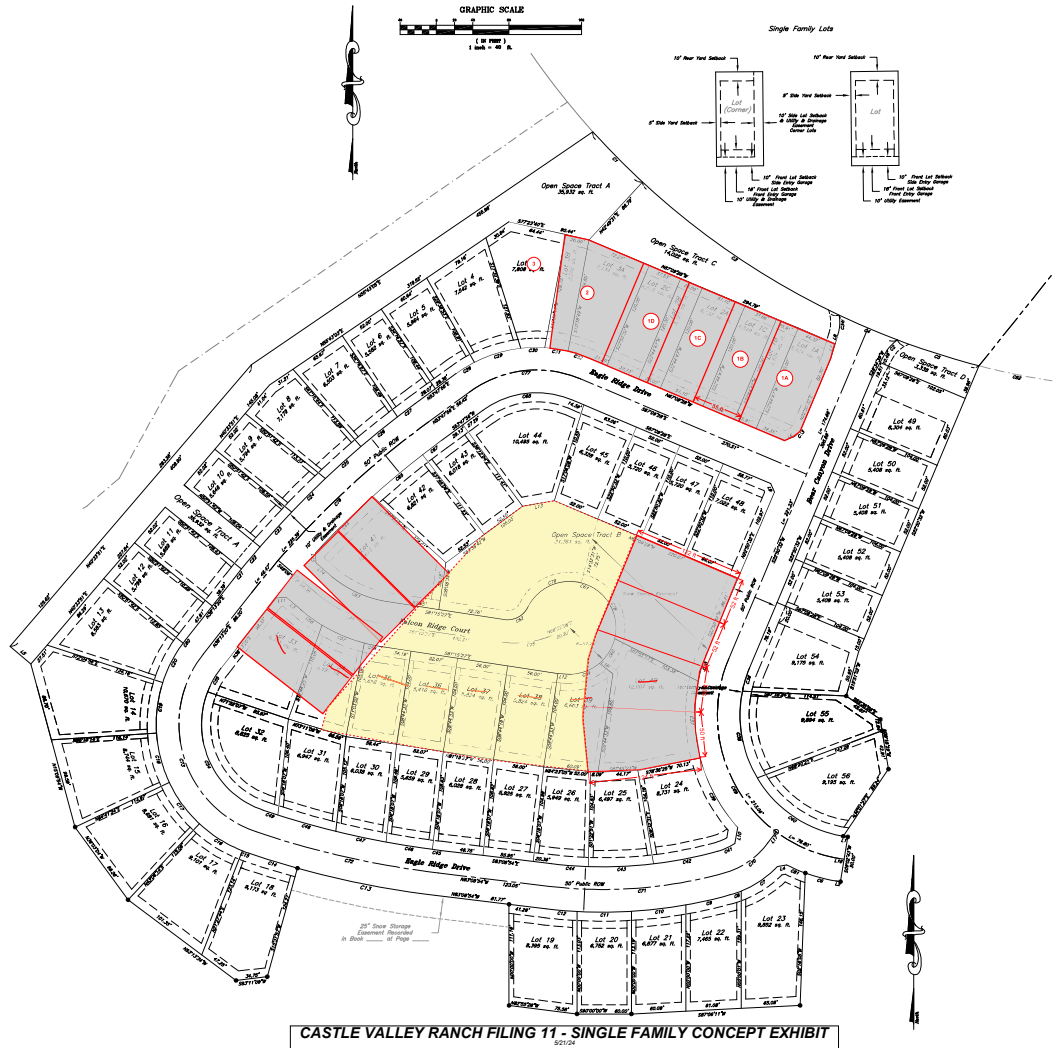


EXHIBIT 2
Supporting Materials

1. Site Plan showing road widths, snow storage locations sufficient to accommodate fifteen (15) percent of plowable area, and a bike path extension from C Avenue to Castle Valley Boulevard through Open Space A (the design and construction of which will be the responsibility of the Town as provided in this Agreement).
2. Development Phasing Plan
3. Anticipated Utilities Plan
4. Proposal for easement area to be dedicated to the Town for a single-track hiking and biking trail at the base of Ganley Hill as a trail connector between Mount Medaris and Pendergast Hill.
5. Phase 1 Final Plat including snow storage locations sufficient to accommodate fifteen (15) percent of plowable area.

V. LAND USE PLAN - PRINCIPLES AND GOALS
Town of New Castle, Colorado 1997

The Land Use Plan incorporates the following principles for the following three Planning Areas:

A. The Present Town and close adjacent areas, and Intermediate surrounding Areas:

1. The more intensive growth and development should be contained within one-fourth mile of the present Town, or, within the Primary Growth/Service Area.
2. Most new development (outside the Primary Growth Area) should be limited to residential uses, but with appropriate convenience commercial service sites, as prescribed by the Secondary Growth/Service Area, or within one mile of the present Town.
3. Residential and commercial developments should be well designed to fit the character of the land/site, and planned to fit the overall community of New Castle.
4. Agricultural lands and uses are to be maintained and preserved as long as practicable.
5. Where appropriate, development should be encouraged to utilize the concept of "clustering" lots and building sites in a smaller area of the property to allow for more efficient use of streets and utilities and to provide more open space or agricultural use on the same property.
6. Require that new development shall provide required additional raw water supply and pay for all additional new services to be provided by the Town.
7. Attain pedestrian access from public streets to stream banks, ridges and public lands where appropriate and practical.
8. Plan for open space, trails, and parks prior to private developments.
9. Plan for additional Town service and administrative facilities.
10. Seek additional legal and physical water rights for future Town supply.
11. Protect the Town's natural water supply and its Elk Creek water shed for quality and quantity by monitoring land use and with agreements with appropriate government agencies.
12. Plan locations for extensions of water and sewer main lines.

13. Plan locations for extensions of Town streets.
14. Maintain the small town, historic and rural essence of the area.
15. Residential growth should be kept concurrent with the level of Town and other public services available.
16. Commercial growth should occur to maintain the necessary level of services and income for the community.
17. Economic development and employment opportunities should be sought and encouraged by the Town for the betterment of the community and citizens.
18. A variety of housing types and price levels should be developed in the area to provide for all citizens.
19. Developers and builders new to the Town area should be made aware of Town standards, values, goals and objectives and should include them in all of their enterprises and developments.
20. Develop a parks, trails and open space system that provides recreation opportunities and interconnections between otherwise separated neighborhoods and other community facilities.
21. Building size and design should be directly related to the size, shape and other characteristics of the building lot/site, to maintain an appropriate quality of physical/visual scale with the site and surrounding area.

B. The Outer-Rural-Agricultural Areas:

1. The existing agricultural properties should remain in such use for as long as practicable and be provided protective status.
2. Development should occur on non-arable areas out of the way of agriculture.
3. Development should be in small clusters of building sites to conserve agricultural land and avoid disturbance of larger agricultural lands; see examples in Appendix.
4. Small outdoor recreation/resort facilities developments would be appropriate land uses in this area.

5. New special service district areas should not be created without existing need or without agreement to join Town facilities.
6. Any new land, resort or resource developments should not be permitted by any agency without satisfactorily mitigating any and all impacts upon the Town and the area.
7. New streets should be extended from existing Town streets and bear the same street names, where practicable.

C. The Original or "Old Town" Area:

1. The Old Town Area, including "Coryell Town", is recognized as a particularly unique and individual area, with history, appearance and character to be maintained, restored and preserved.
2. The single family residence character of the area should be maintained with effective zoning and guidelines for new building and remodeling.
3. Building size and design should be directly related to the size, shape and other characteristics of the building lot/site, to maintain an appropriate quality of visual scale.
4. Each side street off from Main Street should be viewed as a separate neighborhood with distinct visual and building characteristics where new building should adhere to those characteristics.
5. Preserve the historic character of the Downtown Main Street Commercial District.
6. Encourage and assist property owners to renovate and protect existing historic buildings.
7. Identify and maintain a Downtown development style.
8. Encourage and assist rejuvenation of the Downtown District.
9. Anticipate more interest in the Downtown from out-of-town parties, and provide direction and guidance.
10. Develop an on/off-street parking plan.
11. Establish and identify the Town Hall, the Library and the Community Recreation Center as the Civic Center of New Castle.

12. Anticipate that the Civic Center buildings, particularly the Town Hall, will need to be enlarged or relocated as the Town population increases and requirements for additional services increase.
13. Develop a walkway/trails system that encourages walking between the Downtown and the separate residential areas.
14. Pursue the Downtown development goals as prescribed in the 1982 Land Use Plan.

D. SUMMARY - Observations and Goals:

1. The Old Town is essentially "built out" and should not accommodate redevelopment that changes the historic and social character of the area.
2. The Castle Valley Ranch Subdivision as planned and approved in 1982 will house about 7,000 persons when completed, with adequate commercial and open space areas, but will require additional public (Town) facilities.
3. The Three-Mile area outside the Town may contain a population of 2,800 persons in about 20 years from now, based on land area and projections of population illustrated in this Plan.
4. The Three-Mile Area could potentially accommodate 30,000-40,000 persons on present buildable private property, given all other facilities are available, particularly a potable water supply.
5. The Town must make a plan and funding program for future improvements or enlargements of Town Services and facilities, as are Waste Water Treatment Facilities provided for in the "201 Plan" adopted by the Town in 1997.
6. Additional growth and development must "pay its own way" for new Town Services.
7. The Town must attract more commercial and employment enterprises (as appropriate to the area) for the benefit of its citizens and to improve its financial base.
8. The Plan is designed to anticipate future growth of 2,700 residences, or 7,500 persons, by the year 2015, or the pace at which that growth may occur.

9. The Plan is designed with real and attainable goals and can best be accomplished with direct cooperation and partnerships between the Town government, property owners, the County and other government agencies.
10. The land uses and developments permitted in the Area by County, State, Federal or other government agencies must mitigate, or be required to mitigate, any adverse or negative effects upon the Town or the Area, including any public facilities and any of the natural or cultural environments.
11. The natural environment of the Area must be protected and enhanced by considering the values and qualities of the Colorado River and Elk and Alkali Creeks' riparian areas, the surface and ground waters, open spaces, wildlife habitat, soils, vegetation, air and the open vistas.
12. The characteristics of the small town and rural nature of the area must be retained as much as possible, by retaining agricultural uses and directing building design as much as is practicable, and by retaining the older stable population.

13-22-010

Zoning

13-70

Castle Valley Ranch PUD Zoning Regulations

13-22-010 Purpose

The purpose and intent of the Castle Valley Ranch PUD Zone District Regulations are to:

- (A) Encourage variety in the physical development pattern of Castle Valley Ranch.
- (B) Provide a variety of housing densities greater than would be normally possible.
- (C) Encourage the use of a more creative approach to the development of land.
- (D) Encourage a more efficient, aesthetic and desirable use of open space.
- (E) Encourage a more efficient use of energy through solar orientation, native vegetation, and water conservation.
- (F) Provide a variety of dwelling and building designs.
- (G) Provide high standards of development and provide amenities appropriate to the densities involved in the project.
- (H) Provide an integrated open space system throughout areas as outlined on the Castle Valley Ranch PUD Zoning Plan as well as throughout individual districts.
- (I) Provide for a variety of housing types in order to best meet the housing demands of all age groups.
- (J) Maintain and preserve the general alignment of drainage ways for aesthetic, energy and functional purposes.
- (K) Provide pedestrian networks throughout the open space districts as well as

throughout individual districts thereby providing an integrated network throughout the entire development.

- (L) Provide landscape areas and tree plantings throughout the entire development.

13-22-020 Zone District Classifications

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

- (A) Public Space District
- (B) Residential/Single Family Low Density District (R/1/40)
- (C) Residential/Single Family Low Density District (R/1/10)
- (D) Residential/Single Family Medium Density District (R/1/8)
- (E) Residential/Single Family High Density District (R/1/6)
- (F) Residential/Multi-Family Cluster Home District (R/M-F/1)
- (G) Residential/Multi-Family Townhouse/Patio Home District (R/M-F/2)
- (H) Residential/Multi-Family Apartments District (R/M-F/3)
- (I) Residential/Multi-Family Duplex Home District (R/M-F/4)
- (J) Commercial Core Zone District (C/1)

13-22-030 Public Space District

- (A) Purpose. To provide recreation and open space areas throughout the Castle Valley Ranch PUD.
- (B) Permitted Uses.

13-51

Planned Unit Developments

13-10-060

Town to pay such legal and consultant review fees incurred.

(E) A PUD Master Plan application shall be processed in accordance with the requirements of Section 13-10-070 hereof. A PUD Master Plan application shall be approved in accordance with the criteria and conditions contained in Section 13-10-090 hereof.

Source: Ord. 261, Sec. 15.05.050, 1983; R & R, Ord. 98-4, 1998; A, Ord. 98-8, 1998

13-10-060 Final Application

The final application shall be filed within one (1) year of approval of the preliminary application unless the applicant and Planning Commission mutually agree, in writing, to an extension of the filing deadline. The application shall be made on a form provided by the Town and shall include fifteen (15) copies of the following:

(A) A final plan illustrating:

(1) Boundary, overall size and a legal description of the site;

(2) Proposed topographic character of land at a contour interval of two (2) feet if the slope is less than ten percent (10%) (spot elevations may be required if the land is too flat for contours) and five (5) feet if the slope is greater than ten percent (10%);

(3) The proposed land uses and their respective acreage;

(4) The location and size, or building envelopes of all buildings, structures and improvements;

(5) The architectural character of all buildings and structures, including their maximum height;

(6) The density and type of dwellings, if applicable;

(7) The internal vehicular circulation system, including arterial, collector, and local street design, right-of-way widths, curb cuts, turning movement and access control;

(8) Pedestrian and bicycle circulation system;

(9) Off-street parking areas, loading areas, service areas, including refuse disposal;

(10) Areas that are to be dedicated for public use or reserved as common open space;

(11) The location and design of proposed signs and exterior lighting plan;

(12) Areas of known hazards, such as 100-year floodplain, rockslides, subsidence or other similar hazards, and mineral areas of potentially economically feasible extraction value;

(13) A landscape plan illustrating size, type and location of plant materials and an irrigation plan, if applicable;

(14) Anticipated utility requirements; and

(15) Development phasing.

(B) A written statement including:

(1) An explanation of the character of the PUD and the manner in which it has been planned to take advantage of the PUD regulations;

(2) A statement of the present ownership and legal description of all the land included with the PUD;

(3) A brief statement describing the environmental impact of the PUD with specific reference to the performance standards identified in this Title;

13-10-070

Zoning

13-52

(4) Compliance with Comprehensive Plan; and

(5) Fiscal impact study as specified by the Planner.

Source: Ord. 221, Sec. 3.22, 1981; R & R, Ord. 261, Sec. 15.05.060, 1983

13-10-070 Processing of Preliminary Application

(A) The applicant shall submit the complete preliminary application to the Planner. Upon finding the application complete, the Planner shall submit the preliminary application to the Planning Commission.

(B) Within thirty (30) days of receipt of the preliminary application from the Planner, the Planning Commission shall hold a public hearing to consider the application. Public notice of the hearing shall be published in a newspaper of general circulation within the Town at least fifteen (15) days prior to such hearing. Additionally, owners of property within two hundred fifty (250) feet of the subject property shall be notified of the public hearing by certified mail and the property shall be posted at least fifteen (15) days prior to the hearing along the part of such property fronting on a street, subject to the Planner's approval.

(C) Within thirty (30) days following the public hearing or within such time as is mutually agreed by the Planning Commission and the applicant, the Planning Commission shall either approve the application, with or without conditions, or deny the application.

(D) The applicant may take a disputed decision of the Planning Commission to the Town Council for review. If, in the Town Council's sole discretion, the finding of the Planning Commission may have been in error, the Town Council shall refer the application back to the Planning Commission for reassessment.

(E) Approval of the preliminary

application shall be valid for one (1) year. A one-year extension of approval time may be granted by the Town Council upon written request by the applicant.

Source: Ord. 261, Sec. 15.05.070, 1983

13-10-080 Processing of Final Application

(A) All or any portion of an approved preliminary application may be submitted for final application approval. In the case of a partial submission, the approval of the remaining portion of the preliminary application shall automatically gain an extension of one (1) year.

(B) The applicant shall submit the complete final application to the Planner. Upon finding the application complete, the Planner shall submit the final application to the Planning Commission.

(C) Within thirty (30) days of receipt of the final application from the Planner, the Planning Commission shall hold a public hearing to consider the application. Public notice of the hearing shall be published in a newspaper of general circulation within the Town at least fifteen (15) days prior to such hearing. Additionally, owners of property within two hundred fifty (250) feet of the subject property shall be notified of the public hearing by certified mail and the property shall be posted at least fifteen (15) days prior to the hearing along the part of such property fronting on a street, subject to the Planner's approval.

(D) Within thirty (30) days following the submittal of the complete final application or within such time as is mutually agreed by the Planning Commission and the applicant, the Planning Commission shall either approve the final application, with or without conditions, or deny the application and recommend the same to the Town Council.

(E) Within thirty (30) days of receipt of the Planning Commission recommendation, the Town Council shall approve the application, with or without conditions, or deny the application.

13-53

Planned Unit Developments

13-10-120

(F) An approved PUD plan shall not be conducted until the Planner has issued a PUD certificate. The certificate shall be issued only after the applicant has entered into an agreement with the Town specifying that all conditions imposed by the Town Council will be completed and that the use and improvements will be in accordance with the approved final application.

Source: Ord. 261, Sec. 15.05.080, 1983

13-10-090 Approval Criteria and Conditions

(A) A PUD application shall be approved only if the Town Council finds that the application:

(1) Is generally compatible with adjacent land uses;

(2) Is consistent with the Comprehensive Plan;

(3) The Town has the capacity to serve the proposed use with water, sewer, fire and police protection;

(4) The uses proposed within the PUD are uses permitted outright or by special review under Chapter 13-08 within the zoning district or districts contained within the PUD;

(5) The number of dwelling units permitted by the underlying zoning districts is not exceeded by the PUD plan;

(6) The PUD utilizes the natural character of the land, includes compatible land uses, provides for fire and police protection, off-street parking, vehicular, pedestrian and bicycle circulation, outdoor recreation, is of overall compatible architectural design, achieves adequate screening, buffering and aesthetic landscaping, avoids development of areas of potential hazard, ensures compliance with the performance standards and meets all other provisions of this Title.

(B) In considering an application for a PUD, the Town Council may impose conditions on the final application to ensure compliance with this Chapter.

Source: Ord. 261, Sec. 15.05.090, 1983

13-10-100 Plans To Be Endorsed and Made Part of Zoning Map

All approved final PUD development plans and PUD Master Plans, including modifications and conditions, shall be endorsed by the Town Council and made a permanent part of the zoning district map.

Source: Ord. 261, Sec. 15.05.100, 1983; R & R, Ord. 98-4, 1998

13-10-110 Alterations

No approved PUD plan shall be altered unless the final development plan is amended and approved in accordance with the procedures applicable to the approval of a final application as set out in this Chapter, except that minor changes in the location, siting, or character of buildings and structures may be authorized by the Planner, if required by engineering or other circumstances not foreseen at the time the final development program was approved.

Source: Ord. 261, Sec. 15.05.110, 1983

13-10-120 Court Appeals

Any person applying to the courts for a review of any decision made under the terms of this Chapter shall apply for review within thirty (30) days after the date of decision and shall pay the cost of preparing a transcript of the proceedings.

Source: Ord. 261, Sec. 15.05.120, 1983

Chapter 13-12

From: Andrew Peters <apeters@ottenjohnson.com>
Sent: Tuesday, August 20, 2024 1:29 PM
To: Haley Carmer <hcarmer@garfieldhecht.com>
Subject: RE: COMPLETION CHECK - CVR Filing 11 Exhibit 2 Submittal material
(Applicant responses below in red.)

From: Orrin Moon <Orrin.Moon@Crfr.us>
Sent: Thursday, August 15, 2024 9:36 AM
To: Paul Smith <psmith@newcastlecolorado.org>
Subject: RE: COMPLETION CHECK - FW: CVR Filing 11 Exhibit 2 Submittal material

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Paul,

I have reviewed this set of plans for CVR Filing 11 Exhibit 2 and have the following comments:

1. Phasing for the access road shows phase 1, a Fire Dept Apparatus turnaround designed at the end of the phase or lot 15. Then phase 2 shows a turnaround at the end of lot 26. The phase 3 road section is only around 333' in length. If phase 2 turnaround is installed, a travel distance from the start to the turnaround is around 1.850'. For safety reasons for all Phase 1 and Phase 2 residences, the road must be finished in Phase 2 to complete the second way out of the subdivision.
 - a. **Based on this and previous comment on Phasing. We suggest consolidating to two phases, Phase 1 as shown, Phase 2 to include Phase 3.**
2. Phase 1 and Phase 2 Fire Department Turnarounds shall be constructed to carry the weight of fire apparatus and shall be all-weather driving surfaces. The surface shall be maintained throughout their use.
 - a. **Add at "Construction Level" submittal.**
3. Trees and vegetation shall not interfere with fire hydrants. Trees shall be placed away from fire hydrants so their growth does not obstruct the view or operation of a fire hydrant. All fire hydrants shall be at the correct height and have the steamer connection facing the roadway. With street parking allowed on both access roads, we will require a 5' red-painted area on the curb in front of each fire hydrant. This will help to eliminate parking in front of the fire hydrants.
 - a. **Add at "Construction Level" submittal.**

I have no other requirements or concerns with this proposed development. Please feel free to contact me with any questions.

Thank You,

Orrin D. Moon
Prevention Division Chief/Fire Marshal
Colorado River Fire Rescue
970-625-1243
orrin.moon@crfr.us



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



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

August 13, 2024

Paul,

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

Plat Notes:

Open spaces A, B, C, and F are ideally suited for future public trails and should be dedicated to the Town of New Castle.

Maintenance and Service of Raw Water Irrigation Pipes and Fixtures. The owner of the premises for which a raw water irrigation tap is made shall at all times keep all service pipes, fixtures, and appliances from the point of connection at the mainline tight and in good working order to prevent any waste of raw water. In case any pipe or fixture shall be found to leak, or be damaged, the owner shall forthwith repair and correct the same, the owner shall be responsible for preventing the pipes from freezing from the point of connection with the main to his or her premises. (This raw water maintenance definition should be included in the Final Plat.)

Utilities

A potable water service line and curb stop, for a sample station, should be installed in open space D. The sample station will allow utility crews to regularly test water quality.

All potable water connections are to be protected by a Reduced Pressure Principle Assembly check valve. This is required to prevent possible cross contamination between the raw water system and the potable water supply.

The Fire Hydrant manufacturing type should be Kennedy.

Potable water main lines shall be C900 DR14. The current plans propose the water lines as Ductile Iron Pipe (DIP).

A potable water blow off should be installed on the dead-end line, located on Bear Canyon Drive.

Sewer Manholes, where main line grades exceed 7%, should not be spaced more than 100 feet apart. Our Maintenance crew are concerned with effectively jetting steep grades for a long distance.

The raw water irrigation design should include the following:

- A top-of-pipe bury depth of approximately 2 feet.
- Gravity drains for winterization, located at elevation low points.
- Raw water main line pipes to be sized appropriately. Material type to be gasketed bell C900 DR18, purple in color, with a 14-gage tracer wire.

- Raw water main lines are to be constructed with mechanical joints and a thrust block, or mechanical joints with mega lug connections.
- Whenever possible, raw water main lines should be located in the ROW green belts, between the back of curb and the edge of sidewalk. We would like to minimize having to remove asphalt paving and concrete curb/gutter/sidewalk if future repairs are needed.
- The maintenance responsibilities of the raw water service lines should be defined in the Final Plat
- Each raw water tap should include a weeping curb stop and appropriate drainage.

Streets, Sidewalks and Trails

The snow storage plan is inadequate. It does not account for residential driveways. All newly constructed streets shall be designed to accommodate snow storage. Turf areas, without obstructions, may be utilized for this purpose. A minimum functional area equaling fifteen percent (15%) of the paved area shall be provided contiguous to the right-of-way. Individual snow storage areas shall not be separated by more than 300 feet. Obstructions in the snow storage areas include fences, utility boxes, bushes and large landscape boulders.

A 5-foot trail is proposed on Castle Valley Boulevard. It should be an 8-foot trail to match existing.

After the sewer line is installed, the C Ave. roadway must be repaired with like materials. A portion of the roadway is hot mix asphalt (HMA) and the other portion is recycled asphalt millings.



August 16, 2024

Mr. Paul Smith, Town Planner
Town of New Castle
P.O. Box 90
450 West Main Street
New Castle, CO 81647

RE: Preliminary and Final Plan Review: Castle Valley Ranch, Filing 11

Applicant Responses in red, received August 20, 2024

Dear Paul:

This office has performed a review of the documents provided for the Preliminary and Final Plan application of Castle Valley Ranch, Filing 11. The review generated the following comments:

SGM - General comments are intended to be addressed at "Construction Level" submittal.

General Comments:

1. The disturbed area will be over an acre. The Applicant will need to obtain a CDPHE Permit for Stormwater Discharge. A copy of the permit should be provided to the Town.
2. The Plans show the water line material as ductile iron. The plans should be changed to the Town preference of C900 PVC.
3. The profile views of most sheets do not include all of the utility crossing details. Storm drain profiles should include sewer and water crossings. Sewer and water profiles should include storm crossings. Some sheets have these, but generally speaking, the profiles are missing this key information.
4. The water line plans need to include specifications on pipe jointing to be provided.
5. The plans also need to specify where mega-lugs are proposed and where thrust-blocks are to be used.
6. The slope and invert elevations of all sewer services should be added to all applicable sheets.
7. The plans need to include a construction detail for the boulder retaining walls. The plans need to account for any associated drains; where they will daylight and any necessary easements.
8. More information is necessary for the equipment locations that will be necessary for dry utilities (power, gas, cable TV, phone/data).

Plat: *SGM - Can add the Note to the Final Plat*

9. There are boulder retaining walls to separate elevations between adjacent lots. These walls should be protected in an easement with language to prevent modifications by lot owners.

Page 5: *SGM - Page by page comments are intended to be addressed at "Construction Level" submittal.*

10. Note 6 under "General Water/Sewer Notes" states that all removed water line appurtenances need to be supplied to Owner. This should be changed to the Town instead of the Owner.
11. The notes should include specification on water-line fittings, type, materials, and poly-wrap.
12. Note 4 under "Revegetation Notes" should require Erosion Control blanket on all slopes steeper than 4:1 instead of 2:1.

Page 6:

13. It appears that the riprap swale from the detention pond outlet will discharge onto a trail. A culvert should be installed beneath the trail to convey these flows.

Page 7:

14. Snow storage is shown on the wrong side of the temporary fire department turnaround.
15. Consideration should be given to the Phase 3 snow storage location and the need for a fire department turnaround.

Page 8:

16. The inlet in Open Space Tract E needs to be redesigned to prevent flooding of downstream properties in the inevitable case that the inlet plugs from mud and/or debris. A storage volume, a domed inlet grate, an emergency overflow path, an upstream overflow inlet are all ideas to mitigate flooding. Otherwise, an emergency swale with an easement should be designed along the property lines of downstream properties.
17. Consideration should be given to relocation of the SE detention pond out of the way of future road extension. The pond will cause mud, debris, and saturated conditions that almost certainly will complicate the construction of the future road platform.

Page 9:

18. Aggregate bags are only shown in the curb and gutter of Phase 1 Bear Canyon Drive. Aggregate bags (or equal) should be included in all curb and gutter of roadways for all phases.
19. Similarly, aggregate bags for erosion control in swales should be provided, too.

Page 14:

20. Future lots 54 to 57 will gain access off of Bear Canyon Drive but the plans seem to indicate that the east side will be high-back curb and gutter. This should be changed to mountable curb and gutter to allow for future driveways.
21. The east side of Bear Canyon Drive is unclear on if there is or is not a detached sidewalk with a park strip. There appears to be line work to indicate a park strip but both areas are labelled as 5' sidewalk. Consideration should be given to future driveways.
22. Based on how the above comment is addressed, the ADA ramp should be redesigned accordingly.

Page 17:

23. Provide dimensions for the Fire Department Turnaround at the end of Phase 1.

Page 18:

24. The fill at the end of Serenity Park Circle is significant. Even if the fill is compacted to 95% per the specifications of the geotechnical engineer, some settlement should be anticipated. Fill placement and compaction should be included in the Phase 1 construction and then the fill allowed to consolidate for the next few years. Recommendations from the geotechnical engineer specific to this area should be obtained to prevent damage to road and utilities from differential settlement.

Page 19:

25. The note for the swale to the west state that the contractor is to “Provide Swale at Minimum 2” ...” This note should be revised. The 2” is unclear. This might be a typo and meant to be 2% minimum. A more descriptive note should be included.
26. The note seems to indicate a sawcut and new asphalt would abut the existing asphalt. The details indicate that a “T-top” on asphalt sawcut would be required. The note should be changed to indicate reference the T-top detail for the asphalt tie with Castle Valley Drive.

Page 20:

27. Trail surface construction and type needs to be specified. No typical section is included for construction efforts.
28. The swale ends and spills runoff over and across the trail. This needs to be remedied.

Page 22:

29. The drainage and grading for the Trail Connection needs to be better detailed.

Page 24 to 26:

30. The plans need to include the property lines and how the construction will be contained in either an easement or right-of way.
31. The construction will likely damage existing private property. More detail is required on the plans for what is to be protected, repaired, and/or replaced.
32. The plans need to include more detail on how the connection to the existing sewer is expected to be made.
33. The water crossing is crossing at a 45°. This angle should be changed to a 90° crossing to minimize the potential for cross-contamination. Additionally, the required separation distance should be verified both horizontally and vertically. Any method employed to prevent cross-contamination should be noted on the plans.
34. Adequate separation between storm drains and sewer should be verified.

Page 27:

35. The plans need to include more detail on how the connection to the existing water line is expected to be made.
36. A gate valve should be included at the connect to isolate the water system at the property line.
37. The plans should include a blow-off at the low point. The engineer should work with the Town to determine if the existing is adequate or a new one should be provided.
38. The plan shows a long crossing with the 24” storm drain above the water line. Adequate cover is questionable. The alignment of the water and the storm drain needs to be reconfigured to avoid conflicts, provide separation, and sufficient separation.
39. At sta. 803+61.92 an “8” AVR” is specified. Verify this is correctly noted.

Page 28:

40. The 4” irrigation line is not shown correctly and should be revised.
41. The gate valve conflicts with the irrigation line and should be evaluated for need and location.
42. At sta. 903+97.85 an “8” AVR” is specified. Verify this is correctly noted.
43. Label the topo lines.

Page 29:

44. The 4" irrigation line conflicts with the fire hydrant and hydrant line at the intersection of Serenity Park Circle and Bear Canyon Drive and needs to be realigned.
45. The termination of the utility construction at the end of Phase 1 will be problematic for the sewer. The termination of the sewer should be at a manhole instead of between manholes. Sewer needs to be constructed to the next manhole or a manhole added at the end of Phase 1 to prevent a future deflection in the sewer line.

Page 30:

46. The fill at the end of Serenity Park Circle is significant. Even if the fill is compacted to 95% per the specifications of the geotechnical engineer, some settlement should be anticipated. The sewer line should be lowered to have the manholes in native material instead of fill.

Page 32:

47. The water line tee should be located at the low point to prevent air pockets.
48. There are multiple notes that specify different ending locations for the Phase 1 utilities.

Page 33:

49. Due to the large amount of fill, the sewer-pipe joints should be specified as mechanically jointed.
50. Similarly, the water-line joints should be specified as restrained joints rather than push-on.
51. Verify that there is adequate separation between sewer laterals and the water main between sta. 211+40 and sta. 213+70.

Page 34:

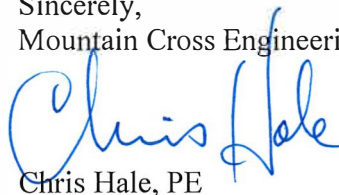
52. There is a 12" culvert beneath the path. This should instead be captured and connect to the adjacent 24" storm drain.
53. The swale terminates and drains across the proposed trail. The runoff in this swale should be captured and conveyed beneath the trail to the detention pond.

Page 36:

54. There should be a typical section included for trail construction.

Thank you for the opportunity to provide this letter. The extent of our review was limited to the areas discussed above. The conclusions and opinions that are expressed above are based on the information available at the time of preparation of this letter. Any additional information presented afterward may require that these opinions be modified. Feel free to call if any of the above needs clarification or if you have any questions or comments.

Sincerely,
Mountain Cross Engineering, Inc.



Chris Hale, PE

Mountain Cross Engineering, Inc.
Civil and Environmental Consulting and Design
826 ½ Grand Avenue, Glenwood Springs, CO 81601
P: 970.945.5544 F: 970.945.5558 www.mountaincross-eng.com

From: Andrew Peters <apeters@ottenjohnson.com>

Sent: Tuesday, August 13, 2024 2:11 PM

To: Haley Carmer <hcarmer@garfieldhecht.com>

Subject: RE: Filing 11 completeness

(Applicant responses below in red.)

From: Haley Carmer

Sent: Tuesday, August 6, 2024 10:21 AM

To: Peters, Andrew L.W. <apeters@ottenjohnson.com>

Subject: Filing 11 completeness

Hi Andy,

Staff has reviewed the updated Filing 11 submittal materials and has deemed the submittal to be complete. The public hearing will take place on September 3rd. Staff is putting together the public notice for the meeting and will mail, publish, and post the notice.

Based on our initial review of the submittal materials, we identified a few items that need clarification before the hearing. An initial list of those issues is below. If any other questions or comments come up, I will let you know. Thanks, Andy.

1. The materials identify SF-1 as the preferred zone district, but lot sizes and setbacks meet SF-2 requirements, not SF-1 requirements. Is the intent to stick with SF-1 zoning and alter the zoning standards as allowed under the PUD guide, or would CVRI prefer to change the zoning to SF-2? **Updated to SF-2 in the attached. We confirmed that the 2008 Village Homes plan used SF-2 as well.**
2. The Town needs to know the lot sizes for the other phases so that staff can confirm whether future plats for those phases are consistent with what may be approved in the application. **Updated in the attached.**
3. The applicant materials do not include any parking calculations. Those are needed to confirm compliance with applicable parking requirements. **The parking standards in section 13-22-130(E) in Title 13 call for 2 off-street parking per Single Family Lot (>6000sf). This project intends to supply 4 per lot, 2 per garage, 2 per driveway. Total Parking for Filing 11: (57 lots X 4) 228 spaces.**
4. The application materials do not specify whether irrigation will use raw or potable water. Please specify so that we can determine water rights dedication requirements. If raw water will be used, please confirm the HOA will take over ownership and management of the system and that sufficient water rights will be dedicated to the HOA for that purpose. **The intent is to use raw water. Awaiting confirmation as to the second component.**
5. Will Open Spaces C and F be dedicated to the HOA or to the town? **Town.**
6. The grading plan states that grading for Phase 1 only is anticipated and that excess excavation will be stored in Phase 2. It was previously stated that the whole filing would be graded up front. Please confirm that the note on the grading plan is correct. **The note on the plan is correct.**

From: Andrew Peters <apeters@ottenjohnson.com>
Sent: Tuesday, August 13, 2024 2:11 PM
To: Haley Carmer <hcarmer@garfieldhecht.com>
Subject: RE: Filing 11 completeness

(Applicant responses below in red.)

From: Haley Carmer <hcarmer@garfieldhecht.com>
Sent: Monday, August 12, 2024 12:17 PM
To: Andrew Peters <apeters@ottenjohnson.com>
Subject: RE: Filing 11 completeness

Hi Andy,

Hope you had a nice weekend. I received some additional comments/questions from staff regarding the application materials. We're still waiting on referral comments, which I'll send you as they come in. Thanks.

1. The road splitter at the north end of Bear Canyon Drive blocks access to the two northernmost lots on the east side of Bear Canyon. The splitter isn't required and should be removed or redesigned, at CVRI's election.
Noted. (We assume there is nothing to revise at this time.)
2. Please explain the snow storage strategy along Serenity Park Circle. Is the Town pushing snow past the sidewalk onto private lots, or would the snow be piled on the sidewalks and residents or the HOA expected to remove the snow from the sidewalks into the 10 ft. snow storage/utility easement to be created at the front of each lot?
The Town would push snow past the sidewalk into the snow storage easement.
3. The fire marshal has some concern about Bear Canyon not being completed until Phase 3 as it will require emergency responders (and residents) to wrap back around through Serenity Park Circle. This is also problematic for construction because the heavy-duty construction trucks will increase wear and tear on Serenity Park Circle. Would it be possible to complete Beary Canyon Drive in Phase 2 or at least lay road base sufficient for emergency vehicles and construction traffic?
Response pending.

NOTICE OF PUBLIC HEARING Town of New Castle

Date: September 3, 2024
Time: 7:00 PM
Place of hearing: New Castle Recreation Center, 423 W. Main St.

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

Public body conducting hearing: Town Council

Brief description of application: Amended Final Application for PUD Development Plan in Castle Valley Ranch, Filing 11, proposing the development of up to 57 single-family homes in up to three phases and Final Phase 1 Subdivision Plat for same

Legal description: Town of New Castle, Garfield County, State of Colorado:

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Common address or Description: 13.538 acres east of S. Wild Horse Dr. (CVR Filing 8) & south of Castle Valley Blvd.

Applicant: CVR Investors, Inc. and its assigns

Landowner: CVR Investors, Inc.

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



AFFIDAVIT AS TO NOTICE OF PUBLIC HEARING

I, Paul L. Smith, do hereby certify that pursuant to ordinances of the Town of New Castle, Colorado, I provided notice of a public hearing before the New Castle Town Council on **September 3, 2024**, regarding an **Amended Final PUD Application** by doing the following:

1. At least fifteen **(15) days prior** to such hearing, the Town of New Castle sent a copy of the attached Notice of Public Hearing by **certified mail to the owners of all property within two hundred and fifty (250) feet** of the subject property and to the Town of New Castle.
2. At least fifteen **(15) days prior** to such hearing, the Town of New Castle **posted notice of the hearing on the property on a sign** approved by the Town at least twenty-two (22) inches wide, twenty-six (26) inches high, with letters at least one (1) inch in height. The sign was posted so that it was visible from a public street.
3. At least **(15) days prior** to such hearing, the attached Notice of Public Hearing was published on the **Town's website**.
4. At least **(15) days prior** to such hearing, the attached Notice of Public Hearing was **published in a newspaper of general circulation within the Town**.

Paul L. Smith
Signature



STATE OF COLORADO)
) ss.
COUNTY OF Garfield)

Subscribed and sworn to before me this 29 day of August, 2024, by Rochelle Firth.

Witness my hand and official seal.

Rochelle Firth
Notary Public
My commission expires December 20, 2025



See Proof on Next Page

AFFIDAVIT OF PUBLICATION

State of Texas, County of Bexar, ss:

Hayden Lipsky, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of Glenwood Springs Post Independent, that the same weekly newspaper printed, in whole or in part and published in the County of Garfield, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said County of Garfield for a period of more than fifty-two consecutive weeks next prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as a periodical under the provisions of the Act of March 3, 1879, or any amendments thereof, and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said weekly newspaper for the period of 1 insertion; and that the first publication of said notice was in the issue of said newspaper dated 16 Aug 2024 in the issue of said newspaper.

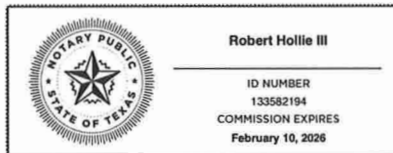
That said newspaper was regularly issued and circulated on those dates.

Total cost for publication: \$193.16
NOTICE ID: pPG08FA0xEEcWjwJSNQu
NOTICE NAME: 8CD09 Notice of Public Hearing

(Signed) Hayden Lipsky

VERIFICATION

State of Texas
County of Bexar



Subscribed in my presence and sworn to before me on this: 08/19/2024

Notary Public
Electronically signed and notarized online using the Proof platform.

NOTICE OF PUBLIC HEARING
Town of New Castle

Date : September 3, 2024
Time : 7:00 PM
Place of hearing : New Castle Recreation Center, 423 W. Main St.

Virtual Meetings are subject to Internet and technical capabilities.

To join by computer, smart phone or tablet:

<https://us02web.zoom.us/j/709658400>
If you prefer to telephone in:
Please call: 1-346-240-7799
Meeting ID: 709 658 4000

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

Public body conducting hearing : Town Council

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PUBLISHED IN THE GLENWOOD SPRINGS POST INDEPENDENT ON FRIDAY, AUGUST 18, 2024.

August 28, 2024

TO: Town Council, Town of New Castle
FR: Denise and Steve Scheberle, Myrna Candraia, and Jeanne Huyser
RE: Filing 11 application

We write to express our continuing concerns regarding the Filing 11 application to develop the property behind South Wildhorse Drive and Mount Harvard Court by CVR Investors, Inc. (CVR).

Citizens, Planning and Zoning Commissioners and the Town Planner identified issues with the original Filing 11 application that ultimately resulted in a unanimous vote by Council to reject it. It appears that some of these earlier issues have been addressed in the new submission for Filing 11. Most notable of these changes is the switch from multi-family units to single-family homes. We believe that this change reflects the desire of many current residents to own a home. It also offers more congruity with the adjacent homeowners. Also, the number of units for this 13-acre parcel has been reduced from 85 to 57, addressing the concerns citizens had about unit density in the development. Finally, it appears that the new application provides for more open space in the center of the development. Reducing the number of units and providing more open space are welcome modifications.

While we recognize these positive changes, we urge the Council to take the following concerns into account before approving the application as presented.

1. Consider traffic flow on Castle Valley Boulevard (CVB).

The application creates a new street connecting to CVB. This is a concern with increasing traffic on CVB as the town population grows, especially during work-commute and school drop-off times. Making a left-hand turn onto CVB will be very difficult during these times. We wonder why the new street proposed as part of Filing 11 does not connect to the existing roundabout, as this would improve traffic flow on CVB. Since the developer owns acreage adjacent to the roundabout and will likely build units close to the roundabout in the future, it seems a logical way to reduce traffic issues on CVB.

2. Consider requiring a park inside or adjacent to the development.

We assume that the development of 57 homes will add close to 200 people to the town. These homes are likely to bring children to the town who would enjoy a park. The Comprehensive Plan calls for the creation of park space to meet the standard of an additional 14 acres of usable park land for every thousand-person increase in the town's population. Data from the Comprehensive Plan showed that the town was just under the minimum in 2007 (13.6 acres to service roughly 4,000 people). New Castle is falling further behind in this standard as its population continues to grow. This is particularly true for the west side of CVB with only one park (Hot Shot Park). We appreciate the proposed Serenity Park, but that appears to be an area of open space and not a green space for kids to recreate. More park space is needed as development in the town continues.

3. Require an alternate emergency evacuation route.

We must consider how people in New Castle will evacuate should we be faced with a wildfire or other emergency. We've watched how quickly fires can move, such as in Lahaina in 2023 and in Louisville and Superior in 2021. This proposal will only add to the traffic loading on CVB, which is a grave concern for

everyone, but also has the issue of creating a congested area *within* the development due to concentrated housing and only one exit. We urge the Council to require that the developer create an emergency exit that connects the development to C Street so that residents could evacuate.

4. Consider adding more open space between existing homes and the development and the effect of building a walkway that connects to South Wildhorse Drive.

The current application has a black-top walkway running between the development and existing homes. This is potentially an attractive feature, though it would be improved by additional open space. The proposal reveals just a narrow strip of open space with a walkway running in the middle. Expanding this space would make it more inviting and complement the Comprehensive Plan.

Additionally, the town must consider the effects of increasing pedestrian traffic at the intersection of South and North Wildhorse Drive and CVB. The Filing 11 map shows a sidewalk ending at South Wildhorse. We urge the Council to, at minimum, add crosswalks running across South Wildhorse and across CVB on the south side. Currently, crosswalks exist across CVB on the north side of the intersection and across North Wildhorse Drive. This intersection requires more attention from the town to improve pedestrian safety particularly as this development and other developments are built, bringing more traffic and more people crossing the street. At minimum, additional crosswalks across CVB to the south and South Wildhorse are needed. Speed bumps or reduced speeds at that intersection would also help.

5. Consider infrastructure capacity, snow removal requirements, parking and future development

We encourage the Council to carefully consider physical and safety elements that add to the quality of life in our town. These include sufficient infrastructure capacity, both for water and wastewater, but also adequate police, public works, and fire personnel. Water, especially during drought, will be scarce. Additional costs of processing wastewater and providing drinking water should be carefully reviewed. As development continues and impervious surfaces increase, stormwater is a concern. Stormwater from both sides of CVB drain into the Filing 11 area. The application appears to place snow in the front yards of residents, which is not a palatable solution to snow removal.

Parking on the street will be challenging. We understand that lot sizes vary between 5,600 square feet and 7,000 square feet, with just 5' setbacks between lot lines. North Wildhorse is somewhat comparable to this density, with one important difference: houses are only on ONE side of the street. Imagine doubling the density of North Wildhorse (both sides of the street with houses) and one gets a sense of what parking may be like in this development for residents in these 57 homes.

Finally, we encourage careful thinking about anticipated future building on the remaining acreage. We note that parts of this area are zoned mixed use, for example. What will the remaining 100 or so acres look like in the future? It's hard to know what the cumulative and connected impacts of this development are without understanding plans for the much larger remaining acreage.

We ask the Council to not approve this application until consideration is given to these concerns. We believe that changes will make the development more closely reflect the value that residents place on open spaces, recreation, safety, and sense of community and make the development more inviting to future residents.

Thank you for your time.