

**New Castle Town Council Meeting
Tuesday, July 2, 2019, 7:00 p.m.**

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 Owens Councilor Hazelton Mayor A Riddile Councilor Leland Councilor G Riddile
Absent	Councilor Copeland

Also present at the meeting were Town Administrator Dave Reynolds, Town Clerk Melody Harrison, Town Planner Paul Smith, Public Works Director John Wenzel and Town Attorney David McConaughy.

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

Meeting Notice

Town Clerk Melody Harrison verified that her office gave notice of the meeting in accordance with Resolution TC 2019-1.

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.

Consultant Reports

Consultant Attorney – Town Attorney David McConaughy told the council that his firm had recently been appointed as the attorney for Avon, Colorado.
Consultant Engineer – nothing to report.

Items for Consideration

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Proclamation Honoring Storm King Firefighters

Mayor A Riddile told the council that the 25th anniversary of the Storm King tragedy would be on July 6, 2019. He read the proclamation into the record.

Consider Ordinance TC 2019-4, An Ordinance of the New Castle Town Council Approving a Final PUD Development Plan and Final Subdivision Plat for Lot 2B, Phase 7, Lakota Canyon Ranch, Also Known as Eagle's Ridge Ranch (1st reading)

Town Planner Paul Smith told the council that the application was for 36 units, and that the subdivision will be a mix of condominiums, townhomes and duplexes. He said that at the end of the presentation, staff was looking for one of three options: Approval without conditions, approval with conditions or denial.

Planner Smith reviewed his staff report in detail. He noted that the Planning & Zoning Commission acknowledged some code variations that included:

- Higher density than allowed
- No mixed use as zoned
- A lack of T-turnarounds
- A lack of landscape strips between the curb and sidewalk.

Planner Smith said that after the P&Z meeting, the applicant, Jim Colombo made revisions and resubmitted documents for consideration. Planner Smith said there were additional non-conforming items on the new submittals that P&Z had not seen. He reviewed them for the council. They included:

- Compact parking spaces (prohibited in the Lakota PUD)
- Compact parking spaces obstructing exit pathways
- Over-height buildings (7 & 8)
- A lack of appropriate off-street parking within proximity to buildings 7-9.

Planner Smith told the council that there were six approval criteria that the council should reflect on as they consider the proposal:

1. The proposal is generally compatible with adjacent land uses
2. The proposal 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
5. The number of dwelling units permitted is not exceeded by the PUD plan
6. The PUD will:
 - Provide off-street parking
 - Utilize the natural character of the land
 - Provide pedestrian and bicycle circulation
 - Provide outdoor recreation
 - Is of overall compatible architectural design
 - Achieve adequate screening
 - Ensure compliance with performance standards

Utilizing plan sets projected on a screen, Planner Smith reviewed the staff comments regarding the six criteria.

1. Planner Smith said that the proposal was generally compatible with the adjacent land uses, although the property was zoned mixed-use. Adjacent mixed-use parcels were all residential.
2. Planner Smith said that he studied both the Lakota Master Plan and the town comprehensive plan. He said that the question was whether the development proposal fit the intent of the comprehensive plan and the Lakota Master Plan. Planner Smith said that he felt it might be difficult to entice a business to open in Lakota, but that the council would need to determine if they would be willing to exempt the development from the commercial component of the mixed-use zoning, pushing the commercial requirement off to the three remaining mixed-use parcels in Lakota. He noted that the proposal fit the comprehensive plan from the standpoint of the land uses surrounding it, but the question remained whether a commercial component was needed in Lakota.
3. Planner Smith said that staff's only question was whether a firetruck would be able to access the private roads in the development. Colorado River Fire & Rescue Fore Marshall Orrin Moon said that the proposed private roads were not ideal but were sufficient because the buildings would be fully sprinkled. In addition he described how garbage collection service would be performed. Again, the configuration of the development was not ideal, but Mountain Waste & Recycling, the town's contract service provider said it was sufficient.
4. Planner Smith said that the uses proposed were permitted outright.
5. Planner Smith said that the density of the proposed development was greater than the town code allowed. The applicant had reduced the units from 40 to 36, however, the code only allowed 26 units. Planner Smith said that the open space proposed for the project met code requirements.
6. Planner Smith said that the off-street parking for the development met the code requirements, however there were issues with the parking for buildings 7 through 9 because there were not enough parking spaces that were adjacent to the buildings. The building required 12 spaces and there were only 9 available, and it seemed unreasonable that residents would park on the other side of the development and have to walk to their homes. The project did utilize the natural character of the land. Pedestrian and bicycle circulation was provided within the subdivision and well as a pedestrian/bicycle path to connect to the trail along Castle Valley Boulevard. Outdoor recreation was provided via membership in the Lakota HOA, and residents will have access to the pool and recreation center. The proposed development will be required to obtain approval from the Lakota Design Review Committee prior to building permit. Planner Smith said that he had spoken to the committee and they were in support of the project. Planner Smith said that the applicant had increased the height of the berm along Castle Valley Boulevard and there would be evergreen trees planted to screen the parking area. Last, Planner Smith said the proposal met the performance standards.

Planner Smith then reviewed the conditions as recommended by the Planning & Zoning Commission and staff:

1. The total density of the project shall be reduced to a maximum of 36 units or 16.23 units per usable acre. This increase in the presumptive density from the underlying zone district shall be subject to approval by the Town Council and shall not increase the total number of residential units allowed within the entire Lakota Canyon Ranch PUD, which is capped at 827;
2. The right-of-way will include area for sidewalks and on-street parking. The Commission recommends that the Town Council approve the Applicant's request for a variance from design standards to allow for attached sidewalks. Any additional area to be dedicated for right-of-way shall be from the Applicant's property and not the adjacent property owned by others.
3. Parking shall not be allowed in front of exit discharges as currently depicted on plans. All exit discharge paths must remain unobstructed from exit doors to the public way (2015 IBC 1028.5). Total parking count shall be adjusted to reflect the removal of these parking spaces in front of exit discharges. Applicant shall provide for two off-street parking spaces per unit pursuant to MC, 17.76.110
4. Building heights for Buildings 7-9 be towered below the maximum allowed 35' per MC 17.128.010 and 17.128.070 §H. *Alternatively*, building heights be permitted as drawn on sheets A3.71, A3.81, & A3.91.
5. In units with flex walls (e.g. middle unit on Sheet A1.32), storage closets shall be omitted from the design if full partitions are used to create an office or den. Otherwise an enclosed room with a closet will be considered a sleeping room requiring an emergency escape window or door to the public way (2015 IBC 1030.1).
6. The property shall be annexed into the Lakota Canyon Ranch Homeowners' Association. A supplemental declaration shall be prepared and submitted for review by the Town prior to recording, which shall include provisions obligating the association to own and maintain the private roads, utilities, open space and common elements and to maintain the sidewalks adjacent to the public right of way on the side of the property. The supplemental declaration shall also provide that utility charges for all units within Buildings 1 and 2 shall be billed to the HOA, which shall be responsible to collect from the unit owners. The supplemental declaration shall also address the unit owners' rights regarding HOA amenities and how assessments will be calculated;
7. A construction phasing plan be submitted which identifies, at minimum, each of the following components:
 - Buildout phases identified/Sequencing of occupancy
 - Traffic flow for construction equipment as each phase is completed

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- Traffic flow for pedestrians and private vehicles during each phase
 - Safety measures or procedures isolating construction from occupied units
 - Safety measures or procedures for tenants of finished units
8. The representations of the Applicant in written and verbal presentations submitted to the Town or made at public hearings before the Planning Commission or Town Council shall be considered part of the application and binding on the Applicant;
 9. The Applicant shall comply with all applicable building, residential, electrical, and municipal code requirements when developing the Property according to the PUD plan as may be finally approved;
 10. The Applicant shall reimburse the Town for any and all expenses incurred by the Town regarding this approval, including without limitation all costs incurred by the Town's outside consultants such as legal and engineering costs;
 11. Buildings and units may not be sold separately from the entire property unless a subdivision plat depicting the boundaries of the unit to be sold is approved by the Town Council and recorded with the Garfield County Clerk and Recorder.
 12. All further deviations from the development standards not approved in this ordinance as identified by Staff shall be subject to special review and approval by Town Council;
 13. A subdivision improvements agreement will be prepared by the Town Attorney for consideration by the Town Council as part of any subdivision application. If the PUD application is approved separately from subdivision, then the Town and the Applicant shall enter into a development agreement to provide security for all required public improvements as generally described in Chapter 16.32 of the Town Code;
 14. The Applicant shall provide the Town with a policy of title insurance for at least \$25,000 to insure any property dedicated to the Town, which shall be free and clear of any liens or encumbrances.
 15. Impact fees, tap fees, and water rights dedication fees will be required as set forth in the 2013 Amendment to Development Agreements for Lakota Canyon Ranch PUD dated March 19, 2013 and recorded as Reception No. 833371.
 16. All disturbed land shall be predominantly weed free during and after development and re-seeded according to the seed mix used by the Town of New Castle Park's Department.

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17. All lighting shall be downcast and dark-sky compliant.
18. No excavation permits shall be issued separately from issuance of a building permit.
19. Due to the nature of, and proposed density of this application, and without benefit of an approved construction schedule, staff recommends that no Certificates of Occupancy's or Temporary Certificates of Occupancy's shall be considered for any building within this PUD until such time that a plan can be established which considers the health and safety considerations of the residents.

Town Engineer Jeff Simonson said that there were a number of technical issues and he reviewed them with the council:

1. Between Buildings 3 and 5, a Keystone wall was proposed. It has now been replaced with the Redi-Rock wall design as depicted on the Ground Engineering drawings.
2. It shall be noted that less than 5 feet exists between the building corner of Building 4 and the Redi-Rock wall.
3. Our prior 3/10/19 review to you contained a number of construction detail items that the applicant's engineer has deferred to final construction drawing submittal. We believe that each of these items can be adequately addressed without material change to the application. However, absent the specific detailed construction drawings that will be needed to assure the contractor has proper and specific instruction for construction, the final cost estimate for security and the Town's ability to allow construction to proceed, if approved by Council, will need to be received and reviewed. The previous recommendation that a condition exist stating that all outstanding issues need to be resolved to staffs satisfaction with the construction plans of the improvements prior to any grading permit, site work and building permit issuance needs to be part of the approval.

Engineer Simonson reiterated that staff would need to see the phasing plans because of the density of the development. The phasing plan should include parking, drainage, snow storage, landscaping and mobilization. It was imperative because there was a shared roadway with senior housing and while under phased construction it could get very messy.

The council and staff briefly discussed several items including the retention pond, snow storage and landscaping.

Town Attorney David McConaughy described the ordinance for the council, including the process of approving the plats. He noted that if the council chose to approve the ordinance, thereby approving the final PUD development plan and final plat for Eagle's Ridge, it would not increase the number of units allowed in Lakota Canyon Ranch.

Attorney McConaughy said that owners of other properties in Lakota, namely Warrior, who was not present, would lose units since there was a cap of 827 on the total number of units allowed in Lakota Canyon Ranch. Attorney McConaughy said that Warrior had not objected to the number of units approved for senior housing, nor had they objected to the Eagle's Ridge proposal.

Attorney McConaughy also pointed out that the town code allowed two-bedroom units in stacked, multi-family buildings to be calculated at .8 EQRs. Because the applicant had willingly agreed to the town's request to provide separate service lines and water meters for the other buildings in the development, those would also be calculated at .8 EQRs for a two-bedroom unit even though the units were not in multi-family buildings. Attorney McConaughy then reviewed the subdivision improvements agreement and development agreement for the council.

Jim Colombo, applicant, greeted the council. He told the council that his development was meant to meet the needs of the community by providing affordable rental and for-purchase housing. He said that the design met the Lakota standards and provided opportunities for recreation and socializing within the development via open space and walking/biking paths. He described other features of the development including road widths and turnarounds.

Mr. Colombo stated that he felt that the density of the project was appropriate for the area. He also said that he had been before the council a year earlier with his sketch plan and had heard from the council that commercial units would not be preferred in Lakota, even though his property was zoned as mixed-use. He noted that there was residential all around the area, and his proposal was in keeping with the surrounding uses.

Mr. Colombo said he had spoken to the fire department, the garbage service company and the company that did snow-plowing for Lakota and they all agreed that the dead-end streets were workable. The fire department said that because each unit was monitored individually made the difference in their opinion of the dead ends.

Subsequently, Mr. Colombo said he had changed the design and added hammerhead turnarounds at the end of the streets.

Mr. Colombo said that the municipal code required two parking spaces per unit, or a total of 72. He noted that the proposal had 91 parking spaces, not including the 10 compact spaces or the handicap spaces.

Mr. Colombo argued that the compact parking spaces shown at the foot of the egress stairs were not obstructing egress because they were further away from the actual stairs than the code required, and he felt that staff's interpretation was incorrect.

Mr. Colombo felt that the way staff had calculated the height on buildings #7, 8 and 9 was also incorrect. He noted that everyone had agreed that building 9 was fine, but not 7 and 8 although he felt they were within the code requirements. Mr. Colombo described his interpretation of the code for building height and stated that the code was not one-size-fits-all and that his interpretation of building height should be allowed or that the council should provide a variance.

Mr. Colombo said that the retaining wall along the east side of the PUD will be as low as two or three feet and as high as seven feet and he did not feel a fence along the top was necessary.

Mr. Colombo stated that he was in agreement with Engineer Simonson and agreed that all the remaining items of concern would be completed to Engineer Simonson's

satisfaction prior to building permit. Attorney McConaughy said that he would like to see a plat note regarding service lines that if the town had to dig up sidewalks to repair a water leak or something, that the town would replace the dirt, and that the HOA would replace the sidewalks. Mr. Colombo agreed.

Councilor G Riddile asked if Mr. Colombo intended to subdivide the property. Mr. Colombo said that the whole development would be under the ownership of the sub-homeowners association. The sub-HOA will own the condo units and the townhome units would be sold. Mr. Colombo said that he was sensitive to the market, and that the current market rate for rentals was around \$2,000.00 to \$2,200.00 per month for a two-bedroom unit with parking. He also said that was the reason for the density, so that the project would work, because it was not likely that all the units would be occupied.

Councilor Hazelton said that he did not have a problem with the property location and some density in the project, but he was concerned that the density was 40% higher than the code recommended. He felt it was extreme. Mr. Colombo said that when the Lakota PUD was developed there was not any reasoning behind the density numbers. Councilor Hazelton still felt that the code regarding density was still a guideline that was not being met. He felt there were other things to consider – open space, parking, trash enclosures and roads were all affected by the high density.

Mr. Colombo stated that the proposal met the open space requirement, and although he understood Councilor Hazelton's concern, but Mr. Colombo said the density worked well and it would be a nice community. He further stated that Lakota would never fulfill the 827 units they were allowed because it was not likely the area near the cemetery would ever be developed.

Councilor Owens said that the median household income in New Castle was about \$70k per year. He agreed that there was a need for housing, in particular, housing that the median household could afford. He asked Mr. Colombo if there was the possibility of deed-restricting some of the units for teachers, law enforcement and others because rent of \$2,200.00 per month was equal to a \$425,000.00 house. He felt that someone who could afford that kind of rent was making more than six figures.

Councilor Owens said he was concerned about the density, but also about making the units affordable based on the median income.

Mr. Colombo stated that he felt the rent was affordable, but he understood and was sensitive to the concern voice by Councilor Owens. Mr. Colombo also said that it was extremely expensive to build in New Castle as there were many fees. The town did not have on-staff engineers and attorneys and that drove up his costs. Mr. Colombo said that he was also going to end up paying about \$750k additional to widen the roadway shared with senior housing and that was an unexpected cost. He also said that in the Lakota PUD there was no designated deed-restricted areas for employee housing. He felt there were areas in New Castle for employee housing, but not in his development. Mr. Colombo and the council briefly discussed what controls would be in place to prevent large vehicles from parking in the compact spaces. The council thanked Mr. Colombo for his presentation.

Administrator Reynolds told the council that he and Planner Smith were very good at interpreting code, and when in any doubt they reached out to the experts.

Administrator Reynolds said that staff's interpretation of the egress section of the code

respectfully differed from Mr. Colombo, and they would not allow compact parking spaces in front of the egress doors.

Administrator Reynolds noted that the total number of parking spaces quoted by Mr. Colombo as 101 included garage spaces. Staff's opinion was that a resident would expect that the spaces inside the garage were theirs to use, as well as the spaces immediately outside the garage. It was unreasonable to consider the spaces in front of the garage to be open for everyone to use. Administrator Reynolds said that staff's opinion on the building height interpretation differed from Mr. Colombo as well, and staff would agree to disagree.

Mr. Colombo and the council reviewed the drawings that showed the heights of buildings 7 & 8. Administrator Reynolds suggested that perhaps a story-pole would be appropriate, and Mr. Colombo agreed he could put one on the property. Mr. Colombo also agreed to bring the council a panoramic view drawing for the council to review. Administrator Reynolds said that the building in question would not be particularly obvious from Castle Valley Boulevard, but may be from below. Mr. Colombo, staff and the council had a lengthy discussion regarding the Eagle's Ridge project.

MOTION: Councilor Leland made a motion to allow the meeting to go past 10:00 p.m. Councilor G Riddile seconded the motion and it passed with Councilor Leland voting no.

Mr. Colombo, staff and the council continued their discussion regarding Eagle's Ridge project.

MOTION: Mayor A Riddile made a motion to approve Ordinance TC 2019-4, An Ordinance of the New Castle Town Council Approving a Final PUD Development Plan and Final Subdivision Plat for Lot 2B, Phase 7, Lakota Canyon Ranch, Also Known as Eagle's Ridge Ranch on 1st reading; eliminating building #7, eliminating the compact car parking spaces and adding materials and equipment storage. Councilor Mariscal seconded the motion.

Discussion: Councilor G Riddile noted that in regard to affordable housing, it seemed that everyone expected everyone else to do something about affordable housing. Councilor Leland said that the rules in Lakota did not allow for affordable housing, so it wasn't the place. Councilor Owens said that without building 7 it was still dense and he looked forward to the vote.

The motion passed on a roll-call vote: Councilor Owens: no; Councilor G Riddile: yes; Councilor Hazelton: no; Councilor Leland: yes; Councilor Mariscal: yes; Mayor A Riddile: yes.

Attorney McConaughy said that if staff received the updated drawings as well as the supplemental declaration within a few days, second reading of the ordinance could take place in two weeks.

The council thanked Mr. Colombo and the town staff.

Attorney McConaughy told the council that the executive session was only necessary if the council wanted to discuss doing anything other than ratifying the counter-proposal as presented.

~~Executive Session (1) for conference with Town Attorney for purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b); and (2) for purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e) regarding town-owned property~~ Cancelled

Consider a Motion to Ratify a Sales Contract for the Town- Owned Property at 200 S E Avenue, #115 Windridge Condominiums

MOTION: Councilor Leland made a motion to ratify the sales contract for the town-owned property at 200 S E Avenue, #115 Windridge Condominiums. Councilor Hazelton seconded the motion and it passed unanimously.

Attorney McConaughy explained that the potential buyer had submitted an inspection objection so there needed to be a motion from the council to agree or not agree to the inspection objection, which was due on Friday.

MOTION: Councilor Hazelton made a motion to delegate authority to the town administrator to accept or reject any or all of the objections. Mayor A Riddile seconded the motion and it passed unanimously.

Discussion: CDOT Traffic Study

Mayor A Riddile said that some time ago RFTA and the Town of New Castle had sent a letter to CDOT to try and have the speed limit at the east end of town reduced from 45 mph for safety concerns related to the park and ride and people crossing the highway from the north to the south side. CDOT was asking the town to sign a document that said the town would accept whatever the traffic study showed. After a brief discussion, the council decided to accept it.

Mayor A Riddile made a motion to accept the CDOT Traffic Study. Councilor Mariscal seconded the motion and it passed unanimously.

Proclamation – July as Independent Retailer Month

Mayor A Riddile read the proclamation into the record.

Consent Agenda.

June Bills of \$351,720.39

MOTION: Councilor Leland made a motion to approve the consent agenda. Councilor G Riddile seconded the motion and it passed unanimously.

Staff Reports

Town Administrator – Administrator Reynolds told the council that they had a copy of the public opinion survey that Bill Ray had created. He asked that if the council members had any suggestions to please let him know. Otherwise, Mr. Ray wanted to get the survey out as quickly as possible. Councilor Mariscal offered to translate the survey into Spanish. Administrator Reynolds told the council that he and Mike Hinkley of Mountain Waste & Recycling were working towards amending the contract to be in

alignment with the budget cycle so that any rate increases or changes could be considered for the next budget cycle.

Town Clerk – Clerk Harrison said that the recent e-mail migration to office 365 caused some issues and she had spent more time than expected assisting in ProVelocity repairing problems. Clerk Harrison said her office had intended to go live on the MuniCode Meetings software, but they had missed the last training because of the e-mail issues. The council thanked her for her efforts.

Town Planner – nothing to report.

Public Works Director – nothing to report.

Commission Reports

Planning & Zoning Commission – nothing to report.

Historic Preservation Commission – nothing to report.

Climate Action Advisory Committee – nothing to report.

Senior Program – nothing to report.

RFTA – nothing to report.

AGNC – Councilor Hazelton told the council that the AGNC had discussed the CORE Act in depth and he felt it might be of value for the council to discuss the CORE act during a work session.

GCE – nothing to report.

EAB – nothing to report.

Council Comments

Councilor Mariscal said that the Colorado Health Foundation offered to do a work session presentation to council about ballot questions.

Councilor Hazelton said that he felt that the town should place some pressure on Mr. Colombo to pay the balance he owes the town because he was 60 to 90 days out.

Administrator Reynolds said that Mr. Colombo had been received bills since March and he had not made any effort to pay.

Councilor Leland said that when he and Mayor A Riddile were first on council, and much younger, the meetings went late consistently.

Mayor A Riddile told the council that Colorado Mountain College in Rifle was looking for a board member if anyone was interested.

Mayor A Riddile said that everyone should have received an evaluation form for Administrator Reynolds' one-year review. He asked that the council members bring their evaluations to the next meeting.

Mayor A Riddile asked the council for their permission for him to sign a letter of support for RFTA who was applying for a 15-million dollar grant to improve their maintenance facility. The council agreed.

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

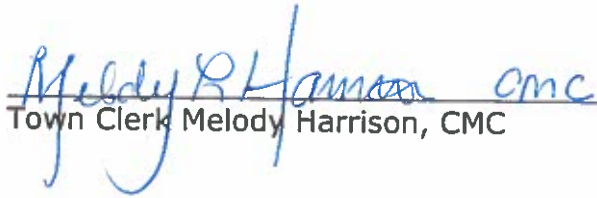
The meeting adjourned at 10:38 p.m.

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Respectively submitted,



Mayor Art Riddile



Town Clerk Melody Harrison, CMC

