



## **AGENDA MEMORANDUM**

**To:** Honorable Mayor and Members of Town Council

**From:** Sandy Vossler, Senior Planner, Development Services Department

**Title:** **Ordinance Amending the Town's Zone District Map by Approving the Miller's Landing Interchange Overlay Planned Development Plan; the Miller's Landing Interchange Overlay Planned Development Zoning Regulations; the Miller's Landing Development Agreement; and Vesting a Site Specific Development Plan Through December 31, 2036** [*Rezoning to Mixed Use; West of I-25 and North of Plum Creek Parkway*] (Town of Castle Rock Project #PDP16-0003) (Second Reading)

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### **Executive Summary**

**The zoning ordinance was approved by Town Council as presented on first reading on November 15, 2016 by a vote of 5 to 0.**

The Interstate 25 (I-25) corridor provides an important opportunity for the Town of Castle Rock for higher intensity and high quality economic development. The existing interchanges are predominantly comprised of commercial, industrial, residential uses and vacant lands. Where commercial and industrial uses exist, they are primarily big-box or convenience retail that inefficiently utilize the land with sprawling parking lots and single-use building forms.



**Vicinity Map**

The Town purposed to promote strong and sustainable economic development opportunities at the I-25 interchanges by allowing higher density mixed-use development, increased floor area ratios and building heights, and by establishing enhanced form-based design standards intended to create a memorable, positive first impression upon entering the Town; an image and character that is uniquely Castle Rock's. Toward that end, in 2010 Town Council approved an Ordinance creating the Interchange Overlay (IO) zoning classification. Additionally, the 2020 Comprehensive Master Plan was amended to designate the boundaries of the four new Interchange Overlay Districts located at the

Meadows/Founders, Wolfensberger, Plum Creek and Crystal Valley Parkway I-25 Interchanges.

Some of the unique allowances of an IO District are:

- 6 stories or 90-foot maximum building heights
- 15% total open space
- Residential / Non-Residential Interface Regulations do not apply
- Skyline / Ridgeline Protection Regulations do not apply

To further promote and enable development of the IO Districts, the Town of Castle Rock has made significant capital investments in the Interchange Districts with the construction of the Castle Rock and Plum Creek Parkways, as well as improvements to the Plum Creek Parkway / I-25 Interchange and development of the P. S. Miller recreation center, park, trails and other amenities. The Promenade at Castle Rock, within the Meadows/Founders IO District, is an example of a higher intensity retail, commercial, restaurant and residential project, currently developing under enhanced design standards.

The proposed Miller's Landing IO Planned Development (PD) represents yet another step towards realizing the Town's objectives of establishing strong economic development opportunities along the I-25 corridor (**Attachment B, Exhibit 2**). The wide range of permitted uses and design standards within an IO District will allow for creative and flexible development of the vacant site (**Attachment B, Exhibit 3**). Additionally, development of the site under provisions of the Town's Urban Renewal Authority will provide the funding mechanism necessary to remediate the former landfill, which has stood as an impediment to development of the site (**Attachment C**).

**On October 27<sup>th</sup>, Planning Commission voted 5-0 to recommend to Town Council approval of the proposed rezoning as a site specific development plan.**

### **Key Issues**

- All residential uses will be prohibited under the Miller's Landing IO PD Zoning Regulations.
- Remediation of the former municipal landfill.
- The Miller's Landing Development Agreement identifies improvements and obligations necessary to develop the property (**Attachment B, Exhibit 4**).
- The applicant is requesting vested property rights with the approval of this PD Plan as a Site Specific Development Plan through December 31, 2036.

### **Findings and Recommendation**

As described, the purpose behind creation of the IO zoning classification was to promote economic development through increased density and mixed-use development adjacent to the Town's I-25 interchanges. Property owners may obtain the right to develop under the IO classification through approval of a rezoning to an IO Planned Development. Upon approval of an IO PD, the underlying zoning classification is extinguished and the zoning of the property is governed exclusively by the new IO zoning, development regulations and

development agreement. When a property is rezoned to an IO PD, the IO Development Standards become the PD Zoning Regulations that govern the development of the property.

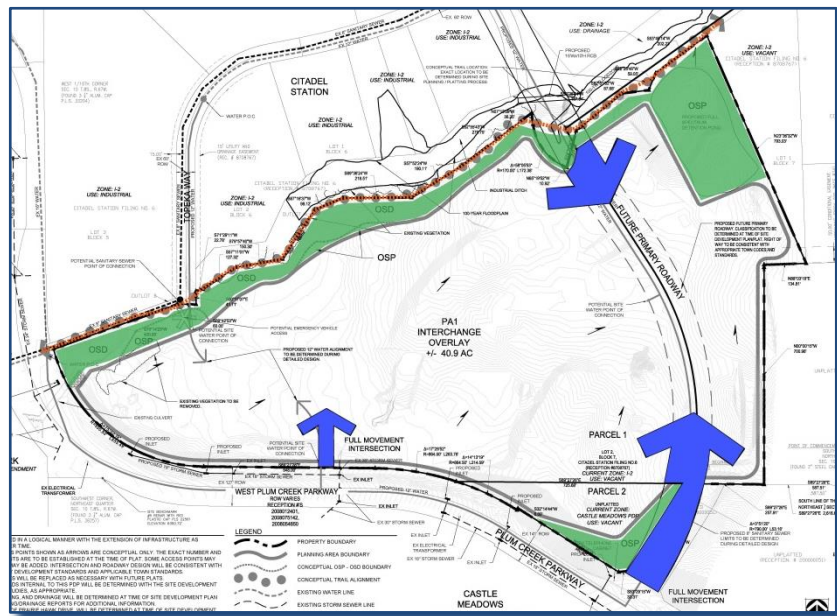
Planning Commission found that the Miller's Landing IO PD is compatible with the subject land area and is consistent with the objectives and criteria of the Town of Castle Rock Vision 2020, Comprehensive Master Plan and the Municipal Code. Planning Commission voted 5-0 to recommend approval of the Miller's Landing IO PD rezoning application with vesting as a site specific development plan.

## Discussion

### *Proposed Interchange Overlay Planned Development Plan and IO PD Zoning*

The Miller's Landing site is located west of I-25 and north of Plum Creek Parkway, and was annexed into the Town of Castle Rock in 1973 as part of Citadel Station (**Attachment A**). The property is currently zoned General Industrial (I-2). The property remains undeveloped, in part, because of the presence of a former landfill on the site.

The applicant is requesting to rezone to an IO PD, which would provide the development team with a variety of land use options and established development standards as formalized in the Town of Castle Rock Interchange Overlay Development Standards (IO Development Standards). The IO Development Standards, as approved by Town Council in 2010, will be adopted in its entirety as the Miller's Landing IO PD Zoning Regulations, with the exception that all residential uses will be prohibited.



**Proposed Planned Development Plan**

The Miller's Landing property is within the Plum Creek Interchange Overlay District, as identified by the 2020 Comprehensive Master Plan (**Attachment D**). The property has a total area of 48.2 acres, with 15%, or 7.3 acres, set aside as open space primarily located along the drainage channel (shaded in green in the illustration above). A conceptual trail alignment is also identified within the open space corridor (dashed orange line).

The PDP reflects three access points with conceptual locations (blue arrows), as well as a potential emergency vehicle access from Topeka Way.

The proposed Zoning Regulations comply with the Chapter 17.44, with the condition that no residential uses will be permitted in the Miller's Landing IO PD. Residential development is prohibited under the terms of this Urban Renewal Authority (URA) project.

#### *Proposed Development Agreement and Vesting*

The purpose of a Development Agreement (DA) is to capture the anticipated impacts related to development of a property. A DA was approved with the annexation and zoning of the property in 1973, based on the impacts related to I-2 development. This proposed rezoning to an IO PD necessitates an amendment to the existing DA.

Typically, a DA amendment is considered in a single reading of a Resolution before Town Council. However, since the applicant is requesting approval of the Miller's Landing IO PD as a vested Site Specific Development Plan through December 31, 2036, the DA will be considered in conjunction with the rezoning ordinance, requiring two readings before Council.

The Colorado Statutes and Town Municipal Code (Chapter 17.08) authorize the creation and protection of vested property rights through approval of a Site Specific Development Plan. Vested property rights run for a defined duration and allow the property to be developed under the approved PD Plan and PD Zoning Regulations without alteration by the Town through any subsequent zoning or land use actions, such as a moratorium, for example.

The following are the key provisions of the proposed Miller's Landing Development Agreement:

#### *Article IV – General Obligations*

The Town and the property owner (Owner) acknowledge that portions of the property were once used as a landfill and are environmentally contaminated. The property owner will remediate the adverse environmental conditions in accordance with a Voluntary Cleanup Plan (VCP) conducted in accordance with the Colorado Voluntary Clean-up and Redevelopment Act. The cost of the remediation shall be funded through the issuance of bonds by the Business Improvement District.

#### *Article V – Water Rights*

The Town acquired control of the Water Rights through the adoption of Ordinance No. 97-17. The Owner shall convey any remaining interest in Water Rights underlying the property. The Owner shall have no further obligation to provide additional Denver Basin Water Rights or to satisfy any other groundwater dedication requirement that may be imposed through the Town Regulations.

#### *Article VI – Facilities Development*

A Phasing Plan shall be submitted by the Owner concurrent with approval of the first Site Development Plan on the property. The Phasing Plan shall be reviewed and approved

administratively by the Town and the Owner may appeal the final administrative determination to Town Council.

#### Article VII - Utilities

The Owner will construct drainage way improvements to the Industrial Gulch per the Omni, Industrial and Westfield Watershed Master Plan. In addition, the Owner will pay cash-in-lieu, in the amount of \$44,540, to the Town for the pro rata share of the Malibu Sewer Upgrade project.

#### Article VIII – Transportation

The Owner shall be responsible for constructing two lanes of Plum Creek Parkway from the I-25 interchange to the western boundary of the property (**Attachment B, Exhibit 4, and Exhibit 3**). In addition, the Owner shall construct auxiliary lanes on Plum Creek Parkway when warranted by traffic volumes.

The Owner shall pay to the Town the pro rata share of the cost of the intersection's control improvements at the intersection of Plum Creek Parkway and Prairie Hawk Drive in the amount of \$125,000.

The Owner shall be required to construct a round-about at the west access point from the property onto Plum Creek Parkway. If the Town determines that a round-about is not optimal, the Owner shall construct a traffic signal at such access point pursuant to the transportation impact study for the Property. The Town will make best efforts to obtain proportionate financial participation from the Castle Meadows property owner at the time that Castle Meadows develops and connects to the round-about or signalized intersection. If the round-about is constructed by others, the Owner shall reimburse their pro rata share of the round-about improvements.

The Owner shall be responsible for construction of the portion of Prairie Hawk Drive from Plum Creek Parkway to the connection with Atchison Way. The Owner shall dedicate to the Town 120 feet of right-of-way for the Prairie Hawk improvements at no cost to the Town concurrently with, and as a condition of approval of the first Plat on the Property.

Pursuant to the Transportation Impact Study for the property, the Owner is to construct a right turn lane on the I-25 south-bound off-ramp at Plum Creek Parkway. In lieu of constructing such right-turn lane, the Owner shall pay to the Town its pro rata share of the cost to construction such right-turn lane. That pro rata share is determined to be 40% of the estimated construction cost of the right turn lane, which shall include the design and right-of-way acquisition, but exclude any bridge improvements. Such payment shall be made in accordance with the approved Phasing Plan

In addition, the Owner shall pay its pro rata share of the cost to construct an additional westbound left turn lane from Plum Creek Parkway to the southbound I-25 interchange. That pro rata share is determined to be 18% of the estimated construction cost of the turn lane, including design and right-of-way acquisition, but excluding any bridge improvements.



The Owner shall convey to the Town the necessary right-of-way to support construction of improvements over the property, at no cost to the Town. Any right-of-way dedication within the property that is subject to remediation shall be accompanied by all necessary environmental clearances.

#### Article IX – Public Land and Facilities

The Owner shall construct a 10-foot wide concrete pedestrian trail along Industrial Gulch concurrently with the construction of the drainage way improvements set forth in Article VII. The trail improvements will include a grade-separated crossing where Prairie Hawk Drive connects to Atchison Way.

#### Article X – Vesting

The Miller's Landing IO PDP constitutes a site specific development plan and accordingly vested property rights are to be established in accordance with state statutes and the Municipal Code. The vested property rights shall extend through December 31, 2036.

#### Existing Conditions

A portion of the property was operated as a municipal landfill between 1978 and 1982

**(Attachment C).** Remediation of the landfill and development of the site will be conducted under the Environmental Protection Agency's (EPA) Brownfield Program. The property will enter a Voluntary Cleanup Program (VCP) with the Colorado Department of Public Health and Environment (CDPHE), which will provide the regulatory oversight and framework for remediation efforts.



**Aerial View and general location of landfill**

The current I-2 zoning allows operation of many industrial uses including manufacturing, processing, fabrication, asphalt plants, warehousing and storage. Surrounding zoning includes I-2 to the north and east and IO PD to the east and south. The P. S. Miller Regional Park is located to the west, across Plum Creek Parkway. The Industrial Gulch runs parallel to the northern boundary of the property, and is a dry drainage channel, except on the occasion of significant storm events.

Vegetation on the site is sparse and dominated by medium to tall grasses and weeds, with some individual tree/shrub grouping interspersed throughout. Wildlife found on the site includes species typical of shortgrass prairie habitat in Colorado such as voles, pocket gopher and ground squirrels. Large mammals such as mule deer, pronghorn, coyotes and



**View of the site looking northeast from Plum Creek Parkway**

red fox occasionally traverse the property. No evidence of federally-protected species existed on the property at the time of the Land Suitability Analysis Report.

#### *Notification and Public Outreach*

- *Neighborhood Meeting:* The applicant held a neighborhood meeting on August 11, 2016. Invitations were sent to residents of the nearby Castle Highlands neighborhood, to the surrounding businesses, primarily in Citadel Station, and to members of the Downtown Development Authority. An adjacent property owner attended and was supportive of the proposed rezoning.
- *Public Notice:* The proposed PD Plan and PD Zoning Regulations were noticed in accordance with the Town of Castle Rock Municipal Code. The applicant posted public hearing signs on the site facing adjacent streets. Written notices were mailed to property owners within 300 feet of the site. Town staff published notice of the hearing on the Town's website and featured the proposal on the *Development Activity* map.
- *External Referrals:* Requests for external comments were sent to the various service providers, Douglas County Government, Douglas County School District, Colorado Department of Transportation (CDOT), Tri-County Health and Colorado Parks and Wildlife. Of the responses received, Douglas County Government provided general information about future addressing and road extensions.

CDOT commented on potential impacts to the Plum Creek Parkway / I-25 interchange and the future Crystal Valley Parkway / I-25 Interchange. As noted previously in this report, developer obligations to Plum Creek Parkway and the I-25 interchange improvements have been detailed in the Miller's Landing Development Agreement (**Attachment B, Exhibit 4**).

### Town Council Public Hearing – November 15, 2016

Town Council considered the rezoning at a public hearing on November 15<sup>th</sup>. No members of the public addressed Council with concerns or objections. The Council voted 5 to 0 to approve the rezoning and development agreement vesting the property rights through December 31, 2036.

### Planning Commission Public Hearing – October 27, 2016

A public hearing was held on October 27<sup>th</sup> to consider the proposed rezoning. One member of the public addressed the Commission with concerns about the extension of Prairie Hawk Drive to Plum Creek Parkway and the increased traffic this would create past his residence. Staff explained that the Prairie Hawk Drive extension will connect at the southern terminus of the existing Atchison Way, and not at the southern terminus of Prairie Hawk Drive where his home is located.

In response to the Commission's questions about the remediation process, the applicant explained that there is an estimated 93,000 cubic yards of waste on the site. Samples have shown that the landfill does not contain asbestos or industrial wastes. Full removal will take approximately 60 working days. The removal standards require strict monitoring of odors and gases and containment of materials on the site during windy conditions. Water quality is monitored before and after remediation. There will be outreach to the community prior to commencement of the remediation activities.

Planning Commission expressed support for the rezoning, anticipated economic development opportunities and remediation of the landfill. The Commission voted 5-0 to recommend approval of the rezoning as a site specific development plan.

### **Analysis and Findings**

Staff has analyzed the proposed application according to the requisite review criteria and made the following findings. The PDP, PD Zoning Regulations and Development Agreement support and comply with:

- The objectives of the Vision 2020 / 2020 Comprehensive Plan,
- The Comprehensive Plan amendment to allow Interchange Overlay Districts, and
- The review and approval criteria of the Municipal Code Chapters 17.08 Vested Property Rights, 17.34 Planned Development Plan and 17.44 IO Interchange Overlay District.

Hyperlinks to the review criteria are provided below:

- Vision 2020: <http://www.crgov.com/documentcenter/view/278>
- Comprehensive Master Plan <http://www.crgov.com/DocumentCenter/View/238>
- Chapter 17.08 Vested Property Rights  
[https://www.municode.com/library/co/castle\\_rock/codes/municipal\\_code?nodeId=TI17ZO\\_CH17.08VEPRRI\\_17.08.020SISPDEPL](https://www.municode.com/library/co/castle_rock/codes/municipal_code?nodeId=TI17ZO_CH17.08VEPRRI_17.08.020SISPDEPL)



- Chapter 17.34 Planned Development Plan  
[https://www.municode.com/library/co/castle\\_rock/codes/municipal\\_code?nodeId=TI17ZO\\_CH17.34PDPL](https://www.municode.com/library/co/castle_rock/codes/municipal_code?nodeId=TI17ZO_CH17.34PDPL)
- Chapter 17.44 IO Interchange Overlay District  
[https://www.municode.com/library/co/castle\\_rock/codes/municipal\\_code?nodeId=TI17ZO\\_CH17.44IOINOVDI](https://www.municode.com/library/co/castle_rock/codes/municipal_code?nodeId=TI17ZO_CH17.44IOINOVDI)

### **Budget Impact**

The property is currently vacant and does not generate significant taxes for the Town. The proposed mixed-use zoning and elimination of the landfill limitations would allow for the development of a variety of commercial, retail, and office uses that will generate use taxes and general sales tax revenue.

### **Recommendation**

Based on the analysis and findings outlined in this report, Planning Commission recommends approval of the proposed Miller's Landing IO PDP, IO PD zoning regulations, and Site Specific Development Plan vesting.

### **Proposed Motion**

I move to approve the Ordinance as introduced by title.

### **Attachments**

Attachment A: Vicinity Map  
 Attachment B: Ordinance  
 Exhibit 1: Legal Description  
 Exhibit 2: Miller's Landing Planned Development Plan  
 Exhibit 3: Miller's Landing Interchange Overlay Development Standards  
 Exhibit 4: Miller's Landing Development Agreement  
 Exhibit 4, Exhibit 1: Legal Description  
 Exhibit 4, Exhibit 2: Benefited Properties  
 Exhibit 4, Exhibit 3: Plum Creek Parkway Improvements  
 Exhibit 4, Exhibit 4: TIS Table  
 Attachment C: Landfill Boundaries  
 Attachment D: Plum Creek Interchange Overlay District