



Exhibit A
Item 19

Douglas County Referral – Consolidated Comments

TO: Matt Jakubowski, AICP, Chief Planner

FROM: Tara Vargish, Director Development Services
Sandy Vossler, Senior Planner, Development Services Department

DATE: July 11, 2024

SUBJECT: Pine Canyon Planned Development Proposal
(ZR2020-010, MI2020-009, MI2022-009, SV2020-001)

The Town of Castle Rock continues to oppose the unincorporated Pine Canyon project that is proposing urban level development in the heart of Castle Rock, on 530 acres of land located in unincorporated Douglas County and completely surrounded by the Town. While the Applicant has made minor modifications to the proposal, the merits of the application have not substantially changed, nor have any of the Town's concerns been addressed, therefore the opposition to the urban level development in the center of Castle Rock still stands.

The Town's opposition is based on the clear fact that the proposed urban level development is located within a pocket of unincorporated County that is completely surrounded by the Town. It is not possible to develop this property without causing true impacts to the Town of Castle Rock's community and infrastructure. The higher the density, the higher the impacts will be on a community that is not currently regulating this area. These impacts will burden the residents of Castle Rock with additional costs related to traffic impacts, degradation of existing roadways, odors and potential overflows from the proposed sewage treatment plant on East Plum Creek, and the future costs of supporting residents when the Pine Canyon Water and Sanitation District fails to obtain a long term sustainable and renewable water supply, or can no longer keep up with stringent regulations and infrastructure replacement and rehabilitation costs. These are real costs and actual burdens on the residents of Castle Rock and the community as a whole, that the current proposal does not address.

The Town's opposition to the currently proposed Pine Canyon Planned Development is laid out below. Thank you for your consideration:

GENERAL

1. Although the Pine Canyon Planned Development is proposed to be located within unincorporated Douglas County, it is completely surrounded by the Town, and within the Town's 3-Mile annexation area required to be designated by the Colorado Annexation Act. See C.R.S. 31-12-105(1)(e)(I).
2. The proposed location also is designated as a Municipal Planning Area in the Douglas County Comprehensive Master Plan, which designation shows that the Pine Canyon Planned Development area

DEVELOPMENT SERVICES DEPARTMENT

100 North Wilcox Street Castle Rock, CO 80104 P: 720.733.3556 F: 720.733.2217 E: svossler@crgov.com

is of mutual concern between the County and the adjacent municipality, and encourages annexation and development of this area within the adjacent municipal jurisdiction. Contrary to these policies, the Applicant submitted, but withdrew an annexation proposal to the Town before it could be considered by the Town Council. Under the Colorado State Statutes and County PD regulations, the County cannot approve any PD unless it is consistent with the Comprehensive Plan.

TRANSPORTATION

1. Constructing an unincorporated urban level community in the middle of the Town will cause negative impacts on the surrounding area, including Town roadways, open space, parks and trails, and existing neighborhoods located within the Town limits.
2. The Application does not include even a draft of an Agreement that specifies the responsibility of the Applicant to provide public services, infrastructure and impact mitigation.
3. The Application states that the Pine Canyon Planned Development will add 22,054 daily vehicle trips per day to Town-owned roadways within the immediate vicinity of the Development, a number which Town staff believes to be grossly underestimated.
4. The true impacts to the Town's existing roadway system are inaccurately projected, and the Applicant has not made any commitment to the Town to mitigate any of the development's impacts upon Town roadways and intersection controls.
5. The Town will not allow the proposed access points to Town owned roadways, as shown in the rezoning application, for this urban level development in unincorporated Douglas County.
6. The potential impacts of the Applicant's proposed mobility hub are significantly underestimated in the Pine Canyon traffic impact assessment attached to the rezoning application. The impacts of the mobility hub to the Town's existing transportation facilities have not been assessed and no mitigation has been proposed to the Town. The Applicant states in their September 2023 resubmittal to the County that they have proposed substantial transportation and trail improvements, and objective, calculated impact mitigation fees for all planned roadway connections. Please be aware that the Applicant has not reached out to the Town with any calculated impact mitigation fees for our review or consideration.

WASTEWATER TREATMENT

1. The Applicant has proposed the construction of a wastewater treatment facility to serve the Pine Canyon Planned Development, which facility will discharge treated wastewater into the Plum Creek watershed. The facility would be located within Castle Rock Water's Watershed Protection District and ultimately would discharge into East Plum Creek immediately upstream of several of the Town's drinking water wells, thereby presenting risks to the Town's water supply. This location is also adjacent to the Town's most active trail system and residential development, and odors from the wastewater plant will impact the enjoyment and use of this trail system. Proliferation of wastewater treatment facilities where capacity is available at existing facilities is contrary to land use and water planning best practices.

WATER SUPPLY

1. The Applicant proposes to supply water to the Pine Canyon Planned Development solely from non-renewable groundwater, a request which will set back the County's efforts to transition to a renewable water supply, and will be detrimental to the health, safety, and welfare of the present and future inhabitants of the County. Even though the Applicant has promised to collect a small renewable water fee from future customers in the development, this does not provide an adequate long term sustainable, renewable water plan.
2. The non-renewable groundwater supply proposed by the Applicant: (i) is of unknown real capacity and based solely on paper water decrees; (ii) does not include a safety factor of excess non-renewable supply; (iii) is not supported by any sampling data or information showing quality, and (iv) incorporates a plan to reuse wastewater effluent that relies solely on the unrealistic hope that residential users will not overwater or allow lawn irrigation runoff in the streets.
3. The construction of non-tributary groundwater wells within the Pine Canyon Planned Development will interfere with the Town's non-tributary groundwater wells and its plan to utilize those wells for aquifer storage and recovery of renewable water supplies.

FIRE SERVICE

1. The Applicant has not coordinated with the Castle Rock Fire Protection District to commit to a funding source for the additional facilities, equipment, personnel, plan review and inspections needed to serve the urban level Pine Canyon Planned Development.
2. The reliance on a non-renewable groundwater supply will not provide the Castle Rock Fire Protection District with a reliable long-term water source to provide adequate fire service to the future residents of and businesses within the Pine Canyon Planned Development. Because of the haphazard, inexperienced and fragile nature of the proposed water system, if the unincorporated Pine Canyon proceeds, the Town will seek to have the Castle Rock Fire Protection District exclude this development from its jurisdiction. The Town will not endanger its Town fire personnel on such a flimsy and insufficient water system in event of a fire.
3. The proposed development will require substantial and continual mitigation and maintenance to limit the potential of catastrophic wildland fire, the details of which have not been discussed with, or agreed to, by the Castle Rock Fire Protection District.

TRAILS AND PARKS

1. The Pine Canyon Planned Development is proposing development of approximately 4,500-5,000 residents without a planned community recreation center, and is entirely reliant on connection to existing Town trails and sidewalks to complete linkages and provide grade-separated crossings. The Applicant has not made any commitment to the Town to mitigate any of the development's impacts upon the Town's trail system or recreational facilities.

The following major concerns were submitted Douglas County Community Development and the Applicant in April 2023, and have not been adequately addressed. Instead, the Applicant had their attorney's office prepare a letter indicating that some of these items were of no concern to them and did not need to be addressed. The

Town's concerns and impacts are real, and these items still need to be taken into consideration by the County, and require major revisions to the current proposal before the County.

1. Connection to Town of Castle Rock Right of Way, Trails, Easements and Construction

The Town of Castle Rock has not approved any connections to Town-owned property for the proposed urban level development including, but not limited to roadways, right-of way (ROW), trails, and sidewalks.

The applicant has indicated that the Colorado Annexation Act at C.R.S. 31-12-105 gives them the right to force urban level development connections to roadways owned by the Town. This is not correct and in fact, the cited statutory provision makes clear that the *annexor* must allow *reasonable* access to owners adjoining an annexed parcel:

Annexation shall not deny reasonable access to landowners, easement owners or franchise owners adjoining a platted street or alley that has been annexed and is not bounded on both sides by the municipality. C.R.S. 31-12-105(1)(g).

Nor is the Town required to grant easements or otherwise allow the developer to construct improvements on or utilities under or on Town owned properties or rights-of-ways. This includes any construction under, over, or through Liggett Road and Front Street.

All points of connection to Town of Castle Rock roadways, right-of way (ROW), trails, etc. shown on the current version of the Pine Canyon PD under consideration by the County should be deleted. The urban level development needs to be redesigned with access solely from non-Town owned roadways, the TIS amended to reflect this, and then the PD resubmitted to both the County and CDOT for their review and consideration, as well as the Town to assess impacts to Town owned roadways.

The Applicant states in their September 2023 resubmittal to the County that they have proposed substantial transportation and trail improvements, and objective, calculated impact mitigation fees for all planned roadway connections. Please be aware that the Applicant has not reached out to the Town with any calculated impact mitigation fees for our consideration.

2. Easements for and Construction of Water and Wastewater Facilities

The Applicant responded in September 2023 by stating that they did not have any easements planned; however, they are proposing urban level development, primarily located on the east side of the Town-owned Front Street, and their water and wastewater facilities are proposed to be located on the west side of the Town-owned Front Street. This would require infrastructure piping to convey fresh water and sewage through pipes that would need to cross over, under or through Town-owned properties, including Liggett Road and Front Street, to connect residences and businesses to water and sanitary sewer infrastructure.

Moreover, construction and operation of any component of a domestic water and wastewater system requires a permit under the Town's Matters of State Interest regulations and/or its Watershed Protection District regulations which, in turn, cannot be issued unless the Applicant proves in an adjudicatory hearing that it has the necessary approved property rights and easements, and that all impacts of the construction and operation of the facilities have been fully-assessed and appropriate mitigation of negative impacts can and will be implemented.

The purpose of the Town's April 2023 comment was to make sure the Applicant was aware, that as currently proposed, the Town will not allow construction, infrastructure, or easements through Town-owned property for any infrastructure needed to support the urban level development in the unincorporated County. Further, the Applicant states in their September 2023 resubmittal to the County that Castle Rock Water and the Town have "chosen to accept the Applicant's CDPHE approvals", because the Town and Castle Rock Water did not actively appeal the CDPHE site location approval for the wastewater plant. This is not the case. The Town has not and cannot agree to the wastewater plant unless, or until, the Town Council issues permits for the plant and all its components.

The construction of another wastewater treatment plant to serve an area where the Town has the existing capacity to serve raises serious concerns. In addition, the plant is proposed to be located in the center of Castle Rock, along one of the most used recreational trails in Castle Rock, and within close proximity to residential development, causing serious impacts that must be assessed and mitigated regardless of any CDPHE approvals.

The wastewater plant, as configured, is also a recipe for a financial disaster for Douglas County metropolitan district taxpayers. The Pine Canyon metro district taxpayers will be left with the escalating tax bill for the debt service on unneeded water and wastewater infrastructure built by first-time developers. If in the future, it is necessary for Castle Rock Water to step in and provide for long term water and wastewater service, as the Town has already done for other unincorporated developments, the Pine Canyon water and wastewater infrastructure will not be able to be used by the Town and will simply be a long-term cost on the future County residents of the development.

The Applicant has not addressed runoff or percolation into the groundwater from the proposed land application management system to the satisfaction of Castle Rock Water, and until more details are provided and a permit has been issued by CDPHE showing the requirements for the Applicant, the Town of Castle Rock cannot fully evaluate the potential impacts to our Watershed Protection District, our water supply and our stormwater system. The differing standards that will be required in the proposed development, which is surrounded by communities that are subject to Town standards to meet permit and to dispose of wastewater will create confusion and challenges with respect to outdoor watering rules and requirements.

The Town's permitting process will allow the Applicant and the public to identify and respond to these and other impacts of concern and to inform the Town Council's ultimate decision to approve, approve with conditions, or deny the application for the wastewater system. Castle Rock also will have an opportunity to comment on any proposed permit for the Applicant's proposed wastewater system, and how concerns related to irrigation by residential property owners and operations of the wastewater plant and other infrastructure will be handled. We will provide those comments and health and safety concerns to CDPHE, once the draft permit has been issued for comment.

The Town is requesting the following change to the PD proposal before the County: (Sheet 5 of 15) Section 3.d: Please insert new note "d." as follows:

"Per Title 21 of the Castle Rock Municipal Code, the Town of Castle Rock has jurisdiction over the site selection, construction or expansion of domestic water and sewage treatment systems located, wholly or partially, within the Town's Watershed Protection District, as depicted on the Town Watershed Protection District map. The domestic water and sewage treatment systems described in the proposed Pine Canyon Planned Development are located within the boundaries of the Watershed Protection District. Accordingly, the Owner must apply for and be issued a Matters of State Interest Permit by the Town of Castle Rock as a

prerequisite to the site selection and construction of all domestic water and sewage treatment systems described in the proposed Pine Canyon PD.”

3. Off-site Roadway Improvements and Traffic Impacts

The Town continues to be seriously concerned about impacts to the Town’s transportation network from this proposed urban level development in the heart of Castle Rock. The property is completely surrounded by the Town of Castle Rock, therefore, all of the site generated traffic will drive on and impact the Town’s roadways and community. The off-site roadway impacts of this proposed urban level development will occur within the Town’s jurisdictional boundaries, and no mitigation has been proposed to the Town for consideration.

The Applicant states in their September 2023 resubmittal to the County that they have proposed substantial transportation and trail improvements, and objective, calculated impact mitigation fees for all planned roadway connections. Please know that the Applicant has not reached out to the Town with any calculated impact mitigation fees for our consideration. Importantly, the impacts to the transportation network of the project will be taken into account as part of the Town’s permit process.

Furthermore, the Applicant’s attorney proposes that the Matters of State Interest do not apply, as the development is occurring outside of the Town’s boundary. The off-site roadway impacts of this proposed urban level development will occur within the Town’s jurisdictional boundaries, and no mitigation has been proposed to the Town for consideration.

As already discussed throughout these comments and in previous reviews of this proposed urban level development, the Town has not approved any connections to its roadway system and is concerned about impacts associated with the proposed density. The Applicant should remove all proposed road connections to Town owned roadways, and resubmit an updated Traffic Impact Study (TIS) that reflects how this development’s urban level traffic will be distributed and how it will affect the only non-Town owned roadway, Founder’s Parkway. It is clear through the documents submitted to the County that neither the County nor CDOT have seen a project TIS that accurately demonstrates the proposed project’s actual traffic impacts to the State Highway system, as Founder’s is the only potential connection for this currently proposed urban level development in the unincorporated County. Therefore, the engineering review is currently based on an inaccurate and incomplete TIS at this time.

The Town is requesting the following change to the PD currently before the County: (Sheet 5 of 15) Section 2.4.C.a: Delete list of off-site roadway improvements and revise note as follows:

“Owner, or one or more Title 32 Metro Districts, its successors and assigns shall at their expense, design and construct off-site transportation improvements as required and approved by the Town of Castle Rock through the Matters of State Interest application and permitting process. Provision of a proportionate share of improvements in-lieu of design and/or construction of off-site transportation improvements shall be at the sole discretion of the Town of Castle Rock. Offsite impacts for CDOT owned roadways shall be approved by CDOT.”

Further, the Town of Castle Rock requests that the following condition be added to the General Provisions (Sheet 6 of 15):

“5. Relationship to Town of Castle Rock Matters of State Interest:

- a. The Town of Castle Rock has adopted Guidelines and Regulations for Matters of State Interest (Ord. No. 2021-028), pursuant to the authority granted to municipalities by C.R.S. § 31-15-707(1)(b), Municipal Utilities; C.R.S. § 29-20-101, et seq., Local Government Land Use Control Enabling Act; C.R.S. § 24-65.1-101, et seq., Areas and Activities of State Interest; Colorado Constitution Art. XX, Home Rule Cities and Towns; and other such similar authority that may be granted by the Colorado General Assembly.
- b. The Town's jurisdiction applies to the following matters of state interest that are located wholly or partially within the Town's jurisdiction:
 - i. Construction of arterial highways and interchanges and collectors.
 - ii. Areas around interchanges involving arterial highways in which development may have a material effect upon the arterial highway or the surrounding community.
- c. The Town's jurisdiction extends to site selection, construction or expansion of domestic water and sewage treatment systems located wholly or partially within the Town's Watershed Protection District as depicted on the Town Watershed Protection District map.
- d. A permit approved and issued by the Town of Castle Rock is required for the following:
 - i. Development located wholly or partially within an area around interchanges involving arterial highways as designated on the Areas Around Interchanges map; provided that the average daily trip generation of such development is expected to equal or exceed two hundred (200) vehicles per day.
 - ii. Site selection of arterial highways and interchanges and collector highways located wholly or partially within the municipal boundaries.
 - iii. Site selection and construction or extension of domestic water and sewage treatment systems located wholly or partially within the Watershed Protection District as designated on the Watershed Protection District map."

4. Requests to Work with Applicant

The Town has reached out to the Applicant on several occasions between 2020 and 2024 to discuss the potential annexation and zoning of the property within the Town boundaries, allowing development to be integrated into the community, and to develop to Town standards with appropriate mitigation of development impacts. On April 11, 2023, the Mayor of Castle Rock sent a letter to Mr. Jim Walker stating "The Town continues to desire to see this development occur within the Town. The Town would like to meet with you to better understand the current needs of your development and to present to you the value and benefits of annexation." The applicant team did not reach out or respond to this request.

In August of 2023, the Town Manager met with Kurt Walker, and followed up with a letter indicating that Town staff could favorably recommend a Pine Canyon development within the Town of Castle Rock that meets Town standards, laws, and policies, if it was annexed into the Town. This letter was not an endorsement of the current urban development proposal in unincorporated Douglas County.

Instead of continuing this conversation with the Town, the applicant resubmitted to the County within that same week and included false rhetoric that the Town was not working with them, that the Town's continued opposition to the urban level development in the heart of Castle Rock was disappointing, and erroneously stating that the Town's Matters of State Interest regulations do not apply to them based on an incorrect reading of the Town's regulations, the Areas and Activities of State Interest Act, and the Annexation Act.

Cc: Dave Corliss, Town Manager
Mike Hyman, Town Attorney
Mark Marlowe, Director, Castle Rock Water
Dan Sailer, Director, Public Works
Norris Croom, Fire Chief, Fire and Rescue Department
Jeff Brauer, Director, Parks and Recreation Department
Terence Quinn, Director, Community Development
Curt Weitkunat, AICP, Long Range Planning Manager