

## **PRESENTATION TO CASTLE ROCK TOWN COUNCIL**

### **CALIBER AT TERRAIN - HEARING DATED JUNE 2, 2020**

#### **PREPARED BY GLEN R. SMITH – PARK LAND COMPANY, May 28, 2020**

##### **1. Background and History.**

My name is Glen Smith and I am a Vice President of Park Land Company. I have worked for Park Land Company since 1994 and have been involved in all of its developments in the Town of Castle Rock which include Milestone Commercial (Wal-Mart, Kohls, King Soopers (previously), Founders Residential, Founders Marketplace (King Soopers on Ridge Road) and Founders Crossing. I have substantial history with the subject property and its relationship to the surrounding properties and the overall planning for the last 20 years and was involved in all aspects of the unified planning on these three properties. I am also a citizen of Castle Rock living here since 1981.

Park Land Company and related entities annexed and planned thousands of acres in Castle Rock in the 1980s thru present. In the area of the Villages at Castle Rock, Park Land Company and related entities either sold or developed substantial property but by the year 2000 Park Land Company only controlled three remaining contiguous parcels (owners Flamingo, Linden and Poplar). See Exhibit 1.

These three parcels are subject to existing PUD zoning maps and text; therefore, they are subject to Ordinance 3.71 dated 8/1981, Section VIII A referring to completion of the entire PUD within 25 years of the date of the ordinance or August, 2006.

In the early 2000s these three parcels started seeing retail development interest. Linden and Flamingo were zoned Integrated Business and Poplar zoned Multi-Family. As a result of a major development proposal we were able to move forward with King Soopers and related retail on the Flamingo parcel. After planning efforts a plat was approved by the Town for the Flamingo Parcel and the Linden Parcel in 2004. The plat was signed by all three property owners (Flamingo, Linden and Poplar). It is indicative of the coordinated planning that all 3 parcels were included in the plat signatures.

Also, in 2004 the Final PD Site Plan (FDP) was approved and subsequently amended for the Flamingo portion of the plat and that FDP included references to the Linden and Poplar parcels within the FDP itself. The FDP approval in 2004 was 2 years before the expiration of the 25 year restriction for Linden and Flamingo outlined in the PUD ordinance. This FDP was for the Kings, Gas Station, and three retail stand-alone buildings. All lots have been constructed but one. See Exhibit 2 for overall drainage relationship of these three parcels in 2004.

The above 2004 FDP included provision for drainage improvements to occur on Linden and Poplar properties. A detention pond was constructed on Poplar and a water quality pond was constructed on Linden and channel improvements were constructed to link the King Soopers (Flamingo) with Poplar (on which property the pond was constructed). This pond was originally designed as a regional pond to eventually handle the flows of Flamingo, Linden and Poplar and was sized, at that time, for just Flamingo

with the understanding that future flows from the other parcels could be accommodated by enlarging the regional pond.

Further demonstration of the unified and coordinated efforts regarding the PLC parcels and reliance on the existing PD zoning for all three parcels is that the Development Agreement for the Flamingo plat had Linden, Poplar and Flamingo as parties to that agreement for work related to storm sewer and sanitary sewer. Additionally, the approved civil engineering plans (approved on April 16, 2018) for the improvements required by the 2004 Development Agreement included improvements on both Linden and Poplar.

After the development of the Flamingo property (King Soopers and related retail/gas) was completed several years elapsed before new development opportunities arose on the Linden and Poplar properties. Note that all planning activities and approvals below were done after the 25 year deadline.

In 2016 and 2017 interest in additional retail north of King Soopers occurred. As a result we initiated the necessary planning, engineering and platting to provide for marketable lots on the Linden parcel, commonly known as Founders Crossing. The Linden parcel was platted but did not have an approved FDP. Due to the need to create several lots for marketing and retail sales purposes the Linden parcel was re-platted in 2017. Once again, due to our unified and coordinated approach, Poplar was a signatory on the plat. Additionally, the prior Development Agreement was amended during the same time frame to clarify improvement obligations for Linden and Poplar such as contributions by Poplar to a traffic signal and replacement of interim lift station with a permanent sewer line across Poplar property.

The approved construction plans from the replat included improvements on the Poplar parcel mostly related to detention and storm sewer improvements as well as providing cash-in-lieu for a traffic signal. The Development Agreement required us to pay \$300,000 for a traffic signal at Aloha Drive and Founders Parkway. The intersection was designed to handle the traffic flows from all of Linden (to be developed as retail) and Poplar (to be developed as multi-family and a school administration building) and Aloha Street was designed to provide for cross access into Poplar.

The Linden parcel replat includes 6 lots. Note that these approvals were done after the 25 year deadline. During 2017 and 2018 several of the lots submitted FDPs with some approved at this time. All public improvements per the approved CDs and as contemplated in the Development Agreement are completed and have been accepted (substantial completion 10/18/18) by the City for the 2-year warranty.

As of today, the current status of these lots is shown on Exhibit 3. The approvals for all of the projects completed and pending were all completed after the expiration of the 25 year period.

## **2. Entitlement and Costs Incurred by and Benefiting Poplar**

If the Town were to not resolve the 25 year issue and require that no future approvals/permits in the Founders Crossing and Poplar parcels could be acted upon, then the following projected economic impacts to the property owner and 3<sup>rd</sup> party interests are anticipated. Substantial costs related to the development of the PLC parcels (Flamingo, Linden and Poplar) have been incurred by PLC for the benefit of and as a burden on the Poplar parcel and were expended with the understanding that Poplar would be developed as a multi-family property for which it has been zoned since 1981.

Those costs to Poplar for its share of the Founders Crossing improvements is **\$770,000** which includes costs related to detention, Aloha Street improvements, Traffic Signal, and widening of Hwy 86 and Founders Parkway.

Because Founders Crossing is partially built out, eliminating approvals/permits at this time would make the lots that are undeveloped valueless. This would apply to the vacant lot owned by Linden, the lot owned by Porter Care,, the lot owned by Founders MOB and a portion of Lot 1 owned by Canvas Bank since they replatted and plan on an additional use on the lot they purchased. As shown on Exhibit 4, the total business loss to Founders Crossing could be: **\$3,217,059.**

The Poplar property is under contract. The representative of Garrett will discuss the potential business impact if the transaction does not occur. Therefore, excluding the business loss of the Poplar sale (which is substantial), the owner and developer of the 3 parcels could be impacted by the loss of just under **\$4,000,000** if the 25 year zoning issue is not resolved.

### **3. Summary**

It is our position that we proceeded in good faith with investment-backed decisions and actions in reliance on the existing PD zoning which provides for the Poplar parcel being included as a multi-family parcel in the long-term unified, development plans for the three entities. Those actions and activities are documented above and are summarized in Exhibit 5.

Our position is that Poplar, Linden and Flamingo have performed substantial activities and incurred substantial costs over the last 15 years in reliance on the underlying zoning. It was not until the Garrett application that we were made aware of the 25 year provision. We have been acting upon reliance of continuing approvals by the Town on the Flamingo, Linden and Poplar properties. Several FDPs, plats, building permits and construction drawings have been approved after the date of August 2006. We relied upon those approvals for all of the properties under our unified control, including Poplar.

This is not a situation where a property owner simply did nothing to prepare a property for development. On the contrary, the actions and expenditures described were undertaken with the eventual development of the Poplar property in mind. Garrett should be permitted to proceed with obtaining Final PD Site Plan approval of and development of a multi-family project on the Poplar parcel as provided for in the existing PD zoning of the property.



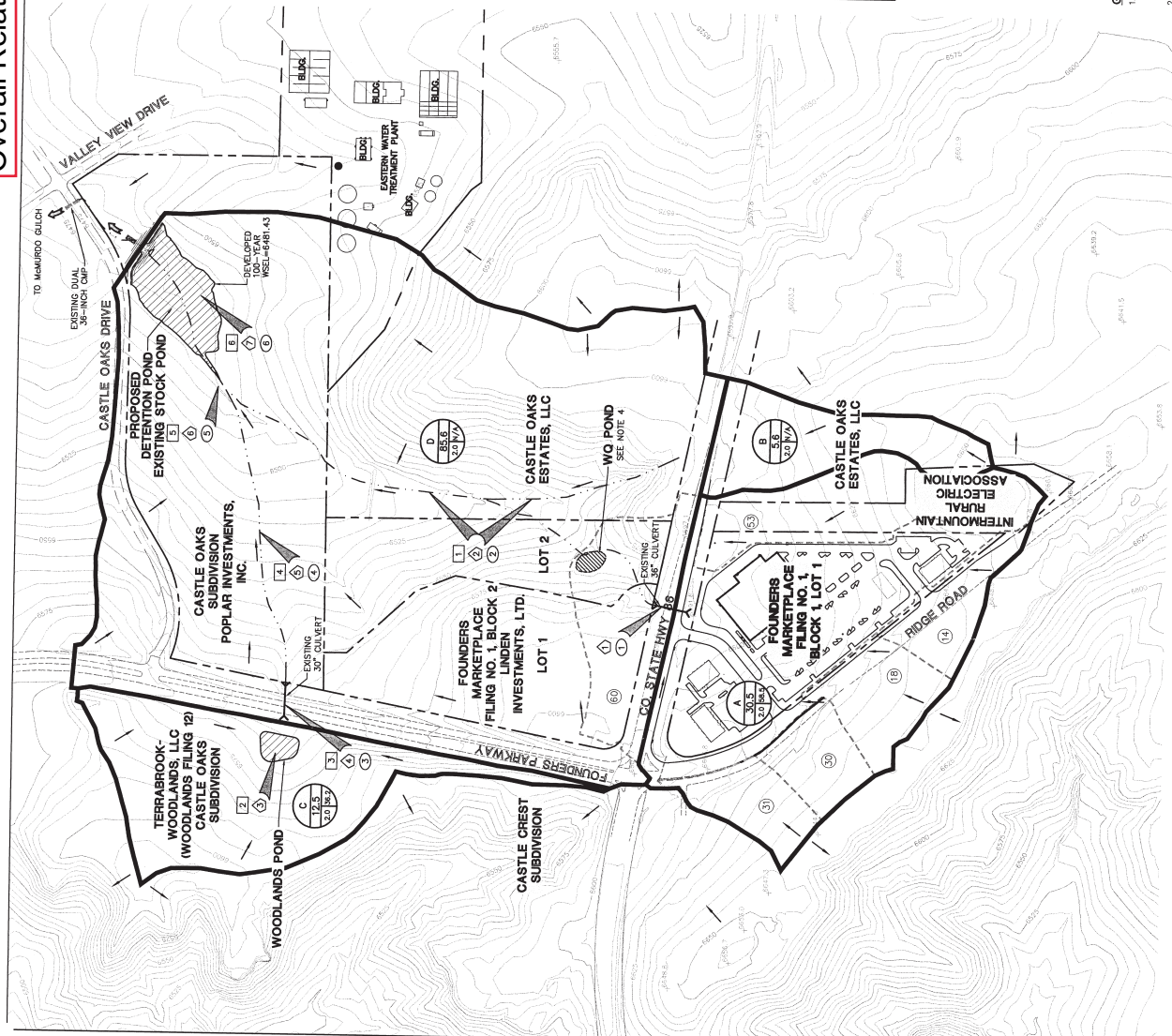
EXHIBIT 1  
OVERALL OWNERSHIP



Imagery ©2019 Google, Map data ©2019 500 ft



## Exhibit 2



THE CONTRACTOR IS SPECIFICALLY CAUTIONED THAT THE LOCATION AND/OR UTILITY INFORMATION SHOWN ON THESE PLANS IS BASED ON RECORDS OF THE VARIOUS UTILITY COMPANIES. THE CONTRACTOR IS NOT TO BE RELIED UPON FOR THE ACCURACY OF THE INFORMATION TAKEN IN THE FIELD. THE CONTRACTOR MUST CALL THE LOCAL UTILITY LOCATION CENTER AT LEAST 48 HOURS BEFORE ANY EXCAVATION. THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING THE LOCATION OF THE UTILITIES. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO IDENTIFY AND MARK ANY UTILITIES WHICH CONFLICT WITH THE PROVIDED INFORMATION ON THE EXISTING UTILITIES.

CALL UTILITY NOTIFICATION  
CENTER OF COLORADO  
**1-800-922-1987**  
CALL 2-BUSINESS DAYS IN ADVANCE  
BEFORE YOU DIG, GRADE, OR  
EXCAVATE FOR THE MARKING OF  
UNDERGROUND MEMBER UTILITIES.

PLAN VIEW

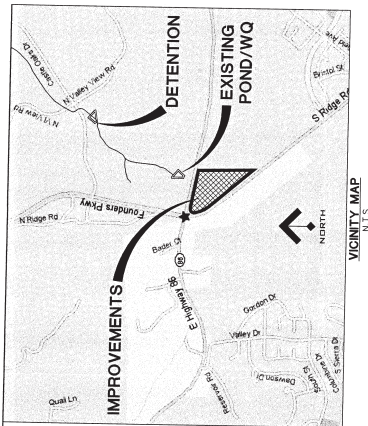


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## GENERAL NOTES

1. THIS PLAN IS INTENDED TO BE USED AS REFERENCE IN CONJUNCTION WITH THE FINAL GRADUATE REPORT. DO NOT USE THIS PLAN FOR CONSTRUCTION.
2. WOODLAND'S POND INFORMATION EXCERPTED FROM THE "PHASE 3 CONSULTATION REPORT: THE WOODLANDS FILING NO. 12," BY PEAK CIVIL CONSULTANTS, JUNE 2002.
3. REFER TO SHEET C4-20 OF THE FOUNDERS MARKETPLACE FILING NO. 1.
4. THE GRADUATE REPORT PROVIDES THE IMPROVEMENT PLAN FOR RETENTION POOL STRUCTURES DETAILING THE IMPROVEMENTS AS EXCEPT IN GRADUATE REPORT OF WHICH THIS SHEET IS A PART.
5. THE WATER QUALITY PROGRAM DOES NOT HAVE A SIGNIFICANT STORAGE VOLUME AND IS NOT PROVIDED.

THIS DRAWING IS INTENDED  
FOR REFERENCE ONLY  
NOT TO BE USED FOR CONSTRUCTION



**UDSWM ROUTING ELEMENTS**

## ROUTING ELEMENTS

USDM NODE ID	DESCRIPTION	PEAK FLOW (CFS)		
		10-YEAR	100-YEAR	100-YEAR
1	30" CMP CULVERT AT HWY. 66	27	27	71
2	-	-	-	71
3	-	-	-	-
4	NATURAL CHANNEL, HWY. 66 TO DETENTION POND	30	82	82
5	1			119
6	2		51	
7	WOODLANDS FLING 12 DETENTION POND	-	-	13
8	3		4	13
9	30" CMP CULVERT AT FOUNDER PARK	10	26	13
10	4		4	13
11	5			
12	NATURAL CHANNEL FOUNDER PARK TO DETENTION POND	10	26	13
13	6		4	13
14	4		4	13
15	CHANNEL CONFLUENCE	114	399	319
16	7		107	291
17	8		127	
18	EXISTING STOC POND	63	253	238
19	9		96	73
20	6			82
21	IMPROVED DETENTION POND	-	-	-
22	10		-	-
23	11		-	-
24	12		56	294

## BASIN CHARACTERISTICS

ID	AREA (ACRE)	TC (MIN)	PERCENT IMPERVIOUS	PEAK RUNOFF (CFS)	
				10-YEAR	100-YEAR
A	30.5	23.5	2.0	26	72
B	5.6	20.2	2.0	4	11
C	12.5	15.8	2.0	10	26
D	85.6	32.0	2.0	74	200

DEVELOPED

ID	AREA (ACRE)	TC (MIN)	PERCENT IMPERVIOUS	PEAK RUNOFF (CFS)	
				10-YEAR	100-YEAR
A	30.5	20.6	39.0	49	102
C	12.5	13.4	36.2	19	39

## WQ CHARACTERISTICS

TOP OF BERM/TOP OF RISER	6558.0
BOTTOM OF RISER	6556.0
PROVIDED WQ VOLUME	21,230 C.F.
24 HR DRAWDOWN PROVIDED BY TWO 7/8" DIAMETER HOLES PER ROW (SEE SHEET C4-21)	

## DETENTION CHARACTERISTICS

PEAK INFLOW	10-YEAR	127 CFS		
	100-YEAR	319 CFS		
PEAK DISCHARGE	10-YEAR	56 CFS		
	100-YEAR	225 CFS		
POND STORAGE		CF	ACRE FT	WSL
	10-YEAR	56 CFS	2.4	6479.02
	100-YEAR	225 CFS	6.1	6481.43

DATE	DESCRIPTION
11/23/04	FCO 4-072 REVISION
10/05/04	INITIAL APPROVAL

PROJECT #: 03.0088 JLS  
DRAWN BY: JDT  
DESIGNED BY: JDT  
CHECKED BY: JDT

**SHEET 2 OF 2**

**Exhibit 3**  
**Founders Crossing Current Status**

<b>Lot/Parcel</b>	<b>Use</b>	<b>Ownership</b>	<b>Status</b>
Lot 1B	Drive Thru-Bank	Canvas Bank	Use Constructed/Operating
Lot 2	Car Wash	Viper Holdings	Site Plan and Civil Approved - Building Permit Ready - Const. Not yet Started
Lot 3	Medical Facility	Porter Care Adventist Health	No Submittals to date
Lot 4	Convenience Store/Gas	WDG Founders LLC	Use Constructed/Operating
Lot 5	Vacant	Linden Partners (PLC Entity)	Vacant - on the Market
Lot 6	Medical Office	Founders MOB	Submittals to Town In Process

<b>EXHIBIT 4</b> <b>FOUNDERS CROSSING VALUES</b>
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Lot/Parcel	Use	Ownership	Sales Price	Asking Price
Lot 1A	Sold	Canvas Bank	\$ 909,319	
Lot 3	Sold	Porter Care Adventist Health Systems	\$ 917,500	
Lot 5	Vacant	Linden Partners (Feinberg Entity)		\$ 790,240
Lot 6	Sold	Founders MOB	\$ 600,000	
			\$ 2,426,819	\$ 790,240
			\$ 2,426,819	
			\$ 790,240	
			\$ 3,217,059	

EXHIBIT 5 DEVELOPMENT ACTIVITIES
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### **Development Activities for Poplar**

- Plats and FDPs approved by the Town which included Poplar
- Easements for water lines, sewer lines and detention approved by the Town on Poplar
- Construction Drawings which included Poplar
- Detention pond development on Poplar
- Transfer of School Site to Town from Poplar for Potential School use
- Vacation of Castle Oaks Drive along entire northern boundary of Poplar
- Expenditure of substantial costs (\$770,000) on physical improvements that benefited the future development of Poplar