

OFFICIAL RECORDS
DOUGLAS COUNTY CO
CAROLE R. MURRAY
CLERK & RECORDER
RECORDING FEE: \$21.00
3 PGS

2005036270
04/26/2005 03:16 PM



PLAT IDENTIFICATION SHEET

- / Crystal Valley Ranch Master Association, Inc.
- / Melody Homes, Inc.
- / Castle Rock, Town of

GRANTOR(owner)

- / Crystal Valley Ranch, 2nd Amendment to Preliminary PD Site Plan

GRANTEE(name of plat)

- / Crystal Valley Ranch

Subdivision/Condo Name

Filing

Phase

Lot

Building

Block

Unit

/ 24, 25

8

67

OLD LEGAL(Section)

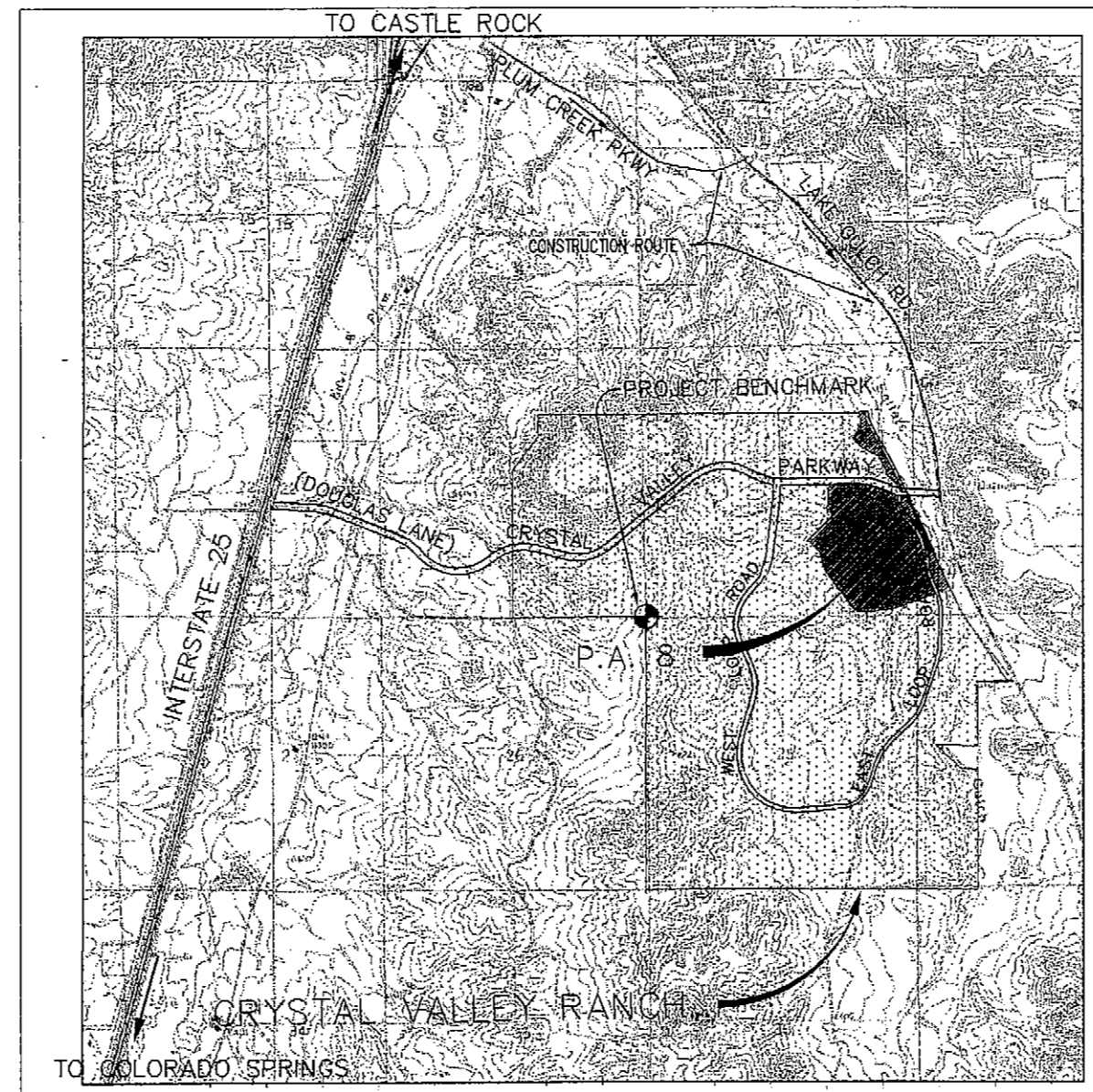
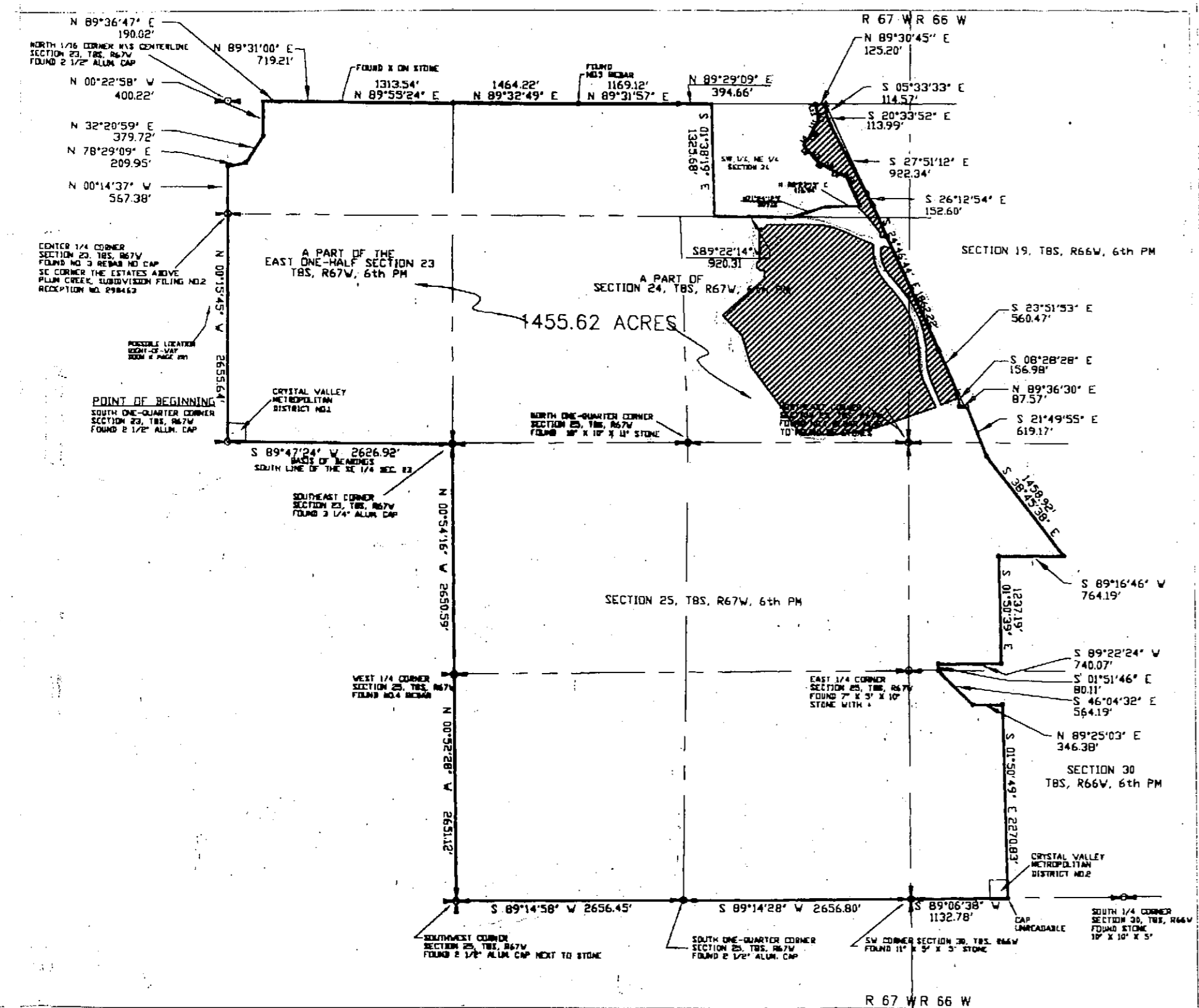
(Township)

(Range)

Cross reference#s (reception#s Book – Page)

2nd Amendment to CRYSTAL VALLEY RANCH Preliminary PD Site Plan

PART OF THE SOUTHEAST QUARTER OF SECTION 24 AND PART OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 8 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, PART OF THE SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 8 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO.



LOCATION MAP
1"=3000'

NOTE:
THIS AMENDMENT ONLY ENCOMPASSES THOSE CHANGES SHOWN ON PA-8 AND ITS SURROUNDING OPEN SPACE, PUBLIC LAND DEDICATION AND RIGHTS-OF-WAY. ALL ADDITIONAL INFORMATION WILL BE ADDRESSED ON THE 3RD AMENDMENT.
PHASING FROM MAJOR AMENDMENT NO.1 REMAINS UNCHANGED.

LAND USE SUMMARY:

RESIDENTIAL	Parcel	Zoned Land Use	2nd Amendment Acres	2nd Amendment Proposed Density	2nd Amendment Zoned Units
Single Family	PA-8	R-SF-6	71.4	3.0	215
PUBLIC LAND DEDICATION					
		PLD		6.6	
OPEN SPACE PRIVATE					
		OSP		22.3	
OPEN SPACE DEDICATED					
		OSD		0.0	
RIGHT OF WAY					
		ROW		0.0	
TOTAL ACRES			110.3		

LEGAL DESCRIPTION
ALL LOTS AND TRACTS IN CRYSTAL VALLEY RANCH - FILING NO. 2, 1ST ADMINISTRATIVE REPLAT, COUNTY OF DOUGLAS, STATE OF COLORADO. RECORDED AT RECEPTION NUMBER 2004128637.

TOWN CERTIFICATION:

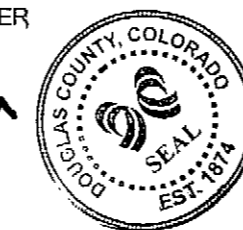
THE 2ND AMENDMENT TO CRYSTAL VALLEY RANCH PRELIMINARY PD SITE PLAN WAS APPROVED BY THE TOWN OF CASTLE ROCK, COLORADO, ON THE 20 DAY OF April, 2005
[Signature] 4-20-05
DIRECTOR OF DEVELOPMENT SERVICES DATE

DOUGLAS COUNTY CLERK AND RECORDER'S CERTIFICATE

THIS PRELIMINARY PD SITE PLAN AMENDMENT WAS FILED FOR RECORD IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF DOUGLAS COUNTY AT (TIME) ON THE 20 DAY OF Apr, 2005 AT RECEPTION NO. 2005026270

DOUGLAS COUNTY CLERK AND RECORDER

BY: *[Signature]*
DEPUTY



TITLE CERTIFICATION

I, Jackie Algermissen, AN AUTHORIZED REPRESENTATIVE OF LAND TITLE GUARANTEE COMPANY, A TITLE INSURANCE COMPANY LICENSED TO DO BUSINESS IN THE STATE OF COLORADO, HAVE MADE AN EXAMINATION OF THE PUBLIC RECORDS AND STATE THAT ALL OWNERS, MORTGAGEES AND LIENHOLDERS OF THE PROPERTY ARE LISTED IN THE CERTIFICATE OF OWNERSHIP AND LIENHOLDER SUBORDINATION CERTIFICATE.

SIGNED THIS 15th DAY OF April, 2005

[Signature]
AUTHORIZED REPRESENTATIVE

LAND TITLE GUARANTEE COMPANY

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 15th DAY OF April, 2005 BY Jackie Algermissen OF LAND TITLE GUARANTEE COMPANY.

WITNESS MY HAND AND SEAL. *[Signature]*
NOTARY PUBLIC
MY COMMISSION EXPIRES: 8-13-08
ADDRESS: 14001 E. Iliff Ave #500
Aurora, CO 80123

THERESE MAESTAS
NOTARY PUBLIC
STATE OF COLORADO
My Commission Expires Aug. 13, 2008

OWNERSHIP CERTIFICATION: THE UNDERSIGNED ARE ALL OF THE OWNERS OF CERTAIN LANDS KNOWN AS 2ND AMENDMENT TO CRYSTAL VALLEY RANCH PRELIMINARY PD SITE PLAN IN THE TOWN OF CASTLE ROCK.

CRYSTAL VALLEY RANCH MASTER ASSOCIATION, INC., A COLORADO NON-PROFIT CORPORATION

BY: *[Signature]*
BYRON J. GLENN, DIRECTOR

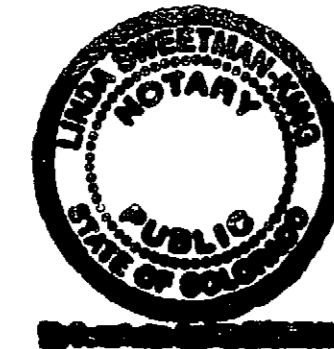
SUBSCRIBED AND SWORN BEFORE ME THIS 14 DAY OF APRIL, 2005
WITNESS MY HAND AND OFFICIAL SEAL. MY COMMISSION EXPIRES: 06-27-06
[Signature]
NOTARY PUBLIC

DEBRA LEE STAGE
NOTARY PUBLIC
STATE OF COLORADO
My Commission Expires 06/27/2006

MELODY HOMES, INC., A DELAWARE CORPORATION D/B/A D.R. HORTON-MELODY SERIES

BY: *[Signature]*
VICE PRESIDENT Darwin Horan

SUBSCRIBED AND SWORN BEFORE ME THIS 12th DAY OF April, 2005
WITNESS MY HAND AND OFFICIAL SEAL. MY COMMISSION EXPIRES: 3/23/02
[Signature]
NOTARY PUBLIC



TOWN OF CASTLE ROCK
COLORADO MUNICIPAL CORPORATION
[Signature]
TOWN MANAGER
ATTEST:
[Signature]
TOWN CLERK
DATE: 4-25-05

SUBSCRIBED AND SWORN BEFORE ME THIS 25th DAY OF _____, 2005
WITNESS MY HAND AND OFFICIAL SEAL. MY COMMISSION EXPIRES: _____
NOTARY PUBLIC

Owners:

**Crystal Valley Ranch
Master Association, Inc.**
1175 Crystal Valley Parkway
Castle Rock, CO 80104

Melody Homes, Inc.
11031 Sheridan Blvd., Ste. A
Westminster, CO 80020

Town of Castle Rock
100 North Wilcox Street
Castle Rock, CO 80104

Developer:

Crystal Valley Ranch
1175 Crystal Valley Parkway
Castle Rock, CO 80104
(303) 663-1990

Planner:

**ROWAN TREE
DESIGN**
554 Clarkson Street
Denver, CO 80218
(303) 744-8676

Sheet Index

Sheet 1 of 2: Title Sheet
Sheet 2 of 2: Preliminary PD Site Plan

Sheet 1 of 2

**2nd Amendment
to
Crystal Valley Ranch
Preliminary PD Site Plan**

Date: March 15, 2005
Revised: March 29, 2005

2nd Amendment to CRYSTAL VALLEY RANCH Preliminary PD Site Plan

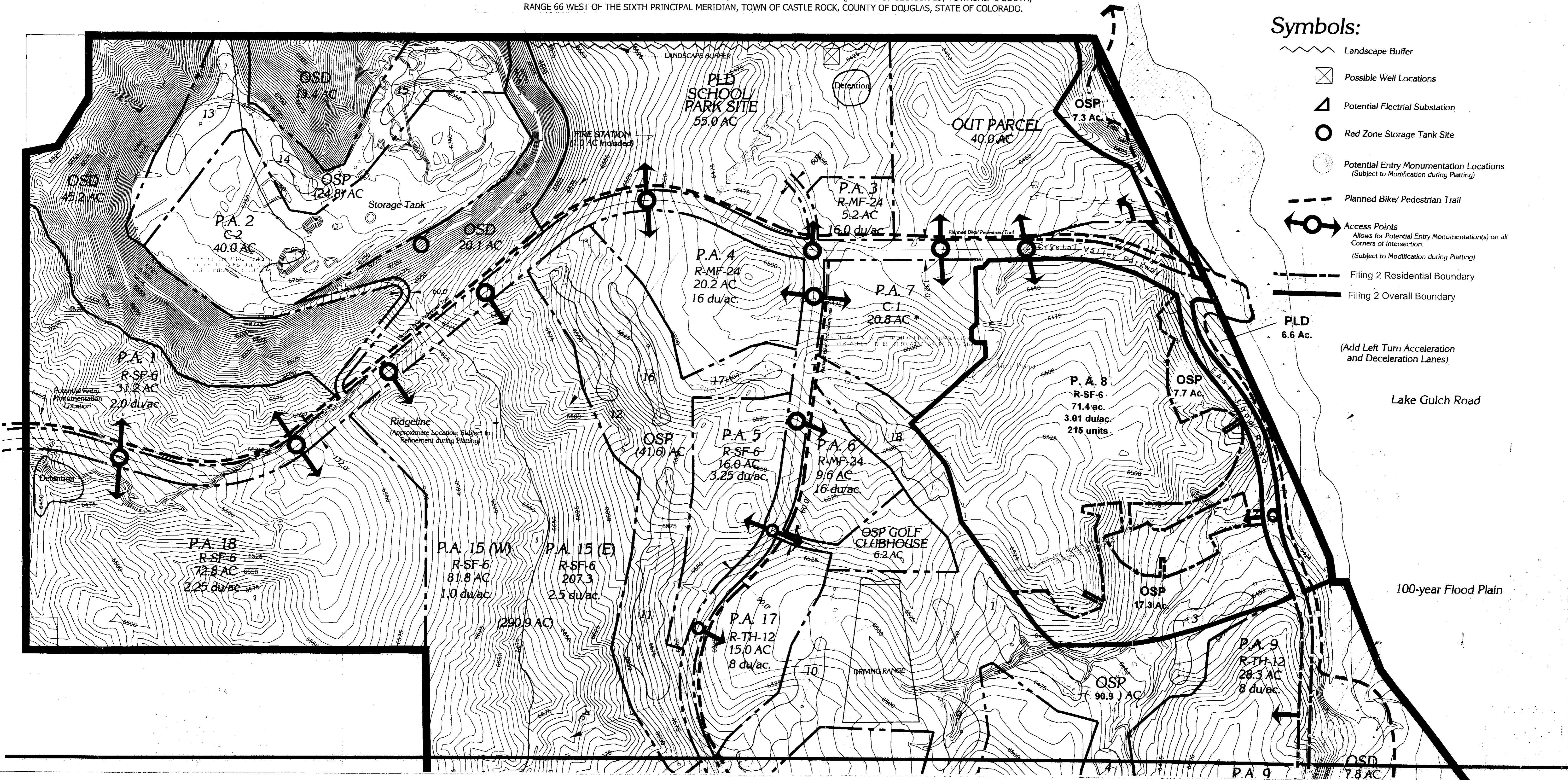
PART OF THE SOUTHEAST QUARTER OF SECTION 24 AND PART OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 8 SOUTH,
RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, PART OF THE SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 8 SOUTH,
RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO.

Notes:

- 1) WELL SITE LOCATIONS ARE 2.0 ACRES AND THEIR LOCATIONS ARE SUBJECT TO CHANGE.
- 2) ALL PUBLIC INFRASTRUCTURE SYSTEMS ARE PRELIMINARY LAYOUTS AND SUBJECT TO CHANGE THROUGH THE COURSE OF DESIGN. ALL PUBLIC WORKS REGULATIONS WILL BE COMPLIED WITH.

Symbols:

- Landscape Buffer
- Possible Well Locations
- Potential Electrical Substation
- Red Zone Storage Tank Site
- Potential Entry Monumentation Locations (Subject to Modification during Platting)
- Planned Bike/ Pedestrian Trail
- Access Points
Allows for Potential Entry Monumentation(s) on all Corners of Intersection. (Subject to Modification during Platting)
- Filing 2 Residential Boundary
- Filing 2 Overall Boundary
- PLD
6.6 Ac.
(Add Left Turn Acceleration and Deceleration Lanes)



Owners:

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Master Association, Inc.**
1175 Crystal Valley Parkway
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Melody Homes, Inc.
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Sheet Index

Sheet 1 of 2: Title Sheet
Sheet 2 of 2: Preliminary PD Site Plan

Sheet 2 of 2



**2nd Amendment
to
Crystal Valley Ranch
Preliminary PD Site Plan**

Date: March 15, 2005
Revised: March 29, 2005

Douglas County, CO
01120399
42 P.
\$ 210.00
R 2210 P 2244
12/12/01 16:30
CAROLE R. MURRAY
Clerk & Recorder

AN ORDINANCE AMENDING THE TOWN'S ZONE DISTRICT MAP BY APPROVING THE CRYSTAL VALLEY RANCH PRELIMINARY P.D. SITE PLAN, PD ZONING REGULATIONS, AND THE CRYSTAL VALLEY RANCH DEVELOPMENT AGREEMENT; THEREBY REPEALING THE PLUM CREEK SOUTH PRELIMINARY PD SITE PLAN AND PD ZONING REGULATIONS; AND VESTING A SITE SPECIFIC DEVELOPMENT PLAN

WHEREAS, Crystal Valley Ranch Development Company ("Owner") has requested an amendment to the existing PD planned development zoning of the parcel described in *Exhibit 1* (the "Property"); and

42P

WHEREAS, Owner has requested approval of the Crystal Valley Ranch PD Zoning Regulations as described in the attached *Exhibit 2* as the same affect the Property (the "Zoning Regulations"); and

WHEREAS, Owner has requested approval of "The Crystal Valley Ranch Preliminary P.D. Site Plan" (the "Site Plan"); and

WHEREAS, public hearings on the Zoning Regulations and Site Plan have been held before the Planning Commission and Town Council in accordance with the applicable provisions of the Castle Rock Municipal Code; and

WHEREAS, Owner and Town have agreed to the terms of the Crystal Valley Ranch Development Agreement (the "Development Agreement") in the form attached as *Exhibit 3*, which includes a provision whereby the Town's Water Enterprise will be advanced \$3.7 million, to be repaid solely from certain designated plant investment fees but not from any other Water Enterprise or Town revenues; and

WHEREAS, the Town Council finds that the Site Plan shall be vested as a site specific development plan for certain prescribed periods of time specified in the Development Agreement, but in any event not extending beyond June 30, 2020, under authority granted the Town Council by Chapter 15.24 of the Castle Rock Municipal Code and 24-68-101, et seq., C.R.S., provided that certain conditions subsequent to the date of approval of this ordinance on second reading are satisfied by the applicant in a complete and timely manner.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO AS FOLLOWS:

Section 1. Approval. The Zoning Regulations and Site Plan are approved for the Property.

Section 2. Development Agreement and Vesting. The Development Agreement is approved, subject to subsequent modification if the contingency addressed in Section 3 of this Ordinance is operative. Subject to the strict performance of certain obligations after the date of approval of this Ordinance as provided in Section 3 of this Ordinance, the vesting of the Site Plan authorized under Article VIII of the Development Agreement is approved, which vests the Site Plan as a site specific development plan for

an initial primary term ending on June 30, 2008, and a series of successive terms, upon the occurrence of certain conditions attached to the renewal of each successive vesting period, as specifically provided in the Development Agreement, but in no event extending the vesting period beyond June 30, 2020. The notice of vesting of the Site Plan required under 15.24.100 of the Castle Rock Municipal Code shall be given within 14 days of the date of approval of this ordinance.

Section 3. Conditions to Vesting Authorization. The vesting granted by this Ordinance on the terms and conditions set forth in the Development Agreement is conditioned on the tender by the close of business on May 19, 2001 of: (a) all documents with proper signatures and authorizations as required under 17.60.170F of the Castle Rock Municipal Code; and (b) \$3.7 million to the Water Enterprise to be held in the designated construction escrow. If timely and complete compliance with these conditions is not made by the applicant and all other necessary parties, the vesting authorized by this ordinance shall be of no force or effect and Article VIII of the Development Agreement shall be deleted from the Development Agreement, which thereafter may be executed and finalized. Other than invalidating the vesting of the Site Plan, the failure of the landowner to satisfy the designated conditions by May 19, 2001 shall not invalidate the land use and development approvals otherwise granted by this Ordinance.

Section 4. Borrowing Authorization and Pledged Revenues. Pursuant to Section 10-4 of the Charter, the Town Council, as the governing body of the Water Enterprise approves the borrowing and repayment terms of the \$3.7 million advance to be made to the Water Enterprise on the terms and conditions contained in the Development Agreement (the "Advance"). The sole source of repayment of the Advance is the water development fee revenue which may be collected by the Water Enterprise from development on the Crystal Valley Ranch and certain other properties specified in the Development Agreement. No other Water Enterprise or Town revenues or assets, of any nature or description are pledged for repayment of the Advance, nor does the Advance constitute a general obligation of the Town. Repayment of the Advance is not backed by the full faith and credit of the Town of Castle Rock or the Water Enterprise, but repayment is limited to and conditioned upon the receipt of the pledged special revenues by the Water Enterprise (or the collection and receipt of such special revenues by the Town in the event of the dissolution of the Water Enterprise).

Section 5. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect the remaining provisions of this ordinance.

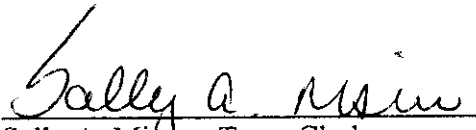
Section 6. Safety Clause. The Town Council finds and declares that this ordinance is promulgated and adopted for the public health, safety and welfare and this ordinance bears a rational relation to the legislative object sought to be obtained.

SUBMITTED this 30th day of November, 2000 and approved for publication and further reading by a vote of the Town Council of the Town of Castle Rock of 7 for and 0 against.


PASSED, APPROVED AND ADOPTED this 22nd day of March, 2001 by the Town Council of the Town of Castle Rock by a vote of 7 for and 0 against.

ATTEST:

TOWN OF CASTLE ROCK

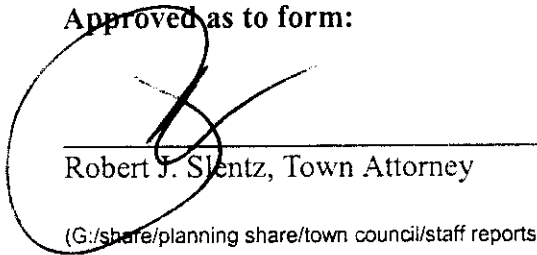


Sally A. Misare, Town Clerk



~~/s/ Parker~~ Mayor HERB TEETS

Approved as to form:



Robert J. Slentz, Town Attorney

(G:/share/planning share/town council/staff reports 2000/t10322pcsord)

EXHIBIT 1

A PARCEL OF LAND LOCATED IN EAST ONE-HALF OF SECTION 23, SECTION 24 AND SECTION 25, TOWNSHIP 8 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN AND SECTION 19 AND SECTION 30, TOWNSHIP 8 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH ONE-QUARTER CORNER OF SAID SECTION 23, WHENCE THE SOUTHEAST CORNER OF SAID SECTION 23 BEARS NORTH 89°47'24" EAST SAID LINE FORMING THE BASIS OF BEARINGS FOR THIS DESCRIPTION; THENCE NORTH 00°15'45" WEST A DISTANCE OF 2655.64 FEET TO THE CENTER CORNER OF SAID SECTION 23; THENCE NORTH 00°14'37" WEST ALONG THE EASTERLY BOUNDARY LINE OF THE ESTATES ABOVE PLUM CREEK, SUBDIVISION FILING NO. 2, A PLAT RECORDED AT RECEPTION NUMBER 298463 OF THE DOUGLAS COUNTY RECORDS A DISTANCE OF 567.38 FEET; THENCE ALONG THE SOUTHERLY AND EASTERLY BOUNDARY LINE OF A PARCEL OF LAND DESCRIBED AT RECEPTION NUMBER 9121130 OF THE DOUGLAS COUNTY RECORDS THE FOLLOWING THREE (3) COURSES:

1. NORTH 78°29'09" EAST A DISTANCE OF 209.95 FEET;
2. THENCE NORTH 32°20'59" EAST A DISTANCE OF 379.72 FEET;
3. THENCE NORTH 00°22'58" WEST A DISTANCE OF 400.22 FEET;

THENCE NORTH 89°36'47" EAST A DISTANCE OF 190.02 FEET; THENCE NORTH 89°31'00" EAST A DISTANCE OF 719.21 FEET; THENCE NORTH 89°55'24" EAST A DISTANCE OF 1313.54 FEET; THENCE NORTH 89°32'49" EAST A DISTANCE OF 1464.22 FEET; THENCE NORTH 89°31'57" EAST A DISTANCE OF 1169.12 FEET; THENCE NORTH 89°29'09" EAST A DISTANCE OF 394.66 FEET; THENCE SOUTH 01°38'19" EAST A DISTANCE OF 1325.68 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 24; THENCE ALONG SAID SOUTH LINE, NORTH 89°22'14" EAST A DISTANCE OF 920.31 FEET; THENCE NORTH 71°24'12" EAST A DISTANCE OF 389.01 FEET; THENCE NORTH 88°23'15" EAST A DISTANCE OF 416.94 FEET; THENCE NORTH 24°39'30" WEST A DISTANCE OF 271.89 FEET; THENCE NORTH 27°20'11" WEST A DISTANCE OF 111.49 FEET; THENCE NORTH 66°21'58" WEST A DISTANCE OF 80.24 FEET; THENCE NORTH 63°55'43" WEST A DISTANCE OF 107.42 FEET; THENCE NORTH 58°11'36" WEST A DISTANCE OF 103.22 FEET; THENCE NORTH 57°00'32" WEST A DISTANCE OF 95.70 FEET; THENCE NORTH 42°03'08" WEST A DISTANCE OF 105.57 FEET; THENCE NORTH 41°29'04" WEST A DISTANCE OF 139.38 FEET; THENCE NORTH 36°32'53" EAST A DISTANCE OF 125.91 FEET; THENCE NORTH 27°03'36" EAST A DISTANCE OF 99.91 FEET; THENCE NORTH 29°05'49" EAST A DISTANCE OF 99.92 FEET; THENCE NORTH 03°22'05" WEST A DISTANCE OF 97.19 FEET; THENCE NORTH 16°15'17" WEST A DISTANCE OF 104.90 FEET; THENCE NORTH 89°30'45" EAST A DISTANCE OF 125.20 FEET; THENCE SOUTH 05°33'33" EAST A DISTANCE OF 114.57 FEET; THENCE SOUTH 20°33'52" EAST A DISTANCE OF 113.99 FEET; THENCE SOUTH 27°51'12" EAST A DISTANCE OF 922.34 FEET; THENCE SOUTH 26°12'54" EAST A DISTANCE OF 152.60 FEET; THENCE SOUTH 24°46'44" EAST A DISTANCE OF 1862.22 FEET; THENCE SOUTH 23°51'53" EAST A DISTANCE OF 560.47 FEET; THENCE SOUTH 08°28'28" EAST A DISTANCE OF 156.98 FEET; THENCE NORTH 89°36'30" EAST A DISTANCE OF 87.57 FEET; THENCE SOUTH 21°49'55" EAST A DISTANCE OF 619.17 FEET; THENCE SOUTH 38°45'38" EAST A DISTANCE OF 1458.92 FEET; THENCE SOUTH 89°16'46" WEST A DISTANCE OF 764.19 FEET; THENCE SOUTH 01°50'39" EAST A DISTANCE OF 1237.19 FEET; THENCE SOUTH 89°22'24" WEST A DISTANCE OF 740.07 FEET; THENCE SOUTH 01°51'46" EAST A DISTANCE OF 80.11 FEET; THENCE SOUTH 46°04'32" EAST A DISTANCE OF 564.19 FEET; THENCE NORTH 89°25'03" EAST A DISTANCE OF 346.38 FEET; THENCE SOUTH 01°50'49" EAST A DISTANCE OF 2270.83 FEET; THENCE SOUTH 89°06'38" WEST A DISTANCE OF 1132.78 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 30; THENCE SOUTH 89°14'28" WEST A DISTANCE OF 2656.80 FEET TO THE SOUTH ONE-QUARTER CORNER OF SAID SECTION 25; THENCE SOUTH 89°14'58" WEST A DISTANCE OF 2656.45 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 25; THENCE NORTH 00°52'28" WEST A DISTANCE OF 2651.12 FEET TO THE WEST ONE-QUARTER CORNER OF SAID SECTION 25; THENCE NORTH 00°54'16" WEST A DISTANCE OF 2650.59 FEET TO SAID SOUTHEAST CORNER OF SECTION 23; THENCE SOUTH 89°47'24" WEST A DISTANCE OF 2626.92 FEET TO SAID SOUTH ONE-QUARTER CORNER OF SAID SECTION 23, SAID POINT ALSO BEING THE POINT OF BEGINNING.

SAID PARCEL OF LAND CONTAINS 1455.62 ACRES

EXHIBIT 2

CRYSTAL VALLEY RANCH

(Plum Creek South)

Preliminary PD Zoning Regulations

Major Amendment No. 1

Revised: August 3, 2000

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Section 1 General Provisions

1.1 Adoption / Authorization.

The Town Council has adopted the Crystal Valley Ranch (Plum Creek South) Preliminary PD Site Plan Major Amendment and Zoning Regulations pursuant to section 17.60 of Title 17 (Zoning) of the Castle Rock Municipal Code after appropriate notice and hearing.

1.2 Applicability.

The Crystal Valley Ranch (Plum Creek South) Preliminary PD Site Plan Major Amendment and Zoning Regulations shall run with and bind all landowners of record, their successors, heirs, or assigns of the land as approved by the Castle Rock Town Council.

1.3 Maximum Level of Development.

The total number of dwelling units or total commercial, industrial or other non-residential floor area approved for development within the established Use Areas is the maximum allowed for platting and development. The actual number of dwellings or floor area approved will be determined at the Final PD Site Plan / Final Plat stage of review.

1.4 Phasing.

The phasing order indicated on the Crystal Valley Ranch (Plum Creek South) Preliminary PD Site Plan Major Amendment is advisory in nature and is not to be construed as obligatory upon the Developer.

1.5 Relationship to the Town of Castle Rock Regulations.

The provisions of this Preliminary PD Site Plan Major Amendment shall prevail and govern the development of the Crystal Valley Ranch (Plum Creek South) PD, provided, however, that where the provisions of the Preliminary PD Site Plan Major Amendment do not address a particular subject, the relevant provisions of the Town of Castle Rock Zoning Ordinance, as amended, or any other applicable provisions of the Town Municipal Code shall be applicable.

1.6 Severability of Provisions.

In the event that any provision hereof shall be determined to be illegal or void by the final order of any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

1.7 Development Agreement.

In addition to these regulations, certain provisions of the development of this PD property are controlled by an agreement between the Town of Castle Rock and the PD property owners. This development agreement is subject to those revisions and amendments adopted as part of the Major Amendment No. 1 to the Preliminary PD Site Plan as approved by the Town on the ____ day of _____, 200_ by Resolution No. _____.

1.8 Relationship to Previous Zoning Regulations.

These zoning regulations supercede any other previously adopted regulations for those portions of Crystal Valley Ranch (Plum Creek South) included in the Preliminary PD Site Plan Major Amendment.

Section II Definitions

In addition to the standard definitions found in the Town of Castle Rock Zoning Ordinance (Title 17), the following definitions of terms shall apply to this PD:

2.1 Apartment Units.

Dwelling units which are not individually owned, but rented or leased to the occupants thereof.

2.2 Attached Dwelling Units.

Dwelling units which are physically connected to other dwelling units. As used herein, the term attached dwelling units shall include, but not be limited to, apartment units, condominium units and townhome units.

2.3 Building Ground Coverage.

That portion of the ground on any building site which is covered by structures having a floor, walls and fully enclosed roof. Building ground coverage shall not include unenclosed patios, decks, or patio decks, tennis courts, swimming pools, surface, underground, or partially underground parking areas, (provided such partially underground parking areas shall not protrude more than six (6) feet above the average surrounding grade), roadways, bike paths or pedestrian ways or such other uses not meeting the above definition.

2.4 Building Height.

The vertical distance from the average finished grade (not including berming or grading for the purpose of permitting a higher building) surrounding a structure to the uppermost point of the roof structure. Chimneys, ventilators, elevator housings, skylights, solar collectors, air conditioning and heating units, antennas and necessary mechanical appurtenances usually constructed above roof level are not to be considered in determining building height.

2.5 Building Setback.

The horizontal distance between a platted lot line and a building or structure. This distance does not include the projections of eaves, overhangs, fireplaces, patios, decks, fire escapes, mechanical units or similar architectural appurtenances except that no such projection shall extend beyond any lot line of the lot on which they are located. In instances where buffer areas are provided, the width or depth of any such buffer area may be subtracted from the required setback to either reduce or eliminate such setback.

2.6 Community Recreational Facilities.

Indoor or outdoor structures or areas for community recreation to include, but not to be limited to swimming pools, tennis courts, facilities for other indoor or outdoor recreational activities together with incidental restaurants, lounges, shops and personal service establishments.

2.7 Condominium Units.

Dwelling units in which individual ownership is limited to finite space (air space) within a structure. Condominium unit owners will not individually own land underneath such units. All common elements or facilities including the land are owned in undivided interest, in common, by

individual unit owners.

2.8 Detached Dwelling Units.

Dwelling units which are not physically connected to other dwelling units. As used herein, the term detached dwelling units shall include, but not be limited to single family units and patio homes.

2.9 Developer.

Crystal Valley Ranch Development Company LLC or its successors or assigns as Developer.

2.10 Mother-In-Law or Nanny Unit.

A dwelling associated with the main dwelling that is integrated in the overall design of the structure but may have a separate entry and kitchen facility. The unit must be attached to the main home or the detached garage, except for those units that are in the first tier of lots closest to the ridgeline where the nanny unit must be within the main structure or the attached garage. Separate addressing of utility taps is not permitted. One additional parking space shall be provided on the lot for the nanny unit. The design of the structure shall accommodate a fire wall between the main home and nanny unit if a separate entry is proposed. Occupants of these units shall be related to the family residing in the main residence by blood or marriage, or be full time employees of the family residing in the main residence.

2.11 Off-Street Parking.

Parking located in areas other than on public streets, or private streets which are utilized by more than one dwelling unit. Such off-street parking may be either enclosed or unenclosed.

2.12 Open Space, Private.

Space, suitable for landscaping, passive and/or active recreation, golf courses, gardens, view protections and enhancement, and/or other appropriate uses, which is to remain in private ownership.

2.13 Patio Home Units.

Single family units clustered in close proximity to each other commonly, but not necessarily, utilizing zero lot lines. Common undivided ownership of elements or facilities which are located in areas other than the lots surrounding such units is permitted.

2.14 Residential Density Transfer.

To provide flexibility, (in that this project must be responsive to changing conditions over a long planning and development period) an upper limit on density of twenty percent (20%) over the permitted density in each planning area may be permitted by the Town Council at the time of and as a part of the Final PD Site Plan / Final Plat review process; provided, however, that the total permitted residential density upon the Land shall not exceed 3,475 dwelling units.

2.15 Single Family Units.

Dwelling units not sharing common walls. Single family unit owners will own the land beneath such units and the land surrounding such units. Common undivided ownership of elements or facilities which are located in areas other than the lots surrounding such units is permitted.

2.16 Temporary Sales Office / Model Units and Construction Trailers.

Temporary sales offices and / or construction trailers may be manufactured or portable structures placed on a development site for the duration of the construction and / or sales period of a phase or phases of a project and will be removed from the site after construction and sales are complete. Model units are permanent housing units used for product display during the sales and construction process which are ultimately for-sale units.

2.17 Townhome Units.

Dwelling units which share common vertical walls or abutting walls. Townhome unit owners will own the land beneath such units and may own land surrounding such units, provided, however that common, undivided ownership of certain common elements or facilities is also permitted.

Section III Control Provisions

3.1 Use Area Boundaries.

There shall be limited flexibility in determining the exact location of Land Use Area Boundaries as depicted on the PD Site Plan due to the scale of the drawings and the diagrammatic depiction on the Land Use Areas. However, a fifteen percent (15%) change or adjustment to parcel boundaries may be made through the platting process at Final PD Site Plan / Final Plat.

3.2 Road Alignments.

The Preliminary PD Site Plan Major Amendment is intended to depict general locations of roadways. Recognizing that final road alignments are subject to engineering studies, minor road realignments of streets are expected, and can be accomplished by the developer through the platting process without any amendment to these regulations or to the Preliminary PD Site Plan Major Amendment itself. Major road realignments, as determined by the Town of Castle Rock Planning Director, shall follow the PD Amendment procedure as provided in the Town of Castle Rock Code.

3.3 Use Area Location Amendments.

The Town Council, at the time of Final PD Site Plan / Final Plat review, may permit relocation of all or part of any residential use area to any other location designated on the Preliminary PD Site Plan Major Amendment for residential use, provided; (i) the overall total permitted number of dwelling units for Crystal Valley Ranch (Plum Creek South) will not thereby be increased; and (ii) that the height criteria set forth elsewhere in the Ordinance will not thereby be violated.

Such amendments, if permitted by the Town Council, shall constitute amendments to the Preliminary PD Site Plan for Crystal Valley Ranch (Plum Creek South) and will not require separate approval.

Section IV
Overall Project Standards

The standard zoning requirements of the Town of Castle Rock Zoning Ordinance including off-street parking, landscaping, site development, accessory and temporary uses, and use by special review and variance processes shall apply to this PD, except as modified by the following:

4.1 Parking.

Off-street parking is required for all land uses. Except as otherwise specifically provided herein, the number and size of all required parking spaces are to be in conformance with the applicable Town of Castle Rock Zoning Regulations at the time of approval of Final PD Site Plan / Final Plat, unless Developer can demonstrate to the satisfaction of the Town Council, at the time of Final PD Site Plan / Final Plat review, that provision of a lesser number of spaces or spaces of lesser size will still provide adequate off-street parking for the proposed use.

4.2 Building Envelopes.

The following standards shall apply to any use area platted at a density that is lower than 2 dwelling units / acre:

4.2.1 Development on lots within the areas designated above shall be restricted to the confines of a described building envelope or centroid. Building envelopes, shall be described as to size and dimensions to be illustrated on the Final PD Site Plan / Final Plat.

4.2.2 Building envelopes or centroids for single family detached residences, including patio and cluster homes, shall include all clearing, grading, construction, introduced irrigated landscaping and impervious areas, with the exception of connection driveways of ingress / egress and utility connections.

4.3 Street Standards.

In certain planning area, including PA-15, the street grades may exceed the Town's maximum allowable grades. The Developer will be required to obtain a separate approved variance from the Town's Public Works Department in order to exceed the maximum allowable grades.

4.4 Lighting.

The lighting restrictions imposed by the Skyline / Ridgeline Ordinance shall apply to all areas regulated by Chapter 17.14 and shall include any use area platted at a density that is lower than 2 dwelling units / acre.

4.5 Temporary Uses.

Construction offices and material storage shall be permitted in all use areas during and for a period of thirty (30) days after cessation of actual construction in those areas being served by such construction office or material storage area.

4.6 Additional Design Standards.

Additional standards regulating material and color standards and architectural control covenants will be included with the Final PD Site Plan / Final Plat submission.

4.7 Fencing.

4.7.1 Lots adjacent to open space will be required to be "low-fence" lots. For these lots, perimeter fences would be limited to a maximum height of four (4) feet and would consist of a minimum level of transparency such as split rail or open rail.

4.7.2 In use areas platted at a density that is lower than 2 dwelling units / acre, "privacy fences" would be limited to areas around patios or areas of improved lawns and will not be permitted to extend beyond building envelopes or centroids.

4.7.3 Additional fencing guidelines will be provided in future codes, covenants, contracts and / or easements.

4.8 Buffer Areas.

In each instance where non-residential use areas within the Land abut residential uses outside of the Land a twenty-five (25) foot private open space easement shall be provided. Such open space easements must be kept free of buildings or structures, and must be landscaped, screened or protected by natural features, so that the adverse effects on abutting areas are minimized.

4.9 Landscaping.

Landscape design regulations will be provided in future codes, covenants, contracts, and / or easements and shall require efficient water demand landscapes.

4.10 Accessory Structures.

Accessory structures are allowed as permitted by the individual use area development regulations.

4.11 Compliance with Skyline / Ridgeline Protections Regulations.

All areas within Crystal Valley Ranch (Plum Creek South) that are identified as within the Skyline / Ridgeline protection area as shown on the District Map shall be in compliance with Chapter 17.14 of the Castle Rock Municipal Code.

Section V
General Use Areas

Land Use Area	Density / FAR	Acreage	% of Total Acres	Units
Residential R-SF-6	1.0 - 6.0	781.1	52.2%	2,150
Residential R-TH-12	6.0 - 12.0	74.0	4.9%	592
Residential R-MF-24	12.0 - 24.0	45.8	3.1%	733
Commercial, Neighborhood C-1	0.40	10.0	0.7%	---
Commercial, Resort C-2	0.40	40.0	2.7%	---
Open Space, Private OSP	---	202.2	13.5%	---
Open Space, Dedicated OSD	---	106.7	7.1%	---
Public Land Dedication PLD	---	131.0	8.8%	---
Right of Way ROW	---	65.6	4.4%	---
Out Parcel	---	40.0	2.7%	---
TOTAL	---	1496.4	100.0%	3475

Section VI
Residential Use Area R-SF-6

6.1 Development Regulations.

- A. Maximum average density of six (6) dwelling units / acre within each such use area
- B. Maximum Building Height - 35 Feet
- C. Setbacks - to be established at Final PD Site Plan / Final Plat
- D. Minimum lot area - to be established at Final PD Site Plan / Final Plat

6.2 Permitted Uses.

- A. Attached or detached dwelling units, garages and accessory structures
- B. Indoor or outdoor community recreational facilities
- C. Home occupations
- D. Mother-In-Law or nanny units
- E. Parks, playgrounds, and picnic areas
- F. Public buildings, including but not limited to fire and police stations
- G. Schools, public
- H. Swimming pools and spas
- I. Tennis courts, private
- J. Small in home day care subject to the licensing requirements of the State
- K. Foster family care subject to the licensing requirements of the State

6.3 Use by Special Review.

- A. Religious facilities
- B. School, private
- C. Day care centers

6.4 Accessory Uses.

- A. Satellite dish (18" or smaller)
- B. Trails, pedestrian and bicycle
- C. Keeping of Pets
- D. Parking
- E. Storage shed, 120 sq. ft. maximum and subject to architectural and maintenance controls / covenants

6.5 Accessory Use by Special Review.

- A. Equestrian trails

Section VII
Residential Use Area R-TH-12

7.1 Development Regulations.

- A. A maximum average density of twelve (12) dwelling units / acre within each such use area
- B. Maximum Building Height - 45 Feet
- C. Setbacks - to be established at Final PD Site Plan / Final Plat
- D. Minimum lot area - to be established at Final PD Site Plan / Final Plat
- E. Maximum building coverage - 40 %

7.2 Permitted Uses.

- A. Any use permitted by right in the R-SF-6 area
- B. Multi-family dwelling units to include, but not be limited to, apartments, condominiums, patio homes and townhomes.

7.3 Use by Special Review.

- A. Any use permitted by special review in the R-SF-6 area
- B. Bed and breakfast inn

7.4 Accessory Uses.

- A. Satellite dish (18" or smaller)
- B. Keeping of pets
- C. Trails, pedestrian and bicycle
- D. Parking
- E. Storage Shed, 100 sq. ft. maximum and subject to architectural and maintenance controls / covenants

Section VIII
Residential Use Area R-MF-24

8.1 Development Regulations.

- A. A maximum average density of twenty-four (24) dwelling units / acre within each use area
- B. Maximum building height - 50 Feet
- C. Setbacks - to be established at Final PD Site Plan / Final Plat
- D. Minimum lot area - to be established at Final PD Site Plan / Final Plat
- E. Maximum building coverage - 40 %

8.2 Permitted Uses.

- A. Any use permitted by right in the R-TH-12 area
- B. Bed and breakfast inn

8.3 Use by Special Review.

- A. Any use permitted by special review in the R-TH-12 area

8.4 Accessory Uses.

- A. Satellite dish (18" or smaller)
- B. Keeping of pets
- C. Trails, pedestrian and bicycle
- D. Parking

Section IX
Commercial, Neighborhood C-1

9.1 Development Regulations.

- A. Maximum FAR - 0.40
- B. Maximum building height - 35 Feet
- C. Setbacks - to be established at Final PD Site Plan / Final Plat
- D. Maximum building coverage - 35 %

9.2 Permitted Uses.

- A. Community centers
- B. Convenience stores
- C. Financial institutions
- D. Laundries and dry-cleaning establishments
- E. Liquor stores
- F. Offices, professional, medical, and commercial
- G. Parking lots
- H. Personal service establishments
- I. Places of public assembly, entertainment and recreation
- J. Public and private community services
- K. Public or private membership clubs and health clubs
- L. Restaurants, lounges and fast food establishments
- M. Retail stores, sales and display rooms and shops
- N. Service related businesses
- O. Day care centers
- P. Single-family dwellings

9.3 Uses by Special Review.

- A. Caretaker's residence
- B. Religious facilities
- C. Small animal clinics
- D. Mortuary
- E. Multi-family dwellings
- F. Automotive service facilities (not to include full service repair) and gasoline service and drive through car washes allowed only as part of a convenience store.

9.4 Accessory Uses.

- A. Satellite dish (18" or smaller)
- B. Parking

Section X
Commercial, Resort C-2

10.1 Development Regulations.

- A. Maximum FAR - 0.40
- B. Maximum Building Height - 50 Feet
- C. Setbacks - to be established at Final PD Site Plan / Final Plat
- D. Maximum building coverage - 35 %

10.2 Permitted Uses.

- A. Parking lots, structures and garages
- B. Places of public assemble, entertainment and recreation
- C. Public lodging facilities, hotel / convention centers including personal service facilities, liquor stores and restaurant and lounge facilities incidental thereto (may be on separate pad sites from the primary facility and from each other), with a maximum of 400 hotel rooms allowed for the entire use area
- D. Public or private membership clubs and health clubs
- E. Offices, professional, medical, and commercial
- F. Day care centers
- G. Single-family dwellings

10.3 Uses by Special Review.

- A. Caretaker's residence
- B. Religious facilities
- C. Small animal clinics
- D. Mortuary
- E. Multi-family dwellings

10.4 Accessory Uses.

- A. Satellite dish (18" or smaller)
- B. Parking

Section XI
Private Open Space OSP

11.1 Development Regulations.

- A. Maximum Building Height - 50 Feet
- B. Setbacks - to be established at Final PD Site Plan / Final Plat

11.2 Permitted Uses.

- A. Open space
- B. Golf courses
- C. Parks, playgrounds and picnic areas, excluding camping and overnight parking
- D. Public or private membership clubs and health clubs including incidental shops, personal service establishments, restaurants and lounges
- E. Community centers
- F. Community recreation facilities
- G. Irrigation water storage facilities

11.3 Accessory Uses.

- A. Parking
- B. Trails, pedestrian and bicycle

11.4 Accessory Use by Special Review.

- A. Equestrian trails

Section XII
Public Land Dedication PLD

12.1 Development Regulations.

- A. Maximum building height - As permitted in most permissive abutting area, with the exception of school gymnasiums which may reach 45 feet
- B. Building setbacks - As permitted in most permissive abutting area

12.2 Permitted Uses.

- A. Open space
- B. Parks, playgrounds and picnic areas, excluding camping and overnight parking
- C. Golf courses
- D. Public schools, school grounds and playing fields
- E. Community centers
- F. Community recreational facilities
- G. Public buildings, including but not limited to libraries, fire and police stations
- H. Such other public uses, not inconsistent with the nature of surrounding use areas, as may be permitted by the Town of Castle Rock
- I. Irrigation water storage facilities

12.3 Accessory Uses.

- A. Parking
- B. Trails, pedestrian and bicycle

12.4 Accessory Use by Special Review.

- A. Equestrian trails

Section XIII
Dedicated Open Space OSD

13.1 Development Regulations.

- A. Maximum building height - As permitted in most permissive abutting area, with the exception of school gymnasiums which may reach 45 feet
- B. Building setbacks - As permitted in most permissive abutting area

13.2 Permitted Uses.

- A. Open space
- B. Parks, playgrounds and picnic areas, excluding camping and overnight parking
- C. Golf courses
- D. Public schools, school grounds and playing fields
- E. Community centers
- F. Community recreational facilities
- G. Public buildings, including but not limited to libraries, fire and police stations
- H. Such other public uses, not inconsistent with the nature of surrounding use areas, as may be permitted by the Town of Castle Rock
- I. Irrigation water storage facilities

13.3 Accessory Uses.

- A. Parking
- B. Trails, pedestrian, bicycle

13.4 Accessory Use by Special Review.

- A. Equestrian trails

Section XIV
Accessory Uses

14.1 Accessory Uses Permitted In All Use Areas.

- A. Roadways, bike paths and pedestrian trails
- B. Fences and walls
- C. Solar collection devices
- D. Patio / gazebo
- E. Facilities for the acquisition, treatment, and storage of water
- F. Facilities for the collection, treatment, and disposal of sewage
- G. Facilities for the collection, treatment, and disposal of reuse water
- H. Drainage structures
- I. Open spaces and lakes to include storm water drainage detention areas
- J. Underground utility and communication distribution lines (provided that no public offices and repair or storage facilities are maintained on the site)

14.2 Accessory Uses Permitted by Special Review In All Use Areas.

- A. Electric substations and gas regulator stations

Section XV
Submission of Final Planned Unit Development Plans and/or Plats

- 15.1 Following the approval of this Ordinance, the owners of tracts within the Land shall present a Final PD Site Plan / Final Plat for all or any portion or portions of the general use areas as they are ready for development.
- 15.2 No structural building permit will be issued until a Final PD Site Plan / Final Plat for such areas have been presented to and approved by the Town Council.
- 15.3 In those cases where the Subdivision Regulations of the Town of Castle Rock require approval of a final plat by the Town Council prior to sale or transfer of lands, a sale or transfer of a portion or portions of the Land is permitted without prior approval of a final site plan, provided a final plat has been approved which must contain the following language:

“Pursuant to the Town of Castle Rock Ordinance No. 83-16, no building permit will be issued for the erection of any structural improvement in any area described hereon for which a final site plan has not been approved by the Town Council of the Town of Castle Rock.”

Section XVI
Transitional Use

- 16.1 After approval of the Preliminary PD Site Plan Major Amendment incorporated herein by reference, any portion or portions of the property described above, which has not been subjected to a Final PD Site Plan / Final Plat, may be used for agricultural purposes until approval of a Final PD Site Plan / Final Plat for the area or areas in question. Agricultural uses, for purposes of this sections, shall mean, farming, ranching, gardening, buildings and out buildings pertaining thereto. It shall not be deemed to include commercial feed yards, commercial poultry or pig farms, fur farms, or kennels.
- 16.2 Any activity permitted by this Section shall be considered to be a valid pre-existing non-conforming use within the area described above until a Final PD Site Plan / Final Plat for such area or areas has been approved.
- 16.3 Such transitional use areas shall be closed to vehicular traffic and off road recreational motor biking excepting agricultural vehicles and implements, emergency vehicles, vehicles engaged in utility and other maintenance work, and designees of the Developer.

ATTACHMENT B

Crystal Valley Ranch

Summary of Changes to Public Improvement Phasing

- Some changes have been made to the public improvement matrix based on the following phasing changes the Developer has made with this project:

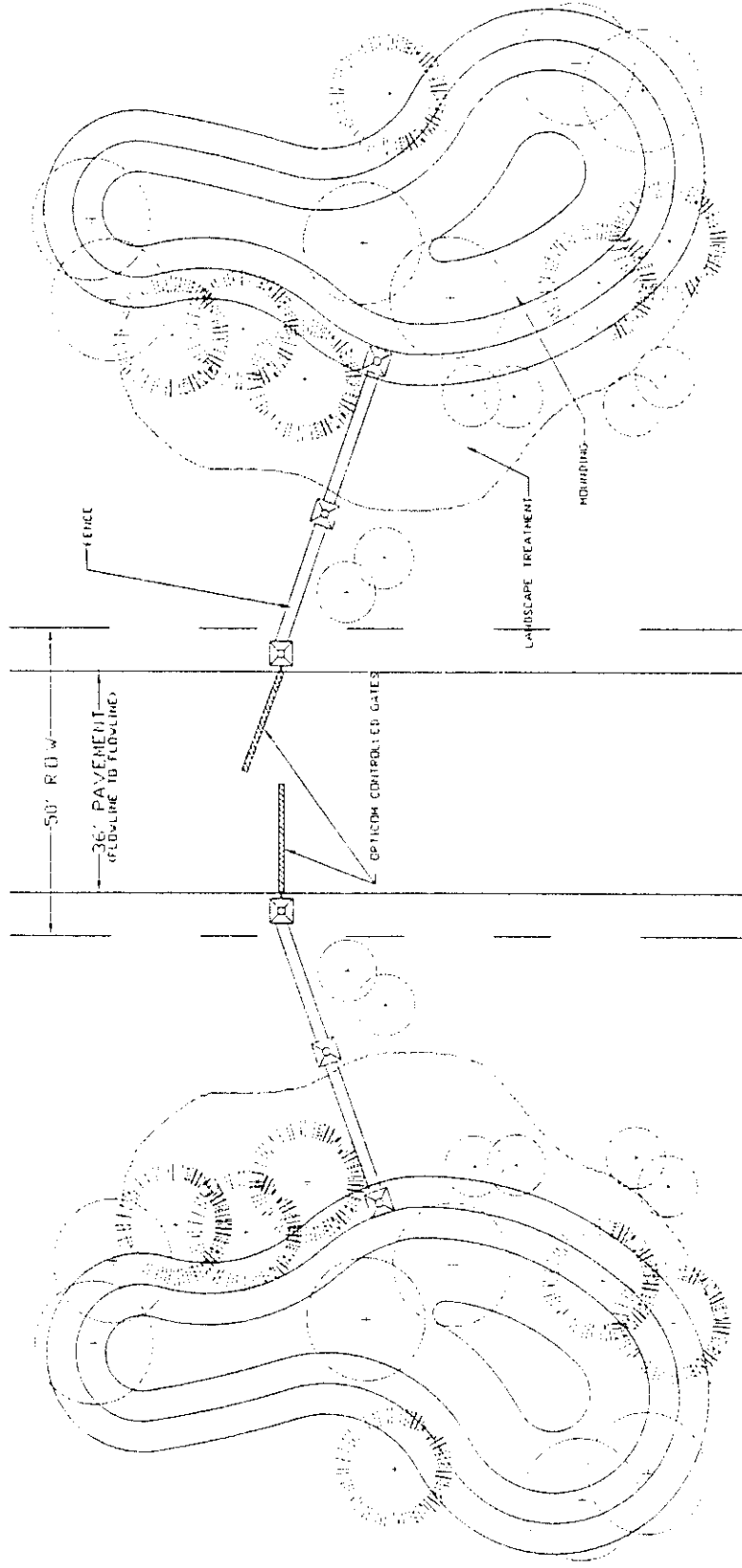
<u>PHASE</u>	<u>1st READING</u>	<u>2nd READING</u>
1	PA1 (62 DU's) PA2 Comm PA4 - PH1 (160 DU's) PA15W (82 DU's) PA18 (164 DU's) TOTAL DU's = 468	PA1 (62 DU's) PA2 Comm PA8 (240 DU's) PA15W (82 DU's) PA18 (164 DU's) TOTAL DU's = 548
2	PA3 (83 DU's) PA7 Comm PA8 (240 DU's) TOTAL DU's = 323	PA7 Comm PA5 (52 DU's) PA15E – PH1 (200 DU's) PA16 (105 DU's) TOTAL DU's = 357
3	PH4 – PH2 (163 DU's) PA5 (52 DU's) PA6 (154 DU's) PA7 – Res (173 DU's) PA15E – PH1 (200 DU's) PA17 (120 DU's) TOTAL DU's = 862	PA3 (83 DU's) PA6 (154 DU's) PA7 – Res (173 DU's) PA11 (243 DU's) PA17 (120 DU's) TOTAL DU's = 773
4	Douglas Lane Interchange	Douglas Lane Interchange
5	PA9 – PH1 (146 DU's) TOTAL DU's = 146	PA9 – PH1 (146 DU's) PA13 – PH1 (100 DU's) TOTAL DU's = 246
6	PA9 – PH2 (80 DU's) PA10 – PH1 (180 DU's) PA11 (243 DU's) PA13 – PH1 (71 DU's) PA15E – PH2 (100 DU's) PA16 – PH1 (90 DU's) TOTAL DU's = 764	PA9 – PH2 (80 DU's) PA10 – PH1 (180 DU's) PA13 – PH2 (171 DU's) PA15E – PH2 (100 DU's) TOTAL DU's = 531

7	PA10 – PH2 (66 DU's)	PA4 – PH1 (163 DU's)
	PA12 (139 DU's)	PA10 – PH2 (66 DU's)
	PA13 – PH2 (300 DU's)	PA12 (139 DU's)
	PA15E – PH3 (218 DU's)	PA 13 – PH3 (200 DU's)
	PA16 – PH2 (15 DU's)	PA15E – PH3 (218 DU's)
	TOTAL DU's = 738	TOTAL DU's = 786
8	PA13 – PH3 (100 DU's)	PA4 – PH1 (160 DU's)
	PA14 (74 DU's)	PA14 (74 DU's)
	TOTAL DU's = 174	TOTAL DU's = 234

- Connection of first two lanes of Douglas Lane from west property line of Crystal Valley Ranch to the I-25 Frontage Road has changed to a special phasing project which will be triggered by 100 units occupied in Crystal Valley Ranch. The specific requirements for the railroad crossing (grade separation, signalization, etc.) will be dictated by the PUC.

ATTACHMENT C

OPTICOM GATE CONTROL ACCESS
 BETWEEN PLUM CREEK SOUTH AND HECKENDORF PROPERTY



SCALE: 1" = 20'



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**AGENDA
MEMORANDUM**

TO: Town Council
FROM: Robert J. Slentz, Town Attorney
DATE: March 15, 2001
RE: Crystal Valley Ranch Development Agreement (2nd Reading Copy)

Attached is the second reading copy of the Development Agreement. Extensive changes were made between first and second reading, making it impractical to highlight the changes in the agreement in your packet. Instead, I have modified and added to, as appropriate, the comments from my first reading agenda memorandum. These changes are in **boldface**.

Before reviewing specific provisions of the DA, the implementation of our growth management policies through this agreement should be highlighted for the public.

GROWTH MANAGEMENT COMPLIANCE

Water Policy:

1. All water rights to the property are conveyed at the outset of development (*existing DA allows plat by plat dedication*).
2. Development must provide 2 acre-feet of ground water for every acre-foot of demand created, and pay a fee to fund development of a separate, renewable water supply for future needs. (*This is more than double the water rights commitment under the existing DA for this property.*)

Infrastructure Development:

1. Developer advances \$3.7 million to allow major water system upgrades before any development actually takes place on this property (*existing DA obligates the*

Town to develop water supply facilities). The system upgrades will enhance the Town's service ability in Founders and other areas of the Town, until the capacity is needed to serve this development.

2. All onsite infrastructure will be completed at developer's expense. Developer builds major offsite transportation improvements (Douglas Lane, Douglas Lane Interchange) without direct financial commitment from the Town.

3. Utility and roadway construction is extended by phases, assuring that all necessary improvements are in place to support municipal services. However, overbuilding of facilities which are to be owned and maintained by the Town is prevented.

4. Infrastructure is sized to meet anticipated regional, subarea demand, minimizing expensive upgrades, at Town expense, in the future.

Public Safety:

With the start of development, developer will invest \$1.3 million in a new fire station and equipment. The fire station will support enhanced service to southern portion of Town, including Plum Creek.

Parks and Schools:

1. 55-acre park/school site dedicated at outset of development.
2. Developer will rough grade park site and construct a 5000 square foot park maintenance building.

Development Agreement:

The Town and developer enter into a comprehensive development agreement, which details their respective commitments and obligations towards the development of the property.

Key provision of the DA are noted as follows:

<u>Section</u>	<u>Comment</u>
2.02	The existing development agreement is superseded entirely by this agreement.
2.05	The metropolitan district may step into the shoes of the owner to the extent it constructs Facilities.
Article III	This provision allows the District to satisfy our surety requirement for public facilities by establishing a cash construction escrow. We have consistently done this with districts, since as local governments they are required by law, as is the Town, to have adequate cash reserves before letting a construction contract. In this way, the District does not have to incur the expense of a separate letter of credit in addition to setting aside the cash reserves to meet the contract commitment.
4.02	We have agreed to certain performance standards applicable to the review and processing of land use applications. However, these are goals only, with two exceptions. The first subdivision plat must be processed in 180 days – all other land use applications within one year, <u>provided</u> the applicant meets the time constraints placed on it. Exhibit 5 sets forth the review and response periods. Please note these provisions merely require final action within the applicable time period – they do not in any manner influence the outcome of those decisions. The Town’s failure to meet the two mandated deadlines is a default under the DA, for which the applicant can seek damages in court.
4.03	This section now provides that the Town will not restrict development approvals as a result of the property being located outside a DRCOG growth boundary. This commitment reflects our confidence that DRCOG will approve a growth area allocation as opposed to a map-based restriction. However, we do not commit to any particular allocation of the anticipated growth area allocation, pending DRCOG’s final action, and our adoption of an enabling ordinance.
5.03	Pursuant to Town policy, the Town will be conveyed all of the water rights underlying the property with recordation of this Agreement. The water rights will yield 1795 SFE in the water bank. In addition, the owner controls water rights on other properties which will yield an additional 870 SFE. Any shortage will have to be met by additional water rights conveyances or payment of cash-in-lieu.

- 5.06 **The Town will own and maintain the dedicated golf course well(s). The operator will pay for irrigation at the Town-wide bulk rate for untreated water. Town will not restrict irrigation during water shortages unless all golf courses (including Red Hawk) are similarly restricted.**
- 6.02 The phasing plan is critical to the growth management aspect of this plan. It lists the Facilities which must be developed before development in any particular phase may occur.
- 6.03 This developer is required to pay to the Water Enterprise \$3.7 million to help fund water system improvements to service this development as well as other areas of the Town. The developer will receive a credit against payment of the development fees, and will also receive all of the water fees collected by the Town in the designated Plum Creek area as well as from Heckendorf and the proposed Lanterns annexation, if so desired by the developer.
- 6.04 If the Town does not approve a final subdivision plat **when required under 4.02, or development is restricted by a shortage of growth area under the DRCOG plan**, then at the option of the developer, the Town will then funnel all water development fees collected throughout the Town to repay the \$3.7 million.
- 6.06 As additional water facilities are funded by the developer over time, the developer will accrue additional water credits to be recovered in a similar fashion.
- 6.07 **The developer must fund a \$3.7 million construction escrow for the CV water project on May 18th, in order to allow award of the construction contract by the Council on May 24th. This condition is also reflected in the ordinance approving the PD and this DA. If the payment is not made the project loses the vesting granted under Article VIII, and a new water development plan must be approved before development may proceed.**
- 6.11 Because this development opens up a new development area, significant offsite transportation improvements are required, including the Douglas Lane Interchange at the midpoint of development (1650 units). This section provides that the Town will consider dedicating some portion of the transportation fees generated from Crystal Valley, once the Interchange transportation impact assessment is completed and accepted by the Town. It is anticipated

that that contribution would reflect the Town-wide utilization of the Interchange (i.e. excluding traffic generated from developments in the Interchange influence area). The developer has asked for a definitive commitment in the DA to the transportation fees at this time. We believe it is premature for this major capital planning decision to be made in the DA. It is impossible to quantify the commitment until the new fee is established. Secondly, the revenue generated from the fee is currently subject to TABOR, and we can not ascertain whether future year revenue limitations will affect our ability to retain the revenue. The implications of a pledge under the multi-fiscal year constraint of TABOR must also be resolved. Finally, the best use of the transportation fee needs to be evaluated in relation to other long-term projects. Assuming the transportation fee is adjusted to a more realistic level later this year, the applicant is asking for a \$4-7 million commitment to the Interchange over time. This is the only major unresolved contact issue under the DA. We have included from materials offered by the developer which will be addressed in the presentation.

This section also recognizes the 1985 cost-sharing agreement between the Heckendorf property and this property applicable to Douglas Lane and the Plum Creek Boulevard extension. Under that agreement the Town must facilitate recoupment between the property owners.

- 7.03 We require that any restrictive covenants on any dedication of public lands be removed before we accept title.
- 7.05 The developer has committed to convey a site for the fire station, construct the fire station, and purchase a fire truck, provided that its total financial commitment does not exceed \$1.3 million. **Provisions are included to assure TABOR compliance.**
- 7.06 The Town commits to pass through \$300 of the capital plant investment fee collected in the Heckendorf or Lanterns area to this developer to acknowledge the fire station and equipment serve a broader area. We are reviewing this agreement so it has struck us that the financial effect of this provision is to add \$300 of TABOR revenue which, in theory may have to be refunded, and yet this is revenue the Town passes back to the developer.
- 7.07 The developer commits to construct the 5,000 square foot park maintenance building with its initial development.
-

Article VIII This is the major modification between first and second reading, and these provisions were the subject of much discussion and negotiation between first and second reading. For background, I have attached my November 22, 2000 memorandum on our vesting policy.

After an initial 7-year primary vesting period, vesting is automatically extended for up to four 3-year periods, if prescribed development thresholds are met at the expiration of the primary term and each renewal term. Certainly, the potential duration of the vesting through June 30, 2020 is the most precedent-setting. However, we believe that the structure of the vesting substantially reduces the 'risk' inherent in vesting for the long-term. During the primary term, this development will be subject to the Metro Vision Plan, and hillside, illumination and design guidelines as those are developed in the future (8.03(c)(d)). At the end of the primary term, the development will automatically be subject to then current Town Regulations with each successive 3-year extension. Consequently, the project will be developing under relatively contemporary regulatory standards, irrespective of its vested status. The only change which the Town may not make is to amend the land use plan itself. This is the real risk of vesting of this duration – that the overall land use plan will somehow be viewed as substandard under future community standards.

As indicated above, the vesting grant is tied to the \$3.7 million water investment, and the vesting will be invalid if the payment is not made on May 18, 2001.

Included in your packet is a financial pro forma for the Districts, indicating the capital investment and absorption projected for the development. Staff has not had the opportunity to critique this analysis.



Town of Castle Rock

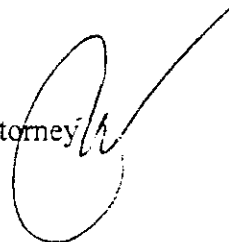
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MEMORANDUM

TO: Town Council

FROM: Robert J. Slentz, Town Attorney 

CC: Planning Commission
Department Directors

DATE: November 22, 2000

RE: Vesting Policy

Enclosed is my November 17th memorandum, which addresses the legal consequences of vesting. Attached to that memorandum are the state statutes and Chapter 15.24 of our Code which provide the authority and rationale for contract vesting. In particular, note section 15.24.070 of the Code, which authorizes vesting in excess of 3 years pursuant to a development agreement if:

...justified due to the size and scale of development, the length of the usual development and market cycle, the manner of the recovery of the landowner's capital investment over the development cycle, and other relevant circumstances.

Staff has adopted the attached "Vesting Policy Checklist", in order to give some objectivity to the process of determining whether staff should recommend vesting of a project to Council. The current version of that checklist is enclosed.

Vesting of a PD by development contract is entirely at the discretion and option of the Council. The advantages of long-term vesting to the developer are obvious. During the vesting period, the Town may not take any action that has the effect of delaying the pace of development, which the market will otherwise sustain. Developers are keenly aware that Town policy on growth and development can change radically and rapidly, depending on the perspective of any particular Council or the community. Contract vesting is an insurance policy, protecting the development against political upheaval and changes in growth policies.

Secondly, the development acquires an unconditional service commitment from the Town. The Town's financial ability to provide services and address off-site impacts from a particular development cannot result in the imposition of restraints on the pace of development within a vested PD, unless specifically addressed in the development contract.

As a matter of policy, since 1995 the Council has vested every PD at the time of annexation or upon approval of a major amendment. Why?

Vesting has been used as an incentive to extract concessions from the developer. Upon approval of an amended PD, the developer has abandoned all rights and entitlements under the old development contract, and has generally agreed to be bound by current Town policies. This is evidenced most acutely in water policy, where the developer acknowledges the 200-year water supply requirements, even though there is some potentially conflicting language in the old contracts. The developer has also agreed to convey all water rights concurrently with the PD approval, contrary to the requirements in the old agreements.

Vesting has also been used to obtain front-end financial commitments for water system improvements (Metzler, Red Hawk, Maher). Although the developer ultimately receives credit for the investment, the need for the particular water improvement has often been dictated by overall system demand. For example, the Maher water tank contribution permits the construction of the red zone water tank, which is urgently needed to serve Metzler Ranch and other areas.

Most fundamentally, long-term vesting recognizes that a developer (or metropolitan district) investing millions of dollars in infrastructure should be given an opportunity to obtain a reasonable return on that investment. This is not solely an issue of fairness to the developer. It is also in the Town's interest to have a stable financial partner, with a long-term perspective. A developer that does not have to risk having the rug pulled out from under it by political change is more likely to enhance the quality of its development and partner with the Town in developing community amenities with joint benefit to that development and the community at large. The Meadows is an example of a developer which has demonstrated a long-range commitment and broader community interest, with the expectation of continued Town support for the project.

It can also be assumed that the long-term viability of the development is of interest to the residents of the development, who expect that the project amenities will be developed as proposed. A development which is halted in midstream may not have the ability to complete the amenity package.

The stability granted vesting should make the development more attractive to reputable homebuilders and regional and national commercial investors. These companies are sophisticated and do extensive due diligence before selecting communities for investment. The vesting contract answers many of the concerns of these entities as to the stability of the political environment and its commitment to quality growth. As such,

vesting can be seen as an economic development incentive, enhancing the Town's ability to attract higher quality development.

In the next year it is anticipated that the Council will act on major PD amendments for Crystal Valley, Liberty Village, Castle Oaks, Heritage Farms and the Meadows, a collective service commitment for nearly 20,000 residential units. The full development of these areas alone will result in the tripling of the Town's current population. Consequently, this is an appropriate time to review the vesting policy, as we address this issue with the project on the immediate horizon, Crystal Valley.

Staff is of the opinion that, on balance, the benefits of long-term vesting justify the risks. However, guidance from Council is requested on criteria for the duration of the vesting period. For the longer term vesting (10 or more years), we suggest a base, unconditional period, with an automatic extension if a specified development threshold is achieved during the base period. Vesting periods should generally tie with the absorption projections in the service plan, if a district is utilized.

We also suggest that Council consider whether the vesting contract should expressly reserve to the Council power to address growth impacts. For example, should restraints on development imposed by the ridgeline regulations or as identified by a land suitability analysis (slopes, vegetation) override the vested plan. Also, Council should consider whether it is appropriate to reserve any power to control the pace of growth, in the event rapid absorption unduly strains our service commitment or ability to develop capital facilities. Along those lines, there was an indication at the Master Plan Workshop that the right to impose service level standards, or concurrency management should be considered.

VESTING POLICY – CHECKLIST FOR STAFF REVIEWS

10/25/00

The Castle Rock Municipal Code provides for three-year vesting upon approval of a final subdivision plat.

Owners/Developers are requesting vesting with zoning or rezoning, and longer-term vesting with final plats. Town Staff will recommend longer-term vesting if the staff finds that the proposal will clearly serve the public and community interest. The term of vesting should be based upon a reasonable estimate of time required to fully plat the property. To promote fairness and consistency in recommending vesting, staff will consider the following criteria:

- Residentially-zoned properties must propose a significant reduction in the total number of allowed dwelling units;
- For previously-zoned properties the revised plan will clearly and significantly reduce impacts on existing infrastructure;
- The project will construct public facilities, water, sanitary sewer, drainage facilities; and/or public streets that are oversized or extended such as to be of obvious strategic value to the public/community. (Infill connection of gaps in an arterial street with water main such as Woodlands Blvd., for example)
- The project will provide public open space and/or public parkland significantly greater than required, and/or provide public recreation facilities that are of obvious strategic value to the community.
- The project is within an existing special district. Buildout is essential to retirement of current district debt.
- A commercial project, or commercial component of a mixed -use project, must result in clear benefits such as jobs and tax revenue.
- The project will make special contributions that are clearly in the public interest.