



# Town of Johnstown

## PLANNING & ZONING COMMISSION AGENDA MEMORANDUM

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<b>ITEM:</b>	<b>1</b>
<b>DESCRIPTION:</b>	<b>Public Hearing for Pautler Farms Estates Final Development Plan and Final Plat;</b> for approximately 12.06 acres, for a single-family neighborhood
<b>LOCATION:</b>	Northwest Corner of Weld County Road 42 and S. Parish Ave.
<b>APPLICANT:</b>	PFI Properties
<b>STAFF:</b>	Darryll Wolnik, Planner II
<b>HEARING DATE:</b>	June 9, 2021

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### BACKGROUND & SUMMARY

The applicant, PFI Properties, is requesting approval of Pautler Farms Final Subdivision Plat and Final Development Plan (FDP). The property, located at the Northwest corner of S. Parish Ave. and Weld County Road 42, is just over 12 acres in size, and would contain 11 detached single-family lots. It is bounded to the North and West by the existing Pioneer Ridge subdivision, a built-out subdivision of detached single-family homes. South of the proposed development, across Weld County Road 42, is undeveloped land currently used for agricultural purposes. Property across S. Parish Ave. to the East is used in the same manner.

### DEVELOPMENT HISTORY

Pautler Farms was annexed into the Town of Johnstown as part of the Stroh Farms Annexation #8. The annexation was approved on March 15, 1999, by way of Ordinance 99-597. It was zoned PUD-R by way of ordinance 99-602 on April 5, 1999. The property in question was subdivided as part of the Stroh Farm Filing 6 subdivision, approved on September 20, 2010. At the time of subdivision, the property in question was designated as Lot 1, Block 8, Stroh Farms Filing 6. It was excluded from the Stroh Farms CC&Rs by way of General Note #9 on the subdivision plat. The property was originally set aside as a detention pond. However, it was determined the pond was no longer needed once buildout of Stroh Farms (now known as Pioneer Ridge) was complete. The property is zoned PUD-R, but was effectively excluded from the Stroh Farm/Pioneer Ridge development plans, and was subsequently sold to other owners.

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## **ATTACHMENTS**

- 1 - Vicinity Map
- 2 - Application
- 3 – Proposed Final Plat
- 4 – Proposed FDP
- 5 – Proposed CC&Rs
- 6 – Proposed Landscape Guidelines

## **PUBLIC NOTICE**

Notice for the Planning & Zoning Commission hearing was published in the local paper of widest circulation, the Johnstown Breeze, on Thursday, May 13, 2021. This notice provided the date, time, and location of the Planning & Zoning Commission hearing, as well as a description of the project. Courtesy notices were mailed to all property owners within 500 feet of the property in question. This notice included a map of the proposed development.

A neighborhood meeting was held on Tuesday, May 18, 2021, and noticed to property owners of records within 500 feet of the property. Three members of the community attended and raised a few questions. Two residents were concerned about farm animals and their potential to create nuisances, specifically odors. All three residents were concerned about water pressure and fencing around the property. They expressed a desire to see fences required around each property.

## **ANALYSIS**

### *Johnstown Comprehensive Plan Alignment*

*P.2-5:* The area in question is marked as “Low Density Residential, Average 3 DU/AC”. The Final Plat and Final Development Plan proposed significantly less than the maximum at 1.09 DW/AC.

*Goal CF-1: New development achieves the community’s goals and is consistent with the Town’s vision – Provision of Infrastructure.*

This proposed Final Plat and Final Development Plan will provide a turn lane on S. Parish Ave., a 10’ sidewalk along both frontages, and curb & gutter along County Road 42.

*Goal CF-4: Encourage a sustainable environment through techniques such as water-wise landscaping and water efficient irrigation – Water wise landscaping.*

The proposed Final Plat and Final Development Plan will utilize extensive native and xeric landscaping to preserve water.

*Goal NH-1: A diversity of housing types to support the housing needs of a diverse population Neighborhood Types.*

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The proposed Final Plat and Final Development Plan calls for creation of 11 lots of roughly a half-acre each. These provide estate lots not typically seen in Johnstown, and add an additional housing option.

### **Zoning**

The zoning for the property is PUD-R (Planned Unit Development – Residential), however there is no approved ODP (Outline Development Plan) to specify uses or design. Further, there is no document that applies to this property requiring zoning or design guidelines. Therefore, zoning for this property reverts to Johnstown Municipal Code (JMC) 16-302(a). This code section outlines allowed uses within the PUD-R zoning district. Overall design for the PUD shall still conform with JMC §16-306.

### **Development Standards**

Pautler Farms proposes itself as a sustainable-living development where residents can keep animals and maintain large personal gardens. The applicant has developed design guidelines relating to landscaping, architecture, and land uses to support this vision.

The 11 lots make up 74.69% of the overall site. Average lot size is 35,658 square feet, or roughly 0.82 acres. The smallest lot is 27,869 square feet (0.64 acres), while the largest is 59,170 square feet (1.358 acres). Outlots will comprise 1.21 acres, or 10.04% of the development; dedicated right-of-way makes up 15.28%. The lots will have significant amounts of open space, more than meeting the required 30%.

The Pautler Farm Estates Landscape Guidelines, which the Town has reviewed, will adhere to seven principles for xeriscaping; these principles create a framework for water conservation within the proposed development. Pautler Farms' proposed landscape design guidelines stipulate 25% of each lot be covered with living ground cover, IE not simply rock or mulch beds. Each lot will be required to contain two deciduous trees and four shrubs, which also meets Town Landscape Standards. Spray-irrigated turf shall not exceed 20% of any given lot. Further related to water use, the guidelines mandate that permanent, spray-irrigated area cannot exceed 5,900 S/F of a lot. The guidelines go a step further, breaking down different types of irrigated areas and converting it to a spray-irrigated equivalent. This is especially handy, as it is easy for individual homeowners to decipher.

Of particular interest is the requirement for each property to install a second water meter to track irrigation usage. This requirement is subject to approval from Town of Johnstown Public Works.

The vast majority of the architectural and use guidelines have been embedded within the CC&Rs for the proposed development. Staff requested the developer pull those guidelines from that document and place them in the development plan, so they can be easily accessed by Town Staff, residents, and developers for future use and enforcement.

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Staff provided comments relating to the CC&Rs at the end of March, and is currently waiting for responses to those comments. Staff did meet with applicant and their attorney regarding the CC&Rs and staff comments, in order to discuss comments and solutions. Current guidelines, as proposed, require 2,500 S/F of floor area, regardless of number of stories. Applicant has also proposed allowance of two accessory structures of up to 28' in height, with a max of 1,500 S/F for each structure. Applicant has further proposed allowing an additional two "small enclosed structures".

### **Farm and Other Animals**

The proposed development's design guidelines also allow for the keeping of farm animals. Farm animals, as defined by JMC §7-121(7):

*Farm Animal means horse, mule, ass, sheep goat (excluding pygmy goat), llama, swine (excluding pot belly pig), cow, or other cloven-hoofed animals commonly known as livestock.*

Town Code allows the keeping of farm animals, providing all codes are met, including JMC §7-138(2), which states farm animals can only be kept on properties with at least 5,000 S/F of open area *designated for use by the animals*. Up to three farm animals may be kept on properties with less than 7,500 S/F of dedicated open space for the animals. An additional 2,500 S/F is required for each farm animal in excess of three. For example, 7,500 S/F is required for four animals, 10,000 S/F for five, et cetera.

### **Infrastructure/Transportation**

There is currently no water or sewer service to the property, as it is undeveloped land. The proposed project will tap into the current 12" water main along County Road 42. Said line will run down the length of the proposed cul-de-sac and loop back Northeast, connecting to the water lines in Pioneer Ridge. Sanitary sewer will be looped from existing lines in Pioneer Ridge, from the Northwest corner of this site, Southeast to the cul-de-sac, then south to County Road 42. Storm water will be collected at the end of the cul-de-sac and piped to the detention pond at the Northwest corner of the site.

The proposed development will be accessed by a single residential cul-de-sac. That street, proposed as "Panorama Ct.", will be accessed from County Road 42. Panorama Ct. utilizes the Town's typical local residential street cross-section with 5-foot attached sidewalks. The road ends with a cul-de-sac turn around, which is approved by Front Range Fire Rescue.

Pautler Farms will dedicate significant roadway to both S. Parish Ave. and County Road 42. This dedication, contained within Tract F of the original subdivision, was never dedicated to the Town, despite being marked as such on that plat. Instead, ownership was simply transferred to the Town and the lot was held as a deeded parcel of land, rather than dedicated for public use. This proposed plat would correct that oversight by dedicating Tract F for public right-of-way. Such dedication would satisfy the half-width dedication requirements for County Road 42 and S. Parish Ave. on that side of the road.

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Improvements will be made to S. Parish Ave. as part of this proposed project. A 10' sidewalk will be constructed along S. Parish Ave. and tie into the existing sidewalk to the north. A right turn "decel" lane on S/B S. Parish Ave. will be added for vehicles to turn W/B onto County Road 42. Curb, gutter, and a 10' detached sidewalk will be constructed along the entire frontage of County Road 42, tying into the existing improvements on County Road 42 to the West. Additional pavement will be added to complete the required half-width of County Road 42, which is forecast to be a major arterial in the Johnstown Master Transportation Plan. Part of that additional pavement will include a right turn "decel" lane on W/B County Road 42 onto Panorama Ct.

Curb and gutter will not be installed on S. Parish Ave., as there is no curb and gutter along Pioneer Ridge's entire frontage on S. Parish Ave.

### **Easements**

There are currently two easements encumbering the property. A 30' Permanent Utility Easement runs North-South along the S. Parish Ave. ROW. This easement is outside of the proposed lots. A 30' "water vault easement" is located at the Southeast corner of the property, just outside of the ROW. This easement will be within Outlot B.

Pautler Farms proposes new easements for drainage and utilities aside from the standard 6' ROW easements. A large drainage easement is proposed in the Northwest corner and will contain the drainage pond. That easement connects to Panorama Ct. via a 30' wide swatch of Outlot A. Said easement contains the storm sewer pipe and the sanitary sewer loop. There is a utility easement proposed on the Northeast corner of the cul-de-sac that travels Northeast to the project extent, bordering Pioneer Ridge. This easement will contain the looped water main.

Aside from those easements, applicant proposes a 20' drainage and utility easement along the North and West borders of the project. A 5' utility easement is also proposed along the rear of Lots 8-11.

### **Staff Concerns**

#### *Fencing*

Staff has concerns about fencing on the property. Applicant will need to ensure similar fencing to that already in place along S. Parish Ave. and County Road 42. Said fencing shall be placed along County Road 42 and S. Parish Ave. in the same manner and location relative to the ROW as that existing fence. Applicant is currently proposing open-rail fencing along arterial roads. Staff recommends a condition of approval requiring provision of a 6' privacy fence, with masonry pilasters every 100-feet, along County Road 42 and S. Parish Ave. Said fence shall be maintained by the HOA.

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### *Accessory Structures*

Staff has significant concerns about proposed development standards for accessory structures. The applicant has proposed accessory structures up to 28' in height, measured from finished grade to peak of roof. This height is only 7' shorter than the maximum height for primary residential structures in Pioneer Ridge, and across most of Town. In fact, some areas limit to 30' in height. Such a height for accessory structures is incompatible with surrounding uses, and allowing this height would border on that accessory use becoming a primary use. Staff notes that an accessory use must be incidental (related) to, subordinate (smaller than) to, and customarily found with the existing primary use.

Applicant is proposing up to two large accessory structures and two smaller structures, in addition to the primary residence, on each lot. The applicant is proposing allowance of buildings billed as "barns and/or stables" up to 1,500 square feet, and "detached garages" up to the square footage of the main dwelling. Should the lot owner wish to combine the two types described, they would be allowed to construct an accessory structure 1,500 S/F larger than the square footage of the main dwelling. Such an arrangement would create a structure that ceases to be an accessory and arguably becomes a primary use.

To remedy the issue of allowances as it relates to accessory structures, Staff requests the following conditions of approval. Accessory structures shall be no greater than 1,500 S/F each, and the aggregate of all accessory structures shall not exceed 75% of the footprint of the main dwelling unit. An accessory structure shall be no taller than 20 feet in height, measured from finished grade to peak of roof. Architectural guidelines should stipulate that accessory structures shall be in general architectural conformance with the main dwelling, IE similar materials, colors, and roof pitch. Guidelines should allow for the Planning & Development Director to allow taller accessory structures under extenuating circumstances, so long as architectural conformance is achieved.

It should also be noted that architectural guidelines have not been provided by the applicant. This was also discussed and staff made it clear architectural guidelines would need to be reviewed and approved prior to approval of this development. As such, staff requests a condition such that architectural design guidelines be provided to the Town and approved by the Town prior to any project approvals.

### *Farm Animals*

Staff also has some concerns about the keeping of farm animals on the property. While JMC addresses the keeping of farm animals under certain conditions, in Chapter 7, the zoning of the property is problematic in that regard. This property is zoned PUD-R without additional underlying zoning or zoning standards. As such, the PUD-R reverts to JMC §16-302a(3)(a):

*Any permitted use, conditional use, and accessory use allowed in the SF-1, SF-2, and MF-1 Districts*

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This code section is unclear as to whether conditional uses are allowed as permitted uses. The significance of the previously-quoted section lies in the SF-1 Zone, JMC 16-182(3)(g), which states the following:

*Farm animals as defined in Subsection 7-121(7) of this Code, and only upon newly annexed land for a limited period of time as determined by the Town Council, and in no event shall the numbers and types of animals be increased beyond those that could exist otherwise under County regulations.*

Because this is a PUD, there is room for interpretation, and the nature of a PUD as a sort of “custom zoning” allows for inclusion of different uses, of which keeping of farm animals could be one. As it relates to the above-quoted Code section, this land has never been developed, and has been vacant since annexation. There is no record of Town Council addressing farm animal uses on the property at annexation, or at the time of development. Also absent is any evidence of previous decisions by Town Council regarding similar situations.

Therefore, absent a definite answer in JMC or legislative record, Staff would leave the ultimate decision regarding keeping of farm animals in this subdivision to Town Council. If Council is amenable, Staff would recommend allowing up to three farm animals per lot, within the bounds of what municipal permits. Staff notes that Chapter 7 addresses noisy animals, prohibited animals, and the removal of manure and other noxious materials, as well as other considerations.

## **RECOMMENDED PLANNING AND ZONING COMMISSION FINDINGS AND MOTIONS**

### **Findings:**

1. The proposed Pautler Farms Final Development Plan and Final Plat is in agreement with the Johnstown Area Comprehensive Plan and its Future Land Use Map.
2. The proposed Pautler Farms Final Development Plan and Final Plat can to be adequately served by Town services and utilities and other community infrastructure.
3. The proposed Pautler Farms Final Development Plan and Final Plat is in substantial compliance with all Town codes, regulations, and standards and specifications.

### **Conditions**

1. The applicant address all outstanding comments and redlines.
2. Accessory structures be limited to 20' in height, measured from finished grade to peak of roof, with the ability of the Planning & Development Director to grant additional height in

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extenuating circumstances, so long as architectural conformance with the main dwelling is maintained.

3. Only two accessory structures and two structures smaller than 120 square feet be allowed on each lot. Accessory structures be limited to 1,500 square feet each, with an aggregate of 75% of the main dwelling between all accessory structures.
4. 6' privacy fence, with masonry pilasters every 100', and on corners, shall be provided along S. Parish Ave. and County Road 42. Said fencing shall match existing privacy fence to the degree reasonable feasible, and shall be maintained by the HOA.
5. Applicant shall provide architectural design guidelines, as described in the CC&Rs, for approval by the Town prior to project approval.

#### **Recommended Motion**

Based on the application received, associated submittal materials, and the preceding analysis, the Planning & Zoning Commission finds that Pautler Farms Final Development Plan and Final Plat furthers the *Johnstown Area Comprehensive Plan* goals, and is compatible with all other applicable Town standards and regulations, and therefore moves to recommend to the Town Council approval of Pautler Farms Final Development Plan and Final Plat based upon the findings and subject to the conditions, as stated within this staff memorandum.

#### **Alternate Motions**

Motion to Deny: "I move that the Planning & Zoning Commission recommend to the Town Council denial of Pautler Farms Final Development Plan and Final Plat based upon the following findings..."

Planner:



Darryll Wolnik

Planner II

Reviewed by:



Kim Meyer

Planning & Development Director

File Name: S:\PLANNING\2020 Land Use Projects\SUB20-0013 Pautler Farms Estates\Hearings – PZC Staff Report Pautler Farms 06-09-2021.docx

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