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July 7, 2022

VIA EMAIL

Kim Meyer, Planning and Development Director
Justin Currie, Planner II
Town of Johnstown
450 S Parish Avenue
Johnstown, CO 80534

RE: North Ridge ODP Amendment No. 1

Dear Ms. Meyer and Mr. Currie :

On behalf of Ridge II HoldCo, LLC (“Ridge II”), please consider the following comments in response to the memorandum dated June 20, 2022 from Justin Currie (“Memorandum”) relative to the ODP Amendment No. 1, which includes two (2) modifications to zoning permitted by PUD-MU for MF-1 zoning on approximately 5.84 acres of Parcel A, and approximately 12.2 acres in Parcel D in the ODP Amendment No. 1 (“Amended ODP”) dated July 7, 2022, and to Mr. Currie’s comments regarding the Town of Johnstown’s Area Comprehensive Plan, adopted by Town Council, November, 2021.

NORTH RIDGE AND THE RIDGE - MASTER PLANNED COMMUNITY

North Ridge, The Ridge at Johnstown (“The Ridge”), and South Ridge, are a master planned community (collectively “Ridge Project”), separated by Hwy 402 as has been presented to Town Council on various development applications within the Ridge Project. Ridge II suggests that Town Planning department should not consider North Ridge in isolation in its review process and should instead look at the entirety of the Ridge Project as has been presented to Council.

As shown in the attached spreadsheet entitled THE RIDGE – MASTER PLANNED COMMUNITY, the mix between residential and commercial / retail / industrial is consistent throughout the Ridge Project between North Ridge in the Amended ODP, and The Ridge. Upon approval of the Amended ODP, North Ridge will be approximately 68.9% single family / multi-family and 31.1% commercial / retail / industrial. The Ridge at Johnstown including South Ridge is approximately 71.9% single family / multi-family residential and 28.1% commercial / retail / industrial. North Ridge’ Amended ODP is consistent with approved uses in The Ridge and South Ridge and should be approved by the Planning and Zoning commission, and Town Council.

AMENDED ODP COMPLIES WITH PUD-MU AS PERMITTED USE IN THE CODE

The Johnstown Municipal Code, as amended, defines permitted uses as utilization of land by occupancy, activity, building or other structure which is specifically enumerated as permissible by the regulations of the zoning district in which land is located. Code, Sec. 16-12, *Use, permitted*.

PUD-MU Permitted Residential Use

Section 16-302(d) enumerates specified permitted uses for PUD-MU. Of particular interest regarding residential usage:

- c. The number of residential units that may be built is flexible but said number must achieve an acceptable proportion with commercial development to allow the development to be self-supporting. A fiscal impact study may be required to determine if the plan is self-supporting.
 - f. The following residential unit types are allowed in a PUD MU: any residential unit type allowed in the SF-2 District; any residential unit type allowed in the MF-1 District; in commercial areas of a MU PUD, residential uses above the first floor.
- (3) Uses permitted. Within a PUD-MU District, the following uses shall be permitted subject to meeting all applicable criteria and regulations: any permitted, conditional or accessory uses allowed in PUD-R, PUD-B, PUD-NC, Gateway and Gateway Commercial Districts.
- (4) Supplemental mixed use regulations:
- a. Multifamily dwellings may be constructed above commercial uses, provided that there is separate access to dwelling units.
 - b. No commercial uses shall occupy the same floor as occupied by dwelling units.

The intent of a PUD-MU is to be “self-sustaining.” Sec. 16-302(d)(1). Section 16-302(d)(1)(c) further states:

The number of residential units that may be built is flexible but said number must achieve an acceptable proportion with commercial development to allow the development to be self-supporting. A fiscal impact study may be required to determine if the plan is self-supporting.

No standards or definitions are provided in the Code for “acceptable proportion,” “self-sustaining” or “self-supporting.”

COMPREHENSIVE PLAN IS ADVISORY ONLY – LEGAL STANDARD IS THE CODE

Mr. Currie's Memorandum suggests that the Town of Johnstown's Area Comprehensive Plan is controlling in North Ridge over the Code's multi-family (MF-1) zoning as part of North Ridge' PUD-MU zoning, which MF-1 zoning is a permitted use under Sec. 16-302(d), while Town Planning seeks to limit MF-1 zoning, not on the basis of an ordinance, i.e., the Code, but on the basis of its Comprehensive Plan which is advisory only:

WHILE COLORADO'S LAW IDENTIFIES COMPREHENSIVE PLANS AS ADVISORY ONLY, Zoning and land use regulations are meant to be developed in accordance with the Comprehensive Plan. Proposed land use changes are reviewed for compliance with the future land use map and goals of this plan. Plan, pg. 1.

Section 17-8. Outline Development Plan and data. is conspicuously brief and lacks detail relative to the ODP process generally, including information only as to; (1) Location map, (2) Sketch Plan, and (3) General Development Information. Further, Section 17-81 is silent on an amendment to an ODP. However, Section 16-145 Approval of Site Development Plans. is instructive as to Ridge II's use by right under the PUD-MU for MF-1 zoning, and further, provides guidance when a conflict exists between the Comprehensive Plan and the Code.

Section 16-145. Approval of site development plans., states in relevant part:

- (a) *Where required.* In the case of Planned Unit Developments, and other districts and uses where the character of which could have a substantial adverse effect upon the surrounding environment and community, such uses may be required, as a qualifying condition to their permissibility, to submit site development plans for review for Town approval.
- (b) *Use by right not infringed.* Such required approval shall be limited solely to reasonable compliance with design, locational and operational requirements and, unless otherwise specifically provided, shall not involve the basic permissibility of the use where such use is permitted by right.

Section 16-145. Approval of site development plans., further states in relevant part:

- (k) *Additional guidelines for review.* The Johnstown Review Committee, Planning and Zoning Commission or Town Council, as applicable, may consider the additional guidelines listed below in deciding whether to approve a proposed development plan. In case of any conflict between any ordinance, including the standards set forth in Sect. 16-158, and any of these guidelines, the ordinance shall control. Copies of any documents identified below must be readily available to applicants for development plan approval; if the Town cannot immediately produce and provide a copy of any such document to an applicant, the review body may not rely on that document in reviewing the applicant's proposed plan. Guidelines included under this Section include:

- (1) The Town of Johnstown Transportation Master Plan, as amended in 2008 and as amended from time to time;
- (2) The Town of Johnstown Area Comprehensive Plan, as amended in 2006 and as amended from time to time;
- (3) The Town of Johnstown Design Guidelines, as adopted in 2005 and as amended and updated from time to time;
- (4) Downtown Design Guidelines as adopted in 2009 and as amended from time to time; and
- (5) Any design or similar guidelines adopted under an annexation agreement or planned unit development approval that includes the site under review.
Emphasis added.

Section 16-145 recognizes that Planning and Zoning Commission and Town Council may encounter conflicts in their review of a proposed development plan. When such conflict arises between an ordinance, i.e., the Code, and Guidelines, including, *inter alia*, The Town of Johnstown Comprehensive Plan, the ordinance will control.

Ridge II's Amended ODP including MF-1 should be approved as MF-1 remains a use by right under Section 16-302(d) and the PUD-MU designation in the Code is controlling.

AMENDED ODP COMPLIES WITH THE INTENT OF THE COMPREHENSIVE PLAN

Even if we assume that the Johnstown Area Comprehensive Plan is relevant to Ridge II's Amended ODP, the Amended ODP complies with the intent and direction of the Johnstown Area Comprehensive Plan.

Per Colorado Revised Statutes, Johnstown is required to develop a master plan to guide future growth of the municipality. C.R.S. § 31-23-201, et seq. (2020). The 201915_Johnstown Comprehensive Plan_Final Draft ("Plan") states: "Colorado State Statute also stipulates that Comprehensive Plans must remain relevant. For this reason, the Johnstown Area Comprehensive Plan is intended to be flexible, adapted to changing conditions and unanticipated events." Plan, p. 1.

Johnstown's Area Comprehensive Plan acknowledges that adapting to current market conditions is necessary. Going forward, the Plan's goal is to update land use regulations to address balance of residential and non-residential development consistent with the Future Land Use Plan (L1.1); create a measurable standard to require affordability/attainability and universal design, in a certain percentage of housing units within new residential developments or seek other techniques to address long term affordability in the community. (L1.3) Plan, p. 34.

Moreover, per the Area Comprehensive Plan, the Town is moving away from land use categories in favor of defining densities and intensities assuming a mix of uses across the board. Plan, pp. 45-47. The Plan identifies the following:

High Density / Intensity - Approx. 80% non-residential to 20% residential, pp 46-47;
Medium Density / Intensity - 30-40% non-residential to 60-70% residential, pp 48-49.

A Medium Density Intensity area (MDI) will generally be characterized by a more balanced, and wider-ranging mix of land uses – incorporating walk-up apartment buildings, townhomes, in close proximity to neighborhood-scale shopping, personal services, restaurants, small medical facilities, as well as libraries and recreational facilities. Plan, p. 49.

Per Exhibit A, amending the current ODP to Medium Density /Intensity represents only a slight modification to the present ratios in the Ridge Project, and accomplishes goals set forth in the Johnstown Area Comprehensive Plan set forth more fully below.

AMENDED ODP FULLFILLS A NEED FOR ADEQUATE RENTAL AND MULTI-FAMILY HOUSING IDENTIFIED IN THE COMPREHENSIVE PLAN

Amending the Outline Development Plan provides needed housing in a market that has shown no demand for additional commercial space so long as COVID persists and current commercial and retail space recovers from the Pandemic. The economic downturn combined with rising interest rates, has created a vacuum in which affordable housing does not exist and renting is the only option for many.

As of 2019, 90% of housing units in Johnstown were single-family, detached homes on individual lots. Approximately 5% of housing was apartment-style housing, 3% were single-family, attached, and 1% were mobile homes. Plan, p. 12. The low vacancy rate (.8%) and high owner-occupancy rate (89%) indicates that people moving to Johnstown may have difficulty finding appropriate and affordable housing. Plan, p. 12. Rental properties are scarce as the vacancy rate is 0%, indicating a dire lack of availability for those unable to immediately afford home ownership. Plan, p. 12.

An affordability crisis exists as well. With a median monthly mortgage cost of \$1,876 and a median monthly rent of \$1,589, approximately 16% of owners and 29% of renters reported spending 30% or more of their income on housing in Johnstown. Plan, p. 13. One and two bedroom multi-family units create an affordable alternative to single family rentals when the cost of ownership is prohibitive. Current market and interest rates will create an ever increasing demand for rentals and the proposed multi-family in North Ridge will fulfill that need.

AMENDED ODP RESPONSIVE TO CURRENT MARKET CONDITIONS AND DESIRED FUTURE COMMERCIAL DEVELOPMENT

The data to support the desired commercial in Johnstown vis-à-vis a regional grocery store, retail/restaurants, banks, and other complimentary uses is private and closely held. It is believed that a regional chain such as King Soopers will require ~ 8,000 households within its defined operations area to locate a new store.

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Multi-Family housing in North Ridge and The Ridge will increase the number of households and increase housing density, an essential combination which is necessary to attract the desired mix of commercial tenants and amenities to the Town. The Ridge Project wants to be the development that brings the Town the commercial uses it needs and wants. Amending the ODP will further North Ridge and the Town's goals.

An Amended ODP should be approved.

Thank you.

Yours Sincerely,
HUNTER & GOODHUE, PLLC

A handwritten signature in black ink, appearing to read 'Mark F. Hunter', with a long horizontal flourish extending to the right.

Mark F. Hunter

/MFH
Enc.
c: client (*via email*)

EXHIBIT A

THE RIDGE - MASTER PLANNED COMMUNITY

Residential Acreage (SF, MF) vs. Commercial Acreage (Retail, Industrial, Office, Mixed-Use)

Area of The Ridge	Product Type	Total Acreage	Parcel Status (NAI Brochure)	Acres Residential	%	Acres Commercial/ Retail/ Industrial	%	Total Acreage
NORTH RIDGE								
	SF Residential	23.4	Sold (Parcel E)	23.4				
	Industrial	7.10	ODP Parcel C			7.10		
	Commercial / Industrial	3.20	ODP Parcel B			3.20		
	Multi-Family 240 Units	12.00	Under Contract (ODP Parcel D)	12.00				
	Commercial/Retail	5.78	ODP Parcel A			5.78		
	Convenience Store Coffee Drive-Thru	2.52	Under Contract (ODP Parcel A)			2.52		
	Multi-Family 180 Units	5.90	Under Contract (ODP Parcel A)	5.90				
				41.30	68.9%	18.60	31.1%	59.90
THE RIDGE								
	Multi-Family 400 Units	26.85	Under Contract	26.85				
	Retail Gas Station & Convenience Store	2.44	Under Contract			2.44		
	Multi-Family Apartment 420 Units	23.26	Under Contract	23.26				
	SF Residential	90.31	Under Contract	90.31				
	SF Residential	28.31	Under Contract	28.31				
	Retail	19.04	B,C,D,E,F,G			19.04		
	Office/Commercial	34.54	H,J,K,O			34.54		
	Mixed Use	6.71	L			6.71		
	Industrial	34.54	STU, PQR			34.54		
			THE RIDGE TOTALS	168.73	63.4%	97.27	36.6%	266.00
SOUTH RIDGE								
	Single Family	80.00	Under Contract	80.00	100.0%	-0-	0.0%	80.00
			THE RIDGE & SOUTH RIDGE (Combined)	248.73	71.9%	97.27	28.1%	346.00
				Acres Residential	%	Acres Commercial/ Retail/ Industrial	%	Total Acreage
THE RIDGE MASTER PLANNED COMMUNITY <i>(Total: The Ridge, North Ridge, South Ridge)</i>				290.03	71.5%	115.87	28.5%	405.90