



November 28, 2023

Mr. Matt LeCerf
Town Manager
Town of Johnstown
450 S. Parish Ave / PO Box 609
Johnstown, CO 80534

Dear Mr. LeCerf,

On behalf of Forestar (USA) Real Estate Group Inc. (“Forestar” or “Applicant”), I am writing to follow up on your email on November 1, 2023, and draft Resolution No. 2023-43 regarding the Preliminary Plat and Preliminary Development Plan (“PDP”) for Revere North Subdivision. The Planning and Zoning Commission recommended approval with no conditions on August 18, 2023, and the Town Council approved the application with conditions on September 18, 2023. I understand this draft resolution is intended to document the comments from the Town Council at the public hearing on September 18, 2023.

We appreciate the opportunity to present the details of our land use applications and respond to the comments from the public and the Town Council. Procedurally, the Town Council closed the public hearing and discussed several conditions, but the final motion was not clear. We concur that each of the conditions in the proposed resolution were stated as comments, but not necessarily included in the final motion. Additionally, we were not given an opportunity to further comment on each of the conditions, nor did the Town Attorney provide any legal advice about the applicability of the conditions under the approved zoning. We appreciate the action of the Town Council on November 6, 2023 to reconsider the PDP and the proposed conditions. We are requesting the public hearing narrowly focus on the outstanding conditions rather than a full reconsideration of the issues that were resolved on September 18, 2023. As a reminder, the subject property is subject to an approved Outline Development Plan, (“ODP”) which was approved by the Town Council on January 6, 2020 (**Exhibit A**, Ordinance 2020-168) subject to two conditions:

- A. As preliminary and final development plans proceed, the developer shall make substantial and meaningful efforts to work with: (i) the adjacent property owner to the east to ensure appropriate safety and screening from the existing residence and the agricultural use of the property as a horse track and arena and (ii) property owners to the north who will be impacted by the ultimate extension of High Plains Boulevard; and
- B. Lots used for any outdoor storage or for motor vehicle sales, rental or storage, including, but not limited to, automobiles, large motorized equipment and recreational vehicles, shall be subject to prior approval by Town Council.

Since the PDP for Revere North does not include any non-residential land uses, only Condition A applies. The ODP includes all the required elements of a PUD document and effectuates the zoning of the property. The Introduction section states:

“The purpose of this section is to establish general provisions and clarify standards and requirements for development within the Great Plains Village PUD. Due to the size of land area contained within this PUD and the corresponding long term build out that is anticipated, a rather broad range of densities and/or square footages have been proposed for each land use parcel. These ranges will allow a variety of commercial, light industrial, and housing products. In addition to promoting land use and density flexibility, ranges will accommodate housing product, land planning, market and technological changes in the future. Refer to the planning area summary for specific densities and square footages.”

The Revere North PDP and Preliminary Plat overlap Planning Areas 4, 5, and 7, which is zoned R-M, Residential in the approved ODP. Planning Areas 4 and 5 have a residential density range of 3 (minimum) to 6 (maximum) dwelling units per acre. Planning Area 7 has a residential density range of 3 (minimum) to 8 (maximum) dwelling units per acre. The proposed PDP complies with the density requirements of the ODP with an overall density of 3.4 dwelling units per acre. Single-family detached and single-family attached land uses are principal permitted uses in the land use tables of the ODP. Therefore, the PDP as proposed meets the residential density ranges and the approved land uses of the ODP.

The ODP shows the following uses and potential impacts to the property owner to the east:

- 1) Planning Area 6 lies northeast of a private lateral of the Harry Lateral Ditch and is shown as open space. This area was envisioned as an active dog park in the original plans.
- 2) A collector road dividing Planning Area 6 and Planning Area 5 was also delineated in this area of the plan.
- 3) The collector road was directly adjacent to the east property line and proposed an intersection with Veterans Parkway.

The uses and impacts to the property owner to the east in the proposed PDP are consistent with those outlined in the ODP above, and the PDP meets Condition A of the ODP approval through the following means and methods:

- 1) Planning Area 6 will remain as passive open space and no active recreational uses will be developed in this area. In addition, all trails will be on the west side of the irrigation ditch private lateral and no pedestrian access will be provided across the ditch.
- 2) The collector road (Grassland Drive) was moved to the west side of Filing 1 and 2 as far away as possible from the eastern property line while still allowing safe intersection designs with Veterans Parkway.
- 3) The southeast corner of the site, closest to the single-family residence on the property to the east, has been designed as a detention pond and open space and no homes will be built in this area.
- 4) A 30-foot buffer has been designed from the east property line to the closest private lot line. Within the buffer, there is a privacy fence on the property line, a trail easement and

ditch access area, and a split rail fence with landscaping as shown in **Exhibit B**. In addition, the rear setback of the homes along these lots is a minimum of 15 feet so the closest a home could be to the east property line is 45 feet.

Draft Resolution No. 2023-43, **Exhibit C**, under consideration by the City Council would approve the Preliminary Plat and PDP for the Revere North Subdivision Filing 1 and 2 with conditions. The following responses to such conditions are included for Town Council's consideration at the public hearing on December 4, 2023:

Condition 1: The height of the residential homes along the portions of Red Poppy Street, Bitterroot Street, Beeplant Street and Crown Sparrow Street that are adjacent to the real property owned by the Mario and Janice D. Herrera Revocable Trust ("Herrera Property") shall be minimized;

Applicant response:

*In reviewing the ODP, all the lots and homes shall meet the minimum requirements for height and size. The PDP meets these requirements. There are no conditions in the ODP that require larger lot sizes or lower height homes on the perimeter or adjacent to agricultural zoned land in the County. In addition, the Applicant and consultants met Mr. Herrera on site on September 28, 2023, and outlined the grading that will be completed north of the property line, including an open rail fence, landscaping maintenance area, and retaining wall. The approximate height distance from the property line to the base of the retaining wall is 14 feet. The approximate height distance from the nearest single-family home foundation height to the base of the retaining wall is 20 feet. A height diagram is provided in **Exhibit D**. Under Section 3.1.4 of the ODP, there is a requirement for product variation which will be met with the individual builders in the development. However, there is no requirement for varying heights of buildings or a combination of two-story and ranch style homes.*

Crown Sparrow Street is not adjacent to the Herrera Property and the topography does not permit minimizing the height without substantial changes to the grading and drainage, which may adversely affect the Harry Lateral Ditch.

Applicant respectfully requests this condition be removed.

Condition 2: The residential lots adjacent to the Herrera Property shall be less dense;

Applicant response:

*In reviewing the ODP, all the lots and homes shall meet or exceed the minimum requirements for height, size, setbacks, and lot sizes. The PDP meets these requirements. As stated above, there are no conditions in the ODP that require larger lot sizes or lower height homes on the perimeter or adjacent to agricultural zoned land in the County. A comparison of building and lot standards between the ODP, PDP, and current Town Code is included in **Exhibit G**. The overall density of the PDP is 3.4 units per acre, within the three (3) to eight (8) units per acre allowed in the Planning Areas. Density comparisons are shown in **Exhibit H**.*

Applicant respectfully requests this condition be removed.

Condition 3: The access on Grassland Drive shall be improved to minimize interference with the real properties located on the south side of Veterans Parkway;

Applicant response:

*The Applicant is working on new traffic counts and an updated memo from Delich & Associates for the traffic study in the immediate area of the development. The Applicant also finalized a design to improve the south side, east bound lanes on Veterans Parkway at Grassland Drive. Specifically, the Applicant's engineer evaluated an extra 940 square yards of pavement on the north side of Veterans Parkway, which may allow at least a 10-foot shoulder on the south side and an 11-foot dual use turn lane in the middle of Veterans Parkway for most of the property owners to the south. The Stoner property would have both available for use and property owners to the west would have the additional striped shoulder. **Exhibit E** shows the new configuration. The Applicant has twice provided **Exhibit E** to the property owner directly south of Grassland Drive, Ms. Sandra Stoner.*

Applicant concurs with this condition. It will be satisfied with the final construction plans to be approved concurrently with the FDP and Final Plat approval for Revere North Filing 1 and 2.

Condition 4: The applicant, or its successor, shall enter into an agreement with the Harry Lateral Ditch Company related to the crossing of the Harry Lateral Ditch; and

Applicant response:

Applicant is continuing negotiations on all agreements for maintenance and easements with the Harry Lateral Ditch Company. The engineering consultant for the Ditch Company has approved the initial design and counsel for the Ditch Company is currently drafting all required agreements. On November 20, 2023, the Ditch Company advised the Applicant that draft agreements would be provided in advance of the hearing on December 4, 2023.

Applicant respectfully requests this condition be revised as follows:

“The Applicant, or its successor, shall work in good faith to reach agreement with the Harry Lateral Ditch Company related to the crossing of the Harry Lateral Ditch and maintenance of the piped sections of the ditch.”

Condition 5: There shall be a minimum of sixty (60) feet of open space between the Development and the Herrera Property and between the Development and the real property owned by Laura W. Chase.

Applicant response:

The current Land Development Code (“LDC”) for the Town of Johnstown does not require a buffer between residential and agricultural uses and requires only a ten (10) foot, Type 2 buffer adjacent to Veterans Parkway and Interstate 25. Under Section 2.2.2. of the ODP, there is an arterial landscape buffer of 30 feet on Veterans Pkwy and High Plains Blvd., but not for adjacent properties. Even though it exceeds ODP and LDC requirements, we are complying with this concept near the Herrera and Chase properties with a 30-foot buffer. A 30-foot buffer has been designed from the east property line to the closest private lot line. Within the buffer, there is a

*privacy fence on the property line, a trail easement and ditch access area, and a split rail fence with landscaping. In addition, the rear setback of the homes along these lots is a minimum of 15 feet so the closest a home could be to the east property line is 45 feet. In addition, Section 17-8-3 of the new Johnstown Land Use and Development Code ("LUDC"), adopted May 11, 2023, includes sections on buffers from different intensity land uses. Specifically, the LUDC outlines Type 1, 2, and 3 Buffers with the Type 3 Buffers required for the separate between the least compatible land uses (residential and industrial). A Type 3 buffer requires a 15-foot minimum width, 1 canopy tree per 30 linear feet, 1 ornamental or evergreen tree per 30 linear feet, a 6-foot-high solid fence or wall, and 3 foot to 6 foot shrubs and perennials along 50% of the exterior fence. **Exhibit F** provides a buffer comparison.*

Adjacent to the Chase property there is a 6-foot solid fence, but the adjacent property owner does not want plantings on the east side of the fence. The Applicant is willing to maintain a buffer of 30 feet (twice the minimum of 15 feet) and include the trees as noted, subject to approval of the Harry Lateral Ditch due to their placement within the designated easement.

As noted above, the Applicant and consultants met Mr. Herrera on site on September 28, 2023, and outlined the grading that will be completed north of the property line, including an open rail fence, landscaping maintenance area, and retaining wall. The approximate height distance from the property line to the base of the retaining wall is 14 feet. The approximate height distance from the nearest single-family home foundation distance to the base of the retaining wall is 20 feet. As the property line curves away from the Revere North subdivision on the east and west, the setback increases. In November, the Applicant provided fencing and buffering exhibits to Mr. Herrera and reviewed via telephone on November 27. Mr. Herrera is currently reviewing the alternatives for a solid screen fence around the perimeter of his property with costs paid by the Applicant.

Applicant respectfully requests this condition be revised as follows:

There shall be a Type 3 buffer adjacent to the Chase property with the following modifications: a) increased width from 15 feet to 30 feet; b) 1 canopy tree per 30 linear feet or 1 ornamental or evergreen tree per linear fee; c) a 6 foot high solid fence; and d) 3 foot to 6 foot shrubs and perennials along 50% of the interior of the fence. The minimum single-family home foundation distance to the base of the retaining wall adjacent to the Herrera property shall be 20 feet, with increasing setbacks as the Herrera property line curves away from the Revere North subdivision on the east and west.

The proposed PDP is entirely consistent with the ODP approved by the Town Council. In many respects, it exceeds ODP requirements and LDC requirements, as described above. Forestar respectfully requests Town Council's consideration of the revised conditions. Please provide this letter and Exhibits A through I to the Town Attorney and Town Council as part of their packet in advance of the public hearing on December 4, 2023.

Sincerely,

James A. Hayes, AICP

Vice President of Land Acquisition and Entitlements

Forestar (USA) Real Estate Group, Inc.
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Exhibits

Exhibit A – Town of Johnstown Ordinance 2020-168, Outline Development Plan for Great Plains Village
Exhibit B – Fence and landscape buffer diagram for east property line w/ artist conceptions
Exhibit C – Town of Johnstown, Colorado Resolution No. 2023-43 (draft)
Exhibit D – Herrera property height diagram for south property line w/ artist conceptions
Exhibit E – Grassland Drive/Veterans Parkway intersection design
Exhibit F – ODP/PDP Code Comparison, Buffer Requirements
Exhibit G – ODP/PDP Code Comparison, Building and Lot Standards
Exhibit H – ODP/PDP Code Comparison, Density
Exhibit I – Town of Johnstown LUDC, adopted May 11, 2023 (link below)
<https://johnstown.colorado.gov/tojlandusecode>