



# Town of Johnstown

## PLANNING & ZONING COMMISSION AGENDA MEMORANDUM

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**HEARING DATE:** January 24, 2024 at 7:00PM

**SUBJECT:** Larson Annexation, Establishment of Zoning, and Outline Development Plan (Case Number ANX22-0001)

**ACTION PROPOSED:** Public hearing for consideration for Larson Annexation and proposed PUD Zoning with corresponding Outline Development Plan

**LOCATION:** A gross total of 94 acres of land located in the northeast quarter of section 6 and the northwest quarter of section 5 township 4 north, range 67 west of the P.M., County of Weld, State of Colorado.

**APPLICANT:** Johnstown North Investments, LLC.

**ATTACHMENTS:**

1. Resolution 2023-061-setting forth annexation proceedings
2. Larson Annexation Petition
3. Vicinity Map
4. Annexation Map
5. Zoning Map
6. Outline Development Plan
7. Project Narrative – Dated January 22, 2022
8. Staff Comment Letter – Dated February 11, 2022
9. Project Narrative – Dated October 20, 2022
10. Response Letter – Dated April 5, 2023
11. Staff Comment Letter – Dated May 2, 2023
12. Response Letter – Dated August 8, 2023
13. Response Letter – Dated October 4, 2023

**PRESENTED BY:** Jeremy Gleim, AICP, Planning & Development Director

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**BACKGROUND & SUMMARY**

On January 22, 2022 Johnstown North Investments, LLC (“Applicant”), submitted a Land Use Application & Cost Reimbursement Agreement to request annexation and zoning designation for approximately 94 acres of land in Weld County. The subject property is located in the northeast quarter of section 6 and the northwest quarter of section 5, township 4 north, range 67 west of the P.M. More specifically, it is located west of Telep avenue (Weld County Road 15), west of the existing Thompson Parks Baseball Fields and north of Rolling Hills Ranch subdivision.

The subject property is presently zoned Agriculture in unincorporated Weld County and the property is currently being used as farm land. It is partially bordered by incorporated areas of Johnstown to the east and south, with the Roling Hills Subdivision to south. The land to the north and west is in unincorporated Weld County.

The proposal includes an Annexation and Zoning request with an accompanying Outline Development Plan (“ODP”). The intent of the proposal is to develop a maximum of 318 single-family detached residential lots, comprised of two different lot types, along with a multi-family component with a maximum of 145 units. The overall density of the project site ranges from 6.1 to 7.1 dwelling units per acre.

The new Land Use and Development Code (“LUDC”) for the Town of Johnstown was updated and became effective on December 5, 2023. However, pursuant to Section 17-1-4(B)(1) of the new LUDC, any application submitted prior to the effective date, and determined a complete application by the Director, shall be reviewed and processed according to the prior standards and procedures. Therefore, this application is being evaluated using the codes and standards that were in effect prior to December 5, 2023.

**SURROUNDING ZONING & LAND USE**

- North: AG – Unincorporated Weld County – existing residences and ag lands
- South: R-1 – Residential Town of Johnstown – Rolling Hills Subdivision
- East: R-1 – Residential Town of Johnstown– existing Thompson Parks Baseball Fields
- West: AG – Unincorporated Weld County – existing residences and ag lands

**LAND USE HISTORY**

Historically, this property has been used for agriculture and will continue as agriculture until future development is proposed.

**PUBLIC NOTICE & AGENCY REFERRALS**

Notice for the Planning & Zoning Commission hearing was republished in the local paper of widest circulation, the Johnstown Breeze, on Thursday, January 11, 2024, specifying that this item

would be presented to the Planning & Zoning Commission at their regular meeting of January 24, 2024. This notice provided the date, time, and location of the Planning & Zoning Commission hearing, as well as a description of the project. Notices were initially mailed to all property owners within 800 feet of the property in question on December 20, 2022, for the regular meeting of January 10, 2024; however, the meeting was moved to the 24<sup>th</sup> of January at the applicant's request, due to scheduling conflicts. This notice included a map of the proposed annexation and proposed zoning.

### **NEIGHBORHOOD MEETING**

A neighborhood meeting was held on March 22<sup>nd</sup>, 2022, for this annexation and zoning request. Comments from the neighborhood meeting included traffic concerns regarding through traffic on Brittany Avenue (Rolling Hills Subdivision), as well as the size of the residential lots being proposed. Commentors desired larger lot sizes more consistent with the Rolling Hills subdivision. There were also comments requesting an extension of the existing sidewalk from the Rolling Hills neighborhood into and through the proposed development.

## **PROJECT DESCRIPTION & ANALYSIS**

### **Annexation**

Pursuant to Section 15-3 of the prior LUDC, the following information is required of an application for annexation:

- (a) In order to initiate the annexation procedure, a petition shall be filed with the Town Clerk two (2) weeks prior to the Planning and Zoning Commission meeting on the last Wednesday of each month.
- (b) The petition shall be accompanied by five (5) copies of a map or plat of the territory proposed to be annexed, showing the following:
  - (1) Legal description of the territory to be annexed;
  - (2) The physical relationship of the territory to the established corporate limits of the Town;
  - (3) Boundaries of special districts, if any having jurisdiction over areas within the territory;
  - (4) Proposed zoning of the area and exact boundaries of zoning districts if more than one (1) district is proposed;
  - (5) Major structures within the territory and general nature of their use;
  - (6) Major streets and utility easements within the area.
- (c) The following information pertinent to the territory to be annexed shall also be presented with the petition:

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(1) Proof of ownership of lands within the territory, showing encumbrances;  
 (2) Descriptions of water and ditch rights appurtenant to the properties within the territory;  
 (3) Preliminary subdivision plats or preliminary development plans including declaration of covenants, conditions and restrictions for all residential-zoned property included in the development plan to be reviewed prior to completion of the annexation, showing:

- a. Outer boundaries;
- b. Existing features;
- c. Proposed features (streets paved);
- d. Contours;
- e. Proposed floor plans, type of structure and mix;
- f. Proposed drainage plan;
- g. Proposed utilities plan:
  - 1. Sewer;
  - 2. Water;
  - 3. Gas;
  - 4. Electricity;
  - 5. Paved off-street parking;
- h. Landscaping; and
- i. Development schedule.

(4) Statement within the petition as to water given to the Town at the time of annexation, in the amount of three (3) acre feet of water for every acre annexed. This statement may be altered, at the option of the Town, in circumstances where potable water services to the annexed parcel will not be furnished by the Town's facilities. The statement shall describe an impact fee assessment in lieu of water given. This impact fee will be negotiated with the Town and approved by the Board of Trustees.

(5) The cost of extension of the Town government services and facilities will be that of the developer; meaning any extension of the sewer, water or streets will become the total cost of the petitioner and a performance bond or escrow agreement may be required to assure performance on his or her part.

## **ANNEXATION FINDINGS**

Staff has evaluated the annexation application pursuant to items listed above and has found that the request meets the listed eligibility requirements. A resolution finding Substantial Conformance with C.R.S. requirements was passed by the Town Council on December 18<sup>th</sup>, 2023, and set a public hearing for February 5<sup>th</sup>, 2024. The annexation map includes this parcel as well as the

adjacent right-of-way for Weld County Road 15 (Telep Avenue). The resolution and annexation petition have been provided in this agenda packet as Attachments 1 and 2, respectively.

## **Zoning & Development**

The current zoning for the property is AG-Agriculture in Unincorporated Weld County. There are no known conditional uses or uses by special review for the property. A summary of the evolution of this project is necessary to support staff's recommendation on the zoning that is being proposed for this project.

At the time of submittal, as described in Attachment 7, the Applicant was requesting a zoning designation of SF-1 in conjunction with the annexation proposal. The Applicant proposed development of 375 +/- single family home lots, 18.7 acres of open space, and 22.4 acres of right of way. The Applicant specified typical home lots measuring 53' x 100' (5,300 square feet) and 63' x 100' (6,300 square feet).

In February of 2022, town staff provided review comments to the Applicant based upon the submittal (Attachment 8). Amongst other things, staff commented that the minimum lot size in the SF-1 zone, pursuant to Town Code, was 6,000 square feet. The Applicant was required to address comments and resubmit the application for further review.

On March 22, 2022, a neighborhood meeting was held to present and discuss the Applicant's request to interested parties in the vicinity of the project site. All property owners within a 500' radius of the project received a meeting notice; the meeting was held remotely via Zoom. The major concerns from the community included the following:

1. Traffic impacts to the existing Rolling Hills neighborhood; and,
2. Small lot sizes, specifically those backing up to the homes in the existing Rolling Hills neighborhood.

In October of 2022, the Applicant resubmitted the project for staff's review. As part of the resubmittal, the Applicant provided an updated project narrative and responses to staff's original comments (Attachment 9). The Applicant provided clarification which was generally responsive to staff's original comments, addressing such items as park and open space within the project site, primary access into the site, and a multitude of technical corrections.

Regarding the comment on minimum lot sizes for the SF-1 zone, the Applicant modified their zoning request from SF-1 to PUD (Planned Unit Development). No other modifications to the project were being proposed at this time; the driving force behind the move to PUD zoning was the ability to use smaller lot sizes.

Pursuant to Section 16-301(a) of the prior LUDC, the purpose of the PUD District is to facilitate greater flexibility resulting in higher quality development through more creative and imaginative design of the commercial, industrial and residential areas than is typically possible under conventional, restricted zoning regulations. In addition, pursuant to Section 16-302(a)(1), the intent of the PUD-R District is to support private residential development by providing incentives encouraging the use of innovative design techniques in order to achieve high quality residential development.

The Applicant's response stated that the zoning had been swapped with PUD to allow for modified lot sizes. There was no additional support, reasoning, or justification for changing the zoning request from SF-1 to PUD, other than the lot size modification for smaller lots. No evidence was submitted explaining how this project was implementing innovative design techniques to create a higher quality development.

Aside from the request to use a different zoning designation, the project and project description remained substantially unchanged; however, an Outline Development Plan ("ODP") was newly submitted as a requirement of the PUD zoning request, pursuant to Section 16-304 of the Johnstown Municipal Code. The ODP provides a higher level of site planning detail.

In December of 2022, staff provided comments on the second submittal. There were a handful of technical items that needed to be addressed, as well as a few zoning and site planning comments. More specifically, staff commented that the purpose of the ODP was to establish project densities, types and mixes of housing product, and overall project concepts. Staff recommended a more diverse mix of housing and lot sizes. Staff also commented on the lot sizes, explaining that the Town is seeking a minimum of 6,000 square foot lots for single-family detached product.

In April of 2023, the Applicant resubmitted the project for review, including formal responses to all of staff's comments (Attachment 10). The Applicant responded to the mix of housing product by keeping to two lot sizes originally proposed (53' x 100' and 63' x 100'), and then dedicating 6.8 acres on the easternmost side of the project site, along Telep Avenue, for multi-family development. The addition of the multi-family product represented a significant change to the overall project, based on what was originally submitted and presented to the community at the neighborhood meeting.

The Applicant also acknowledged the comment about minimum 6,000 square foot detached single-family lots; however, they responded by stating that their project team was hopeful that the Town Council would consider a minimum 5,300 square foot lot. They further explained that a 5,300 square foot lot and building product that fits on this specific lot size allows the developer to offer a more affordable housing product.

On May 2, 2023, staff provided comments to the Applicant based on the April resubmittal (Attachment 11). Most of the comments requested clarification on technical issues and other minor items, such as notations and descriptions on the exhibits. Regarding the zoning, staff commented that the Town was planning to move away from PUD zoning with the new Land Use & Development code. In addition, staff welcomed an opportunity to discuss the benefits of the project, stating that a straight zoning designation of R-1 (a reference to the forthcoming Land Use & Development code, but similar to the SF-1 designation that was originally submitted with this proposal) may work well for the site, and also eliminate the need for the ODP.

In August of 2023, the Applicant resubmitted and responded to staff's comments (Attachment 12). No mention of the zoning was included in the response. Staff provided an additional round of comments, also in August of 2023.

In October of 2023, the Applicant resubmitted the project, including formal responses to staff's comments (Attachment 13). As shown in the response letter, there were a handful of traffic and engineering comments that remained outstanding from previous comment letters. Solutions to most of those comments were being deferred to later stages of project development. Although staff provided a final round of comments based upon this latest submittal, this effectively concluded the review process.

## **SUMMARY**

In summary, the project began as a typical residential subdivision comprised of detached single-family lots, with complementary zoning of SF-1; a maximum of 375 lots were proposed at the time of submittal. The Applicant revised the proposed zoning to PUD upon receiving staff's initial comment letter. No modifications to the project were being proposed with the introduction of the PUD zoning request, it was simply a way to avoid increasing residential lot sizes. As noted in this report, the intent of the PUD zone is to provide flexibility in development standards to support the creation of imaginative design proposals and high-quality projects that otherwise would not be permitted under the strict application of traditional zoning designations. As the project continued to develop, the Applicant responded to comments regarding housing diversity by proposing a multi-family component to the project site. The final iteration of the project comprised the same two lot sizes submitted at the time of application, and a multi-family component oriented on the east side of the project along Telep Avenue. Final densities pursuant to the ODP ranged from 5 – 8 du/ac for the single-family detached product, and 20 – 23 du/ac for the multi-family product. This range would result in a buildout condition of somewhere between 350 and 500 units.

1. The Applicant's proposal did not comply with the standards of the SF-1 zone, even though comments were made multiple times throughout the review process about the lot sizes.



2. PUD zoning is intended to provide a mechanism to support deviation from the strict application of traditional zoning standards to advance high quality projects through creativity and innovation in design and planning. This project is reminiscent of a traditional residential subdivision. Housing affordability is a benefit to a community; however, there is no evidence in any of the project submittal materials depicting any innovation or creativity that could not otherwise be accommodated in a typical residential zoning district.
3. Due to the range of densities being proposed in the ODP, there is a substantial amount of uncertainty built into the project, which could result in a vastly more intense project than was represented to the community at the neighborhood meeting. When the neighborhood meeting occurred, the entire project comprised of single-family detached units.

## ZONING FINDINGS

Pursuant to Section 16-303, the following review criteria shall be evaluated for PUD proposals:

### (5) Land Use

- a. Is the land use mix appropriate given land use designations of the Comprehensive Plan, support facilities in the area, project design and PUD district intent? **Response: The land use mix is appropriate given the land use designation of the Comprehensive Plan (Medium Density/Intensity), and there are adequate support facilities in the area; however, the project design does not meet the intent of the PUD zoning district.**
- b. Do the land use specifications of the PUD meet the restrictions for permitted uses and appropriately address conditional use standards, goals and criteria for those uses which are specified in this Chapter as conditional in the underlying zoning district? **Response: No conditional uses are being proposed as part of the proposed PUD.**
- c. Have the appropriate design standards been satisfied? **Response: The appropriate design standards have not been satisfied, because:**
  1. **PUD zoning replaced the original SF-1 zoning proposal simply so smaller lot sizes could be used within the development; and,**
  2. **There are no innovative or creative design proposals to warrant PUD zoning over a more typical residential zoning designation; and,**
  3. **There are no unique or challenging site conditions that would warrant PUD zoning over a more typical residential zoning designation.**
- d. Are the exceptions to standard requirements warranted by virtue of inclusion in the PUD of design elements and amenities exceeding minimum requirements? **Response: The exceptions to standard requirements are not warranted, because there are no examples of outstanding or**



**innovative designs, and the amenities are considered minimal and average for this type of development.**

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

### **Larson Annexation, Zoning, and Outline Development Plan (ODP)**

Pursuant to the content and findings in the staff report, staff is recommended that the Planning and Zoning Commission recommend:

1. Approval to Town Council for the Annexation; and,
2. Denial of the establishment of PUD Zoning, and the Outline Development Plan

### **Annexation - Recommended Motion: Motion to Approve, as presented.**

Based on the application materials received along with the analysis/presentations at this hearing, the Planning & Zoning Commission finds that the request for the Larson Annexation is compatible with all other applicable Town standards and regulations, and therefore moves to recommend to the Town Council Approval of the Larson Annexation, based upon the content and findings in the staff report.

### **PUD Zoning/Outline Development Plan - Recommended Motion: Motion to deny, as presented.**

Based on the application materials received along with the analysis/presentations at this hearing, the Planning & Zoning Commission finds that the request for the establishment of PUD Zoning does not satisfy the intent of the PUD zoning classification and is not compatible with all other applicable Town standards and regulations, and therefore moves to recommend to the Town Council denial of the establishment of PUD Zoning and Outline Development Plan based upon the content and findings in the staff report.

### **Alternate Motions:**

#### **Motion to Recommend Approval with Conditions**

Based on the application materials received and analysis and presentations at this hearing, the Planning & Zoning Commission finds that the request for the Larson Annexation, Establishment of PUD Zoning, and Outline Development Plan 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 the Larson Annexation, Establishment of PUD Zoning and Outline Development Plan based upon the content and findings in the staff report, and with the following conditions:

- 1.

**Motion to Recommend Denial**

I move that the Commission recommend to the Town Council denial of the Larson Annexation, establishment of PUD Zoning, and Outline Development Plan based upon the content and findings in the staff report.