



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE:	November 2, 2020
SUBJECT:	Ordinance 2020-186 regarding the Podtburg Annexation #1-#5 Annexation and Development Agreement (Case #ANX20-0001)
ACTION PROPOSED:	Consider Ordinance 2020-186 regarding the Podtburg Annexation #1-#5 Annexation and Development Agreement, on First Reading
ATTACHMENTS:	1 – Podtburg Annexation #1-#5 Annexation and Development Agreement
PRESENTED BY:	Kim Meyer, Planning & Development Director Avi Rocklin, Town Attorney

AGENDA ITEM DESCRIPTION:

A petition for the Podtburg Annexation Nos. 1-5, zoning to PUD-MU, and an Outline Development Plan (ODP) were submitted to the Town in February 2020. This property comprises approximately 462.35 acres of land, extending south from CR 46 and Colorado Blvd (CR 13), encompassing the CR 13 right-of-way, to CR 44 where the bulk of the proposed annexed lands sit to the north and south of CR 44, and west of CR 13. (See Attachment 1.)

In conjunction with the proposed annexation, Town Council may consider the attached Annexation and Development Agreement (“Agreement”). (See Attachment 2.) Because the applicant is seeking extended vested rights, as discussed below, the applicant requested that the Agreement be approved by ordinance.

In addition to the standard terms contained in the Town’s annexation agreements, the Agreement contains the following material terms:

- County Road 13 Water Improvements. The owner will pay a proportionate amount of the Town’s cost to install the County Road 13 water line improvements at each plat approval along with interest of 6%. *See Paragraph 15(a)*. If the owner has not obtained an initial plat approval within 5 years, the interest rate will increase to 9%. *See Paragraph 21*.
- Appurtenant Water. The water that is appurtenant to the property, to be dedicated at plat approvals, is New Ish Ditch and Highland Ditch water. The water may be used to operate a non-potable system on the property. *See Exhibit B*.
- Sewer Improvements. Pursuant to the Intergovernmental Agreement between the Town and Berthoud dated July 28, 2005, a petition will be filed with the North Front Range Water Quality Planning Association to modify the service area for Berthoud’s treatment plant to include the property. Upon approval and once development commences, the Town will extend a sewer line from the treatment plant to the property. *See Paragraph 15(c)*. The owner will reimburse the Town for the cost of the sewer line, and all related expenses, in a proportional amount at each plat approval along with interest of 6%. If the owner has not obtained plat approval for all the property within 5 years, the interest rate shall increase to 9%. *See Paragraph 21*.

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- Fifteen Year Vesting. The Johnstown Municipal Code and state statute provide for vesting of “site specific development plans,” meaning essentially that the right to develop pursuant to the approved plan will continue for the duration of the vesting period. Section 17-242 of the Code defines a “site specific development plan” as “a map, plat or site plan that has been submitted to the Town by a landowner’s representative describing the reasonable certainty, type and intensity of use for a specific parcel or parcels of property.” Site specific development plans generally vest for 3 years, but the owner has requested an extended vesting period for 15 years. Section 17-244 of the Code allows for extended vesting periods in a development agreement. State statute similarly provides for extended vesting in a development agreement if the agreement is legislatively adopted, which is why approval of the annexation agreement is sought by ordinance. *See* C.R.S. § 4-68-104(2). Because of the nature of the development, to include a golf course, to provide the owner with flexibility to sell portions of the proposed development to developers, and based on Town Staff’s extensive review of the Outline Development Plan, an extended vesting period for the annexation agreement and the Outline Development may be warranted. *See Paragraph 20.* Subsequent development approvals will not be subject to the extended vesting period unless the Town otherwise agrees at that time.
- Recording. An annexation is generally effective upon recordation of the ordinance. The owner has requested the right to withdraw the petition for annexation and all related documents if there is a legal challenge to the annexation and has asked the Town not to record the documents until after the expiration of the period within which a party may challenge the annexation. State statute provides that the right to challenge an annexation shall be brought within 60 days. C.R.S. § 31-12-116(2). *See Paragraph 23.*

LEGAL ADVICE:

Ordinance was prepared by the Town Attorney.

FINANCIAL ADVICE:

NA

RECOMMENDED ACTION:

Approve Ordinance 2020-186 regarding the Podtburg Annexation #1-#5 Annexation and Development Agreement, on First Reading.

SUGGESTED MOTIONS:

For Approval

I move that the Town Council approve Ordinance 2020-186 regarding the Podtburg Annexation #1-#5 Annexation and Development Agreement, on First Reading.

For Denial

I move that the Town Council deny approval of Ordinance 2020-186 regarding the Podtburg Annexation #1-#5 Annexation and Development Agreement, on First Reading.

Reviewed and Approved for Presentation,

Town Manager

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