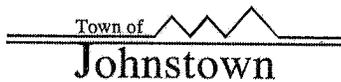


TOWN COUNCIL

MEETING

PACKET

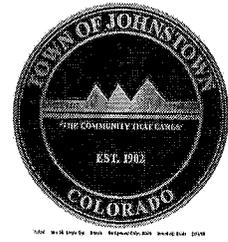
September 4, 2013



Town Council

Agenda

Wednesday, September 4, 2013
Town Hall, Council Chambers
450 So. Parish Avenue
7:00 PM



MISSION STATEMENT-*"The mission of the government of the Town of Johnstown is to provide leadership based upon trust and integrity, commitment directed toward responsive service delivery, and vision for enhancing the quality of life in our community."*

Members of the audience are invited to speak at the Council meeting. Public Comment (item No. 5) is reserved for citizen comments on items not contained on the printed agenda. Citizen comments are limited to three (3) minutes per speaker. When several people wish to speak on the same position on a given item, they are requested to select a spokesperson to state that position. If you wish to speak at the Town Council meeting, please fill out a sign-up sheet and present it to the Town Clerk.

- 1) **CALL TO ORDER**
 - A) Pledge of Allegiance
- 2) **ROLL CALL**
- 3) **AGENDA APPROVAL**
- 4) **RECOGNITIONS AND PROCLAMATIONS**
- 5) **PUBLIC COMMENT (three-minute limit per speaker)**

*The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any Council member wishes to have an item discussed or if there is public comment on those ordinances marked with an *asterisk. The Council member may then move to have the subject item removed from the Consent Agenda for discussion separately.*

- 6) **CONSENT AGENDA**
 - A) Town Council's Meeting Minutes – August 19, 2013
- 7) **STAFF REPORTS**
- 8) **OLD BUSINESS**
- 9) **NEW BUSINESS**
 - A) Consider Water and Sewer Service Agreement for Stroh Farm Filing No. 7
 - B) ***Public Hearing** – Stroh Farm Filing No. 7, Final Plat
 - C) Consider Public Improvements Development Agreement – Stroh Farm Filing No. 7
 - D) Consider Tavern Liquor License Renewal – Leo's Place
- 10) **COUNCIL REPORTS AND COMMENTS**
- 11) **MAYOR'S COMMENTS**
- 12) **ADJOURN**

WORKSESSION

- 1) Discussion of Intergovernmental Growth Management Agreement between the City of Loveland and Town of Johnstown

AGENDA ITEM 6A

CONSENT

AGENDA

- **Council Minutes – August 19, 2013**

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: September 4, 2013

ITEM NUMBER: 6A

SUBJECT: Consent Agenda

ACTION PROPOSED: Approve Consent Agenda

PRESENTED BY: Town Clerk

AGENDA ITEM DESCRIPTION: The following items are included on the Consent Agenda, which may be approved by a single motion approving the Consent Agenda:

A) Town Council Minutes – August 19, 2013

LEGAL ADVICE: The entire Consent Agenda may be approved by a motion of the Town Council approving the Consent Agenda, which automatically approves each and every item listed on the Consent Agenda. If a Council member wishes to have a specific discussion on an individual item included with the Consent Agenda, they may move to remove the item from the Consent Agenda for discussion.

FINANCIAL ADVICE: N/A

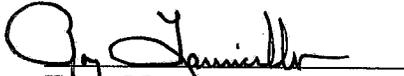
RECOMMENDED ACTION: Approve Consent Agenda

SUGGESTED MOTION:

For Approval: I move to approve the Consent Agenda.

For Denial:

Reviewed:


Town Manager

**COUNCIL
MINUTES**

The Town Council of the Town of Johnstown met on Monday, August 19, 2013 at 7:00 p.m. in the Council Chambers at 450 S. Parish Avenue, Johnstown.

Mayor Romanowski led the Pledge of Allegiance.

Roll Call:

Those present were: Councilmembers Berg, James, Lebsack, Molinar Jr. and Townsend

Those absent were: Councilmember Mellon

Also present: John Franklin, Town Planner, Roy Lauricello, Town Manager, Avi Rocklin, Town Attorney, and Diana Seele, Town Clerk/Treasurer

Agenda Approval

Councilmember James made a motion seconded by Councilmember Townsend to approve the agenda. Motion carried with a unanimous vote.

Consent Agenda

Councilmember Lebsack made a motion seconded by Councilmember Townsend to move Resolution 2013-11 to Old Business and to approve the Consent Agenda with the following items included:

- August 5, 2013 Town Council Meeting Minutes
- Payment of Bills
- July Financial Statements

Motion carried with a unanimous vote

Old Business

Consider Resolution No. 2013-11, Approving An Amendment to the 2534 Design Guidelines for Liberty Firearms Institute - Councilmember Lebsack made a motion seconded by Councilmember Townsend to approve Resolution 2013-11 as amended to read "no gunfire shall be detected at any time outside the applicant's property line". Motion carried with a unanimous vote.

New Business

A. Consider Beer and Wine License Renewal – Huang Garden - Councilmember Townsend made a motion seconded by Councilmember James to approve the beer and wine liquor license renewal for Huang Garden. Motion carried with a unanimous vote.

B. Consider 3.2% Beer Retail License (Off Premises) Renewal – 7-Eleven Store 34238 – Councilmember Berg made a motion seconded by Councilmember Townsend to approve the 3.2% Beer Retail License (Off Premises) renewal for 7-Eleven Store 34238. Motion carried with a unanimous vote.

There being no further business to come before the council the meeting adjourned at 7:40 p.m.

Mayor

Town Clerk/Treasurer

AGENDA ITEM 9A

**WATER/SEWER
SERVICE
AGREEMENT
(Stroh Farm Filing No. 7)**

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: September 4, 2013

ITEM NUMBER: 9A

SUBJECT: Water and Sewer Service Agreement for Stroh Farm Filing No. 7

ACTION PROPOSED: Consider Approval of the Water and Sewer Service Agreement for Stroh Farm Filing No. 7

PRESENTED BY: R. Russell Anson, Town Attorney

AGENDA ITEM DESCRIPTION: In compliance with the Town's water rights dedication ordinance, the Developer submitted to the Town a Preliminary Water and Sewer Demand Analysis on or about July 28, 2010, and it has been accepted by the Town upon a review by the Town's Water Resources Engineer. Based upon the analysis with the proposed construction of 30 residential lots with landscape irrigation, the average water demand for Filing No. 7 with \pm 11.839 acres is calculated to be 17.11 acre feet per year.

As a result of prior dedications associated with Stroh Farms Filing Nos. 1, 2, 3, 4, 5, and 6 the Developer currently has a surplus dedication credit with the Town of 4.16 acre feet per year. After applying this credit, the remaining water requirement for this Filing is 12.95 acre-feet per year. To make up the deficiency, the Developer will dedicate to the Town two (2) shares of Consolidated Home Supply Ditch and Reservoir Company which was included in the Town's water court transfer case, and as a result of an additional 16.0 acre feet, the Developer will have surplus credit with the Town of 3.05 acre feet.

LEGAL ADVICE: The attached Water and Sewer Service Agreement was drafted by the Town's Water Attorney, Peter Ampe.

FINANCIAL ADVICE: Upon execution of the Agreement, within ten days the Town will receive water court transfer fees in the amount of \$4,100.00.

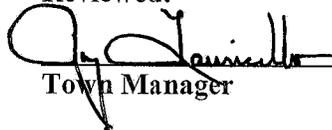
RECOMMENDED ACTION: Approve the Water and Sewer Service Agreement as drafted.

SUGGESTED MOTIONS:

For Approval: I move to approve the Water and Sewer Service Agreement for Stroh Farm Filing No. 7.

For Denial: I move to deny approval of the Water and Sewer Service Agreement for Stroh Farm Filing No.7.

Reviewed:


Town Manager

AGREEMENT

WATER AND SEWER SERVICE AGREEMENT

THIS WATER AND SEWER SERVICE AGREEMENT is made and entered into this ___ day of _____, 2013, by and between **THE RYLAND GROUP, INC.**, a Maryland corporation (hereinafter referred to as "the Developer") and **THE TOWN OF JOHNSTOWN**, a Colorado municipal corporation, (hereinafter referred to as "the Town"), collectively sometimes referred to as "the Parties",

WITNESSETH:

WHEREAS, Developer is the owner of approximately 11.839 acres of land located in the Southeast Quarter of Section 20, Township 4 North, Range 67 West of the 6th P.M., Weld County, Colorado and described more particularly in Exhibit "A", attached hereto and incorporated herein by this reference ("the Subject Property"); and

WHEREAS, the Subject Property has been annexed to the Town as a portion of the Stroh Annexation and was the subject of an Annexation Agreement between SSS Holdings, LLP, a Colorado limited liability partnership, as Owner, and the Town dated March 15, 1999; and

WHEREAS, a portion of the Subject Property is being developed as Filing No. 7 of the Stroh Farm development, with the total development consisting of approximately 11.839± acres; and

WHEREAS, in connection with the Final Plat for the Stroh Farm, Filing No. 7, Developer and the Town desire to set forth their agreement concerning water rights dedication, preliminary projections of water demand and sewer demand, a current commitment by the Town for water and sewer service for Stroh Farm, Filing No. 7.

NOW, THEREFORE, in consideration of the mutual promises hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. **Water and Sewer Demand Studies.** In compliance with the Town Water Rights Dedication Ordinance, Chapter 13, Sections 13-61 through 13-72, inclusive, of the Johnstown Municipal Code ("the Ordinance"), Developer has submitted to the Town a preliminary Water and Sewer Demand Analysis. Said analysis was received by the Town on or about May 22, 2013, is on file with the Town and is hereby accepted by the Town as revised upon review by the Town's water resources engineer. The analysis provided by Developer, as revised, addresses the projected water and sewer demands for Stroh Farm, Filing No. 7 as follows:

Development Component	Demand (AF/YR)	Consumption (AF/YR)
30 Residential Lots (in-house only)	9.90	.50
Residential Landscape Irrigation (2.07 acres)	5.17	4.39
Common Areas Irrigation (0.82 acre)	2.04	1.73
Total	17.11	6.62

2. Water Rights Dedication. As a result of prior dedications associated with Stroh Farm, Filing No. 6, the Developer currently has a surplus dedication credit with the Town of approximately 4.16 acre feet per year. The Parties have agreed that this credit shall be applied to meet the water demands of Stroh Farm, Filing No. 7. After applying the said credit, the remaining water requirement for Stroh Farm, Filing No. 7, is approximately 12.95 acre feet per year. Within ten (10) days following execution of this Agreement, Developer shall dedicate to the Town 2 shares of stock in the Consolidated Home Supply Ditch and Reservoir Company ("the Water Stock"). The said 2 shares of the Water Stock are part of the 12 shares represented by Certificate No. 6483 issued by the Consolidated Home Supply Ditch and Reservoir Company and were included in the Town's Water Court Transfer Proceeding, Case No. 98CW410. The dedication shall be in accordance with the Town's Ordinance and all documents shall be satisfactory to the Town Attorney. The dedication of the water rights represented by the 2 shares of stock in the Consolidated Home Supply Ditch and Reservoir Company shall be by delivery to the Town Attorney of a valid stock certificate for the said 2 shares, together with an executed stock assignment assigning the Water Stock to the Town, free and clear of all encumbrances.

3. Surplus dedication credit. The use of the prior surplus dedication credit of 4.16 acre feet per year and the dedication of the 2 Home Supply Shares described in paragraph 2 above will provide to Developer Raw Water Credits in excess of the water demand projected for the Subject Property. As a result of said dedication, The Developer will have a surplus dedication credit with the Town of 3.05 acre feet. The credit is calculated as follows:

Prior Surplus Dedication Credit:	4.16
Credit for 2 Home Supply shares:	16.00
Subtotal:	20.16 acre feet
LESS:	
Estimated demand:	<u>17.11</u>
Net current surplus credit:	3.05 acre feet

Upon notice and written approval of the Town, said credit may be utilized anywhere within the Subject Property to offset increased demands, if any, which are not currently projected, or for future development filings, subject to approval by the Town in subsequent agreement(s) in accordance with the requirements of the applicable Town's Ordinance

4. Commitment to serve. Subject to Developer's performance of all the covenants contained herein and payment of all required fees, the Town commits to provide to the Subject Property up to 17.11 acre feet per year of water supply as described in paragraph 1, above, together with the corresponding sewer service. Developer and the Town hereby reaffirm the purchase schedule set forth in paragraph 5 of the Water and Sewer Service Agreement dated June 5, 2000.

5. Future review of water usage and dedication requirements. In accordance with Section 13-68 (h) of the Ordinance, the Town reserves the right to review actual water usage within the Subject Property at a point in time after water usage has been established to

confirm the adequacy of the water demand projections made by the Developer, and to require additional water rights dedication and/or cash-in-lieu payments based on actual water usage.

6. Payment of Water Court Transfer fees. Upon execution of this Agreement, Developer shall pay to the Town the sum of Four Thousand One Hundred Dollars (\$4,100.00) as payment of the Water Court Transfer Fees required by the Ordinance. This payment is only for the remaining water requirement of 17.11 acre feet per year of estimated water demand and estimated consumptive use of 6.62 acre feet per year for the proposed development for Stroh Farm, Filing No. 7, and has not been assessed against any of the surplus dedication credit of 3.05 acre feet. If the actual demand for the Subject Property increases, additional fees will be required. Further, in accordance with the Ordinance, additional fees will be required in connection with future development of any Property to which all or any portion of the surplus dedication credit is subsequently assigned pursuant to a future mutual agreement of the parties in accordance with the Town's Ordinance.

7. Notices. All notices, demands, or other documents required or desired to be given, made or sent to either Party under this Agreement shall be made in writing, shall be deemed effective upon receipt and shall be personally delivered or mailed postage prepaid, certified mail, return receipt requested, as follows:

TO DEVELOPER:

Ryland Homes, Inc.
Attn: Kent Pederson
8200 E. Maplewood Ave.
Suite 150
Greenwood Village, CO 80111

TO THE TOWN:

Town of Johnstown
c/o Town Clerk
450 S. Parish Ave.
Johnstown, CO 80534

WITH A COPY TO
R. Russell Anson, Esq.
Johnstown Town Attorney
P. O. Box 336155
Greeley, CO 80633

The addresses for notices may be changed by written notice given to the other Party in the manner provided above.

8. Default. In the event of default by either Party hereunder the non-defaulting Party shall notify the defaulting Party in writing of such default(s), specifying the nature and extent

thereof. If such default is not cured within thirty (30) days, the non-defaulting Party shall be entitled to such remedies as are provided by law, including the Town's ordinances.

9. Successors and assigns. The benefits of this Agreement and the burdens hereunder shall respectively inure to and be binding upon the successors and assigns of the Parties hereto. This agreement shall not be assigned without the prior written consent of the other party, which consent shall not be unreasonably withheld.

10. Amendment or modification. No amendment or modification of this Agreement shall be of any force or effect unless in writing and executed by the Parties hereto with the same formality as this Agreement.

11. Attorney's fees and costs. If any judicial proceedings may hereafter be brought to enforce any of the provisions hereof, including an action for specific performance and/or damages, the prevailing Party shall be entitled to recover the costs of such proceedings, including reasonable attorney's fees and reasonable expert witness fees.

12. Waiver. The waiver of any breach of any of the provisions of this Agreement by either Party shall not constitute a continuing waiver of any subsequent breach by said Party, concerning either the same or any other provision of this Agreement.

13. Headings for convenience only. Paragraph headings and titles contained herein are intended for convenience and reference only and are not intended to define, limit or describe the scope or intent of any provision of this Agreement.

14. Non severability. Each paragraph of this Agreement is intertwined with the others and is not severable unless by mutual consent of the Parties hereto.

15. Choice of laws. This agreement and the rights and obligations of the Parties hereto shall be governed by the laws of the State of Colorado.

16. Entire agreement. This Agreement constitutes the entire agreement between the Parties related to water and sewer service for Stroh Farm, Filing No. 5. and any prior agreements pertaining thereto whether oral or written have been merged or integrated into this Agreement.

17. Recordation and Authority. This Agreement shall be recorded by the Town at Developer's expense in the office of the Clerk and Recorder of Weld County, Colorado, shall run with the Subject Property, shall be binding upon the Parties hereto and the permitted successors and assigns of the Developer and shall constitute notice of this Agreement to all persons or entities not parties hereto. Each person signing this agreement represents that he/she has been duly authorized to sign this agreement on behalf of his/her respective entity.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

(Signatures follow on separate pages)

TOWN OF JOHNSTOWN, COLORADO,
a municipal corporation

By: _____
Mark Romanowski, Mayor

ATTEST:

By: _____
Town Clerk

APPROVED AS TO FORM:

R. Russell Anson
Johnstown Town Attorney

AGENDA ITEM 9B

FINAL

PLAT

(Stroh Farm Filing No. 7)

(*Public Hearing)

*** PUBLIC HEARING PROCEDURE-Stroh Farm Filing No. 7, Final Plat**

1. Open public hearing.
2. Receive information from staff.
3. Receive information from applicant.
4. Ask to hear from anyone who supports the final plat.
5. Ask to hear from anyone who opposes the final.
6. Close the public hearing.
7. Ask for discussion.
8. Make decision and/or motion from Council.
 - a. Need motion to approve or deny the plat.

(SUGGESTED MOTIONS):

For Approval:

I move to approve to approve the Stroh Farm Filing No. 7, Final Plat (subject to the following condition(s)...).

For Denial:

I move to deny approval of the Stroh Farm Filing No. 7, Final Plat.

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: September 4, 2013

ITEM NUMBER: 9B

SUBJECT: *Public Hearing-Stroh Farm Filing No. 7, Final Plat

ACTION PROPOSED: Consider Approval of Final Plat

PRESENTED BY: Mr. John Franklin, Town Planner

AGENDA ITEM DESCRIPTION: The applicant, Ryland Homes, has submitted a request for approval of a final plat for a parcel of land located in the southern part of Stroh Farm (Pioneer Ridge). The property is generally located north of CR 42 and approximately one-quarter mile west of S. Parish Ave.(CR 17). Surrounding land uses include the following: north - single family residential, south – agricultural, east - planned residential and west – planned residential, open space and agricultural. An overall preliminary plat and development plan for Stroh Farm were approved in 2000.

Stroh Farm, Filing No. 7 contains approximately ±11.839 acres, including 2±acres of private, landscaped common open space. The parcel slopes to the west-northwest and is currently vacant. The zoning for the property is Planned Unit Development-Residential (PUD-R). There are 30 single-family detached lots proposed in Filing No. 7. Lot sizes range from 8,377 sf. to 16,499sf, with an average lot size above 9,000 sf. Overall, there are 597 platted lots in Stroh Farms Filing Nos. 1, 2, 3, 4, 5 and 6. Ryland Homes intends to continue the type and quality of development and housing in Filing No. 7 as they have provided in previous filings.

At the February 27, 2008 Planning and Zoning Commission meeting, the Commission voted to approve the final plat (for Filings 5, 6 & 7) subject to the following conditions:

1. Street names are subject to Town staff approval prior to recordation.
2. Prior to proceeding with Filing Nos. 6 & 7 the South Water Tank project will need to be constructed.
3. That a signed Water and Sewer Service Agreement and Public Improvements Development Agreement must be submitted for Town Council consideration with the Final Plat.

There are no outstanding concerns. In regards to recommendation 2, a settlement agreement with Ryland Homes was approved by the Town Council on April 1, 2013 to resolve the water pressure issue.

A water and sewer service agreement was approved previously. The development agreement, to be considered next, will address construction of improvements to serve the development.

LEGAL ADVICE: N/A

FINANCIAL ADVICE: N/A

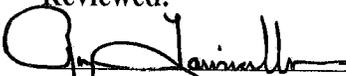
RECOMMENDED ACTION: The Planning and Zoning Commission has recommended approval of the Stroh Farm, Filing No. 7 Final Plat subject to conditions.

SUGGESTED MOTIONS:

For Approval: I move to approve the Stroh Farm Filing No. 7, Final Plat (subject to the following condition(s)...).

For Denial: I move to deny approval of the Stroh Farm Filing No. 7, Final Plat.

Reviewed:


Town Manager

**PLANNING AND ZONING
COMMISSION**

SUMMARY MINUTES

SUMMARY MINUTES
(Audio Tape Available)
PLANNING & ZONING COMMISSION
WEDNESDAY, FEBRUARY 27, 2008
POLICE FACILITY MEETING ROOM

1. **CALL TO ORDER:** Vice Chair Eady called the meeting to order at 7:05 p.m.
2. **ROLL CALL:** Present: Mason, Dowling, Eady, and McGuire. Absent: Longdo, Montez
[Note: Commissioner Longdo arrived at 7:10 p.m.]
3. **PUBLIC COMMENTS REGARDING ITEMS NOT ON THE AGENDA:** No one spoke.
4. **PUBLIC HEARING:**

A. Final Subdivision Plats – Stroh Farm Filing Nos. 5, 6 & 7: Vice Chair Eady opened the public hearing at 7:08 p.m. Town Planner Franklin introduced the agenda item and presented the staff report. Bob Brisnehan, Ryland Homes presented the request.

Commissioner questions:

- This filing is necessary to continue with home construction? (Yes, few lots are left)
- Is the agreement regarding oil and gas development in process? (yes)
- Will there be a mineral reservation in the homes' title work? (yes)
- Lot sizes are acceptable to Town? (Yes)

Public Comment: No one spoke.

Vice Chair Eady closed the public hearing at 7:13 p.m.

Motion by McGuire, seconded by Dowling to recommend approval with conditions:

1. That street names are subject to Town staff approval prior to recordation.
2. That prior to proceeding with Filing Nos. 6 & 7 the South Water Tank project will need to be constructed.
3. That a signed Water and Sewer Service Agreement must be submitted for Town Council consideration with the Final Plat.

Unanimous.

B. Building Site and Operational Plan For Mixed Commercial Uses – 204 South E. 1st St: Vice Chair Eady opened the public hearing at 7: 15 p.m. Town Planner Franklin introduced the agenda item and presented the staff report. Tony Rivera presented the request.

Commissioner questions:

- Any residential units left? (No)
- Handicap accessible? (Yes, parking and ramp are constructed)
- Restaurant fare? (Mexican and burgers, beef dishes)
- Agreement for offsite parking off of Angove? (No, but is owned by a family member)

Public Comment:

Rick Rice, 228 E. S. 1st. St.: Is ok with proposal, but is concerned that additional sewer load from restaurant may cause Town's sewer in alley to have problems, as this sewer has plugged up in the past. (Staff will check on this)

Vice Chair Eady closed the public hearing at 7:45 p.m.

Motion by Dowling, second by McGuire to approve the request with conditions as follows:

1. That the applicant provide an additional 7 paved off street parking spaces prior to Certificate of Occupancy.
2. That a building permit is obtained for all improvements.
3. That the Planning and Zoning Commission must approve any future major signage.
4. That the applicant furnish to the Town a copy of a signed agreement with 202 E.S. 1st St. regarding the parking privileges using the existing parking spaces off Angove.

Unanimous.

5. NEW BUSINESS:

A. Approval of Minutes of February 13, 2008: Motion by McGuire, second by Longdo to approve as written. Unanimous.

B. Referrals: None

6. STAFF REPORT: Town Planner Franklin presented a brief staff report on the following items:

- A. Recent Town Council Actions on Applications**
- B. Applications in Review**
- C. Transportation Planning Status**
- D. Downtown Improvements Plan Status**
- E. Vision/Strategic Plan Status**

7. COMMISSIONERS ITEMS:

A. Comments:

8. ADJOURN: Chair Longdo adjourned the meeting at 8:00: p.m.

Prepared and submitted by John Franklin, Town Planner.

**STAFF REPORT
TO
PLANNING AND ZONING
COMMISSION**

Town of

Johnstown

MEMORANDUM

TO: Johnstown Planning and Zoning Commission
FROM: John Franklin, AICP, Town Planner
DATE: February 27, 2008
SUBJECT: Final Plat – Stroh Farm Filing Nos. 5, 6 & 7

PROPERTY DATA:

Applicant(s): Bob Brisnehan, Ryland Homes

Owner: The Ryland Group, Inc.

Location: (Pioneer Ridge) South of Cinnamon Teal Avenue, West of WCR 17 (S. Parish Ave.)

Property Size: Filing No. 5 – 42.5± acres; Filing No. 6 – 41.1± acres; Filing No. 7 – 11.8± acres

Current Land Use(s): Vacant, undeveloped

Surrounding Land Uses: North: Stroh Farm Filing No. 4 single family residential
South: Agricultural
East: S. Parish Ave.
West: Open Space

Comprehensive Plan Designation: Residential

Summary of Request:

Overall Plan:

Filing Nos. 5, 6 & 7 are a southward continuation of the Stroh Farm single family residential development. A total of 207 single family lots are proposed, plus one 11±-acre lot which may be developed as neighborhood commercial in the future subject to Final PUD Development Plan approval. There are 82 single family detached lots proposed in Filing No. 5, 95 in No. 6 and 30 lots in No. 7. Lot sizes range from 6,800sf to over 18,000sf, with an average lot size above 8,000 sf.

Building Design and Materials: Ryland Homes intends to continue building the same quality of homes offered in Filings 1-4.

Access, Traffic and Parking: Primary access to the subdivision will be via local streets from CR 42 and through Filing No. 4 to Cinnamon Teal. Street names are still under review. South Parish (arterial) and CR 42 (arterial) will be improved.

School/Park and Open Space: Park and recreation and school land requirements have been previously met. The tracts in each filing refer to private open space. Ryland Homes proposes to construct small private pocket park in Filing No. 7.

Landscaping: In Filing No. 6, right-of-way and buffer landscaping and irrigation design is proposed in South Parish Avenue right of way, an extension of Filing No. 2 as well as along CR 42. In Filing No. 7 right-of-way and buffer landscaping is proposed along CR 42.

Fencing and Screening: The three-rail fence design approved for Stroh Farms will be installed where private lots abut the open space. Privacy fencing along South Parish and CR 42 will conform to the previously approved design.

Lighting: The approved street lighting fixtures for Stroh Farms will be installed in Filing No. 4.

Signage: No permanent signage is proposed in this filing.

Water, Sanitary Sewer and Storm Drainage: Water and sanitary sewer will be extended from the north to the development. Water pressure is such that Filing 5 can be served using existing pumps, but Filings 6 and 7 will require construction of the South Water Tank (on the Wagon Wheel property) and connecting pipe. The Town has discussed this need with the developer.

Stormwater from this filing will flow to the west to a previously constructed detention pond and released at historic rate. Stormwater Development fees of \$1100 per acre will be payable prior to recording.

Prior Agreements and Actions: The property was annexed in 1999 as part of the Stroh Farm Annexation. The overall development plan, and the final plat for Filing no. 1 were approved in 2000. Filing No. 2 was approved in 2001. Filing No. 3 was approved in 2004.

Mineral Interests: There is one existing well and one tank battery in the vicinity of Filings 5 and 6. A centralized drilling area including two additional wells is proposed. The additional wells must be approved by the Town through a USR process.

Attachments: Final Plats and referral comments

Municipal Code Review Provisions:

Sec. 17-83. Final Plat and data.

(a) Final Plat: The Final Plat shall be an engineering drawing prepared to normal engineering tolerances of accuracy with calculated rather than scale dimension. The exterior lines of the Final Plat shall join or close. The Plat shall be drawn in permanent ink on reproducible linen or mylar with outer dimensions of twenty-four (24) inches by thirty-six (36) inches and shall be at a scale of 1" = 100'. The Final Plat may constitute the entire approved Preliminary Plat or any logical portion of the approved Preliminary Plat proposed for immediate recording. The Final Plat shall conform to the approved Preliminary Plat and shall include all changes and additions as required by the Planning Commission and shall show the following:

(1) Primary control point, description and "ties" to such control points to which all dimensions, angles, bearings and similar data on the plat shall be referred.

(2) Tract boundary lines; right-of-way lines of streets, easements and other rights-of-way; property lines of residential lots and other sites; with accurate dimensions, bearings or deflection angles and radii, arcs and central angles of all curves. All dimensions, both linear and angular, shall be determined by an accurate control survey in the field which must balance and close within a limit of one (1) in ten thousand (10,000). No final plat showing plus or minus dimensions will be approved.

(3) Total acreage and surveyed legal description of the subdivision.

(4) Name and right-of-way width of each street or other right-of-way.

(5) Location, dimensions and purpose of any easements.

(6) Numbers to identify each block, lot and/or site.

(7) Purpose for which sites, other than residential lots, are dedicated or reserved.

(8) Location and description of all monuments, both found and set.

(9) Names of record owners of adjoining unplatted land.

(10) Reference to recorded subdivision plats of adjoining platted land by record name, date and number.

(11) Signature and seal of land surveyor registered in the State certifying to the accuracy of the survey and plat, including a statement explaining how bearings, if used, were determined.

(12) Signature block for certification of approval by the Planning Commission and Town Council, with signatures by the Chairman of the Planning Commission and the Mayor.

(13) Certification of title showing that the applicant is the land owner.

(14) Statement by the subdivider dedicating streets, rights-of-way, easements and public sites.

(15) Title under which the subdivision is to be recorded, scale, north arrow and date.

(b) Other documents required at the time of submission of the Final Plat shall be:

(1) Complete engineering plans and specifications for all public facilities to be installed, including water and sewer utilities, streets and related improvements, bridges and storm drainage.

(2) Agreements made with ditch companies when needed.

(3) Clearance record showing approval by the Health Department and utility companies (form supplied by Town).

(4) A financial statement, a copy of which shall be available for public inspection at Town Hall and shall include:

a. Name and address of each person having an interest in the subdivision or development and the extent of such interest.

b. A statement of the condition of the title to the land comprising the subdivision or development, including all encumbrances, deed restrictions and covenants applicable thereto.

c. A statement of the general terms and conditions including the range of selling prices or nets at which it is proposed to dispose of lots, dwellings or structures.

d. In the case of a subdivision development or portion thereof against which there exists a blanket encumbrance, a statement of the consequences for an individual purchaser of a failure, by the person or persons bound, to fulfill obligations under the instrument or instruments creating such encumbrances and the steps, if any, taken to protect the purchase in such eventuality.

e. Copies of all forms of conveyance to be used in selling or leasing lots, dwellings or structures.

f. Such certified and uncertified financial statements of the developer as the Planning Commission and Town Council may require and such other information, documents and certifications as the Commission and Town Council may require as being reasonably necessary or appropriate for the protection of consumers.

(5) A performance bond drawn and posted in favor of the Town, which bond shall be of sufficient amount to assure completion of all required improvements.

(6) Protective covenants in form for recording.

(7) Such other certificates, affidavits, endorsements or deductions as may be required by the Planning Commission or Town Council in the enforcement of these regulations.

Crucial Referral Responses: None.

Technical Analysis: The Final Plats meet the requirements of the Subdivision Regulations.

Staff Recommendation: Based upon the above, staff recommends approval with the following conditions:

1. That street names are subject to Town staff approval prior to recordation.
2. That prior to proceeding with Filing Nos. 6 & 7 the South Water Tank project will need to be constructed.
3. That a signed Water and Sewer Service Agreement must be submitted for Town Council consideration with the Final Plat.

Planning Commission Action:

1. If the Commission desires to recommend approval:

“I move that the Commission recommend approval of the Final Plat for Stroh Farm Filing Nos. 5, 6 & 7.”

Or,

2. If the Commission desires to recommend approval with conditions:

“I move that the Commission recommend approval of the Final Plat for Stroh Farm Filing No s. 5, 6 & 7. with the following condition(s):

a. _____

b. _____

etc. “

Or,

3. If the Commission desires to recommend denial:

“I move that the Commission recommend denial of the Final Plat for Stroh Farm Filing Nos. 5, 6 & 7for the following reasons:

a. _____

b. _____

February 15, 2008

Robert Brisnehan
Ryland Homes Denver
8100 E. Maplewood Ave. Suite 100
Greenwood Village, CO 80111

Re: - Final Plat - Stroh Farm Filing Nos. 5, 6 & 7

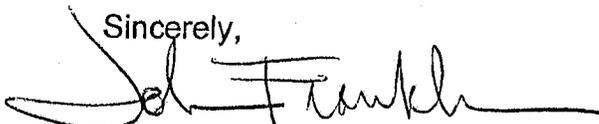
Dear Bob:

Initial review of the applications is completed. Comments received from Town Departments, advisors and outside agencies are enclosed. Additional referral comments may be forthcoming, and will be forwarded. Comments are as follows:

1. Please change the approval blocks to indicate Town Council approvals.
2. Two of the short culs de sac will need unique names to conform to Town street naming criteria. Staff will work with you to arrive at acceptable names prior to recording.
3. In the hearings, please confirm that the quality and size, style of the homes will not be less than previous filings.
4. For the Planning and Zoning Commission staff report which I am currently preparing, I need a tabulation of the minimum, maximum and average lot size in each filing.
5. The Water/Sewer Agreement, signed, is required at the time the Final Plat is presented to the Board of Trustees. I will ask Town Attorney Russ Anson to have the agreement prepared.
6. Subsequent to the Final Plat approvals and prior to start of improvements, a Development Agreement for each filing will need to be presented to the Town Board of Trustees. I will ask the Town Attorney to begin drafting this document.

The applications are set for public hearing before the Planning and Zoning Commission on February 27. Please plan to bring board-mounted drawings and make a brief presentation. Please contact me if you have questions.

Sincerely,



John Franklin, AICP
Town Planner

Enclosures
Copy to File

sent 2/6/08 gk

Town of
Johnstown

Planning Department
101 Charlotte St. Johnstown, CO 80534
(970) 587-4664; Fax (970) 587-0141
www.townofjohnstown.com

~~Town
ENGINEER~~

John F. _____

DATE: January 28, 2008

REFERRAL OF APPLICATION

The Town of Johnstown has received the following application for review:

Applicant: The Ryland Group, Inc.

Project: Final Plat - Stroh Farms Filing No. 5 (6, 7 attached)

Location: West of S. Parish Ave. (CR 17) and South of Cinnamon Teal Dr.

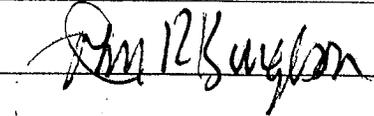
Please reply by: February 15, 2008

Tentative Planning and Zoning Commission Hearing: February 27, 2008

Town Planner: John Franklin jfranklin@townofjohnstown.com

The application is submitted to you for review and comment. Any comments or recommendations you consider relevant to this request would be appreciated. Please reply by the above listed date so that we may give full consideration to your recommendations. If additional documentation will be required, please advise our office as soon as possible.

- We have reviewed the request and find no conflicts with our interests.
- Please see the attached letter.
- Comments:

Signature:  Date: 2/7/08

Agency: _____



FELSBURG
HOLT &
ULLEVIG

engineering paths to transportation solutions

February 18, 2008

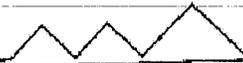
MEMORANDUM

TO: John Franklin
FROM: David E. Hattan, P.E.
SUBJECT: Final Plats
PROJECT: Stroh Farm, Filings 5, 6, and 7
FHU # 99-201

I have reviewed the Final Plats for Filings 5, 6, and 7 of Stroh Farm. I met with the developer's civil engineer in October 2007 to discuss transportation planning considerations with these filings. The plats seem to address my concern about intersection separation, as Muscovy Lane is approximately 1260 feet west of WCR 17 (mistakenly labeled WCR 42 on Sheet 2 of 3 for Filing 6). This should leave adequate separation to allow another access to the future commercial area located in the northwest corner of WCR 17 and WCR 42. Filing 7 shows a separation of approximately 954 feet between Muscovy Lane and Pekin Drive, which should also be adequate.

Future construction plans will need to show that there is adequate sight distance for these intersections, as concerns about grades along WCR 42 were mentioned during the October 2008 meeting. Other future information that I also requested includes a letter report to update the traffic impact analysis for this subdivision. The report can focus on the approaches to the WCR 17/WCR 42 intersection covered by these filings. Since WCR 42 is currently unpaved, consideration should be given to improving the north side of the arterial, as illustrated in the new Transportation Plan.

Please call if you have any questions or need additional information regarding this matter.

Town of 
Johnstown

Planning Department
 101 Charlotte St. Johnstown, CO 80534
 (970) 587-4664; Fax (970) 587-0141
www.townofjohnstown.com

Fixed
1-30-08
W. Foster

DATE: January 28, 2008

REFERRAL OF APPLICATION

The Town of Johnstown has received the following application for review:

Applicant: The Ryland Group, Inc.

Project: Final Plat - Stroh Farms Filing No. 5

Location: West of S. Parish Ave. (CR 17) and South of Cinnamon Teal Dr.

Please reply by: February 15, 2008

Tentative Planning and Zoning Commission Hearing: February 27, 2008

Town Planner: John Franklin jfranklin@townofjohnstown.com

The application is submitted to you for review and comment. Any comments or recommendations you consider relevant to this request would be appreciated. Please reply by the above listed date so that we may give full consideration to your recommendations. If additional documentation will be required, please advise our office as soon as possible.

- We have reviewed the request and find no conflicts with our interests. 82 Lots
- Please see the attached letter.
- Comments:

Cash-in-lieu fee of \$750.00 per lot will go into effect on
sale of 160th lot in filing 445 per agreement with Ryland.

Signature: Mark L. [unclear] Date: 1-30-08

Agency: Weld Re-5-J School District



Johnstown Fire Protection District

PO Box 979
Johnstown, CO 80534
970-587-0339

February 13, 2008

Town of Johnstown Planning Department
Referral Application
Re: Final Plat - Stroh Farms # 5, 6, 7

Thank you for the referral.
I will need two sets of plans submitted for plan review. This will ensure adequate apparatus access, water supply, and appropriate hydrant location.

Thank you,

Jesse Molinar Jr.
Fire Prevention/Life Safety
jmolinar@johnstownfire.org



MEMORANDUM

January 31, 2008

TOWN OF JOHNSTOWN

TO: JOHN FRANKLIN, TOWN PLANNER

FROM: AL TRUJILLO, SENIOR RIGHT OF WAY SPECIALIST

NAME OF SUBDIVISION	FILING	RECEIPT OF NOTICE	COMMENTS ON OR BEFORE
STROH FARMS	05	013008	021508
10 FT WIDE EASEMENTS AROUND PERIMETER OF TRACTS A THRU E			
STROH FARMS	06	013008	021508
10 FT WIDE EASEMENT AROUND PERIMETER OF LOT 1, BLOCK 8			
STROH FARMS	07	013008	021508
10 FT WIDE EASEMENTS AROUND PERIMETERS OF TRACT A TRACTS B & C TO INCLUDE UTILITY USEAGE			

PLEASE LET ME KNOW IF I CAN BE OF FURTHER ASSISTANCE ON THIS MATTER AND THANKS AGAIN FOR YOUR HELP.

Town of

Johnstown

Planning Department
101 Charlotte St. Johnstown, CO 80534
(970) 587-4664; Fax (970) 587-0141
www.townofjohnstown.com

DATE: January 28, 2008

REFERRAL OF APPLICATION

The Town of Johnstown has received the following application for review:

Applicant: The Ryland Group, Inc.

Project: Final Plat - Stroh Farms Filing No. 5

Location: West of S. Parish Ave. (CR 17) and South of Cinnamon Teal Dr.

Please reply by: February 15, 2008

Tentative Planning and Zoning Commission Hearing: February 27, 2008

Town Planner: John Franklin jfranklin@townofjohnstown.com

The application is submitted to you for review and comment. Any comments or recommendations you consider relevant to this request would be appreciated. Please reply by the above listed date so that we may give full consideration to your recommendations. If additional documentation will be required, please advise our office as soon as possible.

We have reviewed the request and find no conflicts with our interests.

Please see the attached letter.

Comments:

PLEASE PROVIDE CONSTRUCTION PLANS FOR REVIEW AND PLEASE SHOW THE LTWD WATERLINE ALONG WCR 17. THE EXISTING WATERLINE NEEDS TO REMAIN IN SERVICE.

Signature: _____

Date: 1/31/08

Agency: LITTLE THOMPSON WATER DISTRICT

Town of
Johnstown

Planning Department
101 Charlotte St. Johnstown, CO 80534
(970) 587-4664; Fax (970) 587-0141
www.townofjohnstown.com

*rec
1-29-08
copy & FE*

DATE: January 28, 2008

REFERRAL OF APPLICATION

The Town of Johnstown has received the following application for review:

Applicant: The Ryland Group, Inc.

Project: Final Plat - Stroh Farms Filing No. 5

Location: West of S. Parish Ave. (CR 17) and South of Cinnamon Teal Dr.

Please reply by: February 15, 2008

Tentative Planning and Zoning Commission Hearing: February 27, 2008

Town Planner: John Franklin jfranklin@townofjohnstown.com

The application is submitted to you for review and comment. Any comments or recommendations you consider relevant to this request would be appreciated. Please reply by the above listed date so that we may give full consideration to your recommendations. If additional documentation will be required, please advise our office as soon as possible.

- We have reviewed the request and find no conflicts with our interests.
- Please see the attached letter.
- Comments:

Signature: Richard L. Peterson Date: 02/04/2008

Agency: QUEST COMMUNICATIONS

FINAL PLAT

AGENDA ITEM 9C

**PUBLIC
IMPROVEMENTS
DEVELOPMENT
AGREEMENT
(Stroh Farm Filing No. 7)**

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: September 4, 2013

ITEM NUMBER: 9C

SUBJECT: Consider Public Improvements Development Agreement- Stroh Farm Filing No. 7

ACTION PROPOSED: Consider Approval of Public Improvements Development Agreement for Stroh Farm Filing No. 7

PRESENTED BY: Mr. John Franklin, Town Planner and Mr. Russ Anson, Town Attorney

AGENDA ITEM DESCRIPTION: The Final Plat for Stroh Farm Filing No. 7 was approved earlier in tonight's agenda. The Public Improvements Development Agreement requires the Developer to develop the property in accordance with the subdivision plat that was approved previously by the Council. The Agreement requires the Developer to install public improvements at the Developer's cost in accordance with the Town's specifications. It also follows the requirements of the Settlement Agreement with the Ryland Group, Inc., dated April 1, 2013,

LEGAL ADVICE: The Town Attorney drafted the attached public improvements development agreement.

FINANCIAL ADVICE: N/A

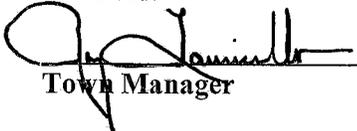
RECOMMENDED ACTION: Consider approval of the public improvements development agreement.

SUGGESTED MOTIONS:

For Approval: I move to approve the public improvements development agreement – Stroh Farm Filing No. 7.

For Denial: I move to deny approval of the public improvements development agreement – Stroh Farm Filing No. 7.

Reviewed:


Town Manager

AGREEMENT

**PUBLIC IMPROVEMENTS
DEVELOPMENT AGREEMENT
FOR
TOWN OF JOHNSTOWN
(STROH FARM, FILING NO. 7)**

THIS AGREEMENT, made and entered into between the **TOWN OF JOHNSTOWN, COLORADO**, a municipal corporation, (hereinafter referred to as the "**Town**") and **THE RYLAND GROUP, INC.**, a **Maryland corporation** (hereinafter referred to as "**Developer**");

WITNESSETH:

WHEREAS, the Developer is the owner/contract purchaser of a parcel of land (hereinafter referred to as the "**Development**") situated in the Town of Johnstown, County of Weld, State of Colorado, the description of which is set forth on the attached **Exhibit "A"**, and is incorporated herein by this reference; and

WHEREAS, the Developer has designated the Development as **Stroh Farm, Filing No. 7**, of which Developer is the fee simple owner. A copy of the development plan or subdivision plat is attached as **Exhibit "B-1"** and incorporated herein by this reference; and

WHEREAS, the Developer will develop the entire Development in one phase; and

WHEREAS, the Developer has agreed to undertake and complete the Development in accordance with the Town's requirements and conditions for approval of the subdivision plat or development plan, including but not limited to the ordinance or resolution which is attached hereto as **Exhibit "B-2"** and incorporated herein by this reference; and

WHEREAS, "**Filing No. 7**" constitutes a portion of the development commonly known as **Stroh Farm**; and

WHEREAS, the Developer agrees and acknowledges that the expenses and Public Improvements to be furnished by the Developer hereunder are reasonable, necessary, appropriate, and directly benefit the Development contemplated herein.

NOW, THEREFORE, in consideration of the premises cited above and the mutual covenants and promises contained herein, the sufficiency of which is acknowledged, the Town of Johnstown and Developer agree as follows:

1. **Definitions:** For the purposes of this Agreement, the following words and terms shall be defined as follows:

(a) **“Developer”** includes the owner and/or owners of the land described in **Exhibit “A”** and any of the owner(s), agents, representatives, heirs, successors or assigns, of any of the property described in **Exhibit “A”** provided that individuals who are agents or representatives of any owner shall not be personally liable under this Agreement;

(b) **“Development”** means all the property, property rights and improvements within the legal description in **Exhibit “A”**;

(c) **“Each Phase”** means each separate phase of the Development for which all necessary Public Improvements shall be completed as described on the attached **Exhibit “C”**;

(d) **“Maintenance Guarantee”** shall mean a guarantee that the Public Improvements constructed shall be free from defects.

(e) **“Filing No. 7”** means the property, property rights, and improvements within the legal description, **Exhibit “A-1”**.

(f) **“Town”** means the Town of Johnstown, Colorado.

(g) **“Town Manager”**, **“Town Attorney”**, and **“Town Treasurer”** shall include their authorized designees;

(h) **“Town Official”** includes the Town Manager, Town Attorney, Town Treasurer, Town Engineer, Town Planner, and their authorized designees;

2. **Public Improvements:** The Developer shall design, construct, and install at its own expense, the Public Improvements for the Development as required by **Exhibit “B”** (the Developer Requirements) and as described on Exhibit B-3 (Additional Terms, Conditions or Provisions) and Exhibit “C” (the Schedule of Public Improvements), attached hereto and incorporated herein by this reference and hereinafter referred to as the “Public Improvements.” Once construction begins, Developer agrees to keep the Town Manager and Town Engineer informed by weekly status reports of the progress of the work and a projection of when the Public Improvements will be completed as well as the cost of such Public Improvements.

2.1 Except as otherwise may be provided in Exhibit B-3, no building permit for any structure within any individual phase shall be issued by the Town until all individual phase Public Improvements, including, but not limited to, water lines, fire hydrants, curb, gutter, sanitary sewer,

streets, paving (weather permitting), landscaping, and fencing serving such structures have been completed and the Town having received developer's design engineer's certification that all Public Improvements have been installed per design and written confirmation by the Town Engineer. Certain Public Improvements such as street signs, street lighting, and sidewalks or other Public Improvements need not be installed prior to issuance of building permits if, in the opinion of the Town Engineer, they are not critical, but they must be installed prior to the issuance of a Certificate of Occupancy.

2.2 Once the required Public Improvements have been completed, the Performance Guarantee described in paragraph 4.3 may also be reduced to 110% of the estimated cost of the remaining non-completed Public Improvements provided the Town receives from the developer's design engineer certification to the completion of the required Public Improvements and as to cost of non-completed Public Improvements with review by the Town Engineer.

2.3 To provide for emergency vehicular access, no building permits shall be issued for any structure located in excess of one hundred and fifty feet (150'), excluding cul-de-sacs, from a single point of vehicular access unless an approved temporary second point of vehicular access is provided. Except as otherwise provided herein, the Town shall not issue building permits, or install water meters unless: (1) the Public Improvements serving the applicable phase, except for those not required pursuant to paragraph 2.1, have been initially accepted by the Town Engineer; (2) the progress of work on the Public Improvements throughout the Development are satisfactory to the Town -- progress will be deemed "satisfactory" if it is consistent with the phasing plan approved by the Town; (3) meter and curb stop pass inspection; and (4) all terms of this Agreement have been faithfully kept by the Developer.

3. ***Completion of Public Improvements:*** For each phase, the obligation of the Developer provided for herein shall be performed on or before the Estimated Completion Date set forth in the Exhibit "C," "Schedule of Public Improvements", and in no event shall Development for each phase be completed later than eighteen (18) months from the start date of construction of each phase unless such time is extended for reasons beyond the reasonable control of Developer and Developer has obtained the written consent of the Town Manager.

3.1 ***Standards and Specifications:*** Construction of the Public Improvements shall be in strict conformance with the plans and specifications which are to be reviewed by the Town Engineer and with all policies, ordinances, standards and specifications adopted by the Town relating thereto. The Town's review and approval of the plans shall not limit or affect Developer's responsibility or liability for design, construction and installation of the Public Improvements, and Developer agrees to save and hold the Town harmless from any claims, fault or negligence attributable to such design, construction and installation (other than negligent designs which are required by the Town over the objection of Developer).

3.2 **Testing:** Developer shall employ, at its own expense, a qualified independent testing company, which is to be approved by the Town Engineer, to perform all testing of materials or construction that may be reasonably required by the Town. Developer shall furnish certified copies of test results to the Town Engineer.

3.3 **Inspection:** At all times during construction of the Public Improvements, the Town shall have the right, but not the duty, to inspect materials and workmanship, at Developer's cost and all materials and work must conform to the approved plans and specifications on file with the Town. Any material or work not conforming to the approved Town plans, standards, and specifications shall be promptly removed, repaired or replaced, at the Developer's expense and to the satisfaction of the Town Engineer.

3.4 **Utilities:** Developer shall furnish proof that all proper conveyances and arrangements have been made for the installation of streets, street lights, sidewalks, water, sanitary sewer, gas, electricity, cable television, telephone services, drainage facilities and other Public Improvements. An acceptable form of proof are copies of contracts for installation/construction for each improvement.

4. **Initial Acceptance:** Developer shall make written application to the Town Manager and Town Engineer for initial acceptance of the Public Improvements ("Initial Acceptance") within thirty (30) days of their actual completion date. After the receipt of said written application, the Town Engineer will use reasonable efforts to promptly inspect the Public Improvements and prepare a detailed written description of all Public Improvements which are not in compliance with plans and specifications previously approved by the Town, subject to any changes that have been approved by the Town and any changes that have been required by the Town as a result of any unforeseen engineering design issues and deliver that description to the Developer. After curing such defects as are noted on the written statement provided by the Town Engineer to the Developer, the Developer shall make written application to the Town for re-inspection of the Public Improvements, and the Town Engineer or his designee will use reasonable efforts to promptly re-inspect such Public Improvements. The Town will use its best efforts to issue its Initial Acceptance, or to advise the Developer of any defects, within ten (10) days after the Developer has submitted its written application and the drawings, affidavit and, if required, lien waivers described in Sections 4.1 and 4.2 (and, if any defects are identified by the Town and cured by the Developer, the Town will use its best efforts to issue its Initial Acceptance within ten (10) days after the Developer has made written application for re-inspection).

4.1 Before Initial Acceptance of the Public Improvements by the Town, Developer shall furnish to the Town Manager one set of reproducible "as built" drawings, certified as to accuracy by

the Developer's final affidavit of the Public Improvements' construction cost and attach verification reasonably satisfactory to the Town.

4.2 Before Initial Acceptance by the Town, the Developer shall provide the Town Manager with a final affidavit, signed by the Developer, that the Public Improvements have been paid for, in full, by the Developer. If the Town Manager requests, the Developer shall provide lien waivers (or some other acceptable assurance) from all subcontractors, suppliers and materialmen who have furnished labor, material or services for the design, construction or installation of Public Improvements. The Developer shall be responsible for the information so provided. The affidavit and lien waivers may be reviewed by the Town, but the Town assumes no responsibility or liability to or for anyone regarding the veracity of the information so provided.

4.3 **Performance Guarantee:** Prior to any issuance of building permits in an approved phase, the Developer shall furnish to the Town a cash escrow or an irrevocable letter of credit, [hereinafter referred to as "Performance Guarantee(s)"] in which the Town is designated as beneficiary in an amount equal to 110% of the cost of the non-completed Public Improvements within the Approved Phase as described on attached Exhibit "C", the amount of which costs shall be certified by Developer's professional engineer, licensed in the State of Colorado, and reviewed by the Town Engineer. The Town Engineer will monitor progress of the Development at Developer's cost and if Developer commences development on any other Approved Phase, Developer shall obtain approval of the Town Manager who shall require similar security in an appropriate amount to guarantee completion of the Public Improvements in such Phase.

4.3.1 Letters of credit shall be substantially in the form and content as set forth in Exhibit "D-1", attached hereto and incorporated herein by reference, and shall be subject to the review and approval of both the Town Attorney and Town Manager.

4.3.2 It is acknowledged by the Developer and by the Town that the estimated cost of completion of the Public Improvements in an Approved Phase may increase in the future. Accordingly, the Town reserves the right to review such cost and if the Town reasonably believes that the amount of the Performance Guarantee is inadequate (i.e., less than 110% of the costs of completion), it may increase the Performance Guarantee amount at any time in the future, both before and after Developer provides the initial Performance Guarantees to the Town. If a Town Official exercises the option or right to adjust cost estimates for the Public Improvements, written notice thereof shall be given to the Developer. The Developer shall, within ten (10) days after being given written notice, provide the Town with a new or amended Performance Guarantee in the amount of 110% of the revised cost estimates for non-completed Public Improvements.

4.4 **Maintenance Guarantee.** Before Initial Acceptance by the Town, the Developer shall also provide the Town with a maintenance guarantee in the form of a cash escrow deposited

with the Town, or an irrevocable letter of credit in the form attached hereto as Exhibit "D-1", in which the Town is designated as the beneficiary, with said maintenance guarantee equal to fifteen percent (15%) of the total cost of all of the Public Improvements together with costs of all landscaping improvements including, but not limited to, turf grass, trees, shrubs, fences, irrigation systems, lighting systems, and hard surface pavement. The maintenance guarantee shall warrant and guarantee all expenses and costs for maintenance, repairs and replacements of the Public Improvements and all landscaping improvements for a period of two (2) years after Initial Acceptance by the Town. Upon commencement of the Maintenance Guarantee, the Performance Guarantee for those completed and Town accepted Public Improvements will be deemed terminated and any remaining balance (other than what is required for the non-completed Public Improvements and the Maintenance Guarantee) will be released by the Town.

4.5 Until Final Acceptance of all of the Public Improvements in each applicable Phase of the Development by a Certificate of Completion reviewed by the Town Engineer, the maintenance guarantees will not be released and the Developer shall bear all risks and liability related to any loss, damage, or claims, due to defects or failures of any of the Public Improvements in such Phase.

4.6 After receiving a written request from the Developer, and following completion of the Public Improvements, the furnishing of certified "as built" drawings and a final affidavit of construction cost, the furnishing of evidence that all contractors, subcontractors, and materialmen performing work and providing labor, materials and services related to the design, construction or installation of the Public Improvements have been paid in full, and satisfactory evidence that terms of this Agreement have been complied with by the Developer, and the Town's receipt of the maintenance guarantee(s) required by Paragraph 4.4, the Town shall grant Initial Acceptance of the Public Improvements in accordance with established Town procedures applicable at the time of acceptance.

5. ***Maintenance, Repair and Replacement:*** Until "Final Acceptance" of the Public Improvements in the Development, the Developer shall perform all maintenance and make all repairs and replacements of all defects or failure of Public Improvements in such Phase at Developer's expense which, in the reasonable opinion of the Town Engineer, may be necessary. If, within fifteen (15) days after the Developer's receipt of written notice from a Town Official requesting such maintenance, repairs and/or replacements, the Developer shall not have undertaken with due diligence to make the same, the Town may make such maintenance, repairs and/or replacements at the Developer's expense and shall be entitled to draw upon the guarantee described in Paragraph 4.3 or 4.4 of this Agreement, either before undertaking to make such repairs or at any time thereafter, or the Town may charge the Developer for the costs thereof. In case of emergency, such written notice shall be deemed waived and the Town may proceed as it deems necessary, at the expense of the Developer or the issuers of the performance or maintenance guarantee.

6. ***Final Acceptance of Each Phase:*** Two (2) years after the Town's Initial Acceptance of all of the Public Improvements in each applicable phase of the Development, the Developer shall make a written request to the Town Manager for a final inspection of the Public Improvements within such phase of the Development. After receipt of satisfactory evidence that the Public Improvements in that phase of the Development have been Initially Accepted and all of the maintenance, repairs, and replacements requested by Town Officials have been completed to the satisfaction of the Town, the Town Manager shall certify completion and Final Acceptance of the Public Improvements in such phase. The maintenance guarantees provided by the Developer shall be released after the Final Acceptance of all of the Public Improvements in the Development have been granted and the approved certificate of completion has been received by the Town.

7. ***Rights-of-Way and Easements:*** Before commencing the construction of any Public Improvements herein agreed upon, the Developer shall acquire, at its own expense, good and sufficient rights-of-way or easements, clear of any encumbrances, on all lands and facilities, if any, traversed by the proposed Public Improvements. All such rights-of-way and easements shall be conveyed to the Town and the documents of conveyance shall be furnished to the Town Manager for recording.

7.1 At the Town's request, the Developer shall provide at its sole expense a policy of title insurance insuring title in the Town, free and clear of all liens and encumbrances, for all land, property and easements dedicated or conveyed (except those easements that do not affect the Town's use of the property) to the Town or for public use.

8. ***Engineering Services:*** The Developer shall furnish, at its own expense, all engineering and landscaping services in connection with the Development and the Public Improvements.

8.1 Engineering services shall be performed by a professional engineer registered in the State of Colorado and landscape design shall be performed by a landscape architect or engineer and landscaping services shall conform to the Town's ordinances, standards, and specifications.

8.2 Engineering services shall consist of, but not be limited to, survey, designs, plans and profiles, estimates, construction administration, and the furnishing of necessary documents in connection therewith. All engineering plans shall be submitted for review by the Town Engineer. Landscape plans shall be submitted to and reviewed by the Town Planner. The Town's review will not relieve Developer, Developer's Engineer, or Developer's Landscape Architect or Engineer of any responsibility or liability for design, landscaping, construction and installation of the Public Improvements and Developer agrees to save and hold the Town harmless from any claims for fault or negligence attributable to such services.

9. ***Water and Sewer Service.*** The Town and Developer will enter into a Water and Sewer Service Agreement which will set forth their agreement concerning water rights dedication, preliminary projections of water and sewer demand and a current commitment by the Town for water and sewer service to the Development. The terms of the Water and Sewer Service Agreement are incorporated herein and made a part hereof.

10. ***Operation Standards:***

10.1 The operation of construction equipment outside an enclosed structure shall be prohibited between the hours of 8:00 p.m. and, on weekdays, the hour of 7:00 a.m. or, on weekends and legal holidays, the hour of 8:00 a.m. The Town Manager may, upon written application, alter the hours of operation for good cause.

10.2 The operation of construction equipment for the purpose of grading or constructing either surface improvements or underground utilities, either public or private, shall be prohibited between the hours of 8:00 p.m. and 7:00 a.m. on weekdays and 4:00 p.m. and 8:00 a.m. on legal holidays and weekends. Upon written request, the hours of operation may be altered by the Town Manager.

10.3 The Developer agrees to control all weeds growing within the said Development and in the event that the Developer shall fail to cut any weeds for ten (10) days after receiving written notice to do so, building permits may be denied in said Development until such time as Developer has complied with this section.

10.4 The Developer shall, at all times, keep the public right-of-way free from accumulation of waste material or rubbish caused by his operation. He shall remove such rubbish no less than weekly and, at the completion of his work, shall remove all waste materials, rubbish, tools, construction equipment, machinery, and surplus materials from the public right-of-way caused by his operation. Any excessive accumulation of dirt and/or construction materials shall be considered sufficient cause for the Town to withhold building permits and/or certificates of occupancy until corrected to the satisfaction of the Town Engineer.

10.5 When the Town Engineer determines that erosion (either by wind or water) is likely to be a problem, Developer shall install temporary or permanent erosion control into the subdivision at the earliest practicable time. By way of explanation and without limitation, said control may consist of seeding of approved grasses, temporary dikes, gabions, and/or other devices.

10.6 In the event that the Developer fails to perform the work required in Section 10.3, 10.4, or 10.5 after reasonable written notice, the Town may perform the work required and charge the Developer for said cost of cleaning. The Developer shall pay the Town for all costs incurred by the

Town in the performance of the above said service within ten (10) days of the Town submitting an invoice for said services. Failure by the Developer to pay within the specified time shall be cause for the Town to deny future building permits and/or order a cessation of all activities on the development.

10.7 The developer hereby ensures that his subcontractors shall cooperate with the Town's construction inspectors by ceasing operations when winds are of sufficient velocity to create blowing dust which, in the inspector's opinion, is hazardous to the public health and welfare.

11. *Development Standards.*

11.1. All requirements in the Annexation Agreement must be complied with by Owner/Developer, except to the extent that they may be specifically amended by this Agreement.

11.2. Arterial road improvements adjacent to (on the same side of the street) Owner/Developer's property County Road 42 shall include paving, and arterial street landscaping (trees and evergreens along with deciduous shrub beds and bluegrass) plus street lighting and a meandering sidewalk/bike path (6 inches thick), and fencing with columns as has been constructed in prior Stroh Farm filings. Bus shelters shall be furnished if required by the School District. All overhead utility lines shall be placed underground. Road improvements and landscaping for arterial roads must be completed within six (6) months after the start of construction (weather permitting) but, in any event, no later than the issuance of the first Certificate of Occupancy. Upon completion of the road improvements and landscaping adjacent to Owner/Developer's property, the completion of the balance of landscape and improvements (if any), must be guaranteed through a cash escrow or letter of credit in the amount of 110% of the value of the improvements and shall be completed no later than two (2) years from the date of this Agreement. After the first year, the requirement for the amount of the cash escrow or letter of credit may be increased by the Town by the amount of the increase in the cost of providing such public facilities, utilizing the most recent data from the Engineering News Record Construction Cost Index for the Denver metropolitan area. Owner/Developer shall provide an irrigation system plan, landscaping plan, fencing, and an entry way signage plan, all to have prior approval of Town staff. A design plan for street signs and posts, fences, bus shelters, and street lighting shall be submitted to Town staff for approval prior to installation. Landscaping and fencing shall be designed in accordance with the Town's Landscape Guidelines.

11.3. All trails within the development must be a minimum of ten (10) feet wide (6 inches thick) and constructed of concrete. Interior sidewalks shall be a minimum of five (5) feet wide (4 inches thick) and constructed of concrete.

11.4. Appropriate design standards must be met including, but not limited to, the following:

- A. Dwellings in this filing will be of equal quality and size to dwellings in Filings 4, 5 and 6.
- B. All off-street parking structures or pads shall be provided to the rear of the front setback. Driveways leading to the off-street parking may be constructed within the front setback, and may also be used for parking.
- C. In areas built with single family homes, no individual unit shall be built (with the same elevation) within three (3) of itself on both sides of the street and all units shall have at least a two-car garage.
- D. In areas built with single family homes, at least twenty-five percent (25%) of the facade of each dwelling unit (excluding windows, doors, and garage doors) shall be of masonry, stone, brick, or an equivalent. All roofs shall have thirty (30) year architectural style shingles. Any shingle type or style other than architectural style shingles will be submitted to the Town for prior approval, but three-tab conventional asphalt shingle roofing will not be permitted.

11.5. Current Municipal Code required setbacks must be met concerning oil and gas facilities.

11.6. A landscape buffer and a meandering sidewalk (six inches thick) identical to prior Stroh Farm filings shall be constructed along arterial roads (S. Parish Ave.). The landscape buffer will be landscaped with deciduous trees and evergreens along with deciduous shrub beds and bluegrass in accordance with the Town's approved landscape plan. All local streets shall have five-foot attached sidewalks and collector streets shall have five-foot detached sidewalks and shall be landscaped with trees and grass. All landscape and irrigation improvements within the rights-of-way will be constructed for and paid for by the Owner/Developer and the homeowners' association will be responsible for the maintenance of all landscape improvements within the Development.

11.7. "External landscaping" will include the following items, to the extent they are to be located along the perimeter of the Development: landscaping, undergrounding of overhead utility lines, entry monuments, exterior lighting, fences, and exterior sidewalks. All external landscaping shall be commenced with the issuance of the first building permit and must be completed within six (6) months (weather permitting) but, in any event, no later than the issuance of the first Certificate of Occupancy.

11.8. "Internal landscaping" includes all landscaping within the interior of the development. Internal landscaping for each phase must commence with the issuance of the first building permit for

each respective phase and must be completed within six (6) months (weather permitting) but, in any event, no later than the issuance of the first Certificate of Occupancy within such phase.

11.9. All final plat and construction drawings shall be submitted in mylar, print, and digital form (which must conform to the Town's format and content requirements).

11.10 All drainage and holding ponds shall be kept free of standing water by whatever means possible including, but not limited to, pumping water out of any holding ponds.

12. **Other Special Provisions:** Other special terms, conditions or provisions relating to this Development are set forth in Exhibit "B-3" and as conditions to the plat or plan approval shown on the Ordinance or Resolution approving Development, Exhibit "B-2," both of which are attached hereto and incorporated herein by this reference.

13. **Liability:**

13.1 **Indemnification:** The Developer hereby agrees to indemnify and hold the Town, Town Officials, its employees, agents, representatives, insurers and self insurance pool harmless from and against any and all suits, demands, actions, damages, liability, losses, claims, fees and expenses (including attorney's fees) resulting or arising in any way from any breach or default of this Agreement or any acts or omissions of the Developer, its employees, agents, consultants, representatives or subcontractors except to the extent caused by gross negligence or willful misconduct of the Town. Developer shall promptly investigate, handle, respond to, and provide defense for and defend against any such liability, claims or demands at the sole expense of Developer. Developer also agrees to bear all costs, expenses, and attorney's fees related thereto whether or not such liability, claims or demands are groundless, false or fraudulent.

13.2 **Insurance:** The Developer shall for itself and for its contractors, subcontractors, representatives and agents engaged in the design, construction or installation of improvements maintain such liability insurance including general liability, contractors liability, professional liability, comprehensive automobile liability, worker's compensation insurance and sufficient public liability insurance as will protect the Town, Town Officials, its employees, agents and representatives against any and all potential liability, claims, damage, demands, losses, and expenses which may be incurred or asserted pursuant to Paragraph 13.1 above. Liability insurance shall be in the minimum amount of one hundred fifty thousand dollars (\$150,000.00) for injury to one person, or six hundred thousand dollars (\$600,000.00) for injury to two or more persons in any single occurrence, or such greater amounts as may be established by the Colorado Governmental Immunity Act, as may be amended. Whenever requested by Town or Town Officials, the Developer agrees to promptly submit certificates of insurance evidencing sufficient amounts, types and duration of insurance and which show the Town, Town Officials, its employees, agents and representatives as

additional insureds. Developer shall not be relieved of any liability, claims, demands or other obligations assumed or set forth in this Development Agreement by reason of its failure to procure or maintain such insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations or types.

13.3 **Drainage Liability:** Developer shall indemnify and hold the Town harmless from any liability the Town may have on account of any change in the nature, direction, quantity, or quality of drainage flow resulting from the Development. In addition, Developer shall reimburse the Town for any and all costs, fees, and expenses, including attorney's fees, which the Town incurs in acquiring any rights-of-way or easements which the Town is required to acquire or condemn or which the Town is held to have acquired or condemned for drainage as a result of this Development. Storm drainage fees required under Municipal Code Section 17-113 (\$1,100.00 per acre currently) shall be paid at the time of plat approval and prior to issuance of any building permit.

13.4 **Tax Liability:** Developer shall pay any outstanding taxes, encumbrances or obligations on any property dedicated or conveyed to the Town prior to or at the time of such dedication or conveyance, and shall indemnify and hold the Town harmless from any and all encumbrances, obligations, or tax liability incurred prior to the dedication or conveyance to the Town. Any use tax due for construction materials shall be paid prior to construction of any improvements on the property.

13.5 **Cost Reimbursement to Town:** Developer shall reimburse Town for professional consultants such as engineers, testing companies, and attorneys necessitated by processing and completion of this development. Should payment for these reimbursable Town expenses not be made by Owner/Developer within thirty (30) days of notification, the Town may assess the amount plus ten percent (10%) to defray the costs of collection as provided by State law, and file a lien against the Property, such lien to have priority over all liens except general taxes and prior special assessments and to be placed upon the tax lists for the current year to be collected in the same manner as taxes are collected.

14. **Breach of Agreement by Developer:**

14.1 If at any time this Agreement or any part hereof has been breached by Developer or if satisfactory progress (substantially in accordance with the agreed construction schedule) has not been made on the design, construction, installation, repair, replacement or maintenance of the Public Improvements, the Town may, after ten (10) days prior written notice to Developer, draw on the performance or maintenance guarantees designated in Paragraph 4.3 and 4.4 of this Agreement and the Town may withhold approval of any or all building permits, certificates of occupancy, water meters or tap hook-ups for any area within the Development if Developer then makes no reasonable progress as determined by the Town. Notwithstanding these rights and remedies, the Town may

pursue whatever additional remedies it may have against Developer or anyone, either at law, equity or pursuant to this agreement. The Town's remedies shall be cumulative.

14.2 The parties agree that should Developer default in any obligation for improvements required to be made under this Agreement, the Town may estimate the cost of such improvements and give notice to Developer to pay such cost estimate. The Town shall use such payment for said improvements and refund any money collected in excess of the actual cost of said improvements. Should payment not be made within thirty (30) days of such notice, the Town may assess the amount of the cost estimate, plus ten percent (10%) to defray the cost of collection as provided by state law, to the Property and file a lien against the Property, such lien to have priority over all liens except general taxes and prior special assessments and to be placed upon the tax list for the current year to be collected in the same manner as taxes are collected. The Town may file such lien at any time after said thirty (30) days while Developer is in default of this Agreement.

15. **No Waiver:** Delays in enforcement or the waiver of any one or more breaches of this Development Agreement by the Town shall not constitute a waiver of any of the remaining terms or obligations.

16. **Severability:** If any provisions or parts of this Development Agreement are judged to be unenforceable or invalid, to the extent practicable, such judgment shall not affect, impair or invalidate the remaining parts of this Agreement, the intention being that the various parts and provisions hereof are severable.

17. **Recording of Agreement:** A Notice of this Development Agreement substantially in the form as shown on Exhibit "E" is to be recorded with the approved subdivision plat or development plan and shall be a covenant running with and against all the property, property rights and improvements contained within the Development described in Exhibit "A" in order to put prospective owners, purchasers, successors, assigns, and others acquiring any interest in the property on notice as to the terms and obligations herein.

18. **Binding Effect:** Unless otherwise provided herein, this Development Agreement shall be binding upon Developer's heirs, successors, assigns, transferees and any other person or entity acquiring or purchasing any interest in any of the property described in the attached Exhibit "A", with the exception of a bona fide residential home buyer of a completed owner occupied home.

19. **Transfer or Assignments:** In the event of a sale or transfer of any portion of the Development, except to a bona fide residential home buyer of a completed owner-occupied home, the seller or transferor and the purchaser or transferee shall be jointly and severally liable for the performance of each of the obligations contained in this Development Agreement unless, prior to the transfer or the sale, a written agreement satisfactory to the Town delineating and allocating the

various rights and obligations for the improvements, has been approved and executed by the Town Council.

20. **Title and Authority:** Developer expressly warrants and represents to the Town that it is the record owner of the Development and further represents and warrants that the undersigned has full power and authority to enter into this Development Agreement. Developer understands that the Town is relying on the representations and warranties contained herein, in approving the final development plat or plan and in entering into this Agreement.

21. **Notice:** Any notice to Developer or the Town, which may be given under the terms of this Agreement, shall be in writing and shall be deemed sufficiently given when sent certified U.S. Mail and 1st Class Mail, postage prepaid addressed as follows:

TO DEVELOPER:

THE RYLAND GROUP, INC.
Attention: Kent Pederson
8200 E. Maplewood Avenue, Suite 150
Greenwood Village, CO 80111

TO TOWN:

TOWN OF JOHNSTOWN
Attention: TOWN MANAGER

P. O. Box 609
Johnstown, CO 80534

With copy to:

R. Russell Anson
Johnstown Town Attorney
P. O. Box 336155
Greeley, CO 80633

22. **Default.** In the event of a default by either party under any provision in this Development Agreement, which shall require the party not in default to commence legal or equitable action against said defaulting party, the defaulting party shall be liable to the non-defaulting party for the non-defaulting party's reasonable attorneys' fees and costs incurred by reason of the default. Nothing herein shall be construed to prevent or interfere with the Town's rights and remedies specified elsewhere in the Agreement.

23. **Vested Right.** The Subdivision Plat addressed by this Development Agreement shall have vested rights pursuant to C.R.S. 24-68-101, et seq., for a period of three (3) years from the date of this Agreement.

**PUBLIC IMPROVEMENTS
DEVELOPMENT AGREEMENT
FOR
THE TOWN OF JOHNSTOWN**

EXHIBITS

TABLE OF CONTENTS

EXHIBIT A:	Legal Description of Subject Property
EXHIBIT B:	Developer Requirements
EXHIBIT B-1:	Copy of Plat/Plan
EXHIBIT B-2:	Town Ordinance or Resolution Approving Development
EXHIBIT B-3:	Additional Terms, Conditions or Provisions
EXHIBIT C:	Schedule of Public Improvements
EXHIBIT D-1:	Irrevocable Letter of Credit Form
EXHIBIT E:	Notice (Approval of Final Plan/Plat and of Development Agreement)

EXHIBIT B-3

ADDITIONAL TERMS, CONDITIONS OR PROVISIONS

1. Owner/Developer shall adequately address all referral comments submitted.
2. Right-of-way and buffer landscaping, as well as irrigation , shall be provided along County Road 42 extending west from Filing No. 6.
3. The three-rail fence design previously approved for the Stroh Farms Development will be installed where private lots abut any open space. Privacy fencing along County Road 42 will conform to previously approved design requirements and shall extend west from Filing No. 6.
4. The previously approved type of street lighting fixtures for Stroh Farms will be installed in Filing No. 7.
5. This Development Agreement shall be subject also to the provisions of the Settlement Agreement entered into by the Parties dated April 1, 2013.

EXHIBIT A

**LEGAL DESCRIPTION
(Development)**

(Attached)

Legal Description Filing 7

A PART OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 4 NORTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 20, WHENCE THE SOUTH QUARTER CORNER OF SAID SECTION 20 BEARS NORTH 88°56'38" WEST (BASIS OF BEARING), A DISTANCE OF 2464.15 FEET; THENCE NORTH 88°56'38" WEST ALONG THE SOUTHERLY LINE OF SAID SOUTHEAST QUARTER OF SECTION 20 A DISTANCE OF 1571.25 FEET; THENCE NORTH 01°03'22" EAST A DISTANCE OF 30.00 FEET TO A POINT ON THE NORTHERLY LINE OF COUNTY ROAD 42 AS RECORDED IN BOOK 86, PAGE 273 IN THE WELD COUNTY CLERK AND RECORDER'S OFFICE AND THE POINT OF BEGINNING;

THENCE NORTH 00° 20' 40" WEST A DISTANCE OF 259.45 FEET;
THENCE NORTH 06° 40' 01" WEST A DISTANCE OF 70.48 FEET;
THENCE NORTH 17° 13' 01" WEST A DISTANCE OF 162.55 FEET;
THENCE NORTH 00° 38' 14" WEST A DISTANCE OF 60.00 FEET;
THENCE ALONG A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 15° 17' 45", A RADIUS OF 270.00 FEET, AN ARC LENGTH OF 72.08 FEET, AND A CHORD BEARING NORTH 82° 59' 21" WEST A DISTANCE OF 71.87 FEET;
THENCE NORTH 75° 20' 28" WEST A DISTANCE OF 38.12 FEET;
THENCE NORTH 14° 39' 32" EAST A DISTANCE OF 126.93 FEET;
THENCE NORTH 75° 20' 28" WEST A DISTANCE OF 264.00 FEET;
THENCE SOUTH 14° 39' 32" WEST A DISTANCE OF 126.93 FEET;
THENCE NORTH 75° 20' 28" WEST A DISTANCE OF 13.21 FEET;
THENCE ALONG A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 32° 36' 07", A RADIUS OF 180.00 FEET, AN ARC LENGTH OF 102.42 FEET, AND A CHORD BEARING SOUTH 88° 21' 29" WEST A DISTANCE OF 101.05 FEET;
THENCE NORTH 17° 56' 35" WEST A DISTANCE OF 130.00 FEET;
THENCE SOUTH 66° 36' 47" WEST A DISTANCE OF 58.82 FEET;
THENCE SOUTH 55° 43' 30" WEST A DISTANCE OF 58.82 FEET;
THENCE SOUTH 44° 50' 14" WEST A DISTANCE OF 58.82 FEET;
THENCE SOUTH 33° 56' 57" WEST A DISTANCE OF 58.82 FEET;
THENCE SOUTH 22° 27' 56" WEST A DISTANCE OF 65.23 FEET;
THENCE SOUTH 10° 23' 11" WEST A DISTANCE OF 65.23 FEET;
THENCE SOUTH 01° 57' 31" EAST A DISTANCE OF 68.09 FEET;
THENCE SOUTH 07° 40' 04" EAST A DISTANCE OF 68.80 FEET;
THENCE SOUTH 03° 01' 51" WEST A DISTANCE OF 68.04 FEET;
THENCE SOUTH 16° 15' 05" WEST A DISTANCE OF 70.46 FEET;
THENCE SOUTH 17° 42' 33" WEST A DISTANCE OF 70.98 FEET;
THENCE SOUTH 07° 20' 25" WEST A DISTANCE OF 68.41 FEET;
THENCE NORTH 88° 56' 38" WEST A DISTANCE OF 62.16 FEET TO A POINT ON THE WESTERLY LINE OF SAID SOUTHEAST QUARTER OF SECTION 20; THENCE SOUTH 00° 21' 46" EAST ALONG SAID WESTERLY LINE, A DISTANCE OF 60.02 FEET, TO A POINT ON THE NORTHERLY LINE OF SAID OF COUNTY ROAD 42; THENCE SOUTH 88° 56' 38" EAST, ALONG SAID NORTHERLY LINE, A DISTANCE OF 893.64 FEET TO THE POINT OF BEGINNING;

CONTAINING 11.839 ACRES.

EXHIBIT B

DEVELOPER REQUIREMENTS

1. ***Engineering Data***

- Final engineering drawings shall be submitted to and reviewed by the Town Engineer or his designee.

2. ***Water and Sewer Lines***

- Final sewer and water design plans shall be submitted to and reviewed by the Town Engineer or his designee.

3. ***Drainage Design***

- Final Drainage Design Plans shall be submitted to and reviewed by the Town Engineer or his designee.

4. ***Easement and Right-of-Ways***

- All easements as approved by utility companies shall be submitted to and reviewed by the Town Engineer or his designee, or are otherwise described on the final plat.

5. ***Building Permits***

- No building permits will be issued until the final plat or plan has been approved by the Town and recorded with the County Clerk and Recorder and Public Improvements have been constructed as required on Exhibit "B-3" and listed on Exhibit "C" except as otherwise permitted in Paragraph 2.1 of this Agreement.
- Covenants, By-Laws, and Articles of Incorporation for any homeowners association must have prior approval of the Town Attorney and then recorded with the appropriate County Clerk and Recorder.

EXHIBIT B-1
PLAT OR PLAN
(SEE ATTACHED)

EXHIBIT B-2
(RESOLUTION APPROVING PLAT OR PLAN)
(SEE ATTACHED)

EXHIBIT C

**SCHEDULE OF PUBLIC IMPROVEMENTS
(ATTACHED)**

Cost estimates for Developer Agreement - Schedule of Improvements

	30 Lots
	Bid or Estimate
Erosion Control	\$ 19,020
Sanitary Sewer	112,992
Water	98,952
Storm Sewer	75,091
Concrete	116,868
Asphalt Paving	178,623
Landscaping	51,539
Fencing	80,224
Tot Lot	84,194
Street Signs	2,250
Mail boxes	3,080
Total	\$ 822,833

EXHIBIT D-1

FORM--IRREVOCABLE LETTER OF CREDIT

NAME OF ISSUING BANK _____

ADDRESS OF ISSUING BANK _____

Town of Johnstown
101 Charlotte
P. O. Box 609
Johnstown, CO 80534

ATTENTION: TOWN OF JOHNSTOWN ATTORNEY AND TOWN MANAGER

We hereby establish, at the request and for the account of this Irrevocable Letter of Credit in favor of the Town of Johnstown in the amount of \$_____. The purpose of this Letter of Credit is to secure performance of a Development Agreement for _____, dated this day _____ of _____, 20____, between the Town of Johnstown and _____.

You are hereby authorized to draw on sight by drafts or written demand up to the aggregate amount of \$_____. The sole condition for payment of any demand made or draft drawn against this Irrevocable Letter of Credit is that the Town's demand or draft be accompanied by a letter, on the Town's stationery, signed by the Town Manager to the effect that "the Town of Johnstown has declared a default under the Development Agreement".

We hereby agree with the Town of Johnstown and its drawers, endorsers, and bona fide holders of demands made or drafts negotiated under this Letter of Credit that the same shall be duly honored upon presentation and delivery of the documents as specified above.

This Irrevocable Letter of Credit is not transferable.

If _____ has given the Town of Johnstown, Town Manager and the Town of Johnstown Attorney 60 days prior written notice by certified U.S. Mail of the impending expiration, this Irrevocable Letter of Credit shall expire on _____, 20____; otherwise it shall be automatically renewed for an additional 12 months. Upon your receipt of our written notification of impending expiration, you may draw the unused balance of this Irrevocable Credit upon your written demand or your sight draft.

EXHIBIT E

NOTICE

Please take notice that on the _____ day of _____, the Town Council of the Town of Johnstown approved the final plat known as _____, which development was submitted and processed in accordance with the Town of Johnstown Municipal Code. In conjunction therewith the Town Council also approved a Development Agreement dated _____ between the Town Johnstown and the Developer, pursuant to and with certain rights and obligations of the Developer, which will pass on to subsequent owners of the below-described property, is on file and may be reviewed in the office of the Town Clerk of the Town of Johnstown. The subject property for which such agreement applies is described as follows:

LEGAL DESCRIPTION ATTACHED

DATED this _____ day of _____, 20_____.

Town Clerk

Town Manager

AGENDA ITEM 9D

**TAVERN
LIQUOR LICENSE
RENEWAL
(Leo's Place)**

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: September 4, 2013

ITEM NUMBER: 9D

SUBJECT: Consider Tavern Liquor License Renewal - Leo's Place

ACTION PROPOSED: Approve Tavern Liquor License Renewal

PRESENTED BY: Town Clerk

AGENDA ITEM DESCRIPTION: Mercy Rivera, operating manager of Leo's Place, has submitted a renewal application to the Town Clerk for a tavern liquor license (malt, vinous, and spirituous) for Leo's Place located at 19 1/2 So. Parish Ave., Johnstown. The required fees have been submitted to the Town. According to the Johnstown Police Department, the establishment has cooperated with law enforcement officials and there have been no violations of the liquor code during the last licensing period (refer to attachment).

The Town Council acts as the Local Licensing Authority and is responsible for reviewing and issuing liquor licenses.

LEGAL ADVICE: N/A

FINANCIAL ADVICE: N/A

RECOMMENDED ACTION: Approve the tavern liquor license renewal.

SUGGESTED MOTIONS:

For Approval: I move to approve the tavern liquor license renewal for Leo's Place.

For Denial: I move to deny approval of the tavern liquor license renewal for Leo's Place.

Reviewed:


Town Manager

**RENEWAL
APPLICATION**

**LIQUOR OR 3.2 BEER LICENSE
 RENEWAL APPLICATION**

Fees Due	
Renewal Fee	\$500.00
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Amount Due/Paid	

LEO'S PLACE
 600 CHARLOTTE
 JOHNSTOWN CO 80534

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

PLEASE VERIFY & UPDATE ALL INFORMATION BELOW

RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE

Licensee Name RIVERA MERCY I		DBA LEO'S PLACE		
Liquor License # 41873750000	License Type Tavern (city)	Sales Tax License # 41873750000	Expiration Date 9/20/2013	Due Date 8/6/2013
Street Address 19 1/2 S PARISH JOHNSTOWN CO 80534-9099				Phone Number (970) 587 4866
Mailing Address 600 CHARLOTTE JOHNSTOWN CO 80534				
Operating Manager <i>owner</i>	Date of Birth <i>4-22-45</i>	Home Address <i>600 Charlotte St Johnstown, CO 80534</i>		Phone Number <i>970 587 4113</i>

- Do you have legal possession of the premises at the street address above? YES NO
 Is the premises owned or rented? Owned Rented* *If rented, expiration date of lease _____
- Since the date of filing of the last annual application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. YES NO
NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS: If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. YES NO
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. YES NO
- Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. YES NO
- SOLE PROPRIETORSHIPS, HUSBAND-WIFE PARTNERSHIPS AND PARTNERS IN GENERAL PARTNERSHIPS:** Each person must complete and sign the DR 4679: Affidavit – Restriction on Public Benefits (available online or by calling 303-205-2300) and attach a copy of their driver's license, state-issued ID or valid passport.

AFFIRMATION & CONSENT

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business <i>Mercy I Rivera</i>	Title <i>owner</i>
Signature <i>Mercy I Rivera</i>	Date <i>7-23-2013</i>

REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. **THEREFORE THIS APPLICATION IS APPROVED.**

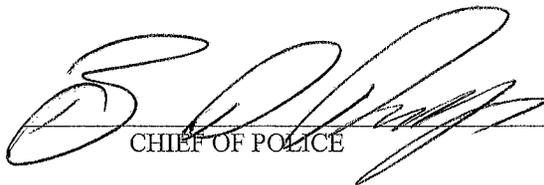
Local Licensing Authority For	Date
Signature	Title
	Attest

**POLICE
REPORTS**

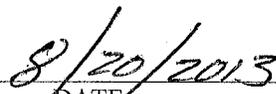
TOWN OF JOHNSTOWN POLICE DEPARTMENT

Information 3.2% Beer or Liquor Application

- Name and address of Applicant} Mercy I . Rivera
600 Charlotte
Johnstown, CO 80534
1. Trade Name and Address} Leo's Place
19 ½ South Parish
Johnstown, CO 80534
2. Date of Application: 08-15-2013
3. Type of Application: Tavern Liquor License
4. Documents Accompanying Application
A. Local and State License Fees} Submitted with application
B. Evidence of Correct Zoning} CBD
C. Building Plans and or Sketch of Interior} N/A
D. Distance from School as per State} N/A
E. Deed or Lease or Assignment of Lease or Ownership} Owned
5. Evidence of Public Notice
A. Posting of Premises} N/A
B. Legal Publication } N/A
6. Investigation: Police Department Case#}
A. Applicant has made application for renewal of their Tavern License
B. Leo's Place has operated legally during its last license period.
C. Cooperation with law enforcement has been good.
8. Findings of fact:
A. Leo's Place presently holds license 41-87375-0000 that expires September 20, 2013
B. The required fees were submitted.
C. It is my recommendation that the renewal be approved.



CHIEF OF POLICE



DATE

**JOHNSTOWN POLICE DEPT.
LIQUOR LICENSE RENEWAL INFORMATION SHEET**

APPLICANT: **Leo's Place**

ADDRESS: **19 ½ South Parish**

TYPE LICENSE: **Tavern Liquor License**

POLICE CALLS FOR SERVICE AT THIS LOCATION: *01 (ATTACHED)*

LIQUOR VIOLATIONS AT THIS LOCATION: -0-

ARRESTS DUE TO ALCOHOL AT THIS LOCATION: -0-

JPD RECOMMENDATION FOR RENEWAL: YES XXX NO _____

REPORTING OFFICER: *[Signature]*

DATE: *8/20/13*

ADDITIONAL INFORMATION: ** All calls were minor service calls.

Incident Report #120206**Johnstown Police Department**

430 South Parish Avenue
Johnstown, CO 80534
970-587-5555 phone
970-587-5556 fax

**Event Info**

Date Reported	Time Reported	Time Dispatched	Time Arrived	Time Completed
02/18/2012	21:47	21:47	21:56	22:23
Addr. Of Occ.	City	Date Occ. Range	Time Occ. Range	District
19 1/2 S PARISH AVE	JOHNSTOWN	02/18/2012 - 02/18/2012	21:47 - 21:47	J
Grid	Shift	How Reported	Dispatch Disposition	Court
1	2	911	RPT	N/A

Spillman Incident #

12JP442

Synopsis

On 02/18/2012 Officers were dispatched to Leo's Bar on a fight.

Dispatch Notes

FIGHT OCC'ING 21:48:36 02/18/2012 - FOLSE J 2 MALES --- ARE STARTING TO SEPERATE , IT WAS PHYSICAL

21:48:42 02/18/2012 - FOLSE J CAN HEAR FEMS YELLING AS WELL

21:48:43 02/18/2012 - FOLSE J NO WEAPONS

21:48:50 02/18/2012 - FOLSE J UNK DK OR DRUGS

21:49:27 02/18/2012 - FOLSE J MALE LSW WHI SHIRT W/RED STRIPE, JEANS -- TRYING TO FIGHT W/EVERYONE

21:49:31 02/18/2012 - FOLSE J ABOVE MALE IS MATT BENEVIDEZ

21:50:14 02/18/2012 - FOLSE J MALE LSW BLU SHIRT -- IS TRYING TO STOP MATT FROM FIGHTING

21:50:41 02/18/2012 - FOLSE J ORIG MALE THAT MATT WAS FIGHTING IS GONE, UNK LSW

21:51:12 02/18/2012 - FOLSE J MALE THAT TOOK OFF, LSH SB -- UNK FRM THERE

21:51:36 02/18/2012 - FOLSE J MATT TRYING TO TALK TO RP BCSE HE KNOWS HE'S CALLED 911

21:53:00 02/18/2012 - FOLSE J RP ADV'ING THIS IS GOING TO BE OUTSIDE LEOS

21:53:09 02/18/2012 - FOLSE J RP SEES OFFICER, DISC'D

Agency 1	Event Status/Dispo	Event Status/Disp	Initial Investigator
JPD	CLEARED	02/18/2012	OGLESBY, RYAN

ClassificationClassification Info**Class**

PUBLIC PEACE

Subclass

DISORDERLY CONDUCT

Event MO**Auto Weapon Indicator**

N

SuspectsSuspect Information

Name Type	Name				
SUSPECT	BENEVIDEZ, MATTHEW RAY				
Address	City	State	Zip	SEX	
906 RIDGE CT	WINDSOR	CO	80550	M	
RACE	EO	HT	WT	HAIR	EYES
WHITE	HISPANIC	601	205	BLK	BRN

BusinessBusiness Information

Name Type	Name	Address	City	State	Zip
BUSINESS	LEO'S PLACE	19 1/2 S PARISH AVE	JOHNSTOWN	CO	80534
Busn Phone					
(970)587-4866					

Other InvOTHER INV Information

Name Type	Name				
OTHER INV	RIVERA, TOMMY				
Address	City	State	Zip	SEX	
600 CHARLOTTE ST	JOHNSTOWN	CO	80534	M	
RACE	EO	HT	WT	HAIR	EYES
WHITE	HISPANIC	601	195	BLK	BRN

Narrative

Written By:
OGLESBY, RYAN

On 02/18/2012 at approximately 2147hrs Officer Mendez was dispatched to 19 1/2 South Parish Ave. (Leo's Bar) on a physical fight. I was coming back into town from the jail when the call came out. I requested that Officers Donnellon and Sergeant Reiss from Milliken Police Department respond to assist Officer Mendez until I could get on scene. I arrived on scene at approximately 2156hrs.

On Scene Observations:

I observed Officer Mendez speaking with a male who was identified as Matthew Benevidez. Benevidez was wearing jeans and a white t shirt with a red design down the right side. I also observed red dots on the shirt that appeared to be blood. There was also blood drops on the cement sidewalk. Officer Mendez asked Benevidez where the blood had come from. Benevidez replied that he had been getting bloody noses from the dry weather. It should be noted that I didn't observe any blood on Benevides' face or around his nose. It was about this time that the owner of the bar (Leo Rivera) came out and told Officer Mendez that he wanted Benevides told that he was never allowed to come back to the bar. Leo Rivera said that they didn't want any charges to be pressed but they didn't want him back. Benevidez kept saying that nothing had happened but he was angry at Tommy Rivera. I asked Leo to have Tommy meet me behind the bar so I could talk to him..

Conversation with Tommy Rivera:

Tommy Rivera told me that Matthew Benevidez was dating his daughter. He said that Benevidez was causing problems with with two other people that he didn't know. He said that Benevidez and the two other people started fighting outside in front of the bar so he went out to stop it. He said while he was trying to break it up he scraped his hand on the bricks on the front of the entrance to the bar. I examined Rivera's right index finger and saw that he had a deep laceration. I told him that it would most likely need stitches and asked him if he wanted an ambulance, he refused medical. I told Rivera that it appeared to me by the deepness of the laceration that he had punched something hard. I asked him if he had tried to punch anyone and had hit the brick wall, he replied "No." Rivera kept saying that he didn't know who the other two individuals were that Benevidez was fighting with.

We were able to find a ride for Benevidez back to his home in Windsor. I told Benevidez that he wasn't allowed back into the bar. I told him if he came back and caused anymore problems tonight that he would be arrested for disorderly conduct.

We were unable to ascertain whether or not these two individuals that Benevidez was oppositely fighting with existed and if they did who they were.

No further action taken at this time.

Case Management			
Initial Investigator OGLESBY, RYAN	Event Status/Dispo CLEARED	Event Status/Dispo Date 02/18/2012	Report Status APPROVED
Approved By SANCHEZ, AARON	Solvability Percentage 0.00%		

WORKSESSION

**(Discuss IGA Growth Management
Agreement Between Johnstown and
Loveland)**

**Intergovernmental Agreement for Growth Management
By and between
The City of Loveland and Town of Johnstown**

DRAFT
INFORMATION
ONLY

This Intergovernmental Agreement for Growth Management ("Agreement") is entered into as of the ___ day of _____, 2013, by and between The City of Loveland, Colorado, a home rule municipality ("Loveland") and the Town of Johnson, Colorado, a home rule municipality ("Johnstown").

RECITALS

WHEREAS, the management of growth is important to ensure that the benefits are realized and the negative consequences are minimized;

WHEREAS, changes that accompany growth and development in one community necessarily have impacts on adjacent communities;

WHEREAS, when nearby (adjacent) communities cooperate in the planning of urban growth there are benefits in the more efficient provision of public services to both communities for harmonizing land use arrangements;

WHEREAS, the geographical area covered by this Agreement is likely to face growth and development pressure due to its location in proximity to a major transportation corridor and planned future development by both Johnstown and Loveland;

WHEREAS, the geographical area covered by this Agreement is located within the growth management areas of both Loveland and Johnstown;

WHEREAS, growth management areas allow municipalities, landowners, community residents and developers to prepare for growth by signaling that a municipality is willing and preparing to extend urban level services;

WHEREAS, future land use plans benefit municipalities, landowners, community residents and developers by providing a framework for decision making related to future growth and development;

WHEREAS, future land use plans benefit landowners by providing options for the long-term use of their property and it is the goal of this agreement to provide land owners with options regarding into which municipality they will annex;

WHEREAS, cooperation between municipalities in the planning of utilities and infrastructure can create efficiencies and reduce costs;

WHEREAS, the goals of this intergovernmental agreement are to:

- Implement the Comprehensive Plans and Future Land Use Plans of the City of Loveland and Town of Johnstown;
- Establish effective means of joint planning and management of urbanization within the Overlap Area of the Growth Management Areas of the City of Loveland and Town of Johnstown (as hereinafter defined);
- Establish procedures for the processing of development applications for annexation and zoning in the Overlap Area including rules for the referral of applications between municipalities and the facilitation of meeting between municipalities and landowners / applicants;
- Provide a mechanism for cooperation and coordination between the Loveland and Johnstown in the arenas of land use and infrastructure planning;
- Establish programs designed to provide benefit to both Loveland and Johnstown when property is annexed into either municipality;
- Prevent annexation conflicts between Loveland and Johnstown;

WHEREAS, pursuant to state law, local jurisdictions are authorized to: regulate the location of activities and developments; phase development of services and facilities; regulate development on the basis of its impact on the community or surrounding areas; plan for and regulate the use of land so as to provide for planned and orderly use of land and protection of the environment; and to cooperate or contract with other units of government for the purpose of planning and regulating the development of land including but not limited to, the joint exercise of planning, zoning, subdivision, building; and related regulations and annexations of property, all in a manner consistent with constitutional rights and statutory procedures;

WHEREAS, planning and regulation of land use within the northern Colorado region is the responsibility of local jurisdictions; and

WHEREAS, any provisions in this Agreement may be implemented only to the extent legally permitted by Colorado law.

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants and obligations set forth herein, the parties agree as follows:

1.0 Definitions

Annexation: Annexation means the incorporation of a land area into an existing municipality with a resulting change in the boundaries of that municipality.

Overlap Area: The area where the Loveland and Johnstown GMAs overlap, which is depicted on **Map 1** attached hereto and incorporated herein by reference, and which is bounded on the east by the I-25 right of way, on the south by the Colorado Highway 60 right of way, on the west by the Larimer County Road 7 right of way, and on the north by the north line of the parcel described as Bounded on the east by the right-of-way of I-25, on the south by the right-of-way of Colorado State

Highway 60, on the west by the right-of-way of Larimer County Road 7 and having its north boundary as the north lot line of the parcel described as:

PAR LOC NW 27-5-68; COM AT W 1/4 COR SEC 27-5-68; TH S 89 51' 50" E 30 FT TPOB; N 00 02' 18" W 442.45 FT; TH N 89 40' 58" E 3243.65 FT; S 23 41' 05" E 511.7 FT; TH N 89 51' 50" W 852.47 FT; TH N 89 51' 50" W 2596.39 FT TPOB (PER 98004450)

as such parcel exists on the date of this Agreement.

Community Influence Area: Unincorporated areas of the county near Loveland and Johnstown beyond their respective GMAs for which Loveland and/or Johnstown have an interest in future development proposals due to the potential impact upon the respective municipalities as the result of development.

Growth Management Area or GMA: Area adjacent to Johnstown and Loveland the boundaries of which are depicted on **Maps 2 and 3**, respectively, attached hereto and incorporated by reference, into which urban development and annexation shall be directed and within which urban level services to support urban development will be needed.

Larimer County Growth Management Area Overlay Zoning District: The overlay zoning district applied by Larimer County to municipal GMAs to implement the standards and requirements of Intergovernmental Agreements (Larimer County Land Use Code Chapter 4.2.1), as it may be amended from time to time.

Loveland Comprehensive Plan: The City of Loveland 2005 Comprehensive Plan, and the City of Loveland 2005 Comprehensive Plan - 2011 Implementation Plan as both Plans may be amended from time to time, including all elements, functional (departmental) components, and area plans, as adopted and as it may be amended from time to time by the City of Loveland, Colorado, pursuant to Title 31, Article 23 of the Colorado Revised Statutes and pursuant to the City's Charter and Code, all of which provide authority for the City to make and adopt a long-range master plan for the physical development of the City, including any areas outside its boundaries.

Johnstown Comprehensive Plan (Johnstown will need to provide their definition)

The Town of Johnstown's 2006 Area Comprehensive Plan, as may be amended from time to time, as authorized by Title 31, Article 23 of the Colorado Revised Statutes and the Town's Charter and Code.

Utilities and Infrastructure: Public facilities required for the development of property at an urban level, including, but not limited to, roads, streets, sidewalks, bike lanes, water, sewer, and stormwater drainage facilities, and open space networks.

2.0 Delineation of Overlap Area where the IGA applies (Map)

This Agreement addresses and shall be applied to the Overlap Area, the boundaries of which are depicted on **Map 1** attached hereto and incorporated herein by this reference. The Overlap Area reflects a portion of the land included in both the Loveland GMA and the Johnstown GMA as of the date of this Agreement.

3.0 Amendments to City of Loveland and Johnstown Comprehensive Plans

The City of Loveland and Town of Johnstown may amend land use designations in their respective Comprehensive Plans at their sole discretion

4.0 Amendments to Growth Management Area Boundaries

Loveland and Johnstown shall provide notice to and meet with the other municipality to discuss any proposal to extend their Growth Management Area into an area within the Growth Management Area of the other municipality.

Nothing in this Agreement shall prevent either municipality from modifying their Growth Management Area boundaries as they see fit.

5.0 Relationship between Intergovernmental Agreement and Other Plans

5.1. Loveland Comprehensive Plan and Future Land Use Plan

The Loveland Comprehensive Plan and Future Land Use Plan will be the plan that guides land use decisions for any property annexed into the City of Loveland

5.2 Johnstown Comprehensive Plan and Future land Use Plan

The Johnstown Comprehensive Plan and Future Land Use Plan will be the plan that guides land use decisions for any property annexed into the Town of Johnstown

5.3 Larimer County Master Plan

The Larimer County Master Plan and Larimer County Land Use Code will continue to guide land use decisions for properties in unincorporated Larimer County.

5.5 Relationship to Plans

This Agreement is intended to further the goals of Loveland and Johnstown Comprehensive Plans and is not intended to conflict with any other plans.

6.0 Growth Management Area Overlay Zoning District

The municipalities agree to work with Larimer County to explore establishing a Growth Management Overlay Zoning District on the properties located within the Overlap Area or

other areas that are within Loveland's Growth Management Area but not currently covered by said zoning district.

7.0 Process for Annexations within Overlap Area

7.1 Process Initiation

The process set forth in this Section 7 shall be initiated by each municipality giving notice to the other municipality within seven 7 days after receipt of an inquiry regarding annexation of property within the Overlap Area that appears likely to proceed to a petition for annexation. If no such inquiry is received prior to receipt of a petition, each municipality shall initiate this process by notice to the other municipality within seven 7 days after receipt of an annexation petition for annexation of property within the Overlap Area. Notice initiating the process set forth in this Section 7 shall be given in writing and shall include such information, including but not limited to a copy of the petition for annexation, as the notifying municipality may have regarding the potential annexation (the "Initiating Notice").

7.2 Meetings between Municipalities

Loveland and Johnstown shall meet to discuss such an annexation proposal in an effort to agree upon which municipality it would make the most sense for the property to annex into considering factors including but not limited to previous annexations, access, and land owner plans. Also at this meeting discussions may be had regarding any other agreements the municipalities may wish to make regarding the annexation. The meeting shall be initiated by staff of the municipality receiving the inquiry or petition for annexation. At least one meeting shall include the Loveland Director of Development Services or his designee and Johnstown Town Planner. This meeting shall occur no later than thirty 30 days from the date of the Initiating Notice.

7.3 Three Way Meetings

Loveland and Johnstown shall provide an opportunity to the applicant / property owner who made the inquiry or filed the petition ("Applicant") to meet and discuss the annexation and development proposal and the results of the meeting between the two municipalities. If, notwithstanding reasonable efforts by the municipalities to facilitate and schedule a meeting, the Applicant does not participate in such a meeting with Loveland and Johnstown within thirty (30) days after the Initiating Notice, the municipalities may proceed to implement their agreement as to which municipality should annex the property within the Overlap Area in question.

7.4 Further Annexation Proceedings and Opportunity for Municipality Comment

Loveland and Johnstown shall complete the process set forth in this Section 7, including the meetings contemplated in Sections 7.2 and 7.3 above, with respect to a petition seeking annexation of property within the Overlap Area prior to scheduling for consideration by their respective governing bodies a resolution determining substantial compliance of an annexation petition as required by C.R.S. §31-12-107(1)(f) and setting the date, time and place of a public hearing on the proposed annexation as required by C.R.S. §31-12-108(1), under the Colorado Municipal Annexation Act (C.R.S. §31-12-101 et. seq) (the "Act"). Prior to holding any public hearings regarding a petition for annexation of property in the Overlap Area, After completing the process set forth in this Section 7, when the municipality in receipt of a petition for annexation of property in the Overlap Area shall provide the other municipality with notice of the date, time and place of the public hearing on the proposed annexation and the other municipality shall have an opportunity provide written comments on the petition prior to the scheduled public hearing.

7.5 Annexation Agreements

The municipality annexing property in the Overlap Area shall, in good faith, consider placing any applicable conditions generated through the municipality comment process detailed in Section 7.4 into any annexation agreements adopted.

7.6 Final Approval Authority

The municipality receiving an annexation and zoning application has the final authority on whether or not to approve the application and annex the property. Nothing in this Agreement shall prohibit a municipality from annexing property at its discretion in accordance with State law.

8.0 Right and Responsibilities of Municipalities and Property Owners

8.1 Decision to Pursue Annexation

The decision to apply for annexation and zoning shall rest solely with the property owner.

8.2 Ultimate Approval Authority for Annexation and Development Applications

The municipality receiving and processing an application for annexation and zoning has the sole discretion as to whether or not to approve the application.

8.3 Amendment of IGA

Either party may request amendment of this Agreement. No amendment of this Agreement shall be effective unless such amendment is set forth in writing,

approved by the City of Loveland City Council and Johnstown Town Council and signed by the authorized representative of both municipalities.

9.0 Collaborative Planning Efforts

In order to achieve both the goals and purposes of this agreement as well as the region's broader planning goals, Loveland and Johnstown agree to participate in cooperative and regional planning efforts with other agencies in the region.

9.1 Further Planning Efforts in the Overlap Area and SH 402 Corridor

Within the Overlap Area, the municipalities agree to cooperate with each other on any planning efforts, including but not limited to, future land use plan amendments, zoning code amendments specific to the Overlap Area, transportation planning, and design guidelines.

The municipalities agree to cooperate with each other in planning efforts in the State Highway 402 Corridor.

9.2 Infrastructure

The municipalities agree to cooperate with each other and all other infrastructure providers in the planning of infrastructure in the Overlap Area with the goal of avoiding unnecessary duplication and providing services to current and future residents and businesses with the greatest level of efficiency, service efficacy, and cost savings possible.

9.3 Preserve Development Opportunities

The municipalities agree to cooperate in the consideration of ways to preserve development opportunities in the Overlap Area in accordance with Comprehensive Plans.

10.0 Implementation of Agreement

10.1 Amendment of Codes and Plans

Each municipality shall initiate amendments to their respective plans, policies, procedures, and codes necessary to implement the terms and provisions of this agreement within three hundred and sixty – five days of the adoption of the agreement..

10.2 Inform and Train Employees

The parties will notify newly elected officials, new managers, and key staff of the existence of this intergovernmental agreement and conduct any necessary training to ensure the agreement is implemented

11.0 Term and Termination

11.1 Term

This Agreement shall remain in force and effect for a period of ten (10) years from the date of its execution, subject to any earlier termination as may result from the provisions of Section 11.2 below. At the end of ten (10) years from the date of its execution, and on each five year anniversary thereafter, the term of the Agreement shall be automatically extended for five years beyond its then stated expiration date, unless at least three hundred and sixty-five (365) days prior to any five year anniversary, either party notifies the other in writing of its intention that the Agreement shall not be extended beyond its then stated expiration date.

11.2 Termination

Either party may terminate this Agreement at any time upon three hundred sixty-five (365) days written notice to other party. Prior to exercising any termination permitted by this Agreement, the governing body of party seeking termination shall meet, in good faith, with governing body of non-terminating party in attempt to resolve or explain the reasons for termination.

12.0 General Provisions

12.1 Amendment of Agreement

Either party may request an amendment of the Intergovernmental Agreement at any time. Such request shall be in writing to the other party, and shall be considered without unreasonable delay and within no more than sixty (60) days of receipt.

12.2 Notice

Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail, return receipt requested, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth below or at such other address as has been previously furnished in writing, to the other party or Parties. Such notice shall be given when deposited in the United States mail.

If to Loveland:

City Manager
City of Loveland
500 E. Third Street, Suite

Loveland, Colorado 80537

With a copy to:

City Attorney

300

City of Loveland
500 E. Third Street, Suite

Loveland, Colorado 80537

If to Johnstown:

With a copy to:

12.3 Application and Interpretation of Other Provisions

Whenever a provision of Loveland's Zoning Code or the Johnstown's Land Use Code are inconsistent with a specific provision of this Agreement, the party with the inconsistent code shall evaluate its regulations and initiate the process to amend its codes to be consistent with this Agreement, and/or negotiate in good faith with the other party to amend this Agreement to be consistent with the applicable code and/or any amendment to the code.

12.4 Exhibits or Maps

Exhibits and maps referred to in this Agreement are incorporated herein for all purposes.

12.5 Captions

The captions of the paragraphs are set forth herein only for the convenience and reference of the parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.

12.6 Additional Documents or Action

The parties may execute any additional documents or take any additional action reasonably necessary to carry out this Agreement.

12.8 Waiver of Breach

A waiver of any party to this Agreement of the breach of any term or provision of the Agreement shall not operate or be construed as a waiver of any subsequent breach by either party,

12.9 No Third Party Beneficiaries

Any enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to Loveland and Johnstown, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third person. It is the express intention of the parties that there shall be no third party beneficiaries of this Agreement and any person other than Loveland and Johnstown receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

12.10 Governing Law and Venue

This Agreement shall be governed by and enforced in accordance with the laws of the State of Colorado. In addition, the parties hereto acknowledge that there are legal constraints imposed upon Loveland and Johnstown by the constitutions, statutes, and rules and regulations of the State of Colorado and of the United States, and imposed upon the Loveland and Johnstown by their respective Charters and Municipal Codes, and that, subject to such constraints, the parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provisions of this Agreement to the contrary, in no event shall the parties hereto exercise any power or take any action which shall be prohibited by applicable law. Whenever possible, each provision of this Agreement shall be interpreted in such a manner so as to be effective and valid under applicable law. Venue for any judicial proceeding concerning this Agreement shall only be determined to be the judicial district in which the subject property lies.

13.0 Maps and Exhibits

Map 1 Overlap Area map

Map 2 Johnstown Land Use Plan (showing growth management area)

Map 3 Loveland Land Use Plan (showing growth management area)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the day and first written above.

CITY OF LOVELAND, COLORADO

By: _____

William D. Cahill, City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

Deputy City Attorney

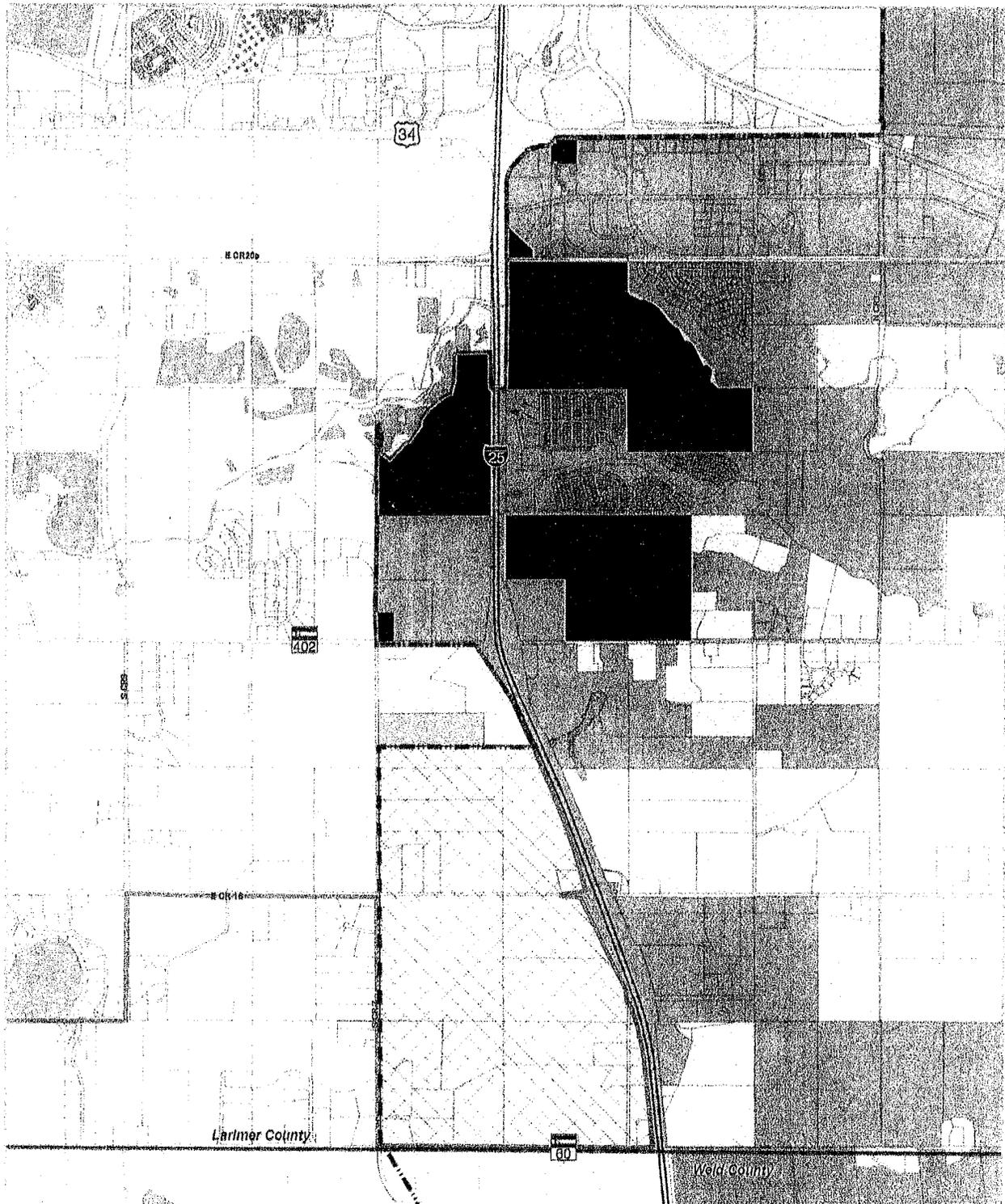
DRAFT

INSERT SIGNATURE PAGE FOR TOWN OF JOHNSTOWN

DRAFT

MAP 1
OVERLAP AREA

DRAFT



Areas removed from and added to Loveland and Johnstown Growth Management Areas

Legend

- Loveland
- Proposed Loveland GMA
- Johnstown
- Proposed Johnstown GMA
- Areas where Loveland and Johnstown Growth Management Areas overlap
- Areas to be removed from Loveland's GMA and to be solely in Johnstown's GMA
- Areas to be removed from Johnstown's GMA and to be solely in Loveland's GMA
- County Boundary

MAP 2

JOHNSTOWN LAND USE PLAN

(showing growth management area)

DRAFT

MAP 3

LOVELAND LAND USE PLAN

(showing growth management area)

DRAFT

