



May 10, 2016

Dear Severance Town Board Member and Planning Commissioner:

As you know, the Town of Timnath is strongly opposed to the Town of Severance's proposed annexation of 270 acres on the southeast corner of County Road 78 and County Road 1 and your potential approval of Buffalo Creek, a new development of up to 750 homes on that site.

The attorney for the developer of Buffalo Creek attended your Town Board meeting on April 19<sup>th</sup>, and for an hour, he and his team gave you their version of the issue. I am writing today in an effort to get "equal time" and outline three points. First, I want to make sure it is clear why we are opposed to these proposed actions. Second, I want to provide our perspective on some of the things you heard at that meeting because we have a very different view of what has transpired. Third, I want to reiterate what we are asking for and the next steps we are suggesting.

### **Why Timnath is Opposed and why Severance should be Opposed**

We have outlined our reasons for our opposition in various past communications but we would like to reiterate them here.

- This property is in our Growth Management Area (GMA) and has been for nearly a decade. It is literally adjacent to a street in our existing town limits, and it is good planning to include this in our GMA. We are disappointed that Severance continues to take action to move this annexation of Buffalo Creek into Severance forward as doing so is a poor planning decision that will adversely impact both Severance and Timnath.
- The addition of 750 homes and commercial development will have a significant impact on Severance's roads and yet we have not seen a traffic management plan for this development. Increased traffic without the budgeted supporting maintenance dollars (for repairs, plowing, police services, etc.) is a significant concern. Timnath's roads will also be heavily used to access the development, and will be affected heavily by it. However, we have had no meaningful discussions to arrange for Severance's or the developer's financial contribution for their upkeep and maintenance or otherwise coordinate and plan for this.
- Buffalo Creek is only feet from our town boundaries but miles away from your town core. Because of the proximity to Timnath, residents of the new development will use our services and amenities, yet pay no property taxes to support them. For example, Timnath



has already provided for a regional park that is located close to Buffalo Creek, and that is intended to serve a large area and population including the Buffalo Creek property once built out. This was included in our Parks Recreation Open Space and Trails Plan with the understanding that Buffalo Creek would be in Timnath. This community park will now most likely be used by residents of Buffalo Creek without any cost to them, which means that many of the residents of Timnath will be fully subsidizing the use of the park for the benefit of their neighbors across the street. This isn't fair as any Severance amenities are too far away for our residents to enjoy in return.

- Buffalo Creek is across the street from Wild Wing, an existing Timnath community. The Town of Timnath has certain design and architectural standards, including minimum lot sizes, setback requirements, and more. We have had no discussions with the Town of Severance over the standards Buffalo Creek will have to meet and whether they are compatible. We do know however, that this plan has added higher density, commercial, and potential oil and gas activity than what we originally reviewed and is more than what Timnath would allow to be consistent with our plan.

These and other reasons for our opposition are outlined in our March 30 letter. A copy of this letter is attached for your reference.

At your April 11<sup>th</sup> Town Board meeting, Mayor Brookshire suggested to the Board's new members that they should focus on what is in the best interest of the Town of Severance and not the Town of Timnath. We believe that good planning and being good neighbors includes working together for the best interest of both communities, however, just to focus on Severance for the moment, we believe that *not moving forward* with these proposed actions is in the best interests of the residents of Severance.

- **Cost to Taxpayers:** Annexing this property to Severance and the Buffalo Creek development will cost your taxpayers and divert your budget dollars for roads, plowing, police services, etc. to maintain roads and serve a flag pole property that is far from your core. For example, although the developer will presumably pay to upgrade the road (we haven't seen any document yet that confirms when or how this will be required by Severance), once complete, it will cost a significant amount of money to maintain two additional miles of Severance road to serve the development, dollars that could otherwise be used to support your existing roads and improvements to your core area. In addition, the Town of Timnath will require reimbursement for drainage improvements made to serve the Buffalo Creek property, along with road improvements made along County



Road 1 from County Road 40 to the north end of Wild Wing Subdivision. Additionally, Severance must offer residents along the pole, the same terms and conditions to annex as Buffalo Creek that is hundreds of acres of potential annexation at terms that may cost Severance significant dollars. Has the Town of Severance done a comprehensive analysis of the added costs to the town and its taxpayers, or had any conversation with the developer about passing these costs onto the developer as a condition to annexation? In discussions with some residents in Soaring Eagle, they are concerned because they currently are paying the same taxes but not receiving the same services from Severance because they are so far from the core. Now, Buffalo Creek will be a development beyond Soaring Eagle, so will those residents also not receive some services, or has Severance budgeted additional dollars for both communities now?

- **Unmanaged Growth:** Severance is annexing this property through the statutorily disfavored process of a flagpole annexation, a method of growth that has been previously associated with lack of planning or strategy and is seen by some as nothing more than an attempt to grab land that is far outside a town's borders. The flagpole annexation of the Buffalo Creek property into Severance under the circumstances proposed by the Drapac is not good growth, and, on the contrary, would create an increased risk of haphazard, ill-conceived growth which will lead to inefficient use of taxpayer dollars.
- **Developer calling the shots:** The developer of Buffalo Creek is calling the shots regarding this annexation, including the requirement to annex on an extraordinarily fast schedule. Rather than taking the time to consider this development in a thoughtful planned way, you are allowing the developer to rush you through this process to meet their timelines and to pit one town against the other to get what is best for the developer, as opposed to the municipalities that will shoulder the service burdens associated with the development. This sets a poor precedence for Severance. What happens the next time a developer is in your GMA and decides they don't like what your rules are, so they simply go to another municipality to do a flagpole annexation to get what they want, right next to an existing Severance neighborhood? The developer is telling you that the bank is giving them weeks to get this approved and if they don't get this done by June, the contract won't be extended so they must complete this by that timeline. You should ask yourself what is stopping the developer from purchasing the property now regardless of the timeline for annexation?

When we met with the developer on February 29<sup>th</sup>, the developer's out-of-state attorney, Mr. Tew, told us that Drapac is unwilling to make the investment of purchasing the



property until it has secured all of the entitlements associated with the property. This is purely a business decision of the developer, rather than an abnormal requirement of the bank. Drapac could exercise its option to purchase this property at any time, and the fact that Drapac is unwilling to do so, and is willing to risk losing the property to another purchaser as a result, is not the responsibility of the bank, or the Town of Severance, or the Town of Timnath, for that matter.

Although the developer's attorney failed to mention this during the presentation when he lambasted Timnath's "excessive" fees, we offered in writing to match Severance's annexation fees when Drapac first announced that it had changed its mind about annexing into Timnath, so the question then becomes what difference does it make which town they annex too? We believe it is because their contract planner is also Severance's contract planner and as a result the developer assumes they can have higher density, commercial, permitted oil and gas activities, and more influence over town staff in Severance than in Timnath. Although we understand that this project is being reviewed by another planner we still believe this relationship creates an outward appearance of improper influence. Already the plan has changed from what we initially reviewed; we were presented with a plan for 625 homes and no commercial, which has now increased to 750 homes with commercial. Severance's Town Council should be in the driver's seat on when and if this development goes forward. It should not let the developer dictate the schedule or the rules.

- **Bad regional planning:** It is not in the best interests of the residents of Severance to have one town grabbing property that has long been in another's GMA. That risks creating an atmosphere of competition in how towns grow instead of the collaboration and cooperation that will preserve the quality of life that is so special to the residents of Severance and all of northern Colorado.

### **Correcting the Record**

You heard the developer's side of the story earlier this month. We would like to share with you our perspective. The developer's attorney painted a picture of Drapac as a community builder who does not play one community off another. Our experience suggests otherwise. Our dealings with both the developer and several representatives of the Town of Severance, frankly, have been less than forthright.



We had one meeting with Mr. Birdsall, again the planner for both the Town of Severance and Drapac, and Ms. Beck (Drapac's in-state legal counsel) in October of 2015 to discuss the development. We explained our fees, design standards and timeline and they expressed no concern. No mention was made of Buffalo Creek's interest in annexing into any jurisdiction but Timnath. The very next day we met with Severance staff, including Mr. Birdsall (this time representing the Town of Severance), about developing a growth management area IGA with Severance. No mention was made that Severance was considering annexing or had any interest in annexing this property. In fact, your town manager, at a subsequent meeting, shared that Severance had no intention of interfering with any discussions that Timnath was having with developers in this area.

Several times in the subsequent weeks Mr. Birdsall (this time representing the developer) and Ms. Beck scheduled meetings to further our conversations about the development and annexation into Timnath. They kept cancelling these meetings. Never once did we meet with the developer or any employees of the developer. Again, not once were concerns raised during any of our communications regarding fees or any other annexation conditions.

Suddenly, on February 29th, Mr. Tew and Mr. Birdsall (this time representing the developer), informed us that they had decided earlier that day that they were annexing to Severance. We were shocked to hear this after having tried to work with them for over six months without hearing them raise any concerns at any point, and, in writing, we informed them the next day that we would match all fees and timelines to match any other jurisdiction, including Severance. However, they rejected this offer a few hours after we sent it; it was clear that their decision had been made. Moreover, despite Mr. Tew's *adamant* remark that the decision had been made on February 29th, we have seen several emails and other evidence through our CORA requests, that clearly show that the developer and Severance staff had been discussing annexing to Severance for months prior, to the level of detail of maps, a petition, annexation agreements drafts, and agreeing on a comprehensive and significantly truncated annexation schedule, including special meetings to accelerate the timeline, etc.. This kind of behind the scenes collusion is not dealing in good faith. Furthermore, negotiating with a town planner who is also representing the developer put us in the position of never being sure whose interests were being represented at any point in time. We only point all this out to make sure you understand that there is more to the story than what was presented on April 19<sup>th</sup>.

At the April 19<sup>th</sup> Town Board meeting, Mayor Brookshire attacked Timnath for not acting like good neighbors, and that we were "full of bluster without any substance". We were surprised to hear him say this, after he, as a planning commissioner at the April 13<sup>th</sup> meeting, made the motion to continue the planning commission hearing and slow the process down to study the annexation and allow time for negotiation. For the record, after the April 13<sup>th</sup> planning commission meeting, we were pleased with his motion and the planning commission's action not to move forward, and we shook hands with the Mayor, and said we were looking forward to working together to find an agreement that works for both communities. Our intent is to be good



neighbors and work together, we expect the same from you. We have been placed however in a position that requires us to protect the best interests of our town and our residents against what we see as poor planning and non-collaborative actions from a neighbor, and bad faith and blatant dishonesty by a developer.

### **What Timnath is Requesting**

At the end of the day, what we are asking for is quite simple: stop moving forward and give both of our towns a chance to sit down, talk, and see if we can find a way to manage and plan growth in our respective communities that work for the interests of both communities. That is why we requested formal mediation through the Colorado Department of Local Affairs and are now in the process of trying to accelerate that process because of the rush Severance is taking to approve these actions. We are hopeful that this process will be successful.

We want to be good neighbors. We have learned, sometimes not without fault, that cooperation and collaboration is the best way to plan and manage growth in northern Colorado. It is our hope that by slowing down and giving us the chance to talk, we not only can come up with a better path to growth, but we can also restore what has long been a good relationship between our communities.

Sincerely,

A handwritten signature in cursive script that reads "Jill A. Grossman-Belisle".

Jill Grossman-Belisle  
Mayor