

## RESOLUTION 2022-070

### **A resolution conditionally approving Boulder County Community Planning & Permitting Docket LU-22-0009: McCay Accessory Dwelling Unit**

#### Recitals

A. David and Rhonda McCay (the “Applicants”), applied to Boulder County for Limited Impact Special Use Review under Article 4-601 of the Boulder County Land Use Code (the “Code”) to construct a 1,008-square-foot Agricultural Worker Accessory Dwelling Unit (“ADU”) on an approximately 37-acre parcel.

B. The subject property is located at 1498 Marshall Road, approximately 940 linear feet northwest of its intersection with State Highway 170, in Section 16, Township 1 South, Range 70 West, in an Agricultural and Rural zoning district in unincorporated Boulder County (the “Property”).

C. The Property has an existing 400-square-foot detached garage, a 256-square-foot ‘milk house’, a 99-square-foot ‘spring house’, a 240-square-foot loafing shed, and a 572-square-foot farmhouse. In addition, SPR-18-0077 approved the construction of a 4,904-square-foot residence and a 3,300-square-foot agricultural barn which are both currently under construction. Applicants appealed SPR-18-0077 to the Boulder County Commissioners in part to dispute the total approved size of the new residence, however, the docket was upheld as noted in Resolution 2020-045. The final approved design of the residence included a 1,090-square-foot subterranean basement for a total size of 5,994-square-feet.

D. The Applicants have proposed converting 1,008-square-feet of the approved 3,300-square-foot Agricultural barn to an ADU.

E. The Applicants plan to grow hay, plant a large vegetable garden, and raise livestock including cattle and horses. The Applicants also assert that due to age, managing the farm is beyond their capacity, and have therefore proposed an ADU.

F. The above-described request was processed and reviewed as Boulder County Community Planning & Permitting (“CPP”) Docket LU-22-0009 (the “Docket”), as further described in the memorandum and written recommendation to the Board of County Commissioners (the “Board”) by the CPP Department planning staff dated September 8, 2022, together with its attachments (the “Staff Recommendation”). The Staff Recommendation found that the Docket could meet the criteria for approval with recommended conditions, and therefore, recommended that the Board conditionally approve the Docket.

G. At an online public hearing on the Docket held on September 8, 2022 (the “Public Hearing”), as further reflected in the official record of the Public Hearing, the Board considered the Staff Recommendation as well as the documents and testimony presented by the CPP Department staff. The Board also heard testimony from Applicants Rhonda and David McCay.

Three members of the public spoke at the Public Hearing.

H. Based on the Public Hearing, the Board finds that the Docket meets the criteria in Article 4-601 of the Code for Limited Impact Special Use approval for the proposed ADU, subject to the conditions stated below.

I. Therefore, the Docket can be approved, subject to the conditions stated below.

Therefore, the Board resolves

Docket LU-22-0009 is approved on the basis and terms set forth in this Resolution, above, and subject to the following conditions:

1. The Applicant shall comply with all applicable requirements of the Boulder County Building Safety and Inspection Services Team and adopted County Building Codes, as outlined in the referral comments, including, but not limited to, required sprinklering and the BuildSmart energy efficiency and sustainability requirements.

2. The ADU shall be limited to a maximum of 1,008-square-feet.

3. Prior to issuance of building or grading permits, the Applicant shall submit to the CPP Department for review and approval one copy of the proposed Revegetation Plan that conforms to the requirements as described on the materials located on our Revegetation Page.

4. Prior to issuance of a building permit for the ADU, the Applicant shall submit one copy of a proposed lighting plan to the CPP Department for review and approval. Down lighting is required, and all bulbs must be fully shielded to prevent light emissions above a horizontal plane drawn from the bottom of the fixture. The lighting plan must indicate the location of all exterior fixtures on the site and structure, and must include cut sheets (manufacturer's specifications with picture or diagram) of all proposed fixtures. The lighting plan shall be included as part of the building plan set required at the time of permit application.

a. Prior to issuance of a Certificate of Occupancy, the full installation of the approved lighting plan must be inspected and approved by the CPP Department.

5. The Applicant shall submit an annual report to CPP indicating that the inhabitant of the ADU continues to live on-site and that the unit continues to be occupied in accordance with this Docket.

6. The ADU shall only be used as an Agricultural Worker Unit. Any changes to this use shall be considered a substantial modification of this approval and will require that the unit be decommissioned.

7. Prior to the issuance of a building permit for the ADU, the Applicant shall sign and have recorded an affidavit that recognizes the conditions of approval for this Docket.

8. Prior to issuance of building permit, the Applicant shall submit an agricultural management plan for review and approval by CPP staff that addresses the concerns raised by the CPP Natural Resource Planner's referral response.

9. The Applicant shall be subject to the terms, conditions, and commitments of record and in the file for Docket LU-22-0009 McCay ADU.

**[Signature Page to Follow]**

A motion to approve the Docket was made by Commissioner Claire Levy, seconded by Commissioner Matt Jones, and passed by a 3-0 vote.

**ADOPTED** as a final decision of the Board on this \_\_\_\_\_ day of October 2022.

**BOARD OF COUNTY COMMISSIONERS  
OF BOULDER COUNTY:**

\_\_\_\_\_  
Marta Loachamin, Chair

\_\_\_\_\_  
Claire Levy, Vice Chair

\_\_\_\_\_  
Matt Jones, Commissioner

ATTEST:

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Clerk to the Board