

RESOLUTION 2023-010

A resolution conditionally approving Boulder County Community Planning and Permitting Docket LU-22-0021/SPR-22-0091: Fauber Residence and Driveway Earthwork

Recitals

A. Mark and Keri Fauber (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”) for approximately 2,250 cubic yards of non-foundational driveway earthwork. The Applicants also applied for Site Plan Review under Article 4-806 of the Code to construct a 5,650- square-foot residence and a 2,775-square-foot barn.

B. The subject property is located at 15778 Mossrock Drive, approximately .75 mile west of its intersection with North Dakota Ridge Road, in Section 4, Township 3 North, Range 70, in an Agricultural zoning district in unincorporated Boulder County (the “Property”).

C. The Property is 35.5 acres located at the northern end of Mossrock Drive and adjacent to Larimer County. It is also adjacent to, but not a part of, the Indian Gap Non-Urban Planned Unit Development (“NUPUD”) directly to the south. The Property is a legal building lot because it met the 35-acre minimum lot size required in the Agricultural zoning district when it was created. The Property’s private access road extends north from Mossrock Drive, a platted right-of-way that passes through the Indian Gap NUPUD. The private access road travels along the western boundary of the Property, extending into Larimar County.

D. The Property is currently vacant. Historic aerial photography indicates the presence of a small junkyard or vehicle storage area in the northwestern corner of the Property, but it had been removed at the time of staff visits to the site, although a graded berm and leveled area remain. The Property is bounded to the east and west by roads - North Dakota Ridge Road forms the eastern boundary and the private access road forms the western boundary.

E. The Property is characterized by a general downward slope from west to east, with steeper slopes in the middle of the Property and a drainage in the southern area. The proposed residence and barn are located at the approximate midway point of the western Property boundary on an area that is relatively flat compared to the rest of the Property.

F. The Boulder County Comprehensive Plan (the “Comprehensive Plan”) identifies a wide variety of resources on the Property.

G. The Property is almost entirely located within areas of Landslide and Debris-Flow Susceptibility as identified on the Comprehensive Plan Geologic Hazard & Constraint Areas map.

H. The original application proposed 2,250 cubic yards of driveway earthwork to provide site access, and 2,100 cubic yards of foundational earthwork as part of the residence and barn construction. In response to an application hold request submitted by the Development Review Team – Access & Engineering, the Applicants revised their design and reduced the proposed non-foundational driveway earthwork to 2,144 cubic yards.

I. As a result of the steep slopes present on the Property, extensive earthwork is required to provide access for the proposed residential and agricultural development. Staff found that the proposed residential location is acceptable because it is on one of the flattest areas of the Property.

J. The above-described request was processed and reviewed as Boulder County Community Planning and Permitting Docket LU-22-0021/SPR-22-0091 (the “Docket”), as further described in the memorandum and written recommendation to the Board of County Commissioners (the “Board”) by Community Planning and Permitting Department planning staff dated January 12, 2023, 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.

K. At an online public hearing on the Docket held on January 12, 2023 (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 Community Planning and Permitting Department staff. The Board also heard testimony from: Rachel Lee, architect; Mark Fauber, Owner-Applicant; Jane Snyder, architect; Charlie Hager, engineer; and John Kordela, architect, on behalf of the Applicants. Two members of the public spoke at the Public Hearing.

L. 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 non-foundational earthwork, subject to the conditions stated below.

M. The Board further finds that the Docket meets the criteria in Article 4-806 of the Code for Site Plan Review approval for the proposed residence and barn, subject to the conditions stated below.

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

Therefore, the Board resolves

Docket LU-22-0021/SPR-22-0091 is approved on the basis and terms set forth in this Resolution, above, and subject to the following conditions:

1. The development is subject to the 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, ignition resistant materials and defensible space, and the BuildSmart energy efficiency and sustainability requirements.

2. The improved driveway must comply with the Boulder County Multimodal Transportation Standards (the “Standards”) for residential development, including without limitation:

- Table 5.5.1 – Parcel Access Design Standards (One-Lane Mountains Access)
- Standard Drawing 11-12 – Private Access
- Standard Drawing 14 – Access with Roadside Ditch
- Standard Drawing 15 – Access Profiles Detail
- Standard Drawing 16 – Access and Grade Clearance
- Standard Drawing 17 – Access Pullouts
- Standard Drawing 18 – Access Turnaround
- Standard Drawing 19 – Typical Turnaround and Pull-out Locations

The access drive travel surface must be between 12 and 18 feet in width, plus an additional 2 feet horizontal clearance on each side.

The emergency access turnaround must be located a minimum of 50 feet from the front of the residence and no greater than 150 feet from the rear of the residence. A minimum 30-foot centerline radius is required for the emergency access turnaround.

The access must be surfaced with 4 inches ABC (Class 6) or other suitable material as approved by the County Engineer.

At building or grading permit submittal, the plans must include a driveway design that meets the Standards.

Prior to the issuance of a Certificate of Occupancy, the Community Planning and Permitting Department must verify that the driveway has been constructed according to the approved plan.

3. The proposed emergency access turnaround does not comply with the Standards; therefore, a Design Exception (“DE”) is required.

Prior to submittal of the building permit application, the Applicants shall submit a DE request form signed by a qualified Colorado-licensed Professional Engineer and approved by the County Engineer. In addition, Applicants must provide a letter from the Lyons Fire Protection District approving the DE request prior to submittal of the building permit application.

4. At building permit submittal, the submitted plans must comply with the recommendations made in the CTL Thompson geotechnical report (or an alternative report prepared by a Colorado-licensed Professional Engineer).

5. At building or grading permit submittal, the Applicants must submit a Revegetation and Erosion Control Plan for approval. This plan should include native grass species to be used, an explanation of how topsoils will be stockpiled, mapped delineation of all disturbance areas (including but not limited to construction staging areas, driveway, utility lines, and septic system), locations of silt fences around disturbed areas, and matting requirements, if necessary.

The Applicants shall install silt fencing downslope of all disturbance areas.

- a. Prior to any grading or site disturbance, the silt barrier location and materials must be installed as required by the approved plans.

Prior to issuance of a Certificate of Occupancy, the full installation of the approved Revegetation and Erosion Control plan must be inspected and approved by the Community Planning and Permitting Department. If weather is not conducive to seeding or if adequate revegetation efforts have not occurred and vegetation is not adequately established at the time of the final inspection request, an irrevocable letter of credit or monies deposited into a County Treasurer account will be required to assure the success of revegetation. The Applicants should consider the following well in advance of their revegetation inspection:

- a. Whether applying for a Certificate of Occupancy, final inspection, or the return of funds held in escrow for completion of revegetation, some level of germination and growth of grass seed is required.
- b. The steeper the slopes and dryer the soil, the greater the attention needed to establish a level of germination adequate to obtain revegetation approval.

- c. Areas of disturbance found at inspection that are not included on the revegetation plan are still subject to reseeded and matting.
- d. Incomplete revegetation is the leading cause for delays in obtaining a Certificate of Occupancy.

6. At building or grading permit submittal, a revised grading and drainage plan is required. The plan must show the type of culvert pipe and its compliance with Section 5.9.2.1 of the Standards. The plan must also show adequate permanent erosion mitigation at the outlet of all culvert drains. Calculations must be submitted showing that the outlet drain pan is of adequate size and material to handle estimated runoff.

Final grade cuts and fills shall not be steeper than a 1-½ to 1 slope. Grades steeper than a 1- ½ to 1 slope will need to be supported by a retaining wall. Retaining walls or series of walls greater than four feet in height, as measured from the bottom of the footer to the top of the wall, require building permits for construction. Steep sloped areas of stable exposed bedrock are acceptable in lieu of constructing a retaining wall.

At permitting, the height of the retaining wall must be provided and, if greater than four feet in height, wall details must be designed and stamped by a qualified Colorado-licensed professional engineer. Calculations shall be submitted for all retaining walls over 6 feet in height.

The revised grading and drainage plan must be signed and sealed by a qualified Colorado-licensed Professional Engineer, Landscape Architect, or Architect.

Prior to the issuance of a Certificate of Occupancy, the Community Planning and Permitting Department must verify that the drainage and permanent erosion control improvements have been installed according to the approved plan.

7. Prior to issuance of building or grading permits, the Applicants shall submit to the Community Planning and Permitting Department, for review and approval, a Tree Preservation Plan that indicates which trees will be preserved. The Tree Preservation Plan shall be included as part of the building plan set required at the time of permit application.

Prior to issuance of a Certificate of Occupancy, the full installation of the approved Tree Preservation Plan must be inspected and approved by the Community Planning and Permitting Department.

8. The approved size for the residential development is a maximum of 4,705 square feet of residential floor area.

9. The approved size for the agricultural development is a maximum 2,775 square feet of agricultural floor area (consisting of a 2,550-square-foot barn and 225-square-foot attached covered porch).

10. At building permit submittal, the Applicants must submit revised elevations for each façade of the proposed residence for staff approval. The revised plans must show that no more than 30 percent of the eastern façade is glass or window, and that all clerestory windows have been removed.

11. At building permit submittal, the Applicants must submit a revised eastern elevation for the barn showing that all clerestory windows have been removed. The submitted elevations dated August 29, 2022, for the northern, western, and southern building facades are approved as proposed.

12. The locations shown on the revised site plan dated December 13, 2022, are approved as proposed.

13. The approved height for the residence is a maximum 30 feet above existing grade.

14. The approved height for the agricultural barn is a maximum 30 feet above existing grade.

15. To verify that neither the residence nor barn exceed their approved height, a height survey is required. The Applicants should note that the height verification is a two-part process that requires a licensed surveyor to establish existing grade before any site work and prior to construction, in addition to a follow-up survey once all roof framing is in place. The two-part form must sufficiently establish existing grade in accordance with standard surveying practice.

Prior to issuance of building permit, the Applicants must complete and submit the first part of the Height Survey Verification form to the Community Planning and Permitting Department.

Prior to rough frame inspection, the second part of the form will be provided upon building permit application, and the Applicants must submit it to the Community Planning and Permitting Department.

16. Prior to issuance of building and grading permits, the Applicants shall submit to the Community Planning and Permitting Department for review and approval a plan depicting the routing of all utility services. The utility routing plan shall be included as part of the building plan set required at the time of permit application. To minimize disturbances to the site, all utility service lines shall be routed underground (under Article 7-1200 of the Code) and should be located in areas already disturbed or proposed to be disturbed (e.g., along driveway).

At the time of building inspections, full installation of the utilities per the approved plan must be inspected and confirmed by the Community Planning and Permitting Department.

17. During construction, all materials, machinery, dumpsters, and other items shall be staged on the Property; no items shall be stored or staged on Mossrock Drive.

18. During construction, while work is being performed, all vehicles shall be parked on site or to one side of Mossrock Drive so as to not impede the travel way.

19. Prior to issuance of building permits, an Onsite Wastewater Treatment System permit must be applied for and issued by Boulder County Public Health.

20. At building permit submittal, the Applicants must submit one copy of a proposed lighting plan to the Community Planning and Permitting Department for review and approval. The lighting plan shall be included as part of the building plan set required at the time of permit application.

NOTE: [Down lighting](#) is required, meaning that all bulbs must be fully shielded to prevent light emissions above a horizontal plane drawn from the bottom of the fixture. All exterior light fixtures must be in conformance with [Article 7-1600](#) and [Article 18-1 62A](#) of the Boulder County Land Use Code.

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

21. At building permit submittal, the Applicants shall include samples of all proposed exterior colors and materials for each proposed structure as well as all retaining walls for staff approval.

Colors shall be selected to minimize visual impacts of the development and help the development blend in with the natural environment and the neighborhood character of the surrounding area. These colors should be carefully selected from the dark to medium brown, gray, or green color range to ensure that they are compatible with the policies and goals established by the Comprehensive Plan and provisions of the Code and will not result in an adverse impact on surrounding properties.

Prior to the issuance of a Certificate of Occupancy, the full installation of the approved colors and materials must be inspected and verified by the Community Planning and Permitting Department.

Prior to issuance of a Certificate of Occupancy, the Community Planning and Permitting Department must inspect and verify that the approved exterior colors and materials are used on the new structure.

22. Prior to issuance of building permits, the Applicants must submit an agricultural management plan for review and approval by Community Planning and Permitting staff to address and avoid impacts on rare plants identified on the Property (Comprehensive Plan - Outstanding Biodiversity Significance) related to grazing on the Property. Restricting grazing in areas where rare plants are identified and rotating grazing range are required as components of the plan.

23. The Applicants shall be subject to the terms, conditions, and commitments of record and in the file for Docket LU-22-0021/SPR-22-0091: Fauber Residence and Driveway Earthwork.

[Signature Page to Follow]

A motion to approve the Docket was made by Commissioner Ashley Stolzmann, seconded by Commissioner Marta Loachamin, and passed by a 3-0 vote.

ADOPTED as a final decision of the Board on this _____ day of February 2023.

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

Claire Levy, Chair

Ashley Stolzmann, Vice Chair

Marta Loachamin, Commissioner

ATTEST:

Clerk to the Board