

RESOLUTION 2025-009

A resolution conditionally approving Boulder County Community Planning & Permitting Docket LU-24-0018/SPR-24-0077: Albert Earthwork and Residence

Recitals

A. John and Renee Albert, on behalf of Albert Living Trust (the “Applicant”), applied to Boulder County for Limited Impact Special Use Review under Article 4-600 of the Boulder County Land Use Code (the “Code”) for 1,813 cubic yards of non-foundational earthwork. The Applicants also applied for Site Plan Review under Article 4-800 of the Code to construct a new 4,890-square-foot residence and a 400-square-foot carport on an approximately 1.3-acre vacant parcel where the presumed compatible size is 4,899 square feet.

B. The subject property is located at 4259 Prado Drive, approximately 0.1 miles north of its intersection with Eldorado Springs Drive, in Section 20, Township 1 South, Range 70 West, in an Estate Residential zoning district in unincorporated Boulder County (the “Property”).

C. The Property is located south of the City of Boulder and does not meet the 35-acre minimum lot size required in an Estate Residential zoning district. However, the Property was created in its current configuration in 1957 as Lot 31 of the Valle Del Rio Subdivision and is therefore a legal building lot. Legal access to the Property is from Prado Drive, an asphalt County-owned and maintained right-of-way with a Functional Classification of Local.

D. Previously, the Assessor’s record identified a 3,264-square-foot residence and a 624-square-foot attached garage on the Property. The residence was deconstructed between June and September 2024 through BP-24-1729. The Property is currently vacant. The proposed residence will be located along the south Property line outside of the required 35-foot front-yard setback. The proposed non-foundational grading is intended to divert the flow of water around the house and create outdoor seating areas near the creek.

E. The Boulder County Comprehensive Plan indicates that the majority of the Property is located within Riparian Areas and Wetlands (associated with South Boulder Creek). The Property is directly adjacent to the Boulder Mountain Park/South Boulder Environmental Conservation Areas and is identified as a Zone 1 Preble’s Mouse Management Area. Further, the northern extent of the Property is located within the Floodplain Overlay District.

F. The above-described request was processed and reviewed as Boulder County Community Planning & Permitting Docket LU-24-0018/SPR-24-0077 (the “Docket”), as further described in the memorandum and written recommendation to the Board of County Commissioners (the “Board”) by Boulder County Community Planning & Permitting Department planning staff dated January 7, 2025, 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 a public hearing on the Docket held on January 7, 2025 (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 Boulder County Community Planning & Permitting Department staff. The Board also heard testimony from John Albert and his agent, Andrew Pharis, both on behalf of the Applicant. 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 non-foundational earthwork, with the exception of the non-foundational earthwork north of the platted 10-foot easement beyond that necessary for the installation of the new well and water line, subject to the conditions stated below.

I. 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 carport, subject to the conditions stated below.

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

Therefore, the Board resolves

Docket LU-24-0018/SPR-24-0077 is approved on the basis and terms set forth in this Resolution, above, and subject to the following conditions:

1. The non-foundational earthwork north of the platted 10-foot easement must be limited to that necessary for the installation of the new well and water line. No grading is permitted within the Floodway.

At building permit, the Applicant must submit revised grading and drainage plans and earthwork calculations signed and sealed by a qualified Colorado-licensed Professional Engineer clearly showing the following information: existing and proposed contours; proposed contours tying into existing contours within the Property lines; no grading in the Floodway or north of the 10-foot easement (except that for the establishment of the well and water lines); slopes that do not exceed 2:1; wall locations and details (if applicable); and drainage details including flow lines, how historic drainage will be maintained, and how drainage will be handled downslope from the proposed driveway and residence.

2. The development is subject to the requirements of the Boulder County Building Safety & Inspection Services Team and adopted County Building Codes, as outlined in the referral

comments, including, but not limited to, required fire suppression, ignition resistant materials and defensible space, and the BuildSmart energy efficiency and sustainability requirements.

3. Prior to installation of the well, the Applicant must apply for a General Floodplain Development Permit (“FDP”).
4. At time of building permit, the Applicant must apply for all applicable Individual FDPs.
5. At building permit, the Applicant must provide a complete Stormwater Quality Permit.
6. At building permit, the Applicant must provide the Permanent Stormwater Management Facilities checklist.
7. At building permit, the Applicant must submit revised plans showing the driveway sloping 2 percent away from Prado Drive until the flow line of the borrow ditch.

At final inspection, the Community Planning & Permitting Department must verify that the access and driveway have been constructed to comply with the Boulder County Multimodal Transportation Standards.

8. The development is subject to the requirements of the Boulder County Public Health Department, as outlined in the referral comments, including, but not limited to, installation, inspection, and approval of the onsite wastewater treatment system prior to the final building inspection approval by the Community Planning & Permitting Department.

9. The development is subject to the requirements of the Boulder County Wildfire Partners, as outlined in the referral comments, including, but not limited to, use of increased ignition-resistant materials, establishment of defensible space, emergency water supply, and emergency vehicle access.

10. At time of building permit, the Applicant must provide the Biological Assessment and provide evidence of correspondence or consultation with US Fish and Wildlife Service for and compliance with specific mitigation measures.

11. The Applicant must either reduce the total residential floor area to a maximum of 4,500 square feet or move the location of the residence away from the eastern Property line such that the side yard setback is increased from 10 to 15 feet, based on the site plan on page A27 of the application materials, without increasing the overall mass of the residence. The setback from the western Property line must remain at 35 feet to ensure the residence does not encroach on the 500-year floodplain. If the Applicant chooses to move the location of the residence, the residence may not exceed a maximum of 4,899 square feet of residential floor area. The Applicant must submit to the Community Planning & Permitting Department for review and approval an updated site plan showing either the reduced size or the new location of the residence.

12. If the Applicant chooses to reduce the size of the residence as set forth in Condition 11, the locations shown on the submitted site plan dated December 27, 2024 are approved as proposed.

13. The height of the proposed residence is approved at approximately 27' 8" from existing grade.

14. At time of building permit, the Applicant must submit revised elevations demonstrating reduced glazing and the use of low light-transmitting glass on the windows on the northwest façade of the structure.

15. Prior to any grading or site disturbance, the Applicant must install appropriate perimeter control measures such as sediment control logs downslope and parallel to contours for all disturbed areas including staging areas. The location and types of perimeter control shall be shown on site plans submitted for building permit approval. A construction fence must be erected 50 feet from the edge of the creek, paralleling the creek across the entire Property. This must be completed and inspected by the County before any further earthwork occurs. No machinery of any kind shall enter the area between the fence and the creek.

16. The exterior color and material choices are approved as proposed on the fact sheet included with the application materials including stone veneer, limestone, Corten steel metal panel, standing seam metal, stained wood, and heavy timber, and the colors tans, beiges, browns, and dark grey.

Prior to issuance of a Certificate of Occupancy or at time of final inspection, the Community Planning & Permitting Department must inspect and verify that the approved color samples are used on each of the new structures.

17. Prior to issuance of building permits, the Applicant must submit to the Community Planning & Permitting Department for review and approval a lighting plan that includes the placement of all exterior lighting fixtures and cut sheets for each fixture. Exterior lighting shall be restricted to one fixture per entrance and no landscape lighting between the residence and South Boulder Creek.

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. All exterior light fixtures must conform with Articles 7-1600 and 18-162A of the Code.

Prior to final inspection or issuance of a Certificate of Occupancy, the Community Planning & Permitting Department must inspect and approve the full installation of the approved lighting plan.

18. Prior to issuance of building and grading permits, the Applicant must submit to the Community Planning & Permitting Department for review and approval a plan depicting the routing of all existing and proposed 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 should be routed underground (*see* Article 7-1200 of the Code) and should be located in areas already disturbed or proposed to be disturbed (e.g., along driveway).

At time of building inspections, the Community Planning & Permitting Department must inspect and confirm full installation of the utilities per the approved plan.

19. At building or grading permit submittal, the Applicant must submit a Revegetation Plan for approval. This plan should include native grass species to be used, an explanation of how topsoil will be stockpiled, mapped delineation of all disturbance areas (including deconstructed structure locations, construction staging areas, driveway, utility lines, and septic system), locations of all erosion control measures, and matting requirements, if necessary.

Prior to issuance of a Certificate of Occupancy, the Community Planning & Permitting Department must inspect and approve the full installation of the approved Revegetation Plan. 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 final inspection request, an irrevocable letter of credit or monies deposited into a County Treasurer account will be required to assure the completion of revegetation. The Applicant should consider the following well in advance of the 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. Steeper slopes and dryer soil require greater attention to establish a level of germination adequate to obtain revegetation approval.
- c. Areas of disturbance found at inspection not included on the Revegetation Plan are still subject to reseeding and matting.

20. At building or grading permit submittal, the Applicant must submit a Weed Control Plan for approval. This plan must include mapping of County-listed noxious weed species on the entire Property with their intended control techniques specified.

21. The Applicant shall be subject to the terms, conditions, and commitments of record and in the file for Docket LU-24-0018/SPR-24-0077: Albert Earthwork and Residence.

A motion to approve the Docket was made by Commissioner Marta Loachamin, seconded by Commissioner Ashley Stolzmann, and passed by a 2-0 vote. Commissioner Claire Levy was excused from the Public Hearing.

[Signature Page to Follow]

ADOPTED as a final decision of the Board on this _____ day of February 2025.

The signatures below indicate approval of the text of the Resolution but are not necessarily reflective of the votes taken at the Public Hearing.

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

Marta Loachamin, Chair

Claire Levy, Vice Chair

Ashley Stolzmann, Commissioner

ATTEST:

Clerk to the Board