

RESOLUTION 2025-011

A resolution conditionally approving Boulder County Community Planning & Permitting Docket SE-24-0002: Kostecki-Keil Lot Recognition

Recitals

A. Nick Kostecki and Amanda Keil (the “Applicants”) applied to Boulder County for a Subdivision Exemption under Article 9 of the Boulder County Land Use Code (the “Code”) to recognize 468 Riverside Drive as a legal building lot eligible for building permits.

B. The subject parcel is located at 468 Riverside Drive, approximately 0.5 miles west of the easternmost intersection of Riverside Drive and State Highway 7, in Section 34, Township 3 North, Range 72 West, in a Forestry zoning district in unincorporated Boulder County (the “Property”).

C. The Property is approximately 0.49 acres in size and located on the north side of Riverside Drive. In 2023, Community Planning & Permitting Department staff found that the Property is not a legal building lot because its record of transfer between owners was not clear enough to determine when the current Property configuration was first created (*see* BLD-23-0059). In response to the staff determination that the Property lacked legal building lot status, the Applicants filed the subject application for Subdivision Exemption in an effort to have the lot recognized as a legal building lot.

D. During initial review of the proposal, staff requested that the Applicants provide a survey of the Property because it appeared that a portion of the existing residence extended across the southeastern Property boundary into the right-of-way (“ROW”). The survey confirmed several points of encroachment into the Riverside Drive ROW, including a set of wooden stairs, a section of the main residence and associated roof eave, a concrete patio, and part of the septic system drain field.

E. The subject application was then placed on hold while the Applicants submitted a separate proposal to vacate a section of the Riverside Drive ROW and therefore remove the setback encroachment (V-24-0001: Kostecki-Keil ROW Vacation). The vacation request was supported by staff and approved by the Board of County Commissioners (the “Board”) on December 10, 2024.

F. While the subject application was on hold and the Vacation request was under review, the Board adopted revisions to Article 9 of the Code, which regulates Building Lots, Mergers, Subdivision Exemptions, and Exemption Plats. A new administrative review process was adopted for requests to recognize non-legal building lots as legal building lots, as were new review criteria. However, the subject application was accepted when the pre-revision Code language was in effect, and as such, it was reviewed under the previous application process and review criteria.

G. The Property is currently developed with a single building that was originally constructed and used as the Riverside Lodge beginning in the early 1920s. Permit history for the Property in the County records is limited, with only three building permits issued for repairs to the lodge building in 1964 and 1965 to repair fire damage. As described in the determination letter for BLD-23-0059, it is unclear whether the Property configuration at the time of those permits matches the current configuration. At some point in the following years, it appears that the lodge building was converted into a residence without an application for a Change of Use on the Property (which would currently require an application for Site Plan Review). It is unclear if this conversion of use happened at a time when a land use process for the change of use would have been required.

H. An application for use of the Property as a Primary Dwelling Short-Term Rental was filed in 2021 by the previous owners, who indicated that the Property was their primary residence at the time. However, a license was never issued for the Property because of the subsequent County determination that the Property was not a legal building lot (meaning it could not qualify for a short-term rental license). The Property was then sold to the Applicants, who submitted the subject application for lot recognition as well as the Vacation application described above.

I. The Applicants proposed that the Property be recognized as a legal building lot in its current configuration and thus be eligible for the issuance of building permits. Staff find that the proposed lot recognition can meet all of the previous criteria under Article 9-400 of the Code to recognize the Property as a legal building lot.

J. The above-described request was processed and reviewed as Boulder County Community Planning & Permitting Docket SE-24-0002 (the “Docket”), as further described in the memorandum and written recommendation to the Board by Boulder County Community Planning & Permitting Department planning staff dated January 9, 2025, together with its attachments (the “Staff Recommendation”). The Staff Recommendation found that the proposal could meet the criteria for approval, and therefore, recommended that the Board conditionally approve the Docket.

K. At a public hearing on the Docket held on January 9, 2025 (the “Public Hearing”), the Board considered the Staff Recommendation as well as the documents and testimony presented by Community Planning & Permitting Department planning staff and Applicant Amanda Keil. No members of the public spoke at the Public Hearing.

L. Based on the Public Hearing, the Board finds that with the recommended conditions of approval, the Docket meets the criteria for Subdivision Exemption to recognize the Property as a legal building lot under Article 9-400 of the Code.

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

Therefore, the Board resolves:

Docket SE-24-0002 is approved on the basis and terms set forth in this Resolution, above, and subject to the following conditions:

1. The Applicants must comply with all applicable post-approval requirements for a Subdivision Exemption as listed in Article 9-700 of the Code, within one year after the date of approval of this Docket, unless an extension(s) of time is granted as allowed in Article 9-700 of the Code.

2. The Applicants shall be subject to the terms, conditions, and commitments of record and in the file for SE-24-0002: Kostecki-Keil Lot Recognition.

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