

RESOLUTION 2021-79

A resolution conditionally approving Boulder County Community Planning & Permitting Docket LU-21-0012/SPR-21-0068: Jensen Residence and Earthwork

Recitals

A. Through their agent John Hoffman, Kathryn and Randy Jensen (the “Applicants”), applied to Boulder County for Limited Impact Special Use Review under Article 4-600 of the Boulder County Land Use Code (the “Code”) for 2,273 cubic yards of non-foundational earthwork to construct a driveway across the parcel at 1141 County Road (CR) 83 to access the parcel at 1121 CR 83. The Applicants also applied for Site Plan Review under Article 4-800 of the Code to construct a new 4,064-square-foot residence on an approximately 17-acre vacant parcel.

B. The subject property is located at 1121 CR 83, located on the west side of CR 83 approximately 1.1 miles north of its intersection with Sunshine Canyon Drive, in Section 8, Township 1 North, Range 71 West of the 6th Principal Meridian, in a Forestry zoning district in unincorporated Boulder County (the “Property”).

C. The Property is a partial legal building lot made up of several pieces of land that are physically divided by the CR 83 right-of-way as well as several privately-owned parcels. These disconnected pieces cover acres of steeply sloped land that make physical access from CR 83 difficult, even though the Property boundary is adjacent to the right-of-way in several places. Only a portion of the Property—Lots 117, 118, 120, and 121—is eligible for designation as a legal building lot because the lots were originally conveyed via a deed recorded at Reception No. 90906317 and met the minimum lot size at the time. Lot 119 is not eligible for building because it was created without County approval in 1973 when the minimum lot size was 35 acres, and it was never subsequently approved by the County. Given this, the Applicants proposed to provide a physical access to the Property that crosses through a separate parcel at 1141 CR 83 before hooking east onto the Lot 117 portion of the Property.

D. Part of the proposed physical access will become a shared driveway that will also be used by a proposed residence at 1141 CR 83, which is under Community Planning & Permitting review as LU-21-0014/SPR-21-0090: Cherneski-Fronek Earthwork and Residence. The shared driveway will run generally west-northwest through 1141 CR 83 before hooking east, crossing the shared parcel boundary, and then following a contour up to the proposed residence location. It will cross an existing drainage twice, necessitating much of the proposed earthwork.

E. The proposed residence location is on Lot 117 in the northernmost portion of the Property. Existing grade is a moderate northeast-to-southwest downward slope at the build site. The Property features a Riparian Area identified in the Boulder County Comprehensive Plan

(“BCCP”), but the identified riparian area is separated from the nearest proposed area of disturbance by approximately 1,000 linear feet. The BCCP also indicates that CR 83 has a view protection score of 1.88 in the area near the Property. Portions of the Property are identified as having debris flow susceptibility or rockfall susceptibility. The proposed access road will pass through areas of debris flow susceptibility on both the subject and adjacent parcel on its way to the proposed residence location, but the residence location itself is not within an area of identified geologic hazard. The Property is adjacent to County Open Space to the north, as well as property owned by the Bureau of Land Management to the west and south.

F. Given the topography, substantial earthwork is required to access the proposed residence location. However, staff found that this proposed residence location is acceptable because the proposed earthwork will be shared with an adjacent property that is also proposed to be developed. Sharing a portion of the access will limit overall disturbance in the area, while also providing access to one of the more buildable sections of the Property.

G. The above described request was processed and reviewed as Boulder County Community Planning & Permitting Docket LU-21-0012/SPR-21-0068 (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 November 9, 2021, 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.

H. At an online public hearing on the Docket held on November 9, 2021 (the “Public Hearing”), as further reflected on 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 Hoffman on behalf of the Applicants. No members of the public spoke at the Public Hearing.

I. 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.

J. 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, subject to the conditions stated below.

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

Therefore, the Board resolves

Docket LU-21-0012/SPR-21-0068 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 & 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 approved size for the development is approximately 4,064 square feet of residential floor area.

3. The locations shown on the site plan dated July 19, 2021 and staked in the field are approved as proposed.

4. The elevations dated July 19, 2021 are approved as proposed.

5. The approved height for the development is a maximum of 27 feet, 9 inches.

6. At building or grading permit submittal, the Applicants shall 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 construction staging areas, driveway, utility lines, and septic system), locations of silt fences and catch fencing around disturbed areas, and matting requirements, if necessary.

Silt fencing shall be installed downslope of all construction areas, and catch fencing shall be installed between the CR 83 right-of-way and the silt fencing downslope of the residence location.

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

Prior to issuance of a Certificate of Occupancy, the Community Planning & Permitting Department must inspect and approve the full installation of the approved Revegetation and Erosion Control 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 success of revegetation. The Applicants shall 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.
- d. Incomplete revegetation is the leading cause for delays in obtaining a Certificate of Occupancy.

7. At building or grading permit submittal, the Applicants shall provide a recorded easement allowing installation of, and access along, the portion of the proposed driveway within the adjacent lot at 1141 CR 83.

8. Prior to issuance of any building or grading permits, the Applicants shall submit an application for and obtain a Stormwater Quality Permit (“SWQP”). The SWQP is required as part of the larger common plan of development shared by the Property and the adjacent parcel at 1141 CR 83.

9. Prior to issuance of building and grading permits, the Applicants shall submit to the Community Planning & 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 (*see* Article 7-1200 of the Code) and should be located in areas already disturbed or proposed to be disturbed (e.g., along driveway).

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

10. At building permit submittal, the Applicants shall include a revised site plan and driveway plan that includes the pullout and turnaround required by the Fire Protection District and described under Site Plan Review standard 3 in the Staff Recommendation.

Prior to issuance of a Certificate of Occupancy, the Community Planning & Permitting Department must verify that the access and driveway has been constructed to comply with the Parcel Access Design Standards in the Boulder County Multimodal Transportation Standards for driveways in the mountains, including without limitation:

- a. Table 5.5.1 – Parcel Access Design Standards (One-Lane Mountains Access)
- b. Standard Drawing 11 – Private Access
- c. Standard Drawing 14 – Access with Roadside Ditch Detail
- d. Standard Drawing 15 – Access Profile Detail
- e. Standard Drawing 16 – Access Grade and Clearance
- f. Standard Drawing 17 – Access Pull-outs
- g. Standard Drawing 18 – Access Turnaround
- h. Standard Drawing 19 – Typical Turnaround and Pull-out Locations

11. Prior to issuance of any building or grading permits, the Applicants shall submit to the Community Planning & Permitting Department for approval a Traffic Control Plan (“TCP”). The TCP must be completed by a certified Traffic Control Supervisor and must address flaggers, locations and types of warning signs to be used during hauling operations, maps of anticipated haul routes, and a narrative description of where the excess cut removed from the Property will be taken. It should also be coordinated with the development of 1141 CR 83 if possible.

Prior to issuance of a Certificate of Occupancy, the location and receipt for transport and dumping must be submitted to the Community Planning & Permitting Department so that receipt of fill materials may be verified.

12. During construction, all materials, machinery, dumpsters, and other items must be staged on the Property. No items may be stored or staged on County Road 83.

13. During construction (i.e. during the day while work is being performed), all vehicles must be parked on site or to one side of County Road 83 so as to not impede the travel way.

14. Prior to issuance of building permits, the Applicants shall submit an application for and obtain an Onsite Wastewater Treatment System permit from Boulder County Public Health.

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

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 18-162.A of the Code.

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

16. At building permit submittal, the Applicants shall submit to the Community Planning & Permitting Department for approval proposed colors and materials for any retaining walls that will be constructed.

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 BCCP and provisions of the Code and will not result in an adverse impact on surrounding properties.

Prior to issuance of a Certificate of Occupancy, the Community Planning & Permitting Department must inspect and verify the full installation of the approved colors and materials.

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

18. On the building permit application, the Applicants shall select either the Wildfire Partners or the Regulatory Wildfire Mitigation path.

Prior to issuance of any permits, a Wildfire Partners or Regulatory Wildfire Mitigation assessment and defensible space marking shall be completed. Based upon the path selected, either a Wildfire Partners Assessment Report or a Wildfire Mitigation Plan will be created and will describe the wildfire mitigation requirements to be implemented.

Before scheduling rough inspections, vegetation marked for removal must be cut and all slash, cuttings, and debris must be removed or properly disposed of and inspected by the Community Planning & Permitting Department.

At the time of final inspections, all required items in the Wildfire Partners Assessment Report or Regulatory Wildfire Mitigation Plan must be implemented, inspected, and approved by a Wildfire Mitigation Specialist.

The Applicants shall refer to Section R327 of the Boulder County Building Code for Ignition-Resistant Construction requirements. The referral from the Wildfire Mitigation Team contains information on the County's wildfire mitigation requirements, including site location, emergency water supply, and emergency vehicle access. The referral from the Building Safety & Inspection Services Team contains information on the County's Automatic Fire Sprinkler System requirement.

19. Prior to issuance of building or grading permits, the Applicants shall submit to the Community Planning & 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 Community Planning & Permitting Department must inspect and approve the full installation of the approved Tree Preservation Plan.

20. The Applicants shall be subject to the terms, conditions, and commitments of record and in the file for Docket LU-21-0012/SPR-21-0068: Jensen Residence and Earthwork.

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

ADOPTED as a final decision of the Board on this _____ day of December 2021.

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

Matt Jones, Chair

Marta Loachamin, Vice Chair

Claire Levy, Commissioner

ATTEST:

Clerk to the Board