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Janice K. Vos Caudill, Pitkin County, CO

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY,
COLORADO, APPROVING AN EXTENSION OF VESTED REAL PROPERTY RIGHTS FOR
THE COLLINS SUBDIVISION/PUD**

Resolution No. 009-2019

RECITALS

1. Pursuant to Section 2.8.4 (Actions) of the Pitkin County Home Rule Charter (“HRC”), all matters not required to be acted upon by ordinance or formal resolution may be acted upon by informal resolution.
2. McCabe Properties LLC (“Applicant”) have applied to the Pitkin County Board of County Commissioners (“BOCC”) to request a twenty (20) year extension of the vested real property rights associated with the Collins Subdivision/PUD, pursuant to Sec. 2-20-170(d) of the Land Use Code (“Code”).
3. The parcels are described as Tracts 8, 9, 10 and 11, J.H. McCabe Tracts and the Fathering Parcel, McCabe Ranch.
4. The properties are zoned RS-30 and contain 58.38 acres (Tract 8), 32.32 acres (Tract 9), 102.41 acres (Tract 10), 13.23 acres (Tract 11), and 271.63 acres (Fathering Parcel).
5. The J.H. McCabe Tracts Subdivision received final subdivision approval from Pitkin County, pursuant to Resolution No. 80-90; the final plat is recorded in Plat Book 10 at Pages 47-49, and amended in Plat Book 16 at Page 83. The Subdivision created Tracts 1-11.
6. The McCabe Ranch Low Impact Subdivision (LIS) received final subdivision approval from Pitkin County, pursuant to Resolution No. 94-33; the final plat is recorded in Plat Book 34 at Pages 37-39. The LIS created Tracts A-D.
7. A non-development easement is imposed on approximately 278 acres of land (176 acres of the LIS and all 102 acres of Tract 10). An open space restriction is imposed on 30+ acres of land across portions of Tracts B and D and the Fathering Parcel. An agricultural use restriction is imposed on another 275 acres of land, comprising portions of Tracts 1, 2, 3, 4, 5, 8, 9, A, B, C and D.
8. The BOCC granted a Growth Management allotment of 3,750 square feet of additional floor for the Aspen House on Tract 8, pursuant to Resolution No. 078-2004. A Covenant memorializing the commitments is recorded as Reception No. 507539.
9. The BOCC granted a Growth Management allotment for 6,250 square feet of floor area to the Fathering Parcel, pursuant to Resolution No. 136-2004, to be divided between the Sopris House, the Collins Home Site, and the Ranch Manager’s House. A Covenant memorializing the commitments is recorded as Reception No. 507540.
10. The BOCC approved a 10 year extension of vested rights for the allotments granted by Resolution Nos. 078-2004 and 136-2004, pursuant to Resolution No. 155-2004. Attached to the Resolution is a

Settlement Agreement between the Applicant and the Snowmass/Capitol Creek Caucus, which addresses concerns raised by the Caucus during the review process for the allotments.

11. To effectuate the Settlement Agreement, the Applicant submitted a Subdivision/PUD application, which the BOCC approved by Resolution Nos. 114-2008, 048-2010 and 004-2011; the Final Plat is recorded in Plat Book 100 at Pages 3-8. The BOCC granted a 10-year vested right that will expire on April 14, 2020, which vested right is memorialized in a Development Agreement recorded as Reception No. 588961.
12. The BOCC approved a rezoning of the Ranch Manager's House and the replacement duplex site from RS-30 to AH and the rezoning of Tract 9 from AH to RS-30, pursuant to Ordinance No. 29-2008.
13. The BOCC heard this application at a duly noticed public hearing on January 23, 2019, at which time evidence and testimony were presented with respect to this application.
14. The BOCC finds that it is appropriate to grant a 10 year extension of the vested rights, given the Applicant's compliance with applicable conditions of approval and progress in pursuing the project to date, and the benefits received by the County as a result of the approval, including the following:
 - A. The Ranch Manager's House was a free market residence. It was deed restricted as an RO unit and limited to no more than 3,000 square feet.
 - B. The Applicant agreed to replace the affordable housing duplex on Tract 9 with a new affordable housing duplex on the Fathering Parcel. Deed restriction has been recorded. Replacement has not yet occurred.
 - C. The Applicant agreed in 2004 to designate the Historic Red Barn, Irrigator's Cabin and the Homestead House as historic landmarks, which at that time meant that they were listed on the County's Historic Inventory. The Applicant agreed to maintain the historic integrity of these structures. The Applicant agreed not to seek greater density, more floor area, or other incentives in exchange for the designation.
 - D. The Applicant agreed to limit the height of the Aspen House and Collins House to 21' to the mid-point (reduced from 28'), and to break up the mass of these two houses, which could contain up to 8,250 square feet.
15. The BOCC further recognizes the benefit to the public from the earlier development restrictions, including a non-development restriction, and open space restriction and an agricultural use restriction on 575 of the 825 acres that comprise the McCabe Ranch. As a result, McCabe Ranch continues as a working ranch with irrigated pastures and hayfields and cattle grazing, and is an important part of the rural character of the area.
16. The BOCC further finds that the Applicant has committed to an additional level of protection for the historic structures – the Red Barn, Irrigator's Cabin and Homestead Cabin – by designating these structures to the Pitkin County Historic Register and recording a Covenant to ensure their preservation. In addition, the Applicant has committed to substantial improvements in order to restore the structures, which was not a requirement of the prior approvals.
17. The BOCC further finds that the 2018 Snowmass-Capitol Creek Master Plan states, "Existing homes of any size and vacant land with established development approvals that have not expired are considered approved until those approvals have expired," and that the Snowmass Capitol Creek Caucus supports the requested 20 year extension of the vested rights.

18. The BOCC further finds that the Ranch has been substantially unchanged over the last 14 years, due in large part to the extended vested rights that were previously granted.
19. The BOCC further finds that it is appropriate to designate the historic structures – the Red Barn, Irrigator’s Cabin and Homestead Cabin – to the Pitkin County Historic Register.
20. The BOCC further finds that it is appropriate to modify the approvals to conform to the terms and provisions of the current Code, as specified in the conditions below.
21. The BOCC finds that it is in the best interests of the citizens of Pitkin County to approve this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Pitkin County Board of County Commissioners that it does hereby approve the Collins Subdivision/PUD Extension of Vested Real Property Rights, subject to the following conditions, which shall run with the land and be binding on all successors in interest:

1. The Applicant shall adhere to all material representations made in the current or prior applications or in public meetings or hearings and shall consider those representations to be conditions of approval, unless amended by other conditions.
2. This vested right is granted in association with the approvals granted pursuant to BOCC Resolution Nos. 114-2008, 048-2010 and 004-2011. The conditions of those Resolutions shall remain in full force and effect, except as amended herein.
3. Within 90 days of the date of this approval, the Applicant shall submit for recordation an Amended and Re-Stated Development Agreement to memorialize the conditions of this approval. The Agreement shall be reviewed as to form and content by the County Attorney and Community Development Director, prior to recordation. The Agreement shall include provisions with regard to the preservation of the historic structures and a timeline for completion of the proposed restoration work.
4. Prior to submission of any building or other development permit applications for the new residence on Tract 9, the Collins Home Site residence on the Fathering Parcel and the new duplex on the AH-DUP parcel, or for expansion of the Aspen House on Tract 8, the Hex House on Tract 11, the Sopris House on the Fathering Parcel, or the Ranch Manager’s House on the AH-RM Parcel, the owner shall be required to submit for approval an application for Site Plan Review, pursuant to Secs. 2-30-20 and 7-10-50 of the Code, unless determined to be exempt from Site Plan Review, pursuant to Secs. 7-10-30 and 7-20-120(c)(4) of the Code.
5. Agricultural buildings on Tracts 8, 9, 10 and 11 and the Fathering Parcel shall be subject to the floor area exemptions in the current Code, which shall be reflected in the Amended and Re-Stated Development Agreement. The Applicant shall be required to record an Occupancy Covenant and Agreement against a property that takes advantage of the floor area exemptions for agricultural building, prior to issuance of a building permit for a new or expanded agricultural building.
6. No structural development in excess of 30” above or below natural grade shall occur within the setbacks of the lot, with the exception of driveways and associated retaining walls of up to 6’ above or below natural grade and fencing. Landscaping in the form of berms shall not exceed four feet from the most restrictive grade. Any development located within setbacks mandated by County zoning regulations that does not comply with these restrictions shall require a variance from the

Board of Adjustment. Approval of an activity envelope within such setbacks does not assure approval of a variance.

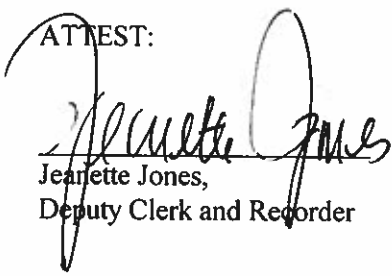
7. No calculations for height, bulk, setback, size, floor area, or any other building and zoning requirements have been conducted. These requirements will be considered at the time of building permit. Any structures represented in the application may not be permitted under building and zoning regulations.
8. Statutory vested rights for the approval contained herein are granted pursuant to the Pitkin County Land Use Code and Colorado Statutes, subject to the exceptions set forth in Pitkin County Land Use Code, § 2-20-170 and C.R.S., § 24-68-105. The statutory vested rights granted herein shall expire on April 14, 2030.

NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES WEEKLY on the 27th day of December, 2018.

APPROVED AND ADOPTED on the 23rd day of January, 2019.

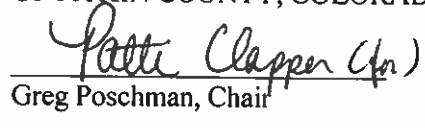
PUBLISHED AFTER ADOPTION FOR VESTED REAL PROPERTY RIGHTS in the Aspen Times Weekly on the 9th day of February 2019.

ATTEST:



Jeanette Jones,
Deputy Clerk and Recorder


BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO



Greg Poschman, Chair

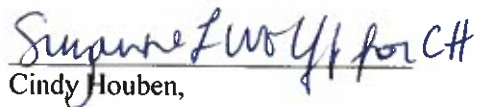
Date: 02-09-2019

APPROVED AS TO FORM:



John Ely, Richard V. Neicy III
County Attorney

APPROVED AS TO CONTENT:



Cindy Houben,
Community Development Director