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Janice K. Vos Caudill, Pitkin County, CO

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS (“BOCC”) OF PITKIN COUNTY, COLORADO GRANTING APPROVAL TO WILLOUGHBY PONDS TRUST FOR A MINOR AMENDMENT TO A DEVELOPMENT PERMIT, SUBDIVISION EXEMPTION FOR A LOT LINE ADJUSTMENT AND MINOR PLAT AMENDMENT, AND ACTIVITY ENVELOPE AND SITE PLAN REVIEW LOT 3, 4, 5, 6, AND 7, WILLOUGHBY PONDS SUBDIVISION

Resolution No. 019-2019

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. Willoughby Ponds Trust (“Applicant”) has applied to the Pitkin County Board of County Commissioners (“BOCC”) for approval of the following:
 - Combine Lot 6 and Lot 7 of the Willoughby Ponds Subdivision into a single lot;
 - Realign the subdivision access road;
 - Adjust lot lines on Lots 3, 4, 5 and 6 and adjust the platted building envelopes accordingly;
 - Amend Resolution No. 93-94 defining allowed floor area on each lot to align them with allowed floor area in the R-30 zone district based on the amended lot sizes;
 - Exchange 2,977 square feet of subdivision open space area with an abutting 2,977 square feet of new open space area; and
 - Obtain Activity and Site Plan Review approval to relocate an existing 1,644 square foot accessory structure and to construct an approximately 9,431 gross square foot single-family residence with ground and roof mounted solar panels on Lot 6.
3. The proposed Subdivision Exemption for a Lot Line Adjustment and Minor Plat Amendment specifically includes the following:
 - The merger of Lot 7, Willoughby Ponds Subdivision (3.207 acres) with Lot 6, Willoughby Ponds Subdivision (1.366 acres). The resulting amended Lot 6 will contain 5.223 acres;
 - The elimination of Lot 7 from the Willoughby Ponds Subdivision and the elimination of the associated development right;
 - The realignment of the subdivision road;
 - The adjustment of the lot lines between Lots 6, 5, 4, and 3. The platted building envelopes will adjust accordingly.
 - The establishment of a 30’ wide driveway easement across Lot 6 to access Lot 3.
 - The establishment of a 30’ wide driveway easement across Lot 5 to access Lot 4.
 - The exchanging of 2,977 square feet between the open space area and a non-open space area resulting in a no-net loss of open space area to accommodate relocation of the accessory structure.

4. The subject lots are described as Lots 3, 4, 5, 6, and 7, Willoughby Ponds Subdivision as recorded in Plat Book 32 at Page 35. The parcel identification numbers are 273707206003, 273707206004, 273707206005, 273707206006, and 273707206007 respectively.
5. The subject lots are located in the R-30 zone district within the Urban Growth Boundary (“UGB”) and are conforming in size.
6. In 1985, the approximately 16.27 acre property was granted General Submission approval to subdivide the property into 8 lots pursuant to BOCC Resolution No. 85-141. Detailed Submission was subsequently approved pursuant to BOCC Resolution Nos. 87-31 and 88-78. The Final Plat was recorded in Plat Book 21 at Page 7. An Insubstantial Change to the Recorded Plat was approved pursuant to PZ Resolution No. 91-03. In 1993, pursuant to Resolution No. 93-94, a Subdivision Plat Amendment was approved to reconfigure the access road, and some of the lots and the associated building envelopes. In 1991 the Final Plat was amended in Plat Book 26 at Page 21 and Plat Book 32 at Page 35 eliminating Lot 8 from the subdivision.
7. The Willoughby Ponds Subdivision Protective Covenants were first recorded in Book 569 at Page 670 and subsequently amended in Book 644 at Page 678 and Book 720 at Page 922. The Subdivision Improvements Agreement recorded in Book 569 at Page 721 was amended in 1991 in Book 644 at Page 657, and again in 1993 as recorded in Book 720 at Page 951.
8. The application was referred to City of Aspen Water Department, Aspen Consolidated Sanitation District, Pitkin County Open Space and Trails, Pitkin County Attorney, and Pitkin County Planning Engineer. Comments were received from the Pitkin County Planning Engineer and are incorporated into the following conditions of approval.
9. The BOCC considered this application at a duly noticed public hearing on December 5, 2018, at which time evidence and testimony were presented with respect to the application.
10. The BOCC finds that the application for an Activity Envelope and Site Plan on Amended Lot 6 is consistent with the applicable provisions of the Pitkin County Land Use Code as follows:
 - A. The Activity Envelope primarily contains slopes less than 30%. Small areas containing slopes in excess of 30% are a result of the development of the subdivision road and qualify as minor slope anomalies pursuant to Land Use Code Sec. 7-20-20(c)(3)
 - B. The applicant has engaged Colorado Wildlife Science LLC and a certified arborist from Aspen Tree Service to assess the general ecology and the condition of the trees on the western side of the lot. The general recommendation of the studies is a multi-year process of selective removal to encourage natural healthy regeneration. The Applicant has agreed to comply with Sec. 7-20-130 and will obtain the necessary permits for future tree removals.
 - C. The wildfire hazard is mapped as low. The Applicant will comply with the Code standards for development in a low wildfire hazard area.
 - D. The lot is not mapped within any significant wildlife habitat. The applicant will comply with the general wildlife criteria in Sec. 7-20-70.
 - E. The property is within the scenic view protection area (“SVPA”) as seen from State Highway 82. Due to distance, existing vegetation, and topography, development on Lot 6 will unlikely be visible from State Highway 82. The Applicant has committed to utilizing indigenous earth tone materials or colors on exterior surfaces and constructing roofs with a non-reflective composition. The residence is a predominately a single-story and will not project above a ridgeline.

- F. The proposed solar energy collectors will comply with Sec. 4-30-50(i) of the Code. The roof-mounted solar energy collectors will not exceed six feet above the height limit of the roof measured to the top of the panel, and will maintain the required 3' setback from roof edges. The ground-mounted solar energy collectors and other ancillary development (racking assembly, balancing system, utility boxes, etc.) will have a "matte" finish or be of a non-reflective material/color, and will not exceed twelve (12) feet in height. The collectors will be used for on-site purposes.
11. The BOCC further finds the Minor Plat Amendment does not affect compliance with the standards of the Land Use Code and is consistent with the original subdivision approvals.
 12. The BOCC further finds the Minor Amendment to a Development Permit to amend the floor areas listed in Resolution No. 93-94 is consistent with actions taken during previous development approvals; does not change the use or basic character of the subdivision; does not constitute a new land development activity; will not increase off-site impacts; does not endanger the public health, safety or welfare or violate any standard of the Land Use Code; will not increase the need for parking, utilities or affordable housing; and will not increase the total floor area or decrease the open space.
 13. The BOCC further finds that the Applicant has voluntarily committed to limiting the allowed floor area and floor area exempt from GMQS on amended Lot 6 to 12,500 square feet.
 14. The BOCC further finds the lots are within a Board of County Commissioners approved subdivision. Pursuant to Sec. 1-70-20, any County approved subdivision in the Urban Growth Boundary Area approved prior to the 5th of July 2006 which specified floor area allowed in the development permit shall be permitted to develop as originally approved exempt from growth management. The vesting of Resolution No. 93-94 has expired and therefore the maximum allowed gross floor area on each of the lots is 15,000 square feet and growth management allocations or TDRs are required on certain lots to develop in excess of the allowed floor area and up to the gross floor area.
 15. The BOCC further 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 Board of County Commissioners of Pitkin County, Colorado that it does hereby approve the Willoughby Ponds Trust Minor Amendment to a Development Permit, Subdivision Exemption for a Lot Lone Adjustment and Minor Plat Amendment, and Activity Envelope and Site Plan Review; and authorizes the Chair to sign on behalf of the County.

BE IT FURTHER RESOLVED by the BOCC that this approval is 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. Prior to submission of any building permit applications, the Applicant shall submit an amended plat to the Community Development Department for approval and recording. The mylar copy of the plat must be signed by the owners prior to submittal for recording. The amended plat shall be amended as follows, prior to recordation:

- A. Depict the amended Northern Open Space Area exchanging 2,997 square feet of new open space with the 2,997 square foot area proposed to accommodate the barn.
 - B. Depict the restricted height areas on Lots 4 and 5 which shall be consistent with the restricted height areas shown in Plat Book 32 at Page 35.
 - C. Remove the "Optional Ponds."
 - D. Depict and note all access easements.
 - E. Include a purpose statement below the title.
3. Prior to submission of any future building permit applications for Lot 6, the Applicant shall be required to submit for approval by the County Attorney and Community Development an Activity Envelope and Site Plan for Lot 6 in accordance with Land Use Code Section 2-30-20(g) and Application Manual Section 2.1.12. The above referenced approvals shall be a condition precedent to finalization and recordation. The Activity Envelope and Site Plan shall be amended as follows, prior to recordation:
- A. Depict the landscaping plan as presented and agreed to during the BOCC meeting.
 - B. Depict the Restricted Planting Area as presented and agreed to during the BOCC meeting.
4. The Restricted Planting Area is outside of the approved Activity Envelope on amended Lot 6. If landscaping is proposed within the Restricted Planting Area in the future, the owner of Lot 6 shall mail notice of the plan to the owner on record of 109 Willoughby Way (Lot 1, Tract 1 Troyer-Trousdale Subdivision, Parcel No. 273707214001) prior to obtaining any necessary approvals or permits for the work. The Applicant has committed that any future landscaping within the Restricted Planting Area shall not exceed 25' in height.
5. As a result of merging of Lot 6 and 7, the adjustment of the lot lines on Lots 3, 4, 5, and 6, and pursuant to Sec. 1-70-20, the allowed floor area exempt from GMQS and the allowed gross floor area after GMQS allocation and/or TDR purchase shall be as follows for each lot:

<i>Lot</i>	<i>Allowed Floor Area Exempt from GMQS</i>	<i>Allowed Gross Floor Area After GMQS Allocation and/or TDR Purchase</i>
<i>1</i>	<i>12,455 square feet</i>	<i>15,000 square feet</i>
<i>2</i>	<i>12,396 square feet</i>	<i>15,000 square feet</i>
<i>3</i>	<i>15,000 square feet</i>	<i>15,000 square feet</i>
<i>4</i>	<i>6,981 square feet</i>	<i>11,731 square feet</i>
<i>5</i>	<i>6,309 square feet</i>	<i>11,059 square feet</i>
<i>6</i>	<i>12,500 square feet</i>	<i>12,500 square feet</i>

6. With the building permit application for the residence on Amended Lot 6, the Applicant shall:
- A. Submit a copy of this recorded Resolution with the associated, recorded Amended Willoughby Ponds Subdivision Plat, and the recorded Activity Envelope and Site Plan for Lot 6.
 - B. Obtain an address number from Pitkin County Addressing

- C. Submit a final water utility plan to be reviewed by the City of Aspen Water and Engineering Department demonstrating that established easements will be maintained and the proposed development will not impact the ability to install a future water main loop. If City of Aspen Water will be utilized, submit receipts from the City of Aspen Water Department for fees paid for development review and fixture count, or confirmation from the City of Aspen Water Department that a review has been done and no fees are due.
 - D. Submit receipts from the Aspen Consolidated Sanitation District for fees paid, or confirmation from the Aspen Consolidated Sanitation District that a review has been done and no fees are due.
 - E. Pay the applicable road and employee housing impact fees.
 - F. Submit a fireplace/woodstove permit to the Community Development Department, if applicable.
 - G. Submit a drainage and erosion control plan and an accompanying drainage report demonstrating that historical flow patterns and runoff amounts will be maintained. If the total development disturbs one acre or more, a Colorado Department of Public Health and Environment permit for Stormwater discharges associated with construction activities shall be applied for and obtained prior to issuance of a building permit.
 - H. Provide adequate engineering for any retaining walls over four (4) feet in height and/or any improvements to walls over four (4) feet in height. All retaining walls shall be a maximum of seven (7) feet tall.
 - I. Submit the applicable building permit(s) for review and approval to relocate the accessory structure.
 - J. Submit an Access Permit for review and approval to realign the subdivision road and to construct a driveway on Lot 6. The permit application shall include:
 - 1. Demonstration of adequate emergency access to the residence located on Lot 3 during the realignment of the road;
 - 2. Demonstration of adequate engineering of the driveway;
 - 3. A section and profile drawing of the driveway;
 - 4. Compliance with Fire Department requirements;
 - 5. Details on all turn-arounds and parking locations.
 - K. Submit a detailed Landscape/ Re-vegetation Plan with appropriate native plant materials.
 - L. Submit a tree removal and associated mitigation plan if any trees larger than 6" DBH are to be removed.
 - M. Submit a detailed exterior lighting plan with the corresponding fixture cut sheets.
 - N. Submit representation of the exterior indigenous earth tone materials or colors.
7. The Applicant shall comply with all standards for development within Scenic View Protection Areas as represented in the application and approved in this Decision. The exterior of the residence shall utilize indigenous earth tone materials or colors and the roofs shall have a non-reflective color or composition. Reflective roof materials shall not be used unless the materials are treated prior to installation to eliminate reflectivity, with the exception of materials associated with solar or photovoltaic equipment. Driveway lighting is prohibited and all other lighting shall comply with the lighting code.
8. Roof-mounted solar energy collectors shall comply with Sec. 4-30-50(i) of the Code including but not limited to maintaining a 3 foot setback from roof edges, not exceeding four feet above the height limit of the roof measured to the top of the panel, and shall be used for on-site purposes.

9. The Ground-mounted solar energy collectors and other ancillary development (racking assembly, balancing system, utility boxes, etc.) shall have a “matte” finish or be of a non-reflective material/color. Equipment that is painted shall be maintained. The collectors shall not exceed twelve (12) feet in height unless Special Review approval is granted and shall be used for on-site purposes only.
10. The Applicant shall comply with the following standards for Development in a Low Wildfire Hazard Area:
 - A. Defensible space: The area around all buildings/structures, limited by property boundaries that may limit a property owner’s ability to comply with this section, shall incorporate landscaping with wildfire defensible space considerations as follows (note: actual vegetation manipulation to meet these conditions may not be necessary where the natural vegetation patterns have already fulfilled these conditions):
 1. Brush, debris, and non-ornamental vegetation shall be removed within a minimum 10-foot perimeter around the structure.
 2. Vegetation shall be reduced to break up the vertical and horizontal continuity of the fuels for a minimum of a 30-foot perimeter around the structure.
 3. Spacing between clumps of brush and vegetation within the 30-foot perimeters shall be a minimum of two times the height of the fuel. Maximum diameter of the clumps shall not exceed 10 feet. All measurements shall be from the edges of the crowns of the fuel.
 4. All branches from trees and brush within the 30-foot perimeter shall be pruned to a height of 10 feet above the ground and ladder fuels from around trees and brush shall be removed.
 5. Tree crown separation within the thirty (30) foot perimeters shall have a minimum of ten (10) feet between the edges of the crowns, except for mature stands of aspen trees where ladder fuels have been removed. In areas of aspen regeneration, understory shrubs and down and dead materials shall be removed
 6. All branches that extend over the roof eaves shall be trimmed and all branches within 15 feet of the chimneys shall be removed.
 7. The density of fuels within a 100-foot perimeter of the structures shall be reduced.
 8. All deadfall up to a 100-foot perimeter shall be removed.
 9. No new conifer trees shall be planted within 10 feet of a residence.
 10. No flammable mulches shall be placed within two feet of a residence.
 11. The property owner shall be responsible for the continued maintenance of the defensible space vegetation requirements.
 - B. Roofing Materials: Class A covering or Class A assembly as defined by the currently adopted Building Code. No wood shakes or shingles. All other adopted Building Code compliant methods and materials permitted. Roofs with less than a 3:12 pitch are not permitted unless they comply with the following:
 1. All roof coverings shall be constructed of non-combustible materials and installed on a Class A roof assembly.
 2. All roof coverings shall have a surface that shall facilitate the natural process of clearing roof debris.
 3. Protrusions above the roofline, such as parapets, shall be prohibited unless approved by the Aspen Fire Department at the time of building permit.

4. Roofs shall be installed as required by the adopted Building Code and shall have a minimum pitch of 1:48.
5. All roof designs, coverings, or equivalent assemblies shall be specifically approved by the Fire Marshal prior to submittal of a building permit application.

C. Maintenance and Miscellaneous Requirements

1. Roofs and gutters shall be kept clear of debris.
 2. Roof vents shall be screened with corrosive resistant wire mesh, with mesh one-fourth ($\frac{1}{4}$) inch maximum.
 3. Any outbuilding shall adhere to these same wildfire requirements.
 4. Yards shall be kept clear of all litter, slash and flammable debris.
 5. All flammable materials shall be stored on a parallel contour a minimum of fifteen (15) feet away from any structure.
 6. Weeds and grasses within the ten (10) foot perimeter shall be maintained to a height not more than six (6) inches.
 7. Firewood/wood piles shall be stacked on a parallel contour a minimum of fifteen (15) feet away from the structure.
 8. Swimming pools and ponds shall be accessible by the local fire district.
 9. Fences shall be kept clear of brush and debris.
 10. Wood fences shall not connect to other structures.
 11. Fuel tanks shall be installed underground with an approved container.
 12. Propane tanks shall be buried, if possible, or installed according to NFPA 58 standards and on a contour away from the structure with standard defensible space vegetation mitigation around any aboveground tank. Any wood enclosure around the tank shall be constructed with materials approved for two (2) hour fire-resistive construction on the exterior side of the walls.
 13. Each structure shall have a minimum of one ten (10) pound ABC fire extinguisher.
 14. Addresses shall be clearly marked with four (4) inch non-combustible letters and shall be visible at the primary point of access from the public or common access road and installed on a non-combustible post.
 15. Utilities shall be extended underground.
11. The Applicant shall comply with the applicable codes and requirements of the Aspen Fire Protection District, including but not limited to access, turning around of fire apparatus, and installation of an approved fire sprinkler system.
12. The Applicant shall comply with the following measures to mitigate impacts to wildlife:
- A. Native vegetation shall be maintained outside of the activity envelope.
 - B. Contractors shall be prohibited from bringing their dogs on-site.
 - C. Fruit bearing trees or shrubs palatable to bears shall be avoided within the Activity Envelope for the residence.
 - D. Trash/garbage shall be kept in an approved bear resistant container or enclosure as required by the County's Wildlife Protection Ordinance.
 - E. Outside doors shall utilize only solid round handled doorknobs unless another type is required by the applicable building code for disabled accessibility purposes, or is approved by Colorado Parks and Wildlife as bear-proof.
 - F. Bird feeders, including hummingbird feeders, shall be hung away from any deck or window, and shall be at least 10' from the ground suspended between 2 trees or posts. All seed

feeders shall include a seed catchment pan to catch discarded seeds. Bird feeders should be removed from April through November.

13. The Applicant shall comply with the County's Noxious Weed Management Plan.
14. All plants used for landscaping and revegetation shall be native species. Areas disturbed by construction shall be re-vegetated within one growing season of the project's completion. Landscaping shall be completed prior to issuance of the Certificate of Occupancy for the residence.
15. No development including grading, excavation, fill placement, berming, landscaping, vegetation removal or disturbance, shall occur outside of the approved activity envelope, except as necessary to comply with the wildfire and noxious weed mitigation measures.
16. Prior to commencement of any earthmoving or other construction activity, the Applicant shall stake the corners of the activity envelope and install construction fencing around the construction site within the perimeter of the activity envelope. The fencing shall remain in place until issuance of a Certificate of Occupancy.
17. No 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.
18. 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.
19. Failure to comply with the conditions of this approval may result in revocation of this approval, or any subsequent permit(s) or approval(s) related to this property, or vested rights associated with this property.
20. Statutory vested rights for the Amended Lot 6 Activity Envelope and Site Plan approvals referenced 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, § 4-140 and C.R.S., § 24-68-105. The statutory vested rights granted herein shall expire on January 8, 2022.

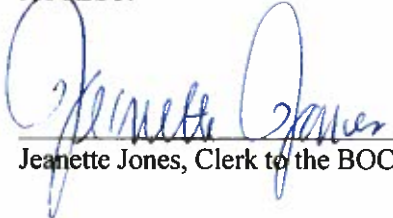
NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES WEEKLY on the 25th day of October, 2019.

APPROVED this 5th day of January, 2019.

PUBLISHED AFTER ADOPTION FOR VESTED REAL PROPERTY RIGHTS in the Aspen Times Weekly on the 15th day of April, 2019.

BOARD OF COUNTY COMMISSONERS
OF PITKIN COUNTY, COLORADO

ATTEST:



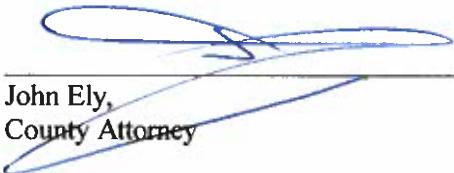
Jeanette Jones, Clerk to the BOCC

By Patti Clapper

Patti Clapper, Chair

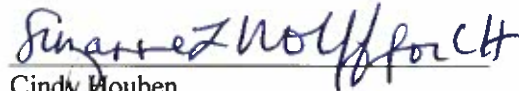
Date 04-05-2019

APPROVED AS TO FORM:



John Ely,
County Attorney

APPROVED AS TO CONTENT:



Cindy Houben,
Community Development Director