

Anson Fogel & Alexandra Fuller

2175 South Lower Boulder Rd
Boulder, UT 84716
970.948.2040
ansonfogel@gmail.com

August 30, 2022

Planning Commission, Town of Boulder, UT

PO Box 1329
Boulder, UT 84716

Re: Fogel Fuller Minor Subdivision Application Final Package Submission (Round 4)

CC: Daniel Boyer, Applicants' Counsel, via email.

Planning Commission,

Thank you for your time and consideration, once again, of our subdivision application. We began this process with a conceptual discussion with Your Commission in early 2021, followed by our initial application submission on February 11 of this year. Following nearly 2 years of work preparing our land, infrastructure and applications, we've now had 2 public meetings with your commission. Following our last meeting, April, acting as the Zoning Administrator, sent us an email on May 10 expressing your need for various final items before further considering our application. We have now addressed all of those issues, and as a result, believe we are at the "final application" stage.

We wish here to restate our intentions for this Subdivision. Our goal is simply to create a new lot in our Western pasture to sell at below market value to our longtime tenant and friend Nick Vincent. We believe that this kind of small "carve-off" subdivision for the benefit of locals is very beneficial to the community and broadly supported by it. We now have met, in exhaustive detail, all of the requirements of the ordinances as they existed at the time of submission. We cannot imagine any "countervailing public interest" or regulatory issue remaining that would prevent approval at this time. The attorneys none of us want to talk to also agree.

Find below a detailed explanation of the issues April and Your Commission raised in your most recent email of May 10, and the resolutions to each matter, along with the documentation required. We are also submitting all other elements of the application again here, so that you have all relevant materials in front of you for review in one place.

Best,

Anson Fogel, Alexandra Fuller and Nicolas Vincent

SUMMARY OF FINAL, RECENT SUBDIVISION UPDATES: Here is a quick summary of this final submission and the issues and documents included. We include a more detailed explanation following this summary:

1. **ROAD MAINTENANCE AND EASEMENT AGREEMENT** - The Kelly's and we have reached an agreement on a revised Access and Road Sharing and Maintenance Agreement. It was signed by all parties, notarized and filed with The County in July. In short, the future buyer of Lot 1, Nick Vincent, will need to construct his own driveway from Lower Boulder, rather than using our shared road. We think this is silly, but have agreed to this demand from the Kellys, as has Nick. Nick's future driveway will be short, luckily, as his land is on Lower Boulder Road itself. A copy of the agreement is attached here.
2. **SEPTIC:** We attach the SouthWest Utah Health Department letter noting their approval of our "Subdivision Feasibility Application." Note that they required proof of septic viability as well as water availability and allocations, and after reviewing, have approved both.
3. **WATER:** We attach the filed State Water Change Applications as well as the Warranty Deeds to be filed with the County that ressigns both the land and water. Correspondence between our Attorneys and the State has confirmed the viability of splitting our 1.5 acre foot existing potable well rights between Lots 2 and 3, which exceeds the town requirement of 0.5 acre feet per lot. The lots already share the well through pumps and piping. We also attach our Boulder Farmstead water share Certificate, which is assigned to us personally, not a specific lot, and will be used for Lot 1. Lot 1 meets all of Boulder Farmsteads Requirements for Fire Hydrants. Note that final re-allocation of our water cannot be completed until the subdivision is approved, and we assume approval from your Commission will note the requirement that we complete the filing and allocation of water to the revised lots.
4. **STORM DRAINAGE:** We attach here a simple "storm drainage plan" which shows the location of installed drainage ditches, catchment basins and culverts on our land. The town ordinance is not specific about the requirements beyond asking for a plan and structure that avoids "existing ditches or canals" which we clearly comply with.
5. **FINAL SUBDIVISION PLATS AND DOCUMENT:** Per the Boulder Ordinance's requirement for Subdivision Applications, we include an extensive series of documents here, including the required 5 reproducible copies of the final plat.

RECAP OF PRIOR SUBMISSIONS AND ORDNANCE REQUIREMENTS:

1. **ROADS:** As noted in prior submissions, and discussions with Your Commission, our road meets the requirements for private roads or driveways in the Ordances. The road is a 16' wide raised, drained and compacted modern gravel road that provides access for emergency vehicles and is of a quality well above the average for the area. There are large turnarounds on Lots 2, and 3, for fire trucks and tractor/trailers. Culverts and ditches provide very effective drainage.

- 2. POWER AND UTILITIES:** Lots 2 and 3 have in-place, permitted Garkane power, 25 pair copper for South Central TelCom, and new, empty conduit for fiber optics when South Central is able to provide. Lot 1 fronts Lower Boulder Road and thus has direct access to all utilities, and may also pull from the power, water and telcom buried in the field if we can help Nick mitigate costs by doing so.
- 3. IRRIGATION WATER:** We spoke with Katie Coleman at The Ditch Company who confirms that it is a simple process to divide our 7.4 A Shares of Irrigation between the lots in whatever way we desire. She also noted that water cannot be divided or assigned until after the subdivision is approved and filed, as it is assigned to the individuals, not the land itself. We intend to divide the A shares largely between lots 1 (Nick) and 2 (us) as they contain the irrigated pastures, and will likely retain 1 A share for Lot 3 (also us) for landscape irrigation. Irrigation water is already piped to accommodate this.
- 4. FIRE PROTECTION:** Peter Bensen approved our fire protection systems and fire protection plan prior to the last meeting with Your Commission. As per the ordinances as written at the time, his approval satisfies the requirements for fire protection. Note that we also made changes to the pipe and fire hose fittings on our various hydrants per Pete's recommendation, in June. Our extensive fire fighting improvements and strategies are addressed in prior submissions to Your Commission.
- 5. COMPLIANCE:** As noted in our original submission, our goals for the subdivisions are twofold - provide land to Nick, and bring the out of compliance boundaries and shapes of the existing lots into compliance with County and State regulations for the aspect ratio of the lots. This improvement is in the public interest.
- 6. LOT SIZES:** As noted and discussed previously, the proposed lot sizes meet the requirements of the ordinances for minimum lot sizes even excluding the easements. This is part of the reason Lot 1, the smallest new lot for Nick, exceeds 5 acres.
- 7. TITLE REPORT:** The title report was submitted as required in the Ordinances with our second application round, and is still within the 180 days required by same. We include it here, again.

We believe that in combination with the information we previously submitted, we now comply 100% with all requirements as described in the Ordinances. We look forward to our public hearing next week.

Anson Fogel & Alexandra Fuller

Boulder, UT