



MEMORANDUM

TO: GREAT OUTDOORS COLORADO, NATURAL RESOURCE
CONSERVATION SERVICE, ROUTT COUNTY

FROM: MEGAN KNOTT, DIRECTOR OF STEWARDSHIP, CCALT

DATE: JUNE 30, 2020

SUBJECT: CIRCLE BAR AMENDMENT

The Circle Bar Ranch (f.k.a. Warren Ranch) has a conservation easement compliance issue that has existed since 2010, but was rediscovered and prioritized during the Colorado Cattlemen's Agricultural Land Trust's (CCALT) merger with the Yampa Valley Land Trust (YVLT). During due diligence for the merger between YVLT and CCALT, the issue was brought back to light and added to CCALT's tier 1 list of active stewardship issues. Since merger, CCALT has been looking for a way to bring the Circle Bar Ranch into compliance with the terms of the conservation easement. After meeting with the landowner in November of 2019, CCALT believes we have a path forward. To resolve the issue, CCALT needs the approval of the Natural Resource Conservation Service (NRCS), Routt County, and Great Outdoors Colorado (GOCO) prior to any actions taken to amend the Conservation Easement.

BACKGROUND ON THE CONSERVATION EASEMENT

Warren Ranch, Inc. ("Original Grantor") conveyed to YVLT a Deed of Conservation Easement for the Warren Ranch Lower Hay Meadow Parcel dated November 14, 2000, and recorded November 15, 2000, at Reception Number 536403 in the records of Routt County, Colorado (the "Conservation Easement"), which encumbered approximately 836 acres of land located along County Road 129 south of Clark in Routt County, Colorado (the "Property"). The Conservation Easement was funded by NRCS, Routt County, and GOCO. A second donated conservation on the ranch's upper parcel was also conveyed in 2000 and was tied to the Lower Hay Meadow Parcel through a no subdivision clause. However, the second parcel is not otherwise relevant to this analysis. The Property was sold in 2006 to Shellsteve, L.L.C. (the current "Grantor"). The Property is now called Circle Bar Ranch.

CONSERVATION EASEMENT NON-COMPLIANCE

At the time of the conservation easement, two residences existed; a main residence of 3,275 square feet and a ranch manager's house of 1,152 square feet. In 2009, Grantor approached YVLT with a proposal to rebuild the ranch manager's residence to serve as the primary residence.

Paragraph 4(I)(b) of the Conservation Easement permits the Grantor to enlarge the residential structures to a size “no greater than four thousand (4,000) square feet in size, inclusive of all square footage (including but not limited to garages, decks, mechanical rooms, patios, basements, secondary units [which secondary units shall be attached and shall be no greater than eight hundred (800) square feet in size]).”

On December 31, 2009, project architect Joe Robbins (the “Architect”) submitted construction drawings (the “Construction Drawings”) to YVLT depicting a reconstructed residential structure at 3,997 square feet (the “Reconstructed Residence”). The Construction Drawings state that “The new home is designed to encompass 3,997 square feet, including all living, mechanical, storage space, etc.”

At 3,997 square feet, the Reconstructed Residence depicted in the Construction Drawings did not exceed the size restrictions specified in Par. 4(I)(b) of the Conservation Easement. The same Construction Drawings were submitted to the Routt County Building Department and remain on file with the Building Permit issued for the Reconstructed Residence. The plans as submitted included an open breezeway for parking vehicles. During construction, which lasted over the winter, it was noted that the breezeway created a wind tunnel and a snow drift filled the space. The breezeway was subsequently closed in to create a garage. In addition, a mechanical room was added and attached to the north of the enclosed breezeway. With these changes, the square footage of the Reconstructed Residence was increased to 5,176.4 sq.ft. CCALT calculated and confirmed the square footage in November 2019. The Routt County Assessor currently identifies the Reconstructed Residence as 4,695 square feet, but CCALT and the Grantor agree this is incorrect. CCALT could not find any follow up in the YVLT files regarding this square footage discrepancy or an effort by the YVLT administration to pursue a correction.

PROPOSED SOLUTION

There is no evidence in the YVLT file that the overbuilding of the Reconstructed Residence was ever documented and determined to be an issue by YVLT. As far as CCALT can tell, the Grantor has never been put on notice by YVLT of the existence of this possible technical non-compliance. Despite this issue being over 10 years old, now that CCALT is aware of the issue we feel we should pursue a solution in a manner satisfactory to the funders and our nationally accredited status. We believe we need the cooperation of Grantor to come to a mutually acceptable solution, as legal recourse a decade later is quite problematic. Therefore, CCALT has crafted a solution we believe benefits the protection of the Property’s Conservation Values while being acceptable to Grantor.

Par. 4(I)(e) of the Conservation Easement permits the Grantor to construct up to three (3) cabins (“Fishing Cabin(s)”) on the Property, each no greater than 600 square feet in size (inclusive of all square footage including but not limited to garages,

mechanical rooms, basements, and exclusive of decks and/or patios, which shall be attached to the Fishing Cabins and which decks and/or patios shall be no greater than 200 square feet in size). Each Fishing Cabin may be located anywhere on the Property, but the location must first be approved in writing by CCALT. There are currently no Fishing Cabins on the Property.

CCALT staff proposed an amendment to the Conservation Easement to Grantor, which would create an agreement whereby an option is added onto the Conservation Easement to allow the fishing cabin square footage to be allocated to and used to enlarge the two (2) existing residences. The discrepancy over square footage on the Reconstructed Residence could then be resolved under the Conservation Easement through an interpretation stating that that 2 cabin rights, totaling 1,200 square feet, have been exercised to allow the Reconstructed Residence to remain at just under 5,200 square feet.

Under this interpretation only 600 square feet would remain and therefore only one additional fishing cabin could be built in the future.

CCALT also proposes redefining the all-inclusive square footage definition to only include enclosed square footage. This change would reduce the stewardship burden on Grantee. As of right now, we have not measured all decks and patios and these measurements are not part of county assessor records. As a general policy, CCALT does not believe decks and patios have any detrimental impacts to the Conservation Values, especially within a building envelope. The current CCALT form Deed of Conservation Easement does not include “porches, garages, and decks” in calculating the square footage of residential structures. This amendment would therefore be consistent with how CCALT measures residential square footage.

Finally, the building envelopes were only vaguely drawn on an exhibit attached to the conservation easement, which exhibit is not exactly to scale. There is also a clause within the Conservation Easement that allows “Grantor may minimally reconfigure either or both of Building Envelopes A-1 and A-2 for the primary purpose of relocating the residential structure associated with Building Envelopes A-1 and A-2 to a location further from RCR 129... .” CCALT recommends removing this language and accurately describing the location of the building envelopes, removing ambiguity and removing the ability to relocate the Building Envelopes. Attachment 1 shows the proposed definition of the Building Envelopes. By defining the exact location of the Building Envelopes the Conservation Values are better protected.

AMENDMENT POLICY ANALYSIS

Staff believes the above described proposal meets all parties amendment criteria. The amendment only affects the building envelopes, which is 0.7% of the Property (less than 10% of the Property as the NRCS requires).

In regards to prohibition on private benefit, CCALT will consult with an appraiser to document that there is no private benefit being conveyed by the amendment. Staff does not anticipate that private benefit will be an issue as removing a right to build two separate cabins in exchange for enlarging a house up to an additional 1,800 square feet will not result in a measurable value gain and if that option is chosen would likely result in a value loss due to a loss of the cabin rights. Removing flexibility to relocate the building envelope will also help the argument that value is not being gained. Removing the size limits on decks, porches and patios would also not be an easily discernable gain of value when viewed in light of the fact that this is an 836-acre ranch and not a lot in city limits. Any private benefit is clearly incidental when viewed in light of the gain to conservation values this solution would provide as further described below.

The proposed solution will enhance the protection of the Conservation Values on the Property. Trading cabin rights for additional residential square footage would reduce the overall number of individual residential structures on the Property and reduce impacts to the riparian area of the Elk River (a site that would likely be requested by the Grantor in light of the purpose of the cabins), by clustering and consolidating development impacts to the defined Building Envelopes. The Parties also agree that decking and patios within the defined Building Envelopes have no detrimental impacts to the Conservation Values and that by defining the exact location of the Building Envelopes the Conservation Values are better protected. Attachment 2 to this memo is a matrix documenting the impact to the Conservation Values of the Property.

RECOMMENDATION: CCALT is seeking approval from GOCO, Routt County and NRCS to pursue the proposed solution.

**ATTACHMENT 1
MAP OF BUILDING ENVELOPES**



**ATTACHMENT 2:
CONSERVATION VALUES MATRIX**

Issue	Original Conservation Easement	Updated Language	Effect on Conservation Value			Comments
			Scenic & Open Space Values	Agricultural Values	Wildlife Habitat	
Reduction in number of cabins	Allowed 3 cabins of 600 sq.ft. each with 200 sq.ft., porches to be located anywhere on the Property.	Will allow the 600 sq.ft. of each cabin to be reallocated to enlarge the residences.	(+)	(+)	(+)	Overall Benefit
Increase in size of residential dwellings	Allowed 2 residences of up to 4,000 sq.ft. each all inclusive.	Will allow the residences to be enlarged with reallocated cabin sq. ft., with one residence up to a possible maximum size of 5800 sq. ft. while the other remains at 4,000 sq.ft. or another combination between the two.	Offsetting	No Effect	No Effect	Possible negative effect on the scenic values from larger houses. However, this impact is limited to the Building Envelopes and the scenic views are improved elsewhere on the Property by the removal of cabins.
Elimination of any size restriction on porches, patios, or decks	Includes porches, decks, and patios in the 4,000 sq.ft. limit.	Removes any size limit.	(-)	No Effect	No Effect	Possible negative effect on the scenic values from increased decks, porches, and patios but this impact is wholly contained within a Building Envelope. Stewardship burden on CCALT is eased.
Defining Building Envelope and eliminating ability to relocate	Vaguely defines Building Envelope locations and allows a relocation to move residences further from the County Road.	Clearly defines Building Envelopes.	(+)	(+)	(+)	Defining the envelope to the already impacted area and establishing clear boundaries improves enforcement and reduces risk of future arguments over how and where you can relocate. The areas around the envelopes are irrigated meadow, so we would not like to allow further reallocation.