

RESOLUTION NO. 2019-030

A RESOLUTION AND FINAL ORDER OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING AN APPEAL, WITH CONDITIONS, OF THE TOWN ADMINISTRATOR'S DENIAL OF AN APPLICATION FOR RELIEF PURSUANT TO SECTION 155-070 OF THE TOWN'S CODE, ENTITLED EXISTING STRUCTURES, TO VEST AN ILLEGALLY CONSTRUCTED BARN ON THE PROPERTY LOCATED AT 13851 PALOMINI DRIVE; SPECIFYING CONDITIONS OF APPROVAL; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR, AND TOWN ATTORNEY TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Brad and Michele McBride are the title owners of the property located at 13851 Palomino Drive within the boundaries of the Town of Southwest Ranches; and

WHEREAS, in or around 2017, Brad and Michele McBride ("Owners") purchased a property that contained a barn that was illegally built without permits, within the required setbacks, in or around 1999; and

WHEREAS, Owners property is not, and has never been, a "farm" as defined by the Florida Statutes; and

WHEREAS, Owners sought Town Administrator approval to vest its barn in accordance with Section 155-070 of the Town's Code; and

WHEREAS, on February 14, 2019, the Town Administrator denied the application for relief as attached hereto, and incorporated by reference as Exhibit "A"; and

WHEREAS, on March 4, 2019 Owners appealed the Town Administrator's decision to the Town Council; and

WHEREAS, on March 28, 2019 at a duly noticed public hearing, the Town Council considered all testimony and approved the appeal subject to certain conditions;

NOW, THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:

Section 1. That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution.

Section 2. That upon reviewing the Owner's original application for relief, the Town Administrator's denial, the Owner's appeal, and all testimony heard at the Public Hearing held on March 28, 2019, the Town Council hereby enters this final order to approve the appeal contingent upon the following conditions:

1. Owners shall immediately dismiss with prejudice Case No. CACE 18-021480, which it filed against the Town.
2. Owners shall erect its new southern fence, with proper permits, at least twenty (20) feet from the edge of pavement.
3. Owners' southeast fence that was erected without a permit may remain until such time that it either needs to be replaced or repaired.
4. Owners will enter into the Town's standard Maintenance, Indemnification, and Work Agreement ("MIW") relating to all of its fencing that is located outside of its property line.
5. In the event that any of the structures located within the Town's right-of-way ever need to be repaired or replaced, they shall be moved outside of the Town's right-of-way, and placed within Owners' property, as specifically delineated in Owners' survey attached hereto and incorporated herein by reference as Exhibit "B".
6. The barn shall be vested in accordance with the Town's Code through 2035, thereafter it shall be demolished.
7. In the event that the barn is destroyed or needs major repairs prior to 2035, it must be reconstructed, with proper permits, in accordance with the Town's Code.
8. Owners will submit permit plans to reconstruct its fence within thirty (30) days.
9. Owner has fifteen (15) days to accept the above conditions of approval, if not, the appeal is deemed to be denied in accordance with the conditions delineated in the Town Administrator's findings, and based upon all evidence and testimony received at the public hearing held on March 28, 2019.

Section 3. The Mayor, Town Administrator and Town Attorney are each authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

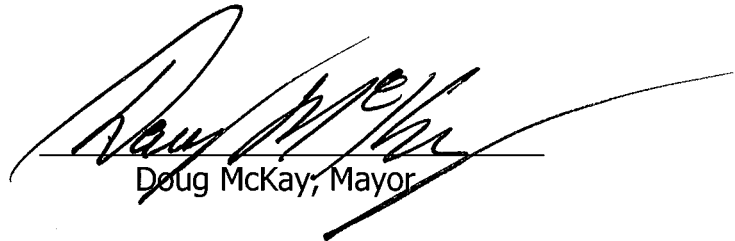
Section 4. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by the Town Council of the Town of Southwest

Ranches, Florida, this 28th day of March, 2019, on a motion by

Vice Mayor Jablonski and seconded by Council Member Schroeder.

McKay	<u>Yes</u>	Ayes	<u>5</u>
Jablonski	<u>Yes</u>	Nays	<u>0</u>
Fisikelli	<u>Yes</u>	Absent	<u>0</u>
Hartman	<u>Yes</u>	Abstaining	<u>0</u>
Schroeder	<u>Yes</u>		



Doug McKay, Mayor

ATTEST:



Russell Muniz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:



Keith Poliakoff, Town Attorney
34883967.1

Exhibit A 1/2



Town of Southwest Ranches
13400 Griffin Road
Southwest Ranches, FL 33330-2628
(954) 434-0008 Town Hall
(954) 434-1490 Fax
web: www.southwestranches.org

Doug McKay, *Mayor*
Gary Jablonski, *Vice Mayor*
Freddy Fisikelli, *Council Member*
Bob Hartmann, *Council Member*
Dee Schroeder, *Council Member*

Andy Berns, *Town Administrator*
Russell Muñiz, *Asst Town Admin / Town Clerk*
Keith M. Poliakoff, *Town Attorney*
Martin D. Sherwood, *Town Financial Administrator*

February 14, 2019

**VIA EMAIL: mgunderson@mindspring.com
and First Class Mail**

Mark Gunderson, Esq.
2510 SW 18th Street
Fort Lauderdale, FL 33312

Re: Brad & Michele McBride – Existing Agricultural Structure Application

Dear Mr. Gunderson:

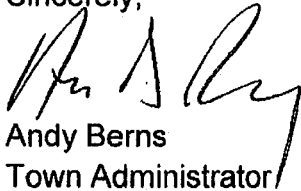
This letter shall serve as the Town of Southwest Ranches' ("Town") response to Brad and Michele McBride's ("McBride") Existing Agricultural Structure Application ("Application") submitted to the Town on January 25, 2019, requesting relief, pursuant to Section 155-070, Town of Southwest Ranches Code of Ordinances, for a pole barn built prior to July 1, 2013.

I have completed my review, and have determined that the application and accompanying documents, do not meet the requirements to grant relief under Section 155-070. Accordingly, the McBride's application is denied.

Section 155-070 was intended to provide relief for plots, or portions thereof, that are no longer classified as farms because of an amendment to *Florida Statutes*, 193.461, which became effective on July 1, 2013. ~~As a prerequisite for relief, Section 155-070 requires that the structure must have been built prior to July 1, 2013, on a parcel that was designated as a farm at the time the structure was constructed. The designation can either be from the Town, pursuant to a "Town Farm Certification," or by the County property appraiser, pursuant to an agricultural exemption. Structures built without permits on parcels that were not designated as farms at the time they were built, were constructed illegally, and there is no relief available under the Town's Code or under state law. For structures built prior to the Town's incorporation, the only option is for the parcel to have an agricultural exemption at the time the structure was built.~~

Considering the barn was built in 1999, prior to the Town's incorporation, and the property did not have an agricultural exemption at the time it was constructed, your application and request for relief is denied.

Sincerely,



Andy Berns
Town Administrator

