

Davis Horn Inc.
PLANNING & REAL ESTATE CONSULTING

November 8, 2024

Re: Land Use Analysis for Sopris Mountain Ranch Lot: 42, Located at 4275 Sopris Mountain Ranch Road in Pitkin County, Parcel ID # 2465.344.01.015

Dear Deidre,

This letter is a preliminary land use analysis of the property located at 4275 Sopris Mountain Ranch Road (Parcel ID# 2645.344.01.015). The property is legally described as Lot 42 of the Sopris Mountain Ranch. The subject property contains 51.6 acres and is located at the top of Sopris Mountain Ranch Road. A Vicinity Map and Pitkin County Community Development Report are included in Attachment 1.

We have reviewed the Pitkin County Land Use Code, as well as the property file history of entitlements, building permit history, and the Sopris Mountain Ranch Restrictive Covenants to prepare this analysis. However, please note that we have not reviewed a title commitment or survey, which can be helpful and necessary to supplement this analysis with more details on land use issues affecting site development.

The following attachments are referenced in this document:

1. Vicinity Map and Community Development Property Report
2. BOCC Resolution 95-85
3. Agreement between Morgan's and Pitkin County
4. 1041 Hazard Review Site Plan
5. Sopris Mountain Ranch Protective Covenants
6. Sopris Mountain Ranch HOA Bylaws
7. Certificate of Occupancy
8. Wildlife Production Area Map
9. BOCC Ordinance 041-2023

The analysis addresses the property's background, existing conditions then potential site redevelopment is discussed.

BACKGROUND

The April 25, 1995, Board of County Commissioners Resolution No. 95-85 approved a 1041 Hazard Review Site Plan (Attachment 2). The resolution was party to an agreement between the Morgan's and Pitkin County to remove an illegal cabin on the property. The resolution and agreement were the product of several denied attempts to legalize the cabin and demonstrate the structure's compliance with land use code regulations, specifically sensitive wildlife habitat areas, soils, and driveway standards. The 1041 Hazard Review site plan established a designated building envelope for the relocation of the cabin and any future improvements on the parcel (Attachment 3). The Resolution of approval provides a residential floor area maximum of 6,000 square feet per the hazard review process. This approval provided compliance conditions for the relocation of the cabin, but the document has since lapsed.

The Sopris Mountain Ranch Declaration of Protective Covenants (the covenants) impose specific restrictions of occupancy and use of each property. The restrictions in this document are no more restrictive than the Pitkin County land use code. The covenants stipulate that all development as subject to Design Committee Members for review and approval prior to any construction (Attachment 5). The property is also subject to the Sopris Mountain Ranch Homeowners Association Bylaws (Attachment 6).

EXISTING CONDITIONS

1. **Location & Jurisdiction**– The parcel is in unincorporated Pitkin County and located within the rural area.
2. **Access** – The site is served from Sopris Mountain Ranch Road via direct driveway access. The County records do not contain a site plan for the subject property. A finished driveway serves the existing residence. Pitkin County driveway standards limit the slope of a driveway to 12 percent. The driveway slope has not been verified. Pitkin County may require the driveway be brought into compliance upon submission of development proposal.
3. **Access Easement** – A 60-foot easement (30-feet of centerline) extends onto Lot 42 and contains a portion of the existing 20-foot-wide gravel driveway. There is no existing easement in place or needed for the driveway.
4. **Size & Zoning** - The subject property contains 51.6 acres of land and is in the RS-30 zone district.
5. **Legal Description** – The property is described as Sopris Mountain Ranch Subdivision Parcel 42.
6. **Improvements** – A 1041 Hazard Review Site Plan was approved in 1995. The site plan appears to have been created from a Topographical Improvement Survey Map completed by the late survey company, Lines in Space. A certificate of occupancy confirms the legal construction of an 1,840 square foot single family house containing one full bath, one ¾ bath,

one ½ bath, and one kitchen (Attachment 7), pursuant to the designated building area shown on the 1041 Hazard Review Site Plan.

There is a 20-foot-wide gravel driveway which terminates at the existing house in a hammerhead design. This design was likely implemented for emergency vehicle access upon the 1995 review process. There is a 2,000-gallon water tank, septic tank & drain field located in the building envelope.

7. **Development Constraints** – The parcel is located within ¼ mile of elk production areas. A wildlife habitat map shows the location of the property relative to sensitive elk calving / production areas (Attachment 8). The property was subject to strict review in the 90s due to mapped elk calving areas. It appears that the wildlife mapping has since changed as the elk calving and production areas now encumber a smaller portion of the 51 acres than evident in 1995.

However, Pitkin County amended the land use code in 2006 to prohibit site development within a ¼ mile of mapped or known elk production areas. No development is permitted with ¼ mile of this boundary. Any prospective development will need a site-specific wildlife impact report to assess the feasibility of development proximate to sensitive wildlife areas. Additionally, a large portion of the property, including the entire building envelope, is located within severe brush wildfire hazard areas.

There was a thorough wildfire mitigation measure put in place to establish defensible space and decrease the wildfire hazard rating prior to relocating the cabin in 1995. Any new development will need to maintain or expand on these measures to comply with development regulations requiring building sites to demonstrate a low wildfire hazard rating.

Additional development constraints include soil consisting largely of Mancos shale which can present difficulties in establishing reliable septic and drainage conditions for larger homes, and scenic view protection standards.

Sopris Creek Road is designated as a scenic view protection corridor. No house or structure can break skyline / ridgeline and protrude into open space, absent of any mountainous landscape or hilly backdrop as viewed from Sopris Creek Road. There is a stipulation in Resolution 95-84 that says any development placed above the 8,360-elevation line may not exceed 25-feet in height. This indicates that a structure on the property could be visible from some point along Sopris Creek Road, and any future development will be subject to building height restrictions necessary to comply with scenic view protection standards applied to the Sopris Creek Road Scenic View Protection Corridor.

POTENTIAL SITE REDEVELOPMENT

This section discusses the potential redevelopment of the site.

1. **Limitations of Residential Growth Management Quota System, Zoning, and Pitkin Green Restrictive Covenants** – The house size is limited by two layers of the Land Use Code: Residential GMQS and zoning.

Zoning limits maximum house size to 5,750 square feet of residential floor area. Resolution 95-85 stipulated that gross floor area should be limited to 6,000 square feet, meaning a homeowner can only expand house size by 250 feet through GMQS or use of a TDR. However, this approval as since lapsed.

The property is in the Emma Caucus. In November 2023, Pitkin County amended the gross floor area maximum in the Emma Caucus to 8,250 square feet of residential floor area, pursuant to Ordinance 41-2023 (Attachment 9). This means that the **property can build up to 5,750 square feet** of residential floor area as a use by right, and up to **8,250 square feet** if awarded additional floor area through GMQS competition or the use of a TDR.

These floor area totals do not take into consideration the site constraints which significantly limit the property, specifically, proximity to wildlife, septic system size, wildfire hazards, and scenic view protection standards.

2. **Yard Setbacks** – The front yard setback is 100-feet. The side and rear yard setbacks are 50 feet.
3. **Maximum Height** – The maximum allowable height for the principal structure is 28-feet and 20-feet for accessory structures measured from existing or finished grade whichever is more restrictive. **Resolution 95-85 says that structures above the 8,360-elevation line my not exceed 25-feet in height.** This document has since lapsed, but the inclusion of this language indicates that scenic view protection was a site planning review consideration in 1995. Modern scenic view protection standards are enforced with higher scrutiny than in 1995 and will be a major site planning consideration on the lot as viewed from Sopris Creek Road scenic view protection corridor.
4. **Activity Envelope and Site Plan Review** – Any proposed development on the lot will need Activity Envelope and Site Plan Review and approval. The key considerations in the Activity Envelope and Site Plan Review will be complying with Wildlife Habitat areas, Wildfire Defensible space regulations, and Scenic View Protection Standards. Proximity to elk production areas will be the most significant site planning consideration. Prior to site development, we recommend that the property owner or prospective buyer seek advice from a wildlife biologist. The wildlife biologist should meet onsite with John Groves of Colorado Parks and Wildlife to discuss site development options.

5. Development of a Caretaker Dwelling Unit (CDU) – Development of a Caretaker Dwelling Unit (CDU), which is a dwelling accessory to the primary use or structure, intended for occupancy by individuals responsible for property maintenance and care.

The property is eligible for a Caretaker Dwelling Unit (CDU), allowed within the RS-30 zone district through an administrative special review, which is a staff-level review and publicly noticed. A CDU on this property is limited to 1,000 sq. ft. of net livable floor area.

The net livable square footage differs from residential floor area and is defined by the Aspen/Pitkin County Employee Housing Guidelines. It includes the total interior floor area, measured from the inside face of exterior walls, and encompasses all living spaces such as bedrooms, living rooms, kitchens, and bathrooms. However, it excludes non-livable areas like garages, unfinished basements, exterior storage, and any spaces not meant for habitation. This flexible calculation often allows for more square footage to be exempt.

The current development on the property, with approximately 1,840 sq. ft. of residential floor area, does not exceed floor area limits and permits additional improvements under the maximum allowed. However, the CDU's floor area will be counted towards the total allowable floor area for the property, which may reduce the permissible size of the primary residence proportionately.

Parking and Deed Restriction Requirements

A CDU must have two off-street parking spaces to ensure sufficient parking for occupants, especially on a parcel over 30,000 square feet, without impacting the surrounding area. Additionally, a deed restriction or other permanent commitment must be established to ensure the CDU:

- Is not required to be rented.
- Cannot be sold or separated from the main parcel.
- Is occupied by no more than two adults and their related children, who qualify as community employees, or by the immediate family of the property owner.
- Must be rented only for terms of at least six months, if rented.

These provisions offer the property owner the choice of whether to rent the CDU, if occupancy and use conditions are adhered to. The owner may also remove the CDU restriction upon approval if the unit is either removed or modified to no longer be capable of occupancy, in compliance with the Land Use Code. However, CDUs developed under these regulations cannot fulfill employee housing mitigation requirements set by other county land-use codes.

Review Process (6-9 Months)

1. Pre-Application Conference: The property owner must first meet with the Pitkin County Community Development Department to discuss the proposal and clarify specific requirements.
2. Application Submission: A detailed application, including site plans, floor plans, and other required documents, must be prepared and submitted.

3. Staff Review: County staff will review the application for completeness and compliance with the Land Use Code.
4. Public Notice and Comment: If a special review is required, public notice will be provided, allowing for a period of public comment.

SUMMARY

This letter has summarized existing conditions, background and potential site redevelopment of the property located at 4275 Sopris Mountain Ranch Road. This report is based upon the existing conditions affecting the parcel, our review of the Land Use Code and relevant county ordinances. The findings in this letter are based upon our understanding of the Pitkin County Land Use Code and experience working in Pitkin County. The County Land Use Code is subject to varying interpretations. Sometimes our interpretation varies from the staff's interpretation. Interpretations of the relevant provisions of the Pitkin County Land Use Code may vary with changes in staff and elected and appointed officials. Consequently, no warranty of the facts, opinions or interpretations contained in this letter is either expressed or implied by Davis Horn Incorporated.

Thank you for asking us to prepare this land use analysis. Please contact me if you have any questions.

Sincerely,

DAVIS HORN INCORPORATED

Cody Davis Horn

CODY DAVIS HORN AICP

Pitkin County Community Development Report

Parcel ID: 246534401015
Report Created: 7/25/2024 2:12:21 PM



Property Information

Address (Assessor's Records)	4275 SOPRIS MTN RANCH RD
Address (GIS Points)	4275 SOPRIS MTN RANCH RD
Account	R006996
Owner	MORGAN MICHAEL & DEIDRE WHITCOMB
Owner Address	3949 AUSTIN RD BRAWLEY, CA 92227
GIS Parcel Size	51.814 Acres
Jurisdiction	Pitkin County
Township, Range, Section	T:8, R:87, S:35; T:8, R:87, S:34

Assessor's Information

Land Use Category	1112: Residential-Single Family Residence
Legal Description	Subdivision: SOPRIS MOUNTAIN RANCH Lot: 42 Section: 34 Township: 8 Range: 87 PARCEL 42 PARCEL OF LAND BEING PART OF SE4SW4 OF SEC 34 8-87 CONT 51.69 AC M/L DESC BY M/B BK 291 PG 493 BK 606 PG 260 AKA PARCEL 42
Improvements	1896 Sq. Feet

Services

Sewer System	No Sewer Service
Within 1/4 Mile of Sewer Service	No Sewer Service within 1/4 mile
Water District	No Water Service
Fire District	Basalt Rural Fire Protection District (Roaring Fork Fire Authority)
School District	Roaring Fork School District RE-1
Library District	Basalt Library District

Boundaries

Caucus	Emma
Master Plan Area	Emma

Zone District	RS-30 (Resource-30 Acre)
Zone District Overlays	No Zoning Overlay on this parcel
Floor Area Overlay	Emma Master Plan Area Overlay Zone District (E-O), capacity 8250 ft²
Historic District	Not within a Historic District

Environmental Areas

Within 100 Feet of Creek or River	TBD
Floodplain	None
Scenic	Within a Scenic View
Wildfire	X: Severe Hazard - Brush; A: Low Hazard
Watershed Drainage	Middle Roaring Fork River
Watershed Subbasin	Sopris Creek

Documents

Parcel	246534401015
Address	4275 SOPRIS MTN RANCH RD
Retired Parcel	None Found

Disclaimer

Pitkin County GIS presents the information and data on this report as a service to the public. Every effort has been made to ensure that the information and data contained in the report is accurate, but the accuracy may change. The information maintained by the County may not be complete as to mineral estate ownership and that information should be determined by separate legal and property analysis.

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Data is presented in WGS 1984 Web Mercator. Size, shape, measurement and overlay of features may be distorted. In some cases, multiple results could be valid; for example, Zoning. In other cases, a parcel may cross over the boundary of more than one data area, for example, multiple Precincts. Visit the Pitkin County GIS Department at <http://www.pitkinmapsandmore.com>

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY,
COLORADO, GRANTING CONCEPTUAL SUBMISSION APPROVAL
TO MICHAEL AND DEIRDRE MORGAN TO CONSTRUCT A RESIDENCE
ON LOT 42, SOPRIS MOUNTAIN RANCH

Resolution #95-85

RECEIVED

JUN 12 1996

RECITALS

1. Michael and Deirdre Morgan, (hereafter "Applicant"), have applied to construct a residence on Lot 42, Sopris Mountain Ranch (as described on Exhibit "A" attached).
2. The subject property contains known and mapped hazards including Wildfire, Geologic and Elk Production areas.
3. The Planning and Zoning Commission reviewed this application at their regularly scheduled public meeting on January 17, 1995, at which time they heard evidence and testimony with respect to the homesite and recommended approval to the Board of County Commissioners subject to conditions.
4. The Board of County Commissioners heard this application at a public hearing on April 26, 1995.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners that it hereby approves the Morgan Conceptual Submission subject to the following conditions:

1. The applicant shall file a 1041 Hazard Review Map for review by the Planning Office and County Engineer for approval by the Board of County Commissioners, prior to submission of any building permits on the property. The following 1041 Hazard Review Warning and Disclaimer:

re-revised & current approval date
re-revised & add approval date

Handwritten notes:
10.6 (1)
510-10-446-6942
re-revised & current approval date

Resolution No. 95-85
Page 2

"Applicant acknowledges that he/she has been informed by Pitkin County of the existence of 1041 environmental hazard areas that might affect the property, any improvements, and the use and occupancy thereof."

2. To mitigate wildfire hazards, the area around the structure 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.

- a. Brush, debris, and non-ornamental vegetation shall be removed within a minimum 10 foot perimeter around the structure.
 - b. Vegetation shall be reduced to break up the vertical and horizontal continuity of the fuels a minimum of a 30 foot perimeter around a structure built on flat ground. (For greater slopes ref. CSFS Safety Zone chart. Page 13, Wildfire Guidelines For Rural Homeowners).
 - c. 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 be two times the height of the fuel. All measurements shall be from the edges of the crowns of the fuel.
 - d. All branches from trees and brush within the 30 foot perimeter shall be pruned to a height of 10 feet above the ground and removal of ladder fuels from around trees and brush.
 - e. Tree crown separation within the 30 foot perimeters shall have a minimum of 10 feet between the edges of the crowns. This does not apply to mature stands of Aspen trees where the above recommendation for removal of ladder fuels have been complied with. In areas of aspen regeneration, the spacing guidelines shall be followed.
 - f. All branches which extend over the roof eaves shall be trimmed and all branches within 15 feet of the chimneys shall be removed.
 - g. The density of fuels within a 100 foot perimeter of the structures shall be reduced where natural reduction has not already occurred.
 - h. All deadfall within the 100 foot perimeter shall be removed.
 - i. The applicant shall be responsible for the continued maintenance of the defensible space vegetation requirements."
3. The following recommendations of the Basalt and Rural Fire

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B-787
P-826
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Resolution No. 95-85

Page 3

Protection District shall be followed by the applicant:

- a. The placement of a water storage tank of no less than two thousand (2,000) gallons with a Fire Department connection accessible by roadway and near the structure to be occupied.
 - b. Roadway widths shall conform to Pitkin County Standards other than they shall be not less than twenty (20) feet in width.
 - c. Road grades shall be of no more than twelve (12) percent.
 - d. Curve radius shall be no less than eighteen (18) feet.
 - e. Although not required, it is strongly recommended that a Residential Automatic System be installed in all residences and when practical, other buildings on the same property.
 - f. Roof materials of all structures shall be of a non-combustible material approved by the Underwriters Laboratory.
4. All utility lines shall be places underground within approved driveway(s).
 5. Prior to submission of any building permits, the applicant shall meet the requirements of the Environmental Health Department for water needs, septic system and air quality. These requirements include:
 - a. Receipt of information documenting the location of the well and quantity/quality of water.
 - b. Receipt and approval of the septic permit by the Environmental Health Department before a building permit can be issued.
 - c. Information on what type, if any, septic system was installed at the existing site. If there is an existing system, proof must be provided that any tank has been pumped and either removed or filled with dirt.
 - d. Receipt and approval of the fireplace/woodstove permit by the Environmental Health Department before the building permit can be issued.

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Resolution No. 95-85
Page 4

6. To mitigate wildlife impacts the applicant shall adhere to the following conditions:

- a. The building envelope shall be limited to 1.5 acres in size and shall be identified on the 1041 plat to the satisfaction of the DOW and the Community Development Department prior to recordation of the 1041 Hazard Review Plat.
- b. No dogs shall be allowed on site.
- c. No fencing is permitted on the parcel, or within the building envelope.
- d. No development, including grading or vegetation removal (except as required in condition #2 to mitigate wildfire hazards), shall occur outside of the building envelope.
- e. All livestock/horse grazing shall be located in the common area at the base of the ranch. No grazing shall be allowed on this parcel.
- g. All garbage shall be kept in bear proof garbage containers as outlined by the American Bear Society.
- g. The Applicant shall revegetate the existing drive and homesite immediately after removal of the cabin.
- h. The residence shall be limited to a total floor area of 6,000 square feet, including garage, basement and accessory structures.
- i. Any structure or portion thereof placed above the 8360 elevation line may not exceed 25 feet in height.
- j. The discharge of firearms and/or fireworks displays is prohibited from April through June.
- k. Landscape (including tree-top) and architectural lighting is prohibited. All lighting shall be designed to direct light toward the ground ("downcast").
- l. All site development, including site preparation, earthmoving and other construction activity is prohibited from May 15 through June 21.
- m. The keeping of large predators, such as, but not limited to, lions, tigers and bears, is prohibited.

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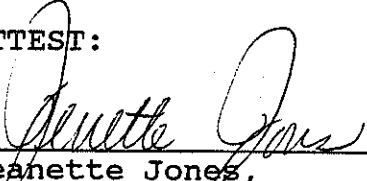
Resolution No. 95-85
Page 5

- n. Persons utilizing the property from May 15 through June 21, shall avoid the eastern portion of the property as defined by the ridge east of the homesite.
7. The following conditions of the County Engineer shall be adhered to by the applicant:
- a. The applicant shall receive an access permit from the County Engineer prior to issuance of a building permit.
 - b. Prior to issuance of a building permit, all ranch roads used to access the property (with the exception of the driveway) shall meet Class V Country Access Standards.
 - c. A licensed engineer shall submit an erosion and drainage control plan consistent with County regulations for approval by the County Engineer, prior to submission of a building permit.
8. All material representations made by the applicants in the application and public meeting shall be adhered to and considered conditions of approval, unless amended by other conditions.

APPROVED AND ADOPTED ON THE 10th DAY OF May 1995.

BOARD OF COUNTY COMMISSIONERS OF
PITKIN COUNTY, COLORADO

ATTEST:


Jeanette Jones,
Deputy Clerk and Recorder

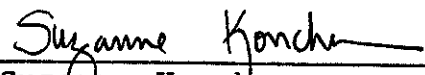
5-10-95

By: 
Michael Ireland, Chairman
Date: 6/13/95

APPROVED AS TO FORM:


John Ely,
Acting County Attorney

APPROVED AS TO CONTENT:


Suzanne Konchan,
Community Development Director

slw/fk:morgan.bocc.reso

**AGREEMENT CONCERNING REMOVAL OF THE MORGAN CABIN,
LOT 42, SOPRIS MOUNTAIN RANCH**

THIS AGREEMENT is made this 26th day of August, 1994 by and between Dierdre Morgan, Michael Morgan, the owners of the Cabin, ("the Owners") and Dr. Harold Whitcomb ("Whitcomb"), the owner of certain personal property contained within the cabin, and the Pitkin County Board of County Commissioners ("BOCC").

The Owners and Whitcomb recognize that the Cabin was built illegally and that the Owners have failed to remove the Cabin pursuant to an Order of the Pitkin County District Court. The Owners and Whitcomb recognize that the BOCC may now take steps to remove the Cabin at Owner's expense. The Owners and Whitcomb recognize that the BOCC is willing to refrain from removal of the Cabin before August 1, 1995 only if all of the following items are complied with:

(a) Owners must post a bond acceptable to the County Attorney's Office in the amount of One Hundred Three Thousand Dollars (\$103,000.00).

(b) The current locks on the Cabin must be changed at Owner's expense by August 26, 1994. Owners must pay this expense by August 26, 1994. The locks will be controlled by the County exclusively.

(c) Owners must pay back Planning Office fees and Court Costs by August 26, 1994 consisting of \$1,820.00 and interest at eight percent (8%) per annum of \$186.20.

(d) Owners must conduct a Pre-application Interview with the Planning Office and pay Planning Office fees for a new application for a 1041 and General Submission Approval of a residential structure for their property. Said Pre-application Interview is to be completed no later than August 26, 1994 or at a date chosen by the Pitkin County Planning Office.

(e) Owners must pay for the cost of inspection of the Cabin between the present date and the removal of the Cabin. This inspection will be conducted by Pitkin County personnel. These costs are to be paid on a monthly basis. Failure to make current payments shall constitute breach of these conditions.

(f) Owners must remove the Cabin at their sole expense by August 1, 1995.

(g) Owners must remove all personal property from the Cabin by August 26, 1994 including furniture belonging to Dr. Harold Whitcomb.

(h) Owners must submit a complete application for 1041 and General Submission Approval for a residential structure by September 15, 1994. The total estimated Planning Office Fees for processing said application must be on deposit with the Planning Office on or before September 15.

(i) Owners and Whitcomb will not enter upon the premises at any time without County's written permission between August 26 and the tear down of the Cabin. Any such entry shall be considered a breach of this Agreement.

(j) Owners waive any further appeal rights they may have in any litigation with Pitkin County by August 26, 1994.

A RESOLUTION OF THE BOARD OF
COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO
DENYING 1041 HAZARD REVIEW
AND
GENERAL SUBMISSION TO
DEIRDRE AND MICHAEL MORGAN
FOR LOT 42 SOPRIS MOUNTAIN RANCH

Resolution #92-367

RECITALS

1. WHEREAS, Deirdre and Michael Morgan (hereinafter "Applicants"), have applied to Pitkin County to obtain 1041 Hazard Review and General Submission approval for a building site on their property located in Pitkin County, known as Lot 42, Sopris Mountain Ranch, pursuant to General Submission section 6-3 and 1041 Hazard Review section 5-400 of the Pitkin County Land Use Code (hereinafter "Code"); and
2. WHEREAS, the site on Applicants' property for which approval is sought is the location of a log home built by the Applicants without a building permit or any land use approval as required by the Code; and
3. WHEREAS, the Applicants' request was considered before the Planning and Zoning Commission on May 5, 1992, at which time the Commission recommended to the Board of County Commissioners that the request be denied; and
4. WHEREAS, the primary concern of the Planning and Zoning Commission and the Board of County Commissioners is the impact of the site on the quality of the environment and its impact on elk calving habitat; and
5. WHEREAS, Colorado Revised Statutes establishes the Colorado Division of Wildlife as the referral agency to be utilized by the Board of County Commissioners on issues of wildlife habitat and impacts of development, and the officers of the Division of Wildlife have inspected the Applicants' property including the site for which approval is sought; and
6. WHEREAS, the same Division of Wildlife officers participated in the Board of County Commissioners review process of a majority of parcels in Sopris Mountain Ranch for which building approvals were granted by the Board, which process the Applicants chose not to participate; and
7. WHEREAS, the Division of Wildlife advised the Board of County Commissioners that the site chosen by the Applicants, which is the site of the existing structure, is within elk calving habitat and elk calving area; and

re-referred to correct legal

8. WHEREAS, the Division of Wildlife identified two alternative sites on the property which are preferable and are more appropriate building sites than the site chosen by the Applicants and already developed by the Applicants; and

9. WHEREAS, the Code, section 5-402.2 (d), states that elk calving areas shall be left in their present natural state without further development; and

10. WHEREAS, approval of the site selected by the Applicants would allow the existing structure to be greatly enlarged and would expand and increase the impacts on wildlife in the area; and

11. WHEREAS, the application was considered at a duly noticed public hearing before the Board of County Commissioners on June 23, 1992, at which time the hearing was continued to August 4th, 1992, and continued and concluded on September 29, 1992 at which time the Board found that the Applicants' request does not meet the 1041 Hazard Review or General Submission requirements of the Code; and

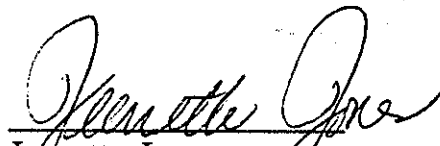
NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pitkin County, Colorado that it hereby denies 1041 Hazard Review and General Submission approval to Deirdre and Michael Morgan for Lot#2, Sopris Mountain Ranch as submitted.

APPROVED AND ADOPTED ON THE 29TH DAY OF SEPTEMBER, 1992.

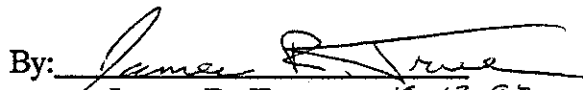
NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES ON THE 22ND DAY OF MAY, 1992.

PUBLISHED AFTER ADOPTION IN THE ASPEN TIMES ON THE 23RD DAY OF OCTOBER, 1992.

ATTEST:

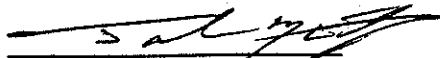

Jeanette Jones
Deputy Clerk & Recorder

BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO

By: 
James R. True 10-13-92
Chairman

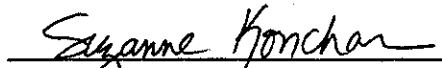
Date: 10-13-92

APPROVED AS TO FORM:



Timothy E. Whitsitt
County Attorney

APPROVED:



Suzanne Konchan
Planning Director

je10.487

8. WHEREAS, the Division of Wildlife identified two alternative sites on the property which are preferable and are more appropriate building sites than the site chosen by the Applicants and already developed by the Applicants; and

9. WHEREAS, the Code, section 5-402.2 (d), states that elk calving areas shall be left in their present natural state without further development; and

10. WHEREAS, approval of the site selected by the Applicants would allow the existing structure to be greatly enlarged and would expand and increase the impacts on wildlife in the area; and

11. WHEREAS, the application was considered at a duly noticed public hearing before the Board of County Commissioners on June 23, 1992, at which time the hearing was continued to August 4th, 1992, and continued and concluded on September 29, 1992 at which time the Board found that the Applicants' request does not meet the 1041 Hazard Review or General Submission requirements of the Code; and

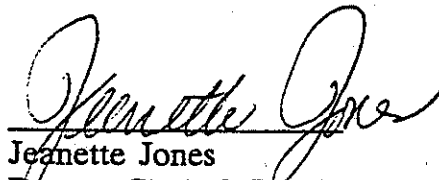
NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pitkin County, Colorado that it hereby denies 1041 Hazard Review and General Submission approval to Deirdre and Michael Morgan for Lot#2, Sopris Mountain Ranch as submitted.

APPROVED AND ADOPTED ON THE 29TH DAY OF SEPTEMBER, 1992.

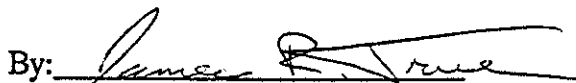
NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES ON THE 22ND DAY OF MAY, 1992.

PUBLISHED AFTER ADOPTION IN THE ASPEN TIMES ON THE 23RD DAY OF OCTOBER, 1992.

ATTEST:


Jeanette Jones
Deputy Clerk & Recorder

BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO

By: 
James R. True 10-13-92
Chairman

Date: 10-13-92

1041 Hazard Review Plat
Parcel No. 42, Sopris Mountain
Ranch Pitkin County, Colorado
LINES IN SPACE
SYDNEY LINGICOM (LS 14111)
BOX 131 CARBONDALE, COLORADO 81423 BOX 565-1282
DATE 27 July 1985 505-513-1001

TENTH AMENDMENT TO
DECLARATION OF PROTECTIVE COVENANTS
FOR SOPRIS MOUNTAIN RANCH

THIS TENTH AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS FOR SOPRIS MOUNTAIN RANCH ("Tenth Amendment") Lot shall be effective upon its recordation in the real estate records of Pitkin County, Colorado.

RECITATIONS

A. On the 23rd day of December, 1982, a Declaration of Protective Covenants and Dedication of Easements for Sopris Mountain Ranch Pitkin County, Colorado (the "Declaration") was recorded in the real estate records of Pitkin County, Colorado, in Book 437 at Page 748.

B. The Declaration encumbered and affected the real property described therein, which real property is commonly known as "Sopris Mountain Ranch." The Declaration has previously been amended by the First through Ninth (inclusive) Amendments, and the Supplemental Restrictive Covenants, heretofore recorded in the real estate records of Pitkin County, Colorado.

C. Colorado law provides, at C.R.S. §38-33.3-217(1)(a)(1), that the Declaration and its subsequent amendments may be amended by the consent of sixty-seven percent (67%) of owners of the total number of lots. The purpose of this Tenth Amendment is to amend the Declaration as set forth hereafter.

NOW, THEREFORE, the Declaration is amended as follows:

4.g. Occupancy and Use. No residence structure on any lot shall be used for living purposes by more persons than it was designed to accommodate comfortably, i.e., two persons per bedroom. No portion of any property shall be used for living purposes other than the permitted residence, guesthouse and/or caretaker unit structure on a lot. Occupancy and use of a residential structure, guesthouse or caretaker unit shall be limited to the owner or owners ("Owner") of the residence, guesthouse and/or caretaker unit, members of the family of the Owner and the occasional guests and on-site employees of the Owner ("Permitted Users"). Each Owner shall, if requested by the Association, file with the Association a written designation identifying all Permitted Users.

While ownership of a lot may be held by a corporation, limited liability company, partnership or trust for tax or other purposes of the Owner, such forms of ownership shall not be a basis for expanding the occupancy and use of such residence to other than Permitted Users. Rotating, periodic or staggered use during alternate periods of time by different Permitted Users

having the effect of time sharing or the like is specifically prohibited and may be enjoined by the Board of Directors of the Association or any Owner.

4.v. Rental of Homes. Notwithstanding anything to the contrary in Paragraph 4.g. of the Declaration of Protective Covenants, the term "Permitted Users" as used in Paragraph 4.g. shall include a Permitted Lessee. A "Permitted Lessee" is a person approved by the Board of Directors of the Association who has entered into a lease of the residence, guesthouse or caretaker unit of Owner that is in form and substance satisfactory to the Board of Directors and is for a term of not less than six months. The Board shall impose such conditions as it sees fit in its sole judgment in an addendum to be made part of such lease, taking into account the principles regarding occupancy and use found in Paragraph 4.g.

5.e. Lots 1 through 15 and 32 as identified on Exhibit B shall be subject to a common pasture easement. The geographic scope of such easement shall be the areas identified as common pastures Exhibit C. The common pasture easement shall be to the Association for the use and benefit of all owners for the pasturing of horses, donkeys, mules and cattle thereon in accordance with the rules and regulations of the Association governing such pasturing. The Association may, with Design Committee approval, construct within such common pasture easements fences, gates, animal wind shelters, feed troughs, water tanks, riding rings, hunt and jump courses, polo fields and similar equestrian-oriented improvements.

7.a. Design Committee Members. The Design Committee shall consist of at least three members. There may be designated one or more alternate members of the Design Committee, each of whom shall be authorized to act in the place and stead of the member in the event of a member's absence or inability to act. Member and alternate members of the Design Committee shall be appointed by and shall serve at the pleasure of the Board of Directors of the Association. The Association shall furnish the names and addresses of the current members and alternate members of the Design Committee to any interested person and the name and address to which all notices and communications to the Design Committee should be directed. The Association shall be obligated to pay reasonable compensation to members and alternate members for actual services rendered and to reimburse them for actual and reasonable expenses incurred.

8.d. Insurance Function. The Association shall obtain and keep in full force and effect at all times at least the following insurance coverage. Casualty insurance shall be obtained on all insurable property of the Association, insuring the full replacement value thereof, including coverage for fire and extended coverage, vandalism and malicious mischief. The Association shall obtain broad form comprehensive liability coverage covering public liability, automobile liability and property damage insurance

in such limits as the Board of Directors of the Association may from time to time determine, but not in an amount less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate policy amount, with any additional umbrella coverage the Board deems appropriate (but in no event less than \$2,000,000), covering all claims for bodily injury and property damage. All insurance may contain such deductible provisions as good business practice may dictate. All insurance shall name the Association and shall, to the extent reasonably possible, cover each owner of property now or hereafter subject to this Declaration without any such owner's necessarily being specifically named. If Association members and/or third-parties propose to conduct activities on or that use Association property that are permitted by Association governance documents, written Association policies and procedures, and/or decisions of the Board of Directors of the Association, such activities must be covered by the insurance policies described above in this paragraph 8.d. or if not so covered, prior to commencing such activities, such Association members and/or third-parties must obtain and provide to the Board of Directors of the Association insurance policies naming the Association as an additional insured party at least in the amounts specified for the Association in this paragraph 8.d. or in such greater amounts as the Board may reasonably require and on such terms and with insurers as are satisfactory to the Board of Directors of the Association.

8.h. Owner's Enjoyment of Functions and Facilities. Only Permitted Users described in Paragraph 4.g of this Declaration and Approved Boarders (described below) shall be entitled to use and enjoyment of the property, property interests and facilities owned or held by the Association and of the functions and activities undertaken by the Association subject to such reasonable and uniformly applied rules and regulations which the Board of Directors of the Association may adopt to assure the best use and enjoyment of the same by all persons entitled thereto and subject to such reasonable and uniformly applied charges which the Board may, subject to the other provisions of this Declaration, impose on Permitted Users to offset costs and expenses in connection therewith and on Approved Boarders to offset such costs and expenses and provide net revenue to the Association. An "Approved Boarder" is a person other than a Permitted User who boards his or her horse or other animal at the ranch and uses equestrian facilities in connection therewith who has been approved by the Board and/or the ranch manager and who is subject to the rules, regulations and fees established by the Board.

8.i. Approval of New Functions or Facilities. Prior to acquisition of a new facility or undertaking a new function (a new facility or new function being hereby defined as a facility or function not incidental to or reasonably required in connection with an existing facility or the performance of an existing function and not a replacement of an existing facility) and prior to acquisition of any facility costing in excess of \$5,000.00 not included in an

approved budget and prior to making a commitment with respect to any of the foregoing, the Board of Directors of the Association shall estimate the initial cost and subsequent income, cost and expenses of the facility or function, shall furnish a copy of its estimate to all members, shall call a meeting to discuss the same and give thirty (30) days' notice thereof to all members and shall, at or after such meeting, obtain the approval of sixty percent (60%) of the members. Notwithstanding any provision of this Declaration to the contrary, solely for purposes of this Paragraph 8.r., the term "new facility" includes the dirt and gravel portion of West Sopris Creek Road solely for purposes of the Association paying all or any portion of the costs of surfacing all or any portion thereof pursuant to the vote of the Members.

8.s. Lien for Assessments and Other Amounts. The Association shall have a lien against each parcel of property which may be subject to this Declaration to secure payment of any assessment, charge, fine, penalty or other amount due to the Association from the owner or owners of that property which is not paid, plus interest from the date of demand for payment at (i) the rate charged to the Association by any bank having a loan outstanding to the Association plus two percent, or (ii) if there is no such loan, at the prime rate set forth in the Wall Street Journal plus two percent, plus all costs and expenses of collecting the unpaid amount, including reasonable attorney's fees. The lien may be foreclosed in the manner for foreclosure of mortgages in the State of Colorado.

8.w. Lessee's Enjoyment of Functions and Facilities. Notwithstanding anything to the contrary in Paragraph 8.h. of the Declaration of Protective Covenants, Permitted Lessees described in Paragraph 4.v. of the Declaration of Protective Covenants shall be entitled to use and enjoyment of the property, property interests and facilities owned or held by the Association and of the functions and activities undertaken by the Association but only if in a lease described in Paragraph 4.v. the Board of Directors of the Association has agreed to such use and only to the extent of such rules and regulations and charges which the Board of Directors of the Association adopts in respect of such use and sets forth in such lease.

9.b. Amendment or Revocation. At any time, any provision of this Declaration may be amended by the consent of 67% of the membership interests. The amendment shall be recorded by a written instrument in accordance with Colorado law. No such amendment or repeal shall be effective with respect to the holder or successor or assign of the holder of a first mortgage or first deed of trust recorded prior to the recording of the specified amendment or repeal unless such holder executes such amendment or repeal instrument.

1. Recitations. The above recitations are true and correct.

2. **Defined Terms.** All of the capitalized terms herein contained and not defined in this Tenth Amendment shall have the definitions ascribed to them in the Declaration.

President's Certificate

I hereby certify that I am the President of Sopris Mountain Ranch Homeowners Association, Inc., a Colorado nonprofit corporation, and that the foregoing Tenth Amendment to Declaration of Protective Covenants for Sopris Mountain Ranch was approved by a sufficient number of Owners of Lots required to amend the same, namely at least 67% of such Lot Owners.



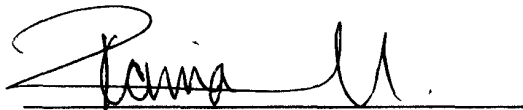
Walter Stuart, President
Sopris Mountain Ranch Homeowners
Association, Inc.

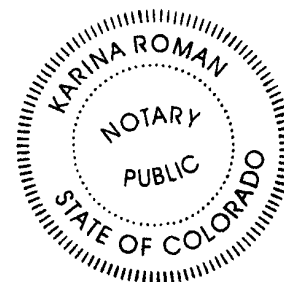
STATE OF COLORADO)
)
COUNTY OF PITKIN)

Acknowledged before me this 7 day of August, 2009, by Walter Stuart, as President of Sopris Mountain Ranch Homeowners Association, Inc., a Colorado nonprofit corporation.

Witness my hand and official seal.

My Commission Expires: 8/24/09



Notary Public

BY-LAWS
OF
SOPRIS MOUNTAIN RANCH HOMEOWNERS' ASSOCIATION, INC.
(A Colorado Nonprofit Corporation)

ARTICLE I

Declaration and Supplemental Declarations

1. Declaration of Protective Covenants. The Declaration of Protective Covenants and Dedication of Easements for Sopris Mountain Ranch (the "declaration") is recorded in the records of the Pitkin County Clerk and Recorder and shall be deemed incorporated in these bylaws.

2. Adoption of Definitions. All terms defined in the declaration and in any declaration supplemental thereto shall have the same defined meaning when used in these bylaws. The terms include, without limitation, association, lot, common area, design committee and designated building site.

ARTICLE II

Offices

1. Offices. The Corporation may have one or more offices at such place or places within or without the State of Colorado, as the Board of Directors (hereinafter called the "Board") may from time to time determine or as the affairs of the Corporation may require.

2. Registered Office. The Corporation's registered office shall be as set forth in the Articles of Incorporation, unless changed by filing a statement of change with the Secretary of State of Colorado, as provided in the Colorado Nonprofit Corporation Act.

ARTICLE III

Members

1. Members. There shall be one membership in the association for each lot, and each such membership shall be appurtenant to the fee simple title to such lot. The owner or owners of the lot or other parcel of property shall be deemed the owner or owners of the membership appurtenant to that property; and title to and ownership of the membership for that property shall automatically pass upon transfer of fee simple title to that property. Each owner or owners of a lot or other parcel of property as aforesaid shall be at all times entitled to the benefits and subject to the burdens relating to the membership for such property. If

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fee simple title to a lot or other parcel of property, as aforesaid, is held by more than one person or entity, the membership appurtenant to that property shall be shared by all such persons or entities in the same proportionate interest and by the same type of ownership in which fee simple title to that property is held. Membership in the association shall be limited to owners of lots.

2. Voting of Members. Each member shall have one vote for each lot in the election of members of the board of directors of the association and in all other matters submitted to the vote of members. In all voting by members, cumulative voting and voting by proxy shall be allowed and permitted.

3. Notices to Members. Each member shall be entitled to at least 30 days' notice of all meetings in which a vote of members is to be taken. Notice shall be considered given when written notice is mailed or telegraphed to a member addressed to the member under the name and address for the member furnished by the member to the association and, in any event, shall be deemed given when the member actually receives notice.

4. Voting by Mail. The board of directors may decide that voting of the members shall be by mail with respect to any particular election of directors or with respect to adoption of any proposed amendment to the certificate of incorporation or adoption of a proposed plan of merger, consolidation or dissolution.

In case of election of directors by mail, the existing board of directors shall advise the secretary in writing of the names of proposed directors sufficient to constitute a full board of directors and of a date at least 50 days after such advice is given by which all votes are to be received. The secretary, within five days after such advice is given, shall give written notice of the number of directors to be elected and of the names of the nominees to all members. The notice shall state that any member may nominate an additional candidate or candidates not to exceed the number of directors to be elected by notice in writing to the secretary at the specified address of the principal office of the corporation to be received on or before a specified date 15 days from the date the notice is given by the secretary. Within five days after such specified date, the secretary shall give written notice to all members stating the number of directors to be elected, the names of all persons nominated by the board of directors and by the members on or before the specified date, that each member may cast a vote by mail and shall have a right to cumulate his or her votes by giving one candidate as many votes as the number of directors multiplied by the number of votes which he or she has a right to cast shall equal or by

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distributing such votes on the same principle among any number of such candidates and the date established by the board of directors by which such votes must be received by the secretary at the address of the principal office of the corporation, which shall be specified in the notice. Votes received after that date shall not be effective. All persons elected as directors pursuant to such an election by mail by receipt of the number of votes required by these bylaws and by applicable law shall take office effective on the date specified in the notice for receipt of such votes.

In the case of a vote by mail relating to any proposed amendment to the certificate of incorporation or adoption of a proposed plan of merger, consolidation or dissolution, the secretary shall give to all members a written notice including a proposed written resolution setting forth a description of the proposed action and stating that such persons are entitled to vote by mail for or against such proposal and stating a date not less than 20 days after the date such notice shall have been given on or before which all votes must be received and stating that they must be sent to the specified address of the principal office of the corporation. Votes received after that date shall not be effective. Any such proposal shall be adopted if approved by the affirmative vote of not less than three-fourths of the votes entitled to be cast on such question.

Delivery of a vote in writing to the principal office of the corporation shall be equivalent to receipt of a vote by mail.

5. Annual Meeting. An annual meeting of the members for the purpose of voting on such matters as properly may come before the meeting shall be held on the first Saturday in October of each year at a convenient location in Pitkin County, Colorado, to be selected by the board of directors. Directors shall be elected at each such annual meeting unless elected by mail as herein provided.

The business to come before the meeting shall include the determination of assessments against members in accordance with the declaration.

6. Special Meetings. Special meetings of the members may be called at any time by the president or by the board of directors or by written request of ten percent or more of the votes of the outstanding members and shall be held at a convenient location in Pitkin County, Colorado, to be selected by the persons calling the meeting.

7. Record Date. The board of directors shall have the power to fix in advance a date as a record date for the purpose of determining members entitled to notice of or to

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vote at any meeting or to make a determination of members for any purpose. The members existing on any such record date shall be deemed the members for such notice, vote, meeting or other purpose and for any supplementary notice or information with respect to the same matter and for any adjournment of the same meeting. A record date shall not be more than 50 days prior to the date on which the particular action requiring determination shall take place.

8. Quorum; Vote Required; Adjournment. One-half of the votes, represented in person or by proxy, shall constitute a quorum at any meeting of members. If a quorum exists, the action of a majority of the votes present or represented by proxy shall be the act of the members except with respect to matters where a greater vote is required by the declaration or any supplemental declaration or by law. If a quorum does not exist, a majority of the votes present in person or by proxy may adjourn the meeting from time to time without further notice other than announcement at the meeting.

9. Record of Votes and Approvals. The secretary shall keep a record of the names of all persons present at any meeting in person or by proxy, the total number of members authorized to vote on any matter coming before the meeting, the number of such members represented in person or by proxy and the results of any vote at a meeting.

The secretary shall maintain complete records of the votes of each person voting with respect to any matter covered which may be approved as a result, in whole or in part, of approvals obtained after the meeting and shall keep on file available for inspection by other members all written approvals with respect to such matters obtained subsequent to any meeting.

10. Action of Members Without a Meeting. Any action required to be taken or any action which may be taken at a meeting of the members may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the members entitled to vote with respect to the subject matter thereof.

ARTICLE IV

Board of Directors

1. General Powers. The affairs of the Corporation shall be managed by its Board of Directors. Directors need not be residents of the State of Colorado.

2. Number, Tenure and Qualifications. The number of Directors shall be five. Each Director shall hold office

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until the next annual meeting of directors and until his successor shall have been elected and qualified.

3. Election. The board of directors shall be elected by vote of the members as provided under ARTICLE III.

4. Regular Meetings. A regular meeting of the board shall be held immediately following the annual meeting of the members without other notice than this bylaw.

5. Special Meetings. Special meetings of the board may be called by or at the request of the president or any three directors. The person or persons authorized to call special meetings of the board may fix any place, either within or without the State of Colorado, as the place for holding any special meeting of the board called by them.

6. Notice. Notice of any special meeting of the Board shall be given at least three days previous thereto by written notice delivered personally or sent by mail or telegram to each director at his address as shown by the records of the corporation. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meeting. The attendance at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by these bylaws.

7. Quorum. Four members of the board shall constitute a quorum for the transaction of business at any meeting of the board; but if less than a quorum of the directors are present at said meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

8. Manner of Acting. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board, unless the act of a greater number is required by law or by these bylaws.

9. Vacancies. Any vacancy occurring in the board and any directorship may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the board. A director elected to fill a vacancy

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shall be elected for the unexpired term of his predecessor in office.

10. Compensation. Directors as such shall not receive any stated salaries for their services, but by resolution of the board a fixed sum and expenses of attendance, if any, may be allowed for attendance at each regular or special meeting of the board; but nothing herein contained shall be construed to preclude any director from serving the corporation in any other capacity and receiving compensation therefor.

11. Informal Action by Directors. Any action required by law to be taken at a meeting of directors or any action which may be taken at a meeting of directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors.

12. Reliance by Directors. Any member of the board shall in the performance of his or her duties be fully protected in relying in good faith upon the books of account or reports made to the corporation by any of its officers, or by an independent certified public accountant, or by an appraiser selected with reasonable care by the board or by any such committee, or in relying good faith upon other records of the corporation.

ARTICLE V

Officers

1. Officers. The officers of the corporation shall be a president, a secretary-treasurer and such other officers as may be selected in accordance with the provisions of this Article. The board may elect or appoint such other officers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed, from time to time, by the board. Any two or more offices may be held by the same person, except the offices of president and secretary.

2. Election and Term of Office. The officers of the corporation shall be elected annually by the board at the regular annual meeting of the board. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. New offices may be created and filled at any meeting of the board. Each officer shall hold office until his successor shall have been duly elected and shall have qualified.

3. Removal. Any officer elected or appointed by the board may be removed by the board whenever in its judgment the best interests of the corporation would be served

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thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise may be filled by the board for the unexpired portion of the term.

5. President. The president shall be the principal executive officer of the corporation and shall in general supervise and control all of the business and affairs of the corporation. He shall preside at all meetings and, in the absence of election of a chairman of the board, at all meetings of the board. He may sign, with the secretary or any other proper officer of the corporation, contracts or other instruments which the board has authorized to be executed, except in the cases where the signing and execution thereof shall be expressly delegated by the board or by these By-Laws or by statute to some other officer or agent of the corporation; and, in general, he shall perform all duties incident to the office of president and such other duties as may be prescribed by the board from time to time.

6. Treasurer. If required by the board, the treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the board shall determine. He shall have charge and custody of and be responsible for all funds and securities of the corporation, receive and give receipts for moneys due and payable to the corporation from any source whatsoever and deposit all such moneys in the name of the corporation in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of these bylaws and in general perform all the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him by the president of the board.

7. Secretary. The secretary shall keep the minutes of the meetings of the board in one or more books provided for that purpose; see that all notices are duly given in accordance with the provisions of these bylaws or as required by law; be custodian of the corporate records and of the seal of the corporation and see that the seal of the corporation is affixed to all documents, the execution of which on behalf of the corporation under its seal is duly authorized in accordance with the provisions of these bylaws and in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the president or by the board.

8. Assistant Treasurers and Assistant Secretaries. If required by the board, the assistant treasurers shall give bonds for the faithful discharge of their duties in

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such sums and with such sureties as the board shall determine. The assistant treasurers and assistant secretaries, in general, shall perform such duties as shall be assigned to them by the treasurer or the secretary or by the president or the board.

9. Compensation. Officers, agent, factors and employees shall receive such reasonable compensation for their services as may be authorized or ratified by the board of directors. Appointment of an officer, agent, factor or employee shall not of itself create contractual rights to compensation for services performed as such officer, agent, factor or employee.

ARTICLE VII

Books and Records

The corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its board and of any committees having any of the authority of the board, and shall keep at its registered or principal office a record giving the names and addresses of all members. All books and records of the corporation may be inspected by any director, trustee, officer, committee member or his agent or attorney for any proper purpose at any reasonable time.

ARTICLE VIII

Corporate Seal

The corporate seal shall be in such form as shall be approved by resolution of the board. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced. The impression of the seal may be made and attested by either the secretary or an assistant secretary for the authentication of contracts or other papers requiring the seal.

ARTICLE IX

Waiver of Notice

Whenever any notice is required to be given under the provisions of the Colorado Nonprofit Corporation Act or under the provisions of the articles of incorporation or the bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated herein shall be deemed equivalent to the giving of such notice.

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ARTICLE X

BOOK 507 PAGE 701

Amendments to Bylaws

1. Amendments. These bylaws may at any time and from time to time be amended, altered or repealed by the board of directors or by vote of the members of the corporation at any annual or special meeting provided that the notice of such meeting states that such amendment, alteration or repeal is to be considered.

2. Limitation on Amendments. No amendment to these bylaws shall be contrary to or inconsistent with any provision of the declaration unless such provision has been amended or repealed as provided for in the declaration, and no amendment to these bylaws shall be adopted which is inconsistent with or contrary to any amended provision of the declaration.

ARTICLE XI

Indemnification

1. Third Party Actions. The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than action by or in the right of the corporation) by reason of the fact that he or she is or was a director, trustee, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order settlement, conviction or upon a plea or nolo contendere or its equivalent shall not of itself create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

2. Derivative Actions. The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action

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of suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director, trustee, officer, employee or agent of the corporation or is or was serving at the request of the corporation as a director, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of the corporation, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability and in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which such court shall deem proper.

3. Extent of Indemnification. To the extent that a director, officer, employee or agent of the corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in sections 1 and 2 of this Article or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

4. Determination. Any indemnification under this Article (unless ordered by a court) shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the officer, director, trustee, employee or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in sections 1 and 2 of this Article. Such determination shall be made (a) by the board by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding or (b) if such a quorum is not obtainable or, even if obtainable, if the board so directs, by independent legal counsel in a written opinion.

5. Payment in Advance. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding as authorized by the board, as provided in section 4 of this Article, upon receipt of an undertaking by or on behalf of the director, trustee, officer, employee or agent to repay such amount unless it shall ultimately be determined that he or she is

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entitled to be indemnified by the corporation as authorized in this Article.

6. Insurance. The board may exercise the corporation's power to purchase and maintain insurance on behalf of any person who is or was a director, trustee, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him or her against such liability hereunder or otherwise.

7. Other Coverage. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the articles of incorporation, these bylaws, agreement, vote of disinterested directors or trustees, the Colorado Nonprofit Corporation Act, or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office and shall continue as to a person who has ceased to be a director, trustee, officer, employee or agent and shall inure to the benefit of the heirs and personal representatives of such a person.

ARTICLE XII

Execution of Instruments; Loans; Checks and Endorsements; Deposits; Proxies

1. Execution of Instruments. The president shall have power to execute and deliver on behalf and in the name of the corporation any instrument requiring the signature of an officer of the corporation, except as otherwise provided in these bylaws or where the execution and delivery thereof shall be expressly delegated by the board to some other officer or agent of the corporation. Unless authorized so to do by these bylaws or by the board, no officer, agent or employee shall have any power or authority to bind the corporation in any way, to pledge its credit or to render it liable pecuniarily for any purpose or in any amount.

2. Loans. No loan shall be contracted on behalf of the corporation, and no evidence of indebtedness shall be issued, endorsed or accepted in its name, unless authorized by the board. Such authority may be general or confined to specific instances. When so authorized, the officer or officers thereunto authorized may effect loans at any time for the corporation from any bank or other entity and for such loans may execute and deliver promissory notes or other evidences of indebtedness of the corporation and, when

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authorized as aforesaid, as security for the payment of any and all loans (and any obligations incident thereto) of the corporation, may mortgage, pledge, or otherwise encumber property at any time owned or held by the corporation, and to that end may execute and deliver such instruments as may be necessary or proper in the premises.

3. Checks and Endorsements. All checks, drafts or other orders for the payment of money, obligations, notes or other evidences of indebtedness, bills of lading, warehouse receipts, trade acceptances, and other such instruments shall be signed or endorsed by such officers or agents of the corporation as shall from time to time be determined by resolution of the board, which resolution may provide for the use of facsimile signatures.

4. Deposits. All funds of the corporation not otherwise employed shall be deposited from time to time to the corporation's credit in such banks or other depositories as shall from time to time be determined by resolution of the board, which resolution may specify the officers or agents of the corporation who shall have the power, and the manner in which such power shall be exercised, to make such deposits and to endorse, assign and deliver for collection and deposit checks, drafts and other orders for the payment of money payable to the corporation or its order.

5. Proxies. Unless otherwise provided by resolution adopted by the board, the president may from time to time appoint one or more agents or attorneys in fact of the corporation, in the name and on behalf of the corporation, to cast the votes which the corporation may be entitled to cast as the holder of stock or other securities in any other corporation, association or other entity, any of whose stock or other securities may be held by the corporation, at meetings of the holders of the stock or other securities of such other corporation, association or other entity, or to consent in writing, in the name of the corporation as such holder, to any action by such other corporation, association or other entity and may instruct the person or persons so appointed as to the manner of casting such votes or giving such consent and may execute or cause to be executed in the name and on behalf of the corporation and under its corporate seal, or otherwise, all such written proxies or other instruments as he or she may deem necessary or proper in the premises.

ARTICLE XIII

Rights and Obligations of the Corporation and the Members

1. Assessments. The board of directors shall fix, levy and collect assessments in the manner and for the

5-21-56

purposes specified in the declaration, and the members shall pay assessments as therein provided.

2. Other Rights and Obligations. The corporation has agreed or will agree with Mount Sopris Ranch Joint Ventures No. 1, 2, 3 and 4 to perform all obligations and duties and to exercise all rights and powers of the association as set forth in the declaration. All the relative rights and duties of the corporation and the members as therein prescribed shall be binding on the parties to the same extent as if set forth in full in these bylaws. In the case of a conflict or inconsistency between these bylaws and the declaration, the declaration shall control.

ARTICLE XIV

Fiscal Year

The fiscal year of the corporation shall be the calendar year.

CERTIFICATE OF OCCUPANCY

ASPEN ▲ PITKIN COMMUNITY DEVELOPMENT DEPARTMENT

THIS CERTIFICATE ISSUED PURSUANT TO THE REQUIREMENTS OF SECTION 109 OF THE 1994 EDITION OF THE UNIFORM BUILDING CODE. IT CERTIFIES THAT AT THE DATE OF ISSUANCE, THE STRUCTURE AS DESCRIBED BELOW WAS IN COMPLIANCE WITH THE VARIOUS RESOLUTIONS AND ORDINANCES REGULATING BUILDING CONSTRUCTION AND USE IN THIS JURISDICTION.

Use Classification: Single Family Residence

Building Permit: 5-514

Legal Description:

Building Address: 4275 Sopris Mtn. Ranch Rd.

Owner of Building: Mike Morgan

Owner Address:

Group: R-3 **Type Construction:** V-N

Use Zone: RS-30

Description: 1,840 square feet including two bedrooms, one full bath, one 3/4 bath, one 1/2 bath, and one kitchen.

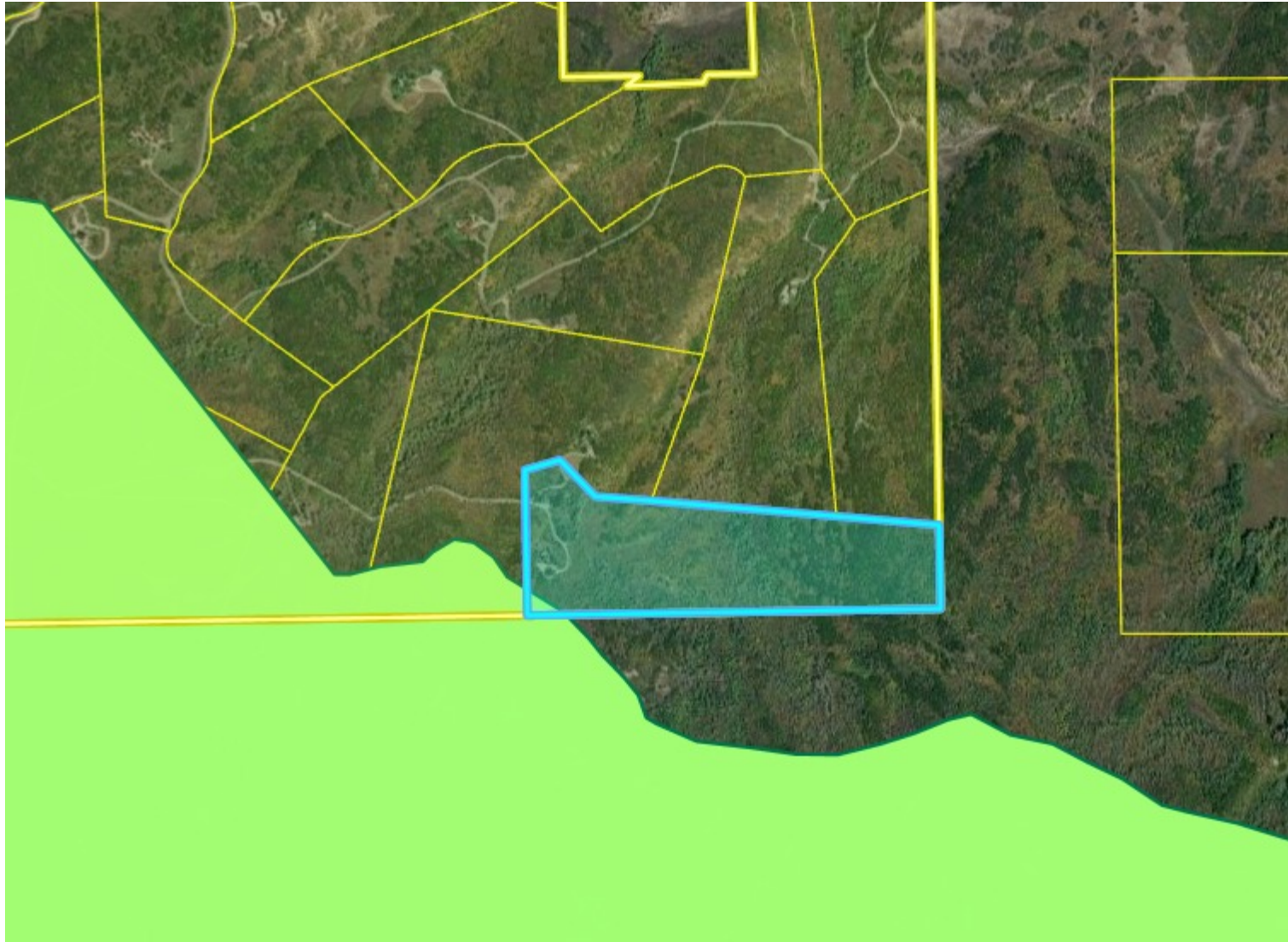
Comments & Restrictions: One existing fireplace: Defiant Encore. BOCC 95-85.

Stephen Knaiga
Chief Building Official



14 Jan 97
Date

Note: In all occupancies, except R, this certificate must be posted in a conspicuous place near the main exit on the premises for which it is issued. Any alteration or use of these described premises or portion thereof without the written approval of the Building Official shall negate this C.O. and subject it to revocation.

Wildlife Map



Legend

-  Parcel Boundary
-  Elk Production Area

3,009.3 0 1,504.66 3,009.3 Feet

1: 18,056



**ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN
COUNTY, COLORADO ADOPTING THE PITKIN COUNTY FINAL MAXIMUM
FLOOR AREA ZONING OVERLAY**

ORDINANCE No. 041-2023

RECITALS

1. Pursuant to 30-35-301 C.R.S., the Board of County Commissioners (“BOCC”) of Pitkin County, a home rule county, is authorized to make and publish ordinances for carrying into effect or discharging the powers and duties conferred upon such counties by law and as seems necessary.
2. Pursuant to Section 2.8.1 of the Home Rule Charter (“HRC”), the BOCC is authorized to take official action by Ordinance for certain matters where action is prescribed pursuant to the Colorado Revised Statutes as amended.
3. Pursuant to C.R.S. §§ 30-28-111, 112, 113, 115 and 116, the BOCC may zone Pitkin County through the adoption of a zoning plan certified by the Pitkin County Planning and Zoning Commission as well as amend the zoning plan in Pitkin County for the purpose of promoting the health, safety, morals, convenience, order, prosperity, or welfare of the present and future inhabitants of the State of Colorado.
4. This is an action of the BOCC to amend Pitkin County’s zoning plan as set forth herein and specified below pursuant to C.R.S. § 30-28-116.
5. The BOCC caused notice of the amendment to the Pitkin County zoning plan to be published in the Aspen Daily News on November 30, 2023.
6. Pitkin County Land Use Code, Section 2-40-10(e) provides that Pitkin County may initiate rezoning actions for Pitkin County that affect more than one parcel of land and are not associated with any development application.
7. The BOCC, through the Pitkin County Community Development Department, has proposed to codify a Final Maximum Floor Area of nine thousand two hundred and fifty square feet (9,250 sq. ft.) for all property within the geographical borders of unincorporated Pitkin County, Colorado, except for those portions of the County where more restrictive, as to floor area, zone districts or zone district overlays have already been codified. As an overlay, the Pitkin County Final Maximum Floor Area Zoning Overlay applies in addition to any underlying zone district. A map of Pitkin County depicting the area to be included in the Pitkin County Final Maximum Floor Area Zoning Overlay is appended hereto as **Exhibit A**, and a map of Pitkin County depicting the Existing Zoning is appended hereto as **Exhibit B**. The Pitkin County Final Maximum Floor Area Zoning Overlay boundary is inclusive of all unincorporated Pitkin County, except for the following areas:

- Basalt Urban Growth Boundary Overlay Zone District (“BUGB-O”);
 - Brush Creek Master Plan Area Overlay Zone District (“BC-O”);
 - Emma Master Plan Area Overlay Zone District (“E-O”);
 - Frying Pan Valley Overlay (“FPV-O”);
 - Upper Maroon Creek Overlay Zone District (“UMC-O”);
 - Valleys of Capitol Creek and Lower Snowmass Creek Master Plan Area Overlay Zone District (“VCLS-O”); and
 - The following areas indicated in Section 6-30-100(b)(4-6): Star Mesa parcels, Eagle Pines Subdivision lots, and The Preserve Subdivision lots.
8. The Pitkin County Planning and Zoning Commission considered the proposed request at a regularly scheduled and duly noticed meeting on October 17, 2023 and recommended approval of the amendment to the zoning plan and certification of the same to the BOCC by a vote of 5-1-1, pursuant to Resolution No. PZ-006-2023.
9. The BOCC considered and approved the request on first reading at a public meeting on December 6, 2023. The BOCC adopted the Amendment to the Zoning Plan on second reading at a duly noticed public hearing on December 20, 2023.
10. The BOCC finds that the proposed Pitkin County initiated rezoning complies with Section 2-40-10(e)(2) of the Pitkin County Land Use Code (“Code”), as follows:
- A. It advances the welfare of the community and the dominant policy of the county as stated in the Section 1-60-30, Community Balance, “to conserve and protect from further degradation the present natural environment and its resources.”
 - B. The amendment to the zoning plan to add the Pitkin County Final Maximum Floor Area Zoning Overlay is supported by the Pitkin County Comprehensive Plan, which recommends that Pitkin County implement a Final Maximum Floor Area of nine thousand two hundred and fifty square feet (9,250 sq. ft.) for all property within the geographical borders of unincorporated Pitkin County, Colorado, except for those portions of the County where more restrictive, as to floor area, zoning overlays have already been codified or may be codified in the future.
11. The provisions of this Ordinance shall apply to all development of a new, or redevelopment of an existing, residential structure, requiring a building permit, including all new structures, any remodeled structures, any additions to existing structures and any replacement structures, unless specifically exempted by a provision of this Land Use Code.
12. The provisions of this Ordinance shall not apply to:
- A. Development applications submitted on or before December 20, 2023, and determined by the Community Development Department to be complete, pursuant to Sec. 2-20-70.

B. Site Specific Development Plans of the kind and type specifically enumerated and identified in PCLUC, Sec. 2-20-170 vested beyond the effective date of this Ordinance, which specifically identify, in the underlying development permit/approval, a floor area that exceeds the final maximum floor area set forth in the Ordinance, subject to the following:

- 1) The definition of floor area in effect at time of building permit shall apply as a rule of general applicability;
- 2) If no floor area was specifically identified in the development permit for the Site Specific Development Plan, the final maximum floor area adopted in this Ordinance, or any amendment thereto, applies to the property; and
- 3) Upon the expiration of the vesting period identified in the development permit/approval, the final maximum floor area adopted in this Ordinance, or any amendment thereto, shall be fully applicable to the property.

C. Unexpired GMQS Allotments Awarded Prior to May 13, 2020

- 1) If the property owner can demonstrate that the commitments made in the application for the allotment have been satisfied, then the property in issue shall be allowed to develop up to the floor area set forth in the development permit, provided that the definition of floor area in effect at time of building permit shall apply as a rule of general applicability.
- 2) If the development allotment is associated with a Site Specific Development Plan approval that is statutorily vested, then “B” above shall apply.

13. The BOCC finds that adoption of this Ordinance is necessary for the immediate preservation of the public health, safety, and welfare of the citizens of Pitkin County and, therefore, declares this Ordinance to be effective immediately upon adoption.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pitkin County, Colorado that it hereby adopts an Ordinance of the Board of County Commissioners of Pitkin County, Colorado amending the Pitkin County zoning plan to codify a Final Maximum Floor Area of nine thousand two hundred and fifty square feet (9,250 sq. ft.) for all property within the geographical borders of unincorporated Pitkin County, Colorado, except for those portions of the County where more restrictive, as to floor area, zoning overlays have already been codified. The BOCC adopts the Pitkin County Final Maximum Floor Area Zoning Overlay map appended hereto as **Exhibit A**, as well as the following description of the land area covered by the Pitkin County Final Maximum Floor Area Zoning Overlay:

The Pitkin County Final Maximum Floor Area Zoning Overlay boundary is inclusive of all unincorporated Pitkin County, except for the following areas:

- *Basalt Urban Growth Boundary Overlay Zone District (“BUGB-O”);*
- *Brush Creek Master Plan Area Overlay Zone District (“BC-O”);*
- *Emma Master Plan Area Overlay Zone District (“E-O”);*
- *Frying Pan Valley Overlay (“FPV-O”);*
- *Upper Maroon Creek Overlay Zone District (“UMC-O”);*
- *Valleys of Capitol Creek and Lower Snowmass Creek Master Plan Area Overlay Zone District (“VCLS-O”); and*
- *The following areas indicated in Section 6-30-100(b)(4-6): Star Mesa parcels, Eagle Pines Subdivision lots, and The Preserve Subdivision lots.*

The BOCC further authorizes the Chair or the Chair’s designee to sign the Ordinance and upon the satisfaction of the County Attorney as to form, execute any other associated documents necessary to complete this matter.

INTRODUCED ON FIRST READING on the 6th day of December, 2023.

NOTICE OF PUBLIC HEARING AND TITLE AND SHORT SUMMARY OF THE ORDINANCE PUBLISHED IN THE ASPEN DAILY NEWS ON the 30th day of November, 2023.

NOTICE OF PUBLIC HEARING AND THE FULL TEXT OF THE ORDINANCE POSTED ON THE OFFICIAL PITKIN COUNTY WEBSITE (www.pitkincounty.com) ON THE 30TH DAY OF NOVEMBER, 2023.

APPROVED AND ADOPTED ON SECOND READING AT A PUBLIC HEARING on the 20th day of December, 2023.

PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE ASPEN DAILY NEWS ON THE 28TH DAY OF DECEMBER, 2023.

POSTED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, ON THE OFFICIAL PITKIN COUNTY WEBSITE (www.pitkincounty.com) ON THE 21ST DAY OF DECEMBER, 2023.

THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON ADOPTION BY THE BOARD OF COUNTY COMMISSIONERS.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO

Sam Engen

Sam Engen
Deputy Clerk

Francie Jacober

Francie Jacober,
Chair

Date: Dec-31-2023

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

John Ely

John Ely,
County Attorney

Suzanne Wolff

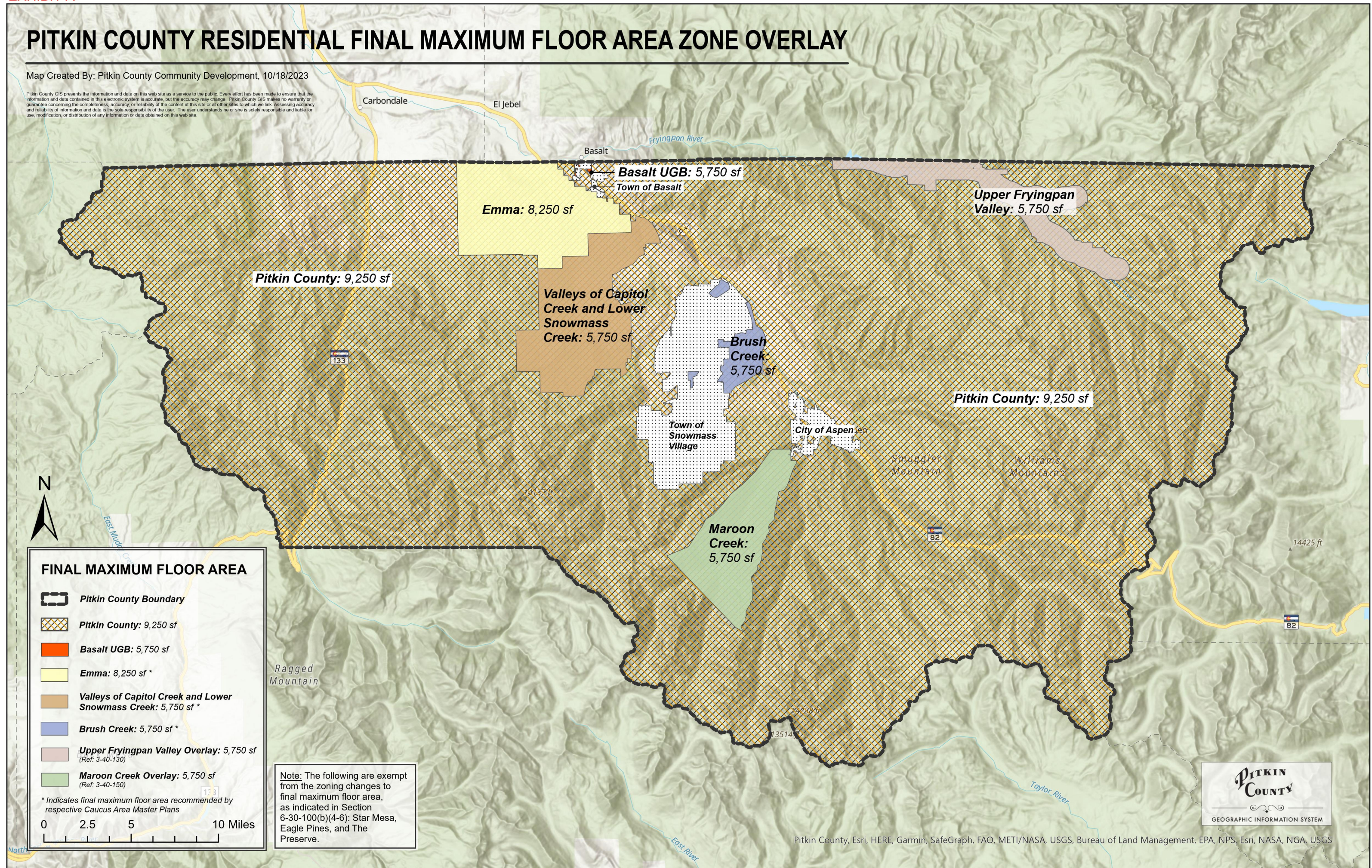
Suzanne Wolff,
Community Development Director

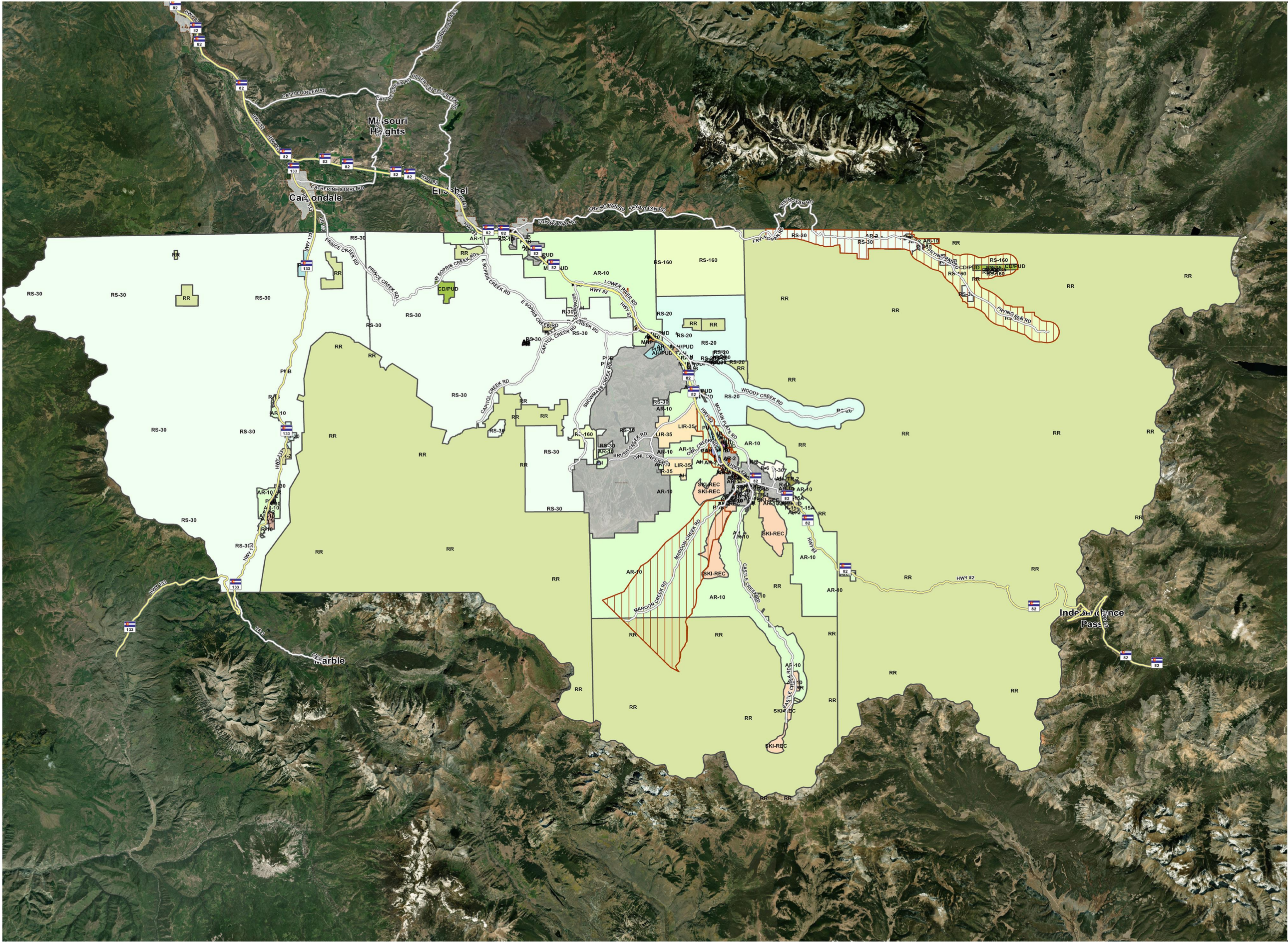
Exhibits: A. Pitkin County Residential Final Maximum Floor Area Zone Overlay Map
B. Pitkin County Existing Zoning Map

PITKIN COUNTY RESIDENTIAL FINAL MAXIMUM FLOOR AREA ZONE OVERLAY

Map Created By: Pitkin County Community Development, 10/18/2023

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Pitkin County Zone Districts

Map Created on 2:25 PM 10/11/23 at <http://www.pitkinmapsandmore.com>

Legend

- State Highway
- Road Centerline 144K
- Place Names
- Zone Overlay
- Zone District Labels
- Zone District
 - AH Affordable Housing
 - AH/PUD Affordable Housing/PUD
 - AR-10 Agricultural/Residential (10 Acre)
 - AR-2 Agricultural/Residential (2 Acre)
 - B-1 Rural Business
 - B-2 Business
 - CD/PUD Conservation Development
 - I Industrial
 - LIR-35 Low Impact Residential (35 Acre)
 - Residential Multi-Family
 - MHP Mobile Home Park
 - MHP/PUD Mobile Home Park PUD
 - P-I Public-Institutional
 - PUB Public
 - R-6 Medium Density Residential
 - R-15 Moderate Density Residential
 - R-15A Moderate Density Residential
 - R-15B Moderate Density Residential
 - R-30 Suburban Density Residential
 - RR Rural Remote
 - RS-160 Resource (160 Acre)
 - RS-20 Resource (20 Acre)
 - RS-30 Resource (30 Acre)
 - RS-35 Resource (35 Acre)
 - SKI-REC Ski Recreation
 - T Tourist
 - TR-1 Transitional Residential 1
 - TR-2 Transitional Residential 2
 - U Unclassified
 - VC Village Commercial
 - VLP Village Lodge Preservation
 - VR Village Residential
- Town Boundary



1: 158,811

WGS_1984_Web_Mercator_Auxiliary_Sphere

THIS MAP IS FOR INFORMATIONAL PURPOSES. Pitkin County GIS makes no warranty or guarantee concerning the completeness, accuracy, or reliability of the content represented.

Notes

