

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY,
COLORADO, APPROVING THE 143 DARLING FARM LLC SUBDIVISION EXEMPTION FOR
A LOT LINE ADJUSTMENT, REZONING WITH A PLANNED UNIT DEVELOPMENT (PUD)
OVERLAY, PUD REVIEW, ACTIVITY ENVELOPES, SITE PLAN REVIEW, SPECIAL REVIEW
FOR A CDU, AND A MAJOR AMENDMENT TO A DEVELOPMENT PERMIT**

Resolution No. ____-2024

RECITALS

1. Pursuant to Section 2.8.3 (Actions) of the Pitkin County Home Rule Charter (“HRC”), official action by formal resolution shall be required for all actions of the Board not requiring ordinance power on matter of significant importance affecting citizens.
2. 143 Darling Farm LLC (hereafter “Applicant”) has applied to the Pitkin County Planning and Zoning Commission and the Board of County Commissioners (“BOCC”) requesting the following:
 - Subdivision Exemption for a Lot Line Adjustment to adjust the property lines between Lots 1, 2, 6, and 7. Property lines on Lot 5 will remain the same.
 - PUD Review to Rezone Lots 1, 2, 5, 6, and 7 with a PUD overlay in order to:
 - Vary setbacks in order to preserve open space. This will be done by clustering residential structures on Lots 1, 6 and 7 in a central location, and clustering the agricultural structures utilized by all the lots on Lot 2. The minimum front setback requirement for Lot 5 will be reduced from 100-feet to 50-feet. The 50-foot Collector Street minimum setback from Capitol Creek Road will continue to apply. The other setbacks for Lots 1, 2, 6 and 7 will be per the approved PUD Plan.
 - Major Amendment to:
 - Reallocate GMQS Allotments between the 5 subject lots as follows:
 - **Lot 1:** 4,185 square feet of residential floor area
 - **Lot 2:** 0 square feet of residential floor area (15,000 square feet exempt agricultural floor area, and 1,500 square feet exempt Deed Restricted Ranch Manager House)
 - **Lot 5:** 1,555 square feet of residential floor area
 - **Lot 6:** 6,035 square feet of residential floor area
 - **Lot 7:** 8,225 square feet of residential floor area
 - Amend the Agricultural Easement Plat recorded in Book 73 at Page 99. 6.83 acres will be removed from production in one area in the East Agricultural Easement while 6.5 acres will be added back in another area. 1.9 acres will be added to the West Agricultural Easement, resulting in a net gain of 1.57 acres to the overall Agricultural Easement.
 - Amend the Deed Restriction Agreement for the Occupancy and Resale of the Ranch Manager House with a new Deed Restriction Agreement to allow the residence to be rented by a qualified employee working on the property.

- Activity Envelope and Site Plan Review for:
 - Lot 5: Re-establishing the previously approved Activity Envelope for a future residence of approximately 1,555 square feet.
 - Lot 6: Establishing a new Activity Envelope to construct an approximately 1,969 square foot single-family residence, an approximately 4,065 square foot accessory structure containing an approximately 825 square foot CDU, a pool, and geothermal wells.
 - Lot 7: Establishing a new Activity Envelope to construct an approximately 8,220 single-family residence and pond.
 - Lot 1: Establishing a new Activity Envelope to construct an approximately 3,188 square foot single-family residence, an approximately 112 square foot accessory structure (trash enclosure), and an approximately 881 square foot accessory structure (greenhouse, carport, and storage).
 - Lot 2: Establishing a new Activity Envelope Establish to contain the following improvements and common elements for all five lots:
 - Extending and improving two driveways which will utilize existing curb cuts onto Capitol Creek Road. One driveway will provide access to the residential structures while the second driveway will provide access to the agricultural structures and the ranch manager's residence. A second access driveway connecting the agricultural area to the existing road accessing Lot 5 will be improved.
 - Demolishing the existing deed restricted ranch manager's residence and constructing a new approximately 1,500 square foot deed restricted ranch manager's residence.
 - Constructing a ground mounted solar array.
 - Constructing a riding ring, warmup ring, an approximately 3,500 square foot horse barn, two equipment storage barns (approximately 930 square feet, and 820 square feet), an approximately 1,360 square foot greenhouse, two orchard areas, two hay storage structures (approximately 640 square feet each), realigning an irrigation ditch, and installing a new OWTS to serve all these structures.
 - Re-grading and revegetating previously disturbed areas along Capitol Creek Road and installing vegetation for additional visual screening.
3. The property is comprised of five contiguous lots known as lots 1, 2, 5, 6, and 7 as shown on the Wieben Ranch State Exempt Subdivision Plat recorded on May 31, 2005 in Plat Book 73 at Pages 99-105.
 4. The five subject lots contain approximately 307.621 acres in total and are each conforming in size within the RS-30 zone district. Lots 3 and 4 are under separate ownership and are not part of the application.
 5. Use of the property for ranching activities dates back to the 1880s. The Wieben Ranch was divided into seven lots by a State Exempt Subdivision Plat recorded on May 31, 2005 in Plat Book 73 at Pages 99-105. On Lot 2, existing improvements include a dilapidated, three-bedroom Ranch Manager's House, loafing sheds, two dilapidated barns irrigation ditches, and a network of two track ranch roads. Three named irrigation ditches running through the property include Capitol Falls Ditch, the Green Meadow Ditch, and the Sandy Ditch. Little Elk Creek exists on the property as a small drainage flowing near the easterly edge of the property.
 6. Since 2002, the property has received several land use approvals including:

- BOCC Resolution No. 006-2002: GMQS Rural Area GMQS Residential Allotment for New Lots/Parcels
 - Hearing Officer Determination No. 09-2002: 1041 Hazard Review, and Conceptual Submission
 - BOCC Resolution No. 081-2002: GMQS Rural Area GMQS Residential Allotment for Additional Floor Area
 - Hearing Officer Determination No. 18-2003: Special Review and GMQS Exemption for the use of Transferrable Development Rights (“TDRS”)
 - Administrative Decision Nos. 18-2023 through 022-2023: Activity Envelope Review
7. The Planning and Zoning Commission considered this application at a regular meeting on April 9, 2024, at which time evidence and testimony were presented with respect to the application. Pursuant to PZ Resolution No. PZ-03-2024, the Planning and Zoning Commission recommended approval by a vote of 5-0 to the BOCC.
8. The BOCC considered this application on first reading at a duly noticed public hearing on July 10, 2024, and on second reading at a continued public hearing on July 24, 2024, at which times evidence and testimony were presented with respect to the application.
9. The BOCC finds that the request complies with the applicable provisions of the Land Use Code (Code) for Activity Envelope and Site Plan Review, as follows:
- A. The Activity Envelopes generally contain slopes of less than 15%. Areas containing slopes in excess of 30% are not contiguous to larger areas with slopes over 30% and qualify as minor slope anomalies pursuant to Land Use Code Sec. 7-20-20.
 - B. The Applicant commits to adhere to all of the Code provisions pertaining to water courses and drainage, sediment and erosion control, irrigation and groundwater, and to demonstrate compliance at the time of building permit application. The property has been historically flood irrigated with no drainage issues. The Applicant plans to convert the flood irrigation to a combination of flood irrigation, rotary irrigation, and sprinklers. Little Elk Creek exists on the property as a small drainage flowing near the easterly edge of the property. No channeling or encroachment activities are proposed in Little Elk Creek at this time.
 - C. The Pitkin County GIS wildfire maps indicate the property includes low and severe hazard areas. The Applicant engaged Colorado Wildlife Science LLC to assess the wildfire hazard. The resulting Wildfire Hazard Report dated, June 22, 2023, found that based on vegetation, hydrology, fuel loads and types, defensible space and topography within and adjacent to the proposed activity envelopes, the proposed envelopes are within a low wildfire hazard area except for the activity envelope on lot 5 with is in a medium hazard area. The Applicant agrees to comply with the mitigation recommendations provided within report as well as the applicable Code standards for development in these wildfire hazard areas.
 - D. The Ranch is not within any mapped geological hazard areas.
 - E. The Applicant engaged Colorado Wildlife Science LLC to assess the wildlife and ecological resources potentially affected by development within the proposed Activity Envelopes and provide an ecological report of the findings. Within the ecological report dated June 22, 2023, it was found that, “Although the property encompasses active and high-quality mule deer summer range and transition habitat for both mule deer and elk, the property does not encompass winter range, severe winter range, or winter concentration areas for either species... The proposed development will not directly or indirectly affect field verified winter range, severe winter range, or winter concentration areas for bighorn sheep, elk, moose, or mule deer... There is no wildlife habitat based rationale to maintain the GMQS Covenant requirement that prohibits external construction between the dates of December 15 and April 1 of any year, or that the exterior of all structures be

completed within twelve months of the date construction commences... Given that only development within the Lot 5 envelope could result in the loss of Gamble oak shrubland habitat and our recommendations to create effective defensible space to reduce wildfire risk, the existing GMQS covenant requiring that, "Prior to the issuance of a building permit for any single-family residence, that Lot Owner shall submit an oak regeneration plan, coordinated with DOW, the Pitkin County Wildlife Biologist, and the Land Management Department to enhance habitat and production of wildlife food sources" is no longer applicable. In fact, the relocated activity envelopes (into grass/pasture dominated areas) will result in no direct or indirect loss of any significant wildlife habitat or the removal of oak shrublands." CPW reviewed the application and stated they have, "no major issues with this project."

- F. The USGS maps of the property indicate that Little Elk Creek flows through the pastures. The CWS report found that the Creek was manipulated and piped in the past and no water body is evident at the surface between the Green Meadow Ditch and west of the agricultural activity envelope. The proposed Activity Envelopes are located beyond 100' of these features and comply with Section 7-20-80.
- G. The property is within the mapped Scenic View Protection Area ("SVPA") as viewed from Capitol Creek Road. To minimize the scenic impacts of the development, the residential Activity Envelope has been located approximately 700 feet from the road behind a large cluster of Gamble Oak. The finished floor elevations will be approximately 35' below the road. The residential structures will be single story (some with basements) that will not exceed 25' the midpoint of the roofs as required to the GMQS Covenant. A landscaping/revegetation Activity Envelope along Capitol Creek Road is proposed to restore the disturbed area and provide additional screening of all the proposed structures. Some of this area will be restored as pasture and added to the East Agricultural Easement thus making some of the irrigated pasture lands more visible to the road. A solar array is proposed to serve the structures in the residential Activity Envelope. The array has been located approximately 410 feet from Capitol Creek Road. Due to its lower elevation and natural berms and vegetation around the array, it is not anticipated that it will be visible from Capitol Creek Road. The exterior of all buildings will utilize earth tone materials and colors. It has been represented that no structure will project above a ridgeline and that the residential Activity Envelope on Lots 1, 6, and 7 will be largely out of sight from all neighbors and from Capitol Creek Road.
- H. The Applicant is utilizing the 3 existing driveway cuts to access all the lots. The driveways are designed to the County standards.
- I. The property currently holds well permits for each of the 5 lots. After the lot line adjustment is complete, the Applicant states they will re-permit the wells to correspond with the new boundaries. Because each lot is 35 acres or more, they qualify for exempt 35 acre well permits. A letter from Scott Miller of Waterlaw Inc. provides that there are legal water sources available to serve the all the uses proposed on the 5 lots.
- J. The OWTS that currently serves the ranch manager house will be replaced with a new OWTS to serve 4 bedrooms. The residential compound will contain one OWTS designed to serve the eleven proposed bathrooms. OWTS permits from the Environmental Health Department will be required at the time of building permit application.
- K. Pursuant to Section 4-30-60, the Applicant has provided plans demonstrating that a minimum of 35% of the roof can be constructed for solar panels. However they have stated that they are unlikely to install roof-mounted panels opting instead to install a ground-mounted array on Lot 2 which will be shared by all the lots for all the proposed structures. A letter from Greg Peterson of Sun Sense Inc. states that a ground-mounted system shared between the lots will be more efficient and easier to maintain than separate roof mounted systems. The array has been located approximately 410 feet from Capitol Creek Road. Due to its lower elevation and natural berms and vegetation around the array, it is unlikely that it will be visible from Capitol Creek Road.
- L. Lot 2 is being enlarged from 35.032-acres to 80.017-acres and converted from a residential lot to a "Common Agricultural Parcel" (The Ranch Manager's House will also be located on Lot 2 and

is not considered within the agricultural or residential floor area calculations). These agricultural buildings will serve the entire 307.621-acres of the PUD, and any other agricultural buildings will be prohibited on the residential lots. An HOA will be created to manage the common agricultural parcel and the solar array. The applicant is proposing to limit the agricultural floor area to 15,000 square feet of which approximately 7,885 is currently proposed to be built in the lower Agricultural Activity Envelope. These structures include a 3,500 square foot main barn, two equipment storage structures containing 930 square feet and 820 square feet (rebuilt from the existing agricultural structures), two 640 square foot hay storage buildings each under a single roof, and a 1,360 square foot greenhouse. This leaves approximately 7,115 square feet to be utilized for future agricultural structures which would be subject to Site Plan Review approval. These future agricultural structures would be located in the upper irrigated pasture or within the other approved Activity Envelopes of Lot 2.

10. The BOCC further finds the proposed CDU within the accessory structure on Lot 6 is limited to 1000 square feet of net livable floor. The CDU complies with the special review criteria of the Code, is consistent with the character of the surrounding area, and that the impacts of the unit can be mitigated.
11. The BOCC further finds that the lot line adjustment request is consistent with the applicable requirements of Sec. 2-30-20(g)(4) of the Land Use Code: it will not create an additional parcel, increase floor area, or create a parcel substantially different in size for development or resale purposes, increase off-site impacts, endanger the public health, safety or welfare, and the parcels will remain conforming in size.
12. The BOCC further finds pursuant to Section 2-20-150(b), the request for a Major Amendment to a Development Permit to reallocate GMQS allotments, amend the Agricultural Easement Plat recorded in Book 73 at Page 99, and amend the Deed Restriction Agreement for the Ranch Manager House complies with the applicable provisions of the Land Use Code and will not change the use of the proposed development or the basic character of the land, does not increase the allowable floor area, and will not endanger the public health, safety or welfare.
13. The BOCC further finds the proposed land is eligible for the PUD overlay designation, pursuant to Sections 2-40-50(I) and 3-70-30 of the Land Use Code as it is consistent with the 2023 Master Plan for the Valleys of Capitol Creek and Lower Snowmass Creek, complies with the Land Use Code, does not create new adverse impacts, increases the amount of land protected from development, will not increase density, and preserves scenic quality.
14. Setbacks within the PUD shall be per the PUD Plan and Site Plan which includes a 50 foot Capitol Creek Road setback. Lot 5 shall maintain a 50 foot front yard setback.
15. The BOCC further finds the rezoning is consistent with Secs. 2-30-40(i) and 2-40-10(c)(2) of the Pitkin County Land Use Code.
16. The Planning and Zoning Commission and the BOCC supports the Snowmass Capitol Creek Caucus recommendation of the construction of a second deed restricted unit for the purpose of housing a Wieben Ranch employee in order to reduce the vehicle miles traveled by employees and to further support the agricultural operations.
17. The BOCC finds that it is in the best interests of the citizens of Pitkin County to approve this Resolution.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Pitkin County, Colorado that it hereby approves the 143 Darling Ranch LLC Subdivision Exemption for a Lot Line Adjustment, PUD Review, Special Review and GMQS Exemption for a Caretaker Dwelling Unit (“CDU”), Activity Envelope and Site Plan Review, and a Major Amendment to a Development Permit, subject to the following conditions, which shall run with the land and be binding on all successors in interest.

1. The Applicant shall adhere to all material representations made in the current or prior applications or in public meetings or hearings and shall consider those representations to be conditions of approval, unless amended by other conditions.
2. No calculations for height, bulk, setback, size, floor area, or any other building and zoning requirements have been conducted. These requirements will be considered at the time of building permit. Any structures represented in the application may not be permitted under building and zoning regulations.
3. The conditions of BOCC Resolution Nos. 06-2002 and 81-2002, Hearing Officer Determination No. 09-2002 and Administrative Decisions Nos. 18-2023 through 022-2023, shall be replaced by the conditions of the BOCC Resolution.
4. Within 90 days of the BOCC approval, the Applicant shall submit the following, which shall then be recorded concurrently:
 - A. A Lot Line Adjustment Plat which shall include legal descriptions of the transfer parcels and legal descriptions of the resulting lots.
 - B. A PUD Plat
 - C. An amended Deed Restriction Agreement for the Ranch Manager House, to replace the Deed Restriction Agreement recorded as Reception No 553455. The amended Deed Restriction Agreement shall be reviewed and approved by the County Attorney, APCA and Community Development Director prior to acceptance by the BOCC by Ordinance.
 - D. An amended The Agricultural Easement Plat to replace the Agricultural Easement Plat recorded in Book 73 at Page 99.
 - E. An amended Condominium Plat to replace the Condominium Plat recorded in Book 88 at Page 56.
 - F. An Activity Envelope and Site Plan for the 5 lots in accordance with Land Use Code Section 2-30-20(g) and Application Manual Section 2.1.1. The above referenced approvals shall be a condition precedent to finalization and recordation. The Activity Envelope Plan and Site Plan shall be recorded prior to submission of any future building permit applications. The Activity Envelope and Site Plan for Lot 6 shall be amended to be consistent with the plans preliminarily reviewed and approved by the RFFPA.
5. Each of the 5 lots shall be limited to the following listed floor area, based on the County’s regulations in effect at the time of building permit submittal. Future GMQS allotments or use of TDRs to exceed the floor area listed shall be prohibited.
 - **Lot 1:** 4,185 square feet of residential floor area
 - **Lot 2:** 0 square feet of residential floor area, 1,500 square feet of exempt Deed Restricted floor area, and 15,000 square feet exempt agricultural floor area
 - **Lot 5:** 1,555 square feet of residential floor area
 - **Lot 6:** 6,035 square feet of residential floor area
 - **Lot 7:** 8,225 square feet of residential floor area

6. Agricultural exempt floor area other than loafing sheds shall not be permitted on Lots 1, 5, 6, and 7.
7. Lot 2 is approved to develop approximately 7,885 square feet exempt agricultural floor area. An additional 7,115 square feet exempt agricultural floor area may be built on Lot 2 in the future subject to Site Plan approval. No residential floor area is permitted on Lot 2 with the exception of the Ranch Manager's House, or any future deed restricted employee housing subject to review and approval.
8. Prior to submission of any future building permit applications for development on Lot 5, the Applicant shall be required to submit for approval an application for Site Plan Review, pursuant to Secs. 2-30-20 and 7-10-50 of the Code. The Site Plan Review application shall demonstrate compliance with the standards in Sec. 7-20-120(d) for development within the Scenic View Protection Area as seen from Capitol Creek Road. Approval of an activity envelope does not ensure approval of site plan review. A PUD variation allowing a 50-foot front setback on Lot 5 is approved as compared with the 100-foot setback that would otherwise have been required.
9. Residences shall be limited to 25 feet in height as measured to the mid-point of a roof. There shall be no point of any ridge or other roof peak that exceeds the prescribed height above the existing or finished grade, whichever is lower, by more than five (5) feet.
10. The Applicant shall comply with all standards for development within Scenic View Protection Areas as represented in the application and approved in this Resolution. The exterior of the buildings shall utilize indigenous earth tone materials or colors and the roofs shall have a non-reflective color or composition. Reflective roof materials, with the exception of materials associated with solar or photovoltaic equipment, shall not be used unless the materials are treated to eliminate reflectivity prior to installation. Driveway lighting is prohibited and all other lighting shall comply with the lighting code. The proposed structures shall not project above a ridgeline as viewed from Capitol Creek Road.
11. Water rights, which have been historically used for the irrigation of the ranch, shall be an appurtenance to the agricultural easements and shall be conveyed therewith in any subsequent sale or conveyance of any lot.
12. Use of water from any well shall be limited to domestic use for residential dwellings and for the watering of domestic livestock. Use of well water for lawn and garden irrigation shall be prohibited, with the exception of allowances provided in typical state exempt well permits.
13. If any Lot within the Wieben Ranch is found to be "dry" in terms of yielding water from a well, then domestic water shall be piped from other lots within the ranch. In this case, a water augmentation plan (decreed by the water court) may be necessary.
14. No existing roads within the ranch shall be widened except as identified in the application or as approved by Roaring Fork Fire and Rescue Authority. No cuts into any slopes greater than 30 percent shall be permitted for improvement on any road on the ranch. No paving of access roads shall be allowed. Dust suppressants approved by Environmental Health shall be applied to access roads as deemed necessary.
15. Prior to submission of any earthmoving permits for ponds on the ranch, the owners shall demonstrate that there are adequate water rights for the ponds. The earthmoving permits (or building permit if submitted as part of an overall building permit), shall include a plan to ensure that the herbicides or

pesticides from the property do not enter Little Elk Creek via the ponds and that water from the ponds does not adversely influence the temperature of natural waterways on the ranch.

16. With the first building permit submittal for any structure on the lots, the Applicant shall demonstrate that the safety improvements on Capitol Creek Road in the vicinity of the so called “Child Curve” as recommended by the County Engineer. Within the limitations of the road right-of-way, the Applicant shall improve the sight distance by laying back the bank. Any improvements will be based on the design recommendations of the County Engineer.
17. With the first building permit submittal for any structure on the lots, the Applicant shall demonstrate that improvements have been made to the sharp curve located just beyond the existing end of pavement as recommended by the County Engineer.
18. With the building permit submittal for each lot, the Applicant shall:
 - A. Obtain a street name and addresses through the Addressing Department;
 - B. Submit a copy of this recorded Resolution and associated Activity Envelope and Site Plan;
 - C. Obtain a street name and address number from Pitkin County Addressing;
 - D. Provide proof of an adequate water supply (in terms of quantity and availability) for domestic and fire protection purposes, and for irrigation purposes;
 - E. Submit a copy of the Wildfire Hazard Report and Wildlife Habitat Report provided by Colorado Wildlife Science LLC dated June 22, 2023.
 - F. If Applicable, submit a copy of the Notice of Intent to Construct a Non-Jurisdictional Water Impoundment Structure, which shall be submitted to the State Engineers Office 45 days prior to commencement of construction.
 - G. Submit an OWTS permit application to be reviewed and approved by the Environmental Health Department.
 - H. Provide for adequate drainage for all low points. If the proposed work disturbs more than 1,500 square feet, the applicant shall submit engineering documents for storm water detention facilities designed by a professional engineer licensed in the State of Colorado, demonstrating that historical flow patterns and runoff amounts will be maintained. If the development disturbs one acre or more, a Colorado Department of Public Health and Environment permit for storm water discharges associated with construction activities shall be applied for and obtained prior to issuance of a permit. Submit a drainage and erosion control plan and accompanying drainage report demonstrating that historical flow patterns and runoff amounts will be maintained, and identify specific measures designed to reduce erosion and stream sedimentation. If the development disturbs one acre or more, a Colorado Department of Public Health and Environment Permit for Stormwater discharges associated with construction activities shall be applied for and obtained prior to issuance of a permit.
 - I. Submit an Access Permit Application for the improved access associated with the building permit for the lot. The Access Permit shall be approved by the Planning Engineer and the Roaring Fork Fire Rescue. The application shall include the following:
 - i. Compliance with the current Road Maintenance and Management Plan;
 - ii. Engineering of all bridges and/or culvert crossings
 - iii. Compliance with all requirements of the RFFRA;
 - iv. Details on all turnarounds and parking locations, including details for a fire truck turnaround.
 - v. A copy of the recorded access easements associated with the new driveways on the reconfigured lots.

- J. Provide adequate engineering for any retaining walls over four (4) feet in height and/or any improvements to walls over four (4) feet in height. All retaining walls shall be a maximum of seven (7) feet tall;
 - K. Submit a tree removal and mitigation plan if any trees with larger than 6" DBH are to be removed;
 - L. Submit a detailed exterior lighting plan with the corresponding fixture cut sheets. Exterior lighting shall comply with the lighting code;
 - M. Submit representation of the exterior indigenous earth tone materials or colors;
 - N. Submit a fireplace/woodstove permit application, if applicable.
 - O. Submit a detailed landscaping and revegetation plan consistent with the landscaping shown on the recorded Site Plan. Implementation of the revegetation plan should be completed within one growing season of completion of the development of each lot.
19. Prior to building permit issuance for each lot, the Applicant shall pay the applicable road and employee housing impact fees.
20. Prior to permit issuance for the greenhouse, hay storage barn, agricultural barn, and the agricultural equipment barns on Lot 2, the Applicant shall record an Occupancy Covenant and Agreement that shall specify that the exempt floor area shall only be used in association with the raising, producing, or keeping of plants or livestock, or cultivation and management of other crops or farm products, and that any area not consistent with those uses shall count as floor area. The Occupancy Covenant and Agreement shall allow the County to inspect the floor area-exempt agricultural structures at any time for compliance with the specified use limitations, subject to the provision of reasonable notice to the property owner. The form of the Occupancy Covenant and Agreement shall be approved by the County Attorney.
21. The barn shall be limited to a maximum of 3,500 square feet of exempt floor area allowed pursuant to Sec. 5-20-70(j)(4) and Sec. 2-30-20(g)(19), and shall be subject to the following limitations:
- A. The barn may contain mechanical, electrical and plumbing equipment.
 - B. The barn may contain one (1) toilet room not to exceed 20 square feet; or 43 square feet if designed to be accessible.
 - C. Showers and bathing facilities are prohibited, with the exception of a safety shower. A dog wash is not permitted within the bathroom.
 - D. The barn may contain office space of no more than 120 square feet related to the on-site agricultural operation.
 - E. Human amenities are prohibited within the exempt floor area within the barn.
22. The two agricultural equipment storage buildings shall be limited to approximately 930 and 820 square feet of exempt floor area pursuant to Sec. 5-20-70(j)(3). The height of the buildings shall not exceed 16 feet to top of ridge. The buildings shall be used only for storage of equipment utilized for the on-site agricultural operation and may contain a workshop/work area utilized for equipment repair and maintenance as a secondary use to the equipment storage. The buildings shall not contain plumbing equipment other than a hose bib, but may contain mechanical or electrical equipment.
23. The greenhouse shall be limited 1,360 square feet of exempt floor area pursuant to Sec. 5-20-70(j)(5) of the Code and shall be subject to the following limitations:

- A. The greenhouse shall not contain any plumbing equipment other than a hose bib, but may contain mechanical or electrical equipment.
 - B. No light shall emanate from the interior of the greenhouse such that it is visible from the exterior of the greenhouse from two (2) hours after dusk until two (2) hours before dawn.
24. The hay storage structures shall each be limited to a maximum of 640 square feet of exempt floor area allowed pursuant to Sec. 5-20-70(j)(1) and Sec. 2-30-20(g)(19). The height shall not exceed 20' to the top of the ridge and shall be subject to the following limitations:
- A. The hay storage building shall have a maximum of three walls. The fourth side of the building may have a fence or gate to exclude wildlife, but shall not be fully enclosed.
 - B. The hay storage building shall be used only for the protection and storage of hay.
 - C. The hay storage building shall not have an excavated, raised or slab foundation.
 - D. The hay storage building shall not contain any mechanical or plumbing equipment. Electrical equipment shall be limited to necessary lighting.
25. To be exempt from floor area, loafing sheds shall not exceed 12 feet to the top of the ridge with a minimum 3:12 roof pitch with a shed roof and shall be subject to the following limitations:
- A. Loafing sheds shall have a maximum of three walls. The fourth side may have a fence or gate, but shall not be fully enclosed.
 - B. Loafing sheds shall be used only for livestock protection.
 - C. Each shed shall not exceed 300 square feet.
 - D. Loafing sheds shall not contain any mechanical, electrical or plumbing equipment.
26. The CDU on Lot 6 shall not be required to be attached to the principal dwelling and shall not exceed 1,000 total square feet, which shall count toward the total GMQS allotment for the lot. The kitchen shall contain the following, as defined in the Aspen/ Pitkin County Employee Housing Guidelines: a minimum of a two-burner stove with oven, standard sink, and a refrigerator plus freezer. The oven must be able to bake and broil and be at least 5 cubic feet; the sink must measure at least 14" wide by 16" deep by 5.25" high and the refrigerator must be at least 5.3 cubic feet and include at least a .73 cubic foot freezer.
27. At building permit for the CDU, the Applicant shall, by covenant, guarantee that the CDU:
- A. Shall be limited to occupancy by not more than two adults and related children, subject to the following restrictions:
 - i. Occupants shall qualify as employees by meeting the following requirements:
 - (a) Must be employed by an employer to work a minimum of 1,500 hours per calendar year within the geographical area defined as the Roaring Fork River Drainage (RFR Drainage includes properties in portions of Eagle, Pitkin, Garfield or Gunnison Counties, including the incorporated and unincorporated areas of Aspen, Basalt, Carbondale, El Jebel, Glenwood Springs, Marble, Meredith, Redstone, Snowmass, Snowmass Village and Woody Creek), an average of 35 hours a week, 10 months a year; or 32 hours a week, 11 months a year.
 - (b) Must reside in the unit a minimum of six (6) months out of the calendar year
 - (c) All persons, including the self-employed must satisfy these requirements. Persons employed by businesses whose center of operations is not located within the RFR

Drainage must verify that they perform the minimum work requirements in an RFR
Drainage location; or

- ii. Occupants may be members of the immediate family of the Owner even though they may not qualify as employees within the Roaring Fork River Drainage pursuant to §26 (A), above. “Immediate family” shall mean any person related to the Owner by blood or marriage who is a first cousin or closer relative, and said person’s children.
 - B. Owner shall have the right to lease the CDU to an employee of his/her/their own selection provided such person(s) qualifies pursuant to §26 (A)(1), above. Such individual may be an employee of the Owner, provided such person(s) fulfills the requirements of §26 (A)(1), above.
 - C. Owner shall not be required to rent the CDU, however, when rented, written verification of employment of employee(s) proposed to reside in the CDU shall be completed and filed with the Pitkin County Community Development Department by the Owner prior to occupancy thereof, and such verification must be acceptable to the Pitkin County Community Development Department.
 - D. Lease agreements executed for occupancy of the CDU shall provide for a rental term of not less than six (6) consecutive months. A signed and executed copy of the lease shall be provided to the Pitkin County Community Development Department by the Owner within ten (10) days of approval of the employee(s) for the CDU.
 - E. This Agreement may be removed by the Owner with the approval of the Community Development Director of Pitkin County, subject to the requirement that the CDU is removed or modified. If modified, the remaining improvements must no longer be capable of occupancy as a “Dwelling Unit” as defined in the Pitkin County Land Use Code and must meet otherwise applicable code requirements.
 - F. The CDU shall not be sold or otherwise conveyed or separated from the original parcel regardless of the ultimate form of ownership of the CDU.
 - G. The County shall have the right to inspect the Caretaker Dwelling Unit and agricultural structures at reasonable times and upon reasonable notice to the owners thereof to ascertain whether the terms of this Administrative Decision have been and continue to be met.
28. A minimum of thirty-five (35) percent of total roof space on the residences shall be constructed to accommodate solar panels and shall be wired pursuant to the Pitkin County Building Code to accommodate future installation of solar energy collectors and shall comply with Sec. 4-30-60.
 29. The Applicant shall comply with the applicable codes and requirements of the RFFPA, including but not limited to access, turning around of fire apparatus, and installation of an approved fire sprinkler system. Residential structures over 5,000 square feet shall be sprinkled unless otherwise determined by the Chief Building Official.
 30. The Applicant shall comply with the wildfire hazard mitigation recommendations provided in the Wildfire Assessment by Colorado Wildlife Science LLC, dated June 22, 2023.

31. The Applicant shall comply with the following measures to mitigate impacts to wildlife as well as the recommendations contained in the Colorado Wildlife Science LLC Wildlife Habitat Report dated June 22, 2023:
 - A. All dogs shall be kenneled within fifty feet of the residence or leashed under human supervision when outside a required kennel.
 - B. The Applicant shall remove or replace all unnecessary and/or noncompliant fencing on the property. All remaining fencing shall comply with Colorado Parks and Wildlife standards. No perimeter fencing (other than necessary for livestock) shall be permitted on the subject lot or any lot.
 - C. The new pond shall have at least 2 banks with side slopes of at least 3:1, but preferably 5:1, to allow for ingress and egress of wildlife. If a liner is to be used, a minimum of 18" of topsoil should be used on top of the liner. Littoral shelves shall be constructed along the edge of the pond to allow for ingress and egress of wildlife and to create wetland habitat beneficial for amphibians and waterfowl. If the pond is to be stocked with any non-native non-salmonid species, a CPW stocking permit is required. If ponds are to be stocked with any fish species, the outlet and inlet shall be screened with 1/4 inch screens to prevent fish passage into nearby waterways.
 - D. Native vegetation shall be maintained outside of the activity envelopes and irrigated pastures.
 - E. Contractors shall be prohibited from bringing their dogs on-site.
 - F. Landscaping shall not include nut, berry or fruit producing trees or shrubs palatable to bears.
 - G. Trash/garbage shall be kept in an approved bear resistant container or enclosure as required by the County's Wildlife Protection Ordinance.
 - H. Outside doors shall utilize only solid round handled doorknobs unless another type is required by the applicable building code for disabled accessibility purposes, or is approved by Colorado Parks and Wildlife as bear-proof.
 - I. Bird feeders, including hummingbird feeders, shall be hung away from any deck or window, and shall be at least 10' from the ground suspended between 2 trees or posts. All seed feeders shall include a seed catchment pan to catch discarded seeds. Bird feeders should be removed from April through November.
 - J. No fencing shall occur outside of the Activity Envelope. Fencing associated with the orchards shall comply with CPW requirements and the recommended fencing contained in the Colorado Wildlife Science LLC report, dated June 22, 2023. Fencing inside the envelopes shall comply with the following, except for fencing immediately adjacent to the buildings to contain pets or livestock:
 - i. Mesh or woven wire fences are prohibited.
 - ii. Wood rail fencing shall employ three (3) rails or less, be the round or split rail type, shall not exceed fifty-four (54) inches in height above ground level, and twelve (12) inches in width (top view), and shall have at least eighteen (18) inches between the lower two (2) rails.
 - iii. Wire fencing must be three (3) strands or less. The top wire should be a twelve-point-five (12.5) gauge twisted barbless type at a maximum height of forty-two (42) inches. The middle strands (which may be barbed) should be located a minimum twelve (12) inches apart and from the top wire preventing entanglement when mule deer jump over. The bottom strand should be sixteen (16) inches from the ground.
32. Prior to submission of any earthmoving permits for ponds on the ranch, the owners shall demonstrate that there are adequate water rights for the ponds. The earthmoving permits (or building permit if submitted as part of an overall building permit), shall include a plan to ensure that the herbicides or pesticides from the property do not enter Little Elk Creek via the ponds and that water from the ponds does not adversely influence the temperature of natural waterways on the ranch. Ponds may

be located outside the approved Activity Envelopes, but will require approval from Community Development by virtue of a permit (earthmoving or otherwise).

33. The Applicant shall comply with the County's Noxious Weed Management Plan.
34. All plants used for landscaping and revegetation shall be native species. Areas disturbed by construction shall be re-vegetated within one growing season of the project's completion. Landscaping shall be completed prior to issuance of the Certificate of Occupancy for the residence.
35. No development including grading, excavation, fill placement, berming, landscaping, vegetation removal or disturbance, well or septic system shall occur outside of the approved activity envelope, except as necessary for agricultural operations or to comply with the wildfire and noxious weed mitigation measures, and to maintain irrigation ditches.
36. Prior to commencement of any earthmoving or other construction activity, the Applicant shall stake the corners of the activity envelopes and install construction fencing around the construction site within the perimeter of the activity envelopes. The fencing shall remain in place until issuance of a Certificate of Occupancy.
37. Development within PUD Setbacks established per the PUD Plan and Site Plan are prohibited except as allowed per Section 5-20-100 of the LUC. Any development that does not comply with Section 5-20-100 and that is located within setbacks mandated by County zoning regulations shall require a variance from the Board of Adjustment. Approval of an Activity Envelope within such setbacks does not assure approval of a variance.
38. Failure to comply with the conditions of this approval may result in revocation of this approval, or any subsequent permit(s) or approval(s) related to this property, or vested rights associated with this property.

INTRODUCED AND FIRST READ ON THE ____ DAY OF _____, 2024 AND SET FOR SECOND READING AND PUBLIC HEARING ON THE ____ DAY OF _____ 2024.

NOTICE OF PUBLIC HEARING AND TITLE AND SHORT SUMMARY OF THE RESOLUTION PUBLISHED IN THE ASPEN DAILY NEWS ON THE ____ DAY OF _____, 2024.

NOTICE OF PUBLIC HEARING AND THE FULL TEXT OF THE RESOLUTION POSTED ON THE OFFICIAL PITKIN COUNTY WEBSITE (www.pitkincounty.com) ON THE ____ DAY OF _____ 2024.

ADOPTED AFTER FINAL READING AND PUBLIC HEARING ON THE ____ DAY OF _____ 2024.

POSTED BY TITLE AND SHORT SUMMARY ON THE OFFICIAL PITKIN COUNTY WEBSITE (www.pitkincounty.com) ON THE ____ DAY OF _____ 2024.

PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE ASPEN DAILY NEWS ON THE ____ DAY OF _____, 2024.

PUBLISHED AFTER ADOPTION FOR VESTED REAL PROPERTY RIGHTS in the Aspen Daily News on the ____ day of _____, 2024.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO**

Jeanette Jones
Deputy Clerk and Recorder

By _____
Greg Poschman, Chair

Date _____

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Richard Neiley III,
Assistant County Attorney

Suzanne Wolff,
Community Development Director