

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY,  
COLORADO, DENYING AN APPEAL BY THE STONYWOOD TRUST OF HEARING  
OFFICER DETERMINATION NO. 01-2008 WHICH APPROVED THE TILLMAN ACTIVITY  
ENVELOPE, AND MODIFYING THE DETERMINATION**

Resolution No. 079 - 2008

**RECITALS**

1. Stonywood Trust ("Appellant") has appealed Hearing Officer Determination No. 01-2008, which approved the Tillman Activity Envelope Review, to the Board of County Commissioners of Pitkin County, Colorado ("BOCC").
2. The parcel is located on Shield O Road, on the east side of the road just above the intersection with Snowmass Creek Road, and is more specifically described in Exhibit A.
3. The parcel contains 1.08 acres and is a nonconforming size parcel within the RS-30 zone district.
4. The Hearing Officer granted approval of an Activity Envelope, pursuant to Determination No. 01-2008, after consideration of the application at duly noticed public hearings on November 20, December 11 and December 20, 1007.
5. The Appellant submitted a notice of appeal within 15 working days of the decision and submitted transcripts of the hearings within 60 working days of the decision, as required by Sec. 2-20-180 of the Land Use Code ("Code").
6. The BOCC heard this appeal at a regular meeting on June 25, 2008, at which time evidence and testimony were presented with respect to the appeal based on the record of the Hearing Officer's decision.
7. The BOCC finds that there has not been an abuse of discretion or denial of procedural due process in the application of the fact in the record to the standards of the Land Use Code.
8. The BOCC further finds that the Hearing Officer erred in his inclusion of certain conditions of approval in Determination No. 01-2008, specifically certain language in Condition Nos. 3D and 6, and that it is appropriate to modify those conditions as part of this appeal resolution.

**NOW THEREFORE BE IT RESOLVED** by the Pitkin County Board of County Commissioners that it does hereby deny the appeal of Hearing Officer Determination No. 01-2008, which approved the Tillman Activity Envelope Review.

**BE IT FURTHER RESOLVED** by the BOCC that it does hereby modify the following conditions of Hearing Officer Determination No. 01-2008:

1. Condition #3D shall be amended to read: "The activity envelope designated by red, dotted lines on Exhibit A, attached hereto, shall be modified to exclude all slopes in excess of 30%."
2. Condition #6 shall be amended to read: "The floor area on the parcel shall be limited to 4,500 square feet and the maximum height of principal and accessory structures shall be limited to 20 feet. The

4,500 square feet of gross floor area is exempt from growth management without the use of TDRs or growth management allotments for additional floor area.”

BE IT FURTHER RESOLVED by the BOCC that it does hereby restate all of the conditions of Hearing Officer Determination No. 01-2008, which shall run with the land and be binding on all successors in interest:

1. The Applicants shall adhere to all material representations made during the application process.
2. Prior to submission of any building or other development permit applications, 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 parcel is within the mapped Scenic View Protection Area, and, therefore, the Applicant shall demonstrate compliance at Site Plan Review with the standards in Sec. 7-20-120.d and the rural character guidelines for building location in Sec. 7-20-120.e of the Code, in addition to all other applicable criteria. The Applicant shall provide a report with the Site Plan Review application from a wildfire expert evaluating the wildfire hazard and making recommendations to mitigate the hazard.
3. Prior to submission of the Site Plan Review application, the Applicant shall be required to submit for approval by the County Attorney and Community Development an Activity Envelope Plan 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 shall also incorporate the following changes:
  - A. Change the title to “Tillman Activity Envelope Plan.”
  - B. Provide a more specific vicinity map showing the relationship of the parcel to proximate roads.
  - C. Label the Activity Envelope so it can be differentiated once the plan is recorded and the color is not visible.
  - D. The activity envelope designated by red, dotted lines on Exhibit “B”, attached hereto, shall be modified to exclude all slopes in excess of 30%.
4. Prior to issuance of a building permit for the residence, the Applicant shall:
  - A. Provide proof of an adequate water supply (in terms of quantity and availability) for domestic and fire protection purposes, and for irrigation purposes, if applicable, to the Environmental Health and Natural Resources Department.
  - B. Obtain an access permit for the driveway, which shall be approved by the Planning Engineer.
  - C. Obtain a fireplace/woodstove permit from the Community Development Department, if necessary.
  - D. Submit a site specific drainage and erosion control plan prepared by a qualified engineer or geologist for review and approval by the Planning Engineer.
  - E. Pay the applicable road and employee housing impact fees.
  - F. Obtain a septic system permit from the Environmental Health and Natural Resources Department. The sewage disposal system must be designed by a registered professional engineer and shall be located within the approved activity envelope.
  - G. Submit a construction management plan for review and approval by the Planning Engineer.
  - H. Submit a detailed revegetation plan for disturbed areas with appropriate seed mixes.
5. No structural development in excess of 30”, with the exception of fencing, shall occur within the setbacks of the parcel. Landscaping in the form of berms shall not exceed four feet from the most

restrictive grade. Any development 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.

6. The floor area on the parcel shall be limited to 4,500 square feet and the maximum height of principal and accessory structures shall be limited to 20 feet. The 4,500 square feet of gross floor area is exempt from growth management without the use of TDRs or growth management allotments for additional floor area.
7. The Applicant shall comply with the following standards for Development in a Severe Wildfire Hazard Area:
  - A. Defensible Space: The area around all buildings/structures, limited by property boundaries that may limit a property owner's ability to comply with this section, 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):
    - 1) Brush, debris and non-ornamental vegetation shall be removed within a minimum ten-foot (10') perimeter around all structures.
    - 2) Vegetation shall be reduced to break up the vertical and horizontal continuity of the fuels at a minimum of a thirty (30) foot perimeter around the structures.
    - 3) Spacing between clumps of brush and vegetation up to the thirty (30) foot perimeter shall be a minimum of two (2) times the height of the fuel. Maximum diameter of the clumps shall be equal to the height of the fuel. All measurements shall be from the edges of the crowns of the fuel.
    - 4) All branches from trees and brush within the thirty (30) foot perimeter shall be pruned to a height of ten (10) feet above the ground with removal of ladder fuels from around trees and brush.
    - 5) Tree crown separation within the thirty (30) foot perimeters shall have a minimum of ten (10) feet between the edges of the crowns, except for mature stands of aspen trees where ladder fuels have been removed. In areas of aspen regeneration, understory shrubs and down and dead materials shall be removed.
    - 6) All branches that extend over the roof eaves shall be trimmed and all branches within fifteen (15) feet of chimneys shall be removed.
    - 7) The density of fuels up to a one hundred (100) foot perimeter of the structures shall be reduced where natural reduction has not already occurred.
    - 8) All deadfall up to a one hundred (100) foot perimeter shall be removed.
    - 9) No new conifer trees shall be planted within ten (10) feet of a residence.
    - 10) No flammable mulches shall be placed within two (2) feet of a residence.
    - 11) The property owner shall be responsible for the continued maintenance of the defensible space vegetation requirements.
  - B. Roofing Materials: Class A covering or Class A assembly as defined by the currently adopted Building Code. No wood shakes or shingles. All other adopted Building Code compliant methods and materials permitted. Roofs with less than a 3:12 pitch are not permitted unless they comply with the following:

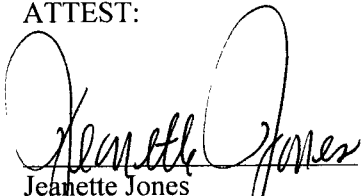
- 1) All roof coverings shall be constructed of non-combustible materials and installed on a Class A roof assembly.
  - 2) All roof coverings shall have a surface that shall facilitate the natural process of clearing roof debris.
  - 3) Protrusions above the roofline, such as parapets, shall be prohibited.
  - 4) Roofs shall be installed as required by the adopted Building Code and shall have a minimum pitch of 1:48.
  - 5) All roof designs, coverings, or equivalent assemblies shall be specifically approved by the Fire Marshal prior to submittal of a building permit application.
- C. Roof Venting:
- 1) Soffit venting shall be located in the outer 1/3<sup>rd</sup> portion of the overhang.
  - 2) Attic, soffit and other roof venting shall be of non-corrosive metal mesh with maximum 1/4" openings.
- D. Projections at the Roofline, including Soffits, Rafters, Porch or Deck Roofs, Fascias, or Other: One hour rated material or any material underlain by 5/8" Type X gypboard or equal, or "Type IV" Heavy Timber materials, per the currently adopted building code.
- E. Decks, Decking, Cantilevered Floors, or Other Projections Below the Roofline:
- 1) Construction with noncombustible or one (1) hour rated material, or material with flame spread <25 (tested to ASTM E84 and listed for exterior use), or
  - 2) Conventionally framed deck with waterproof surface and underside protected with 5/8" Type X gypboard or equal (decking as "a" above), or
  - 3) "Type IV" Heavy Timber materials: joist and beams minimum 6"x10", columns minimum 8"x8", decking minimum 4" in depth, or decking as "a" above; or equivalent log construction, or
  - 4) Enclose projection vertically to ground with one hour fire resistive materials. Decking as "a" above.
- F. Railings: Railings must be constructed of noncombustible or "Type IV" Heavy Timber materials.
- G. Exterior of the Structure, Including All Walls:
- 1) One (1) hour fire resistive rated materials, or
  - 2) 5/8" gypboard underlying combustible materials, or
  - 3) Cement stucco, minimum 3/4" thickness.
  - 4) All glazing to be tempered glazing; and
  - 5) Doors to be metal or wood 1 3/4" thick minimum.
- H. Foundations: Foundations, skirting, and crawl space openings shall be fully enclosed and constructed with materials approved for one (1) hour fire-resistive construction on the exterior side of the walls and shall extend from the top of grade to the underside of the floor decking or walls.
- I. Maintenance and Miscellaneous Requirements

- 1) Roofs and gutters shall be kept clear of debris.
  - 2) Any outbuilding shall adhere to the same wildfire requirements.
  - 3) Yards shall be kept clear of all litter, slash and flammable debris.
  - 4) All flammable materials shall be stored on a parallel contour a minimum of fifteen (15) feet away from any structure.
  - 5) Weeds and grasses within the ten (10) foot perimeter shall be maintained to a height not more than six (6) inches.
  - 6) Firewood/wood piles shall be stacked on a parallel contour a minimum of fifteen (15) feet away from the structure.
  - 7) Swimming pools and ponds shall be accessible by the local fire district.
  - 8) Fences shall be kept clear of brush and debris.
  - 9) Wood fences shall not connect to other structures.
  - 10) Fuel tanks shall be installed underground with an approved container.
  - 11) Propane tanks shall be buried, if possible, or installed according to NFPA 58 standards and on a contour away from the structure with standard defensible space vegetation mitigation around any aboveground tank. Any wood enclosure around the tank shall be constructed with materials approved for two (2) hour fire-resistive construction on the exterior side of the walls.
  - 12) Each structure shall have a minimum of one ten (10) pound ABC fire extinguisher.
  - 13) Addresses shall be clearly marked with two (2) inch non-combustible letters and shall be visible at the primary point of access from the public or common access road and installed on a non-combustible post.
  - 14) Utilities shall be extended underground.
8. An approved automatic fire suppression system shall be installed in the residence.
9. The Applicant shall comply with the following measures to mitigate impacts to wildlife:
- A. Dogs shall be kenneled within 50' of the residence or leashed under human supervision when outside of the kennel.
  - B. Native vegetation shall be maintained outside of the activity envelope.
  - C. Trash/garbage shall be kept in an approved bear resistant container or enclosure, pursuant to the County's Wildlife Protection Ordinance. Verification of compliance shall be provided prior to issuance of a certificate of occupancy.
  - D. Fencing shall comply with the following, except for fencing immediately adjacent to the buildings to contain pets or livestock:
    - 1) Wood fencing shall employ three rails or less, be the round or split rail type, shall not exceed 48 inches in height above ground level and 12 inches in width (top view), and shall have at least 18 inches between two of the rails.
    - 2) Wire fencing shall consist of no more than 3 strands of smooth wire and shall not exceed 42 inches in height.
    - 3) All non-conforming fencing on the property must be brought into compliance.
  - E. Avoid fruit-bearing trees and shrubs in any landscaping.
  - F. Construction workers shall be prohibited from bringing dogs on-site during construction.
10. 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 to comply with the wildfire mitigation measures described above.

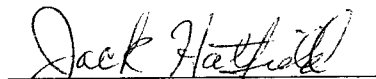
11. Prior to commencement of any earthmoving or other construction activity, the Applicant shall stake the corners of the activity envelope and install construction fencing around the construction site within the perimeter of the activity envelope. The fencing shall remain in place until issuance of a Certificate of Occupancy.
12. All areas disturbed by construction shall be re-vegetated with native shrubs and grasses within one growing season of the project's completion.
13. 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.
14. 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.
15. Statutory vested rights for the approval contained herein are granted pursuant to the Pitkin County Land Use Code and Colorado Statutes, subject to the exceptions set forth in Pitkin County Land Use Code § 2-20-170 and C.R.S. § 24-68-105. The statutory vested rights granted herein shall expire on January 5, 2011.

**DENIED ON THE 25<sup>TH</sup> DAY OF JUNE, 2008.**

ATTEST:

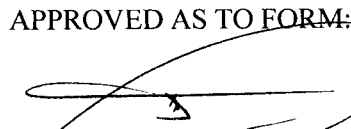
  
Jeanette Jones  
Deputy County Clerk

BOARD OF COUNTY COMMISSIONERS  
OF PITKIN COUNTY, COLORADO


  
Jack Hatfield, Chairman

Date: 7/23/08

APPROVED AS TO FORM:

  
John Ely,  
County Attorney

APPROVED AS TO CONTENT:

  
Cindy Houben,  
Community Development Director

PID 264522400583  
Case #P115-07

Roll Reso: 079-2008

EXHIBIT 'A'  
LEGAL DESCRIPTION

Order No.: 46189

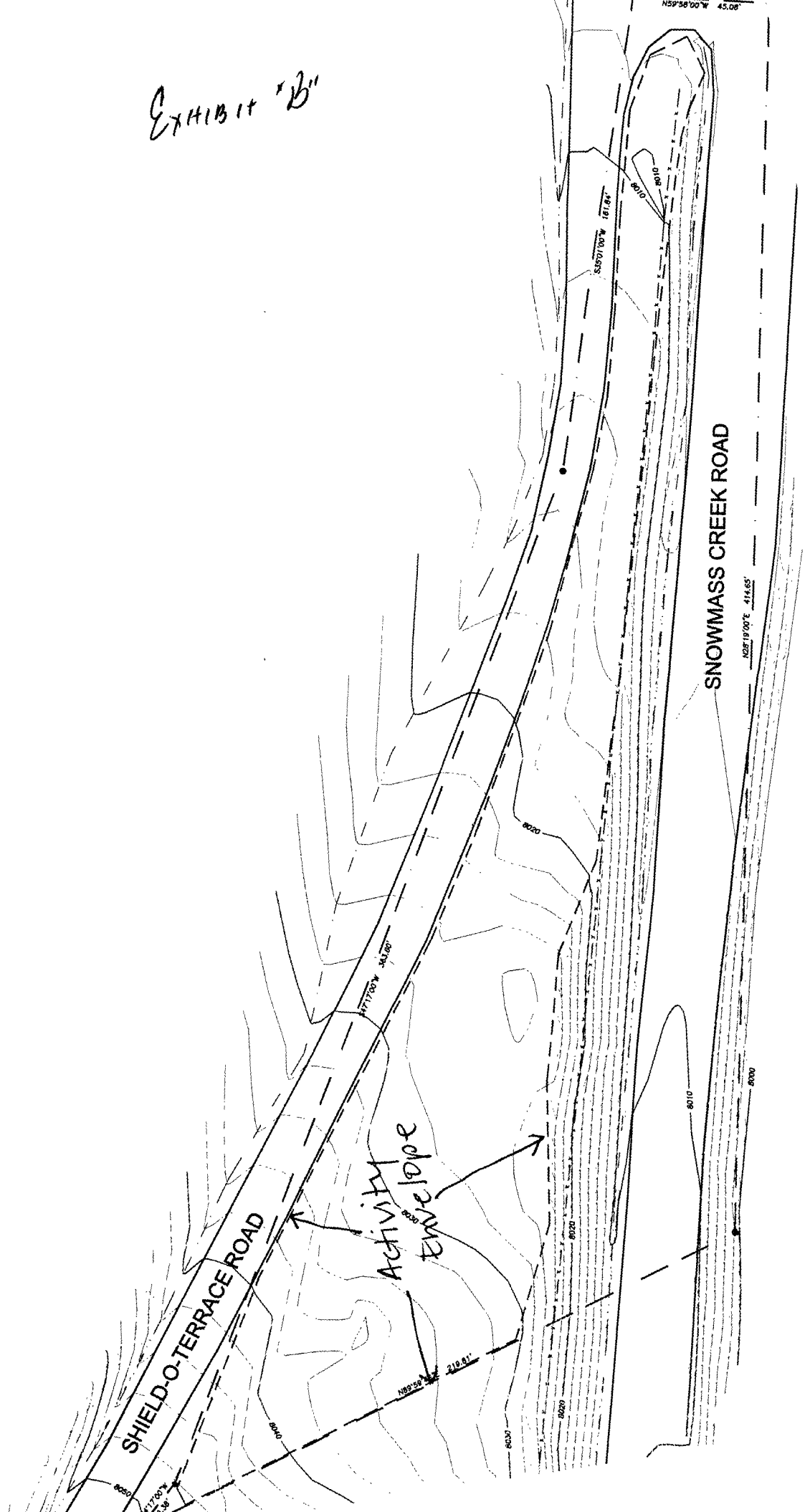
A tract of land situated in Lot 3, Section 22, Township 9 South, Range 86 West of the Sixth Principal Meridian, described as follows:

Beginning at a point being 233.67 feet N. 89°09 East 107.88 feet North, and 89.45 feet West from the South Quarter Corner of Section 22, Township 9 South, Range 86 West of the 6<sup>th</sup> Principal Meridian;  
thence East along the North Boundary of the McKenzie Patent 219.85 feet to the center of the Snowmass Road;  
thence North 28°19' East 414.65 feet along the center line of the Snowmass Road;  
thence North 59°58' West 45.08 feet;  
thence South 35°01' West 161.84 feet;  
thence South 47°17' West 363.60 feet;  
thence South 64°17' West 19.38 feet to the Point of Beginning.

County of Pitkin, State of Colorado

Case No. 079-2008

EXHIBIT "B"



SHIELD-O-TERRACE ROAD

SNOWMASS CREEK ROAD

Activity Envelope