

**DETERMINATION OF THE HEARING OFFICER OF THE COMMUNITY  
DEVELOPMENT DEPARTMENT OF PITKIN COUNTY, COLORADO, APPROVING  
THE TILLMAN ACTIVITY ENVELOPE**

Determination No. 01-2008

**RECITALS**

1. The Estate of Marvin Tillman ("Applicant") has applied to the Community Development Director of Pitkin County ("Director") to establish an activity envelope for a single family residence.
2. The parcel contains 1.08 acres and is a nonconforming size parcel within the RS-30 zone district.
3. The parcel is located on Shield O and Snowmass Creek Roads, and is more specifically described in Exhibit B.
4. The parcel was legally created prior to 1972 and has not merged with any adjacent parcels. The parcel is exempt from Growth Management up to 5,750 square feet, pursuant to Land Use Code Sec. 6-30-100.a.
5. The Hearing Officer finds that the proposed activity envelope is consistent with the applicable requirements of the Code, as follows:
  - A. The activity envelope avoids slopes in excess of 30%.
  - B. The wildfire hazard is rated as severe, and can be mitigated pursuant to the provisions of Sec. 7-20-60.c of the Code.
  - C. The activity envelope is located within ¼ mile of mapped elk and mule deer range, where development is permitted pursuant to Sec. 7-20-70, subject to mitigation.
6. The Hearing Officer notes that certain information purported required by the application manual has not been provided by the applicant. However, the Hearing Officer finds that the information is more appropriately submitted as part of site plan review; thus, the hearing officer finds that this information is not required for this application.

**NOW, THEREFORE, BE IT RESOLVED** by the Pitkin County Community Development Hearing Officer that he does hereby approve the Tillman Activity Envelope, subject to the following conditions, 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.

RECEPTION#: 545813, 01/11/2008 at  
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1 OF 8, R \$0.00 Doc Code  
DETERMINATION  
Janice K. Vos Caudill, Pitkin County, CO

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 "A", attached hereto, shall be modified to exclude all slopes in excess of 30%. The activity envelope shall include a designation of a "Building Envelope" that is 30 feet by 60 feet in the approximate location as set forth in Exhibit "A". All structures shall be contained within the Building Envelope.
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. 5,750 square feet of gross floor area is exempt from growth management without the use of TDRs or growth management allotments for additional floor area. The applicant represented that it would be willing to cap development at 4,500 square feet of gross floor area and a height of 20 feet on the condition that this approval is not appealed to the Board of County Commissioners by any affected party. The Hearing Officer hereby accepts these caps and the attendant condition of no appeal as a material representation of the applicant pursuant to paragraph 1, above.

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.

**NOTICE OF PUBLIC HEARING PUBLISHED IN THE ASPEN TIMES WEEKLY on the 9<sup>th</sup> day of September, 2007.**

**APPROVED AND ADOPTED** this 5<sup>th</sup> day of January, 2008.

**PUBLISHED AFTER ADOPTION FOR VESTED REAL PROPERTY RIGHTS** in the Aspen Times Weekly on the 20 day of January, 2008.

COMMUNITY DEVELOPMENT  
DEPARTMENT HEARING OFFICER  
OF PITKIN COUNTY, COLORADO

By James R. True  
James R. True, Hearing Officer  
Date January 5, 2008

ATTEST:

Bonnie Waechtler  
Bonnie Waechtler, Administrative Assistant

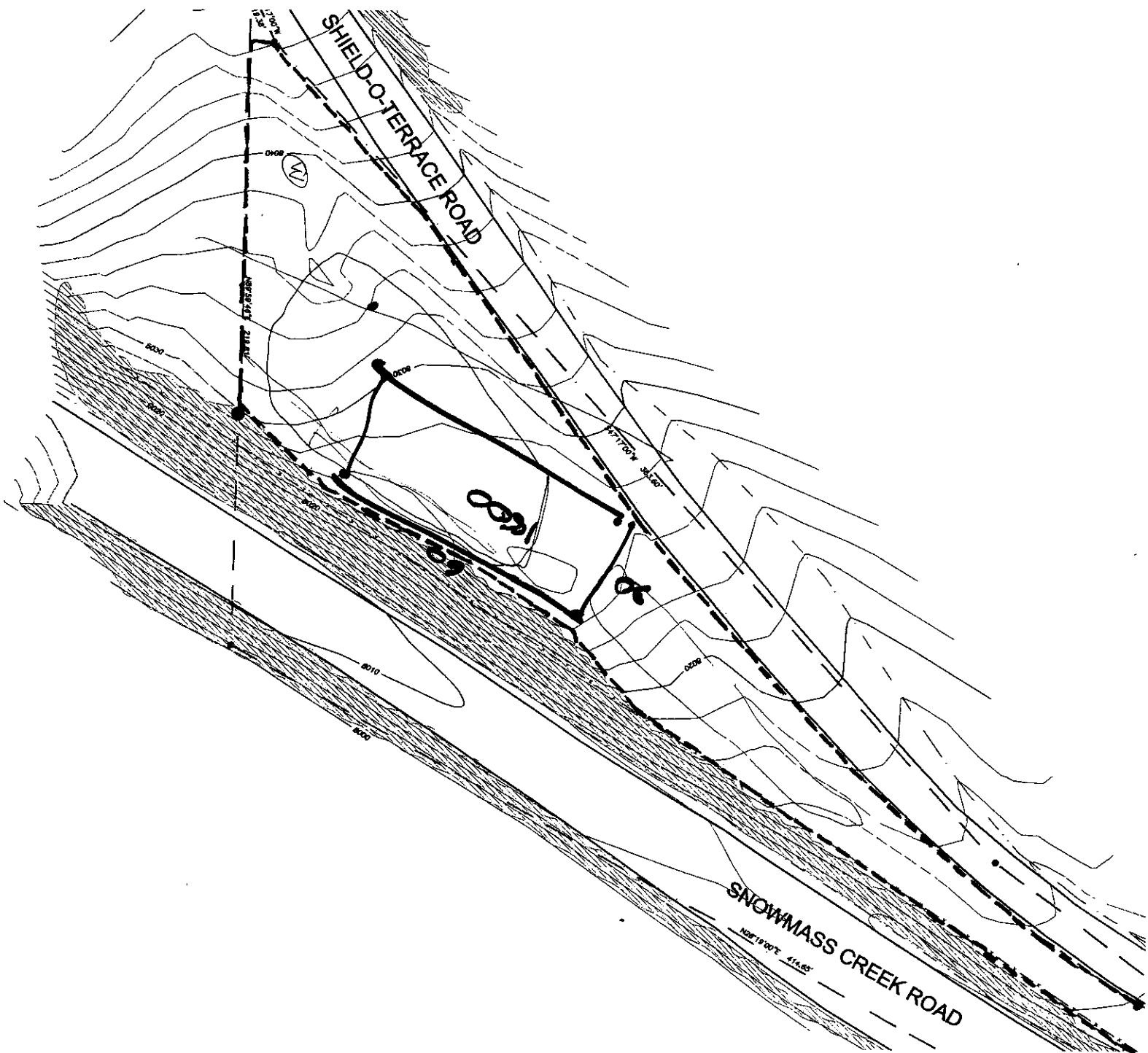
APPROVED AS TO FORM:

John Ely  
John Ely,  
County Attorney

APPROVED AS TO CONTENT:

Cindy Houben  
Cindy Houben,  
Community Development Director

# EXHIBIT A



**EXHIBIT B**  
**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