

# Memo

**To:** Pamela J Hope Charitable Trust

**From:** Alan Richman, FAICP *AR*

**Date:** October 1, 2025

**Re:** Working Draft of Land Use Analysis for 26513 State Highway 82

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## Introduction

You have asked me to evaluate the development potential of your property, which is a metes and bounds parcel of land located at 26513 State Highway 82 in Snowmass. This parcel of land is approximately 4.92 acres in size and its Pitkin County Parcel ID# is 246724200003.

I have reviewed the following documents in completing this analysis:

- The Pitkin County Land Use Code;
- Pitkin County's Planning Department and Building Department on-line files for the subject property;
- The County Assessor's records and the Pitkin County GIS;
- The documents of record listed in the Title Commitment issued for this property by Title Company of the Rockies, dated June 9, 2023 (Commitment Number 1205958-C);
- The Improvement Survey Plat for this property prepared by Tuttle Surveying Services, dated September 26, 2023; and
- The Property Report prepared by Kraemer Land Planning dated February 15, 2024.

I have also conducted a site visit to the property. Following are my findings with respect to this property.

### **Existing Conditions**

The subject property is an irregularly shaped parcel of land which is located along State Highway 82, approximately ¼ mile west of the intersection of Highway 82 with Lower River Road and Snowmass Creek Road. The property is bounded to the north by the Roaring Fork River and to the south by State Highway 82. Properties to the east and west of the subject parcel contain single family residences. Access to the property is provided by a driveway off of State Highway 82 which is shared with a neighboring property.

The Improvement Survey Plat shows the configuration of the property and the footprint of the existing improvements on this parcel. There are four (4) primary structures on the property, as follows:

<b>Existing Structures</b>	<b>Year Built</b>	<b>Approximate Size</b>
Residence 1: Main House	1971	2,828 sq. ft.
Residence 2: Mobile Home	1969	758 sq. ft.
Snowmass General Store	No Information	1,027 sq. ft.
Residence 3: Cottage	1947	886 sq. ft.
<b>Total</b>		<b>5,485 sq. ft.</b>
<b>Data Sources:</b>		
Year built based on County Assessor records.		
Approximate building sizes taken from Kraemer Property Report.		

The main house is the only one of these structures which is currently being occupied.

A discussion has been started with the County's Historic Preservation Officer to determine whether the Snowmass general store or the cottage are listed on the County's Inventory of historic structures and could be eligible for designation to the County's historic register. The general store was moved to this property from across Highway 82 many years ago after having served as the post office and general store for the Snowmass neighborhood. As of the date of issuance of this draft memo, a response from the County is still pending.

It is important to note that designation of a structure to the historic register is voluntary by the owner. If the County concludes that either of these structures has historic value, it would be up to the owner to

initiate the designation process. The County has not, to date, initiated a designation process for a structure without the consent of the owner.

There are also numerous accessory structures scattered throughout the property, as follows:

- There is a 519 sq. ft. barn located along the property frontage.
- There is a 266 sq. ft. hay shed and a 288 sq. ft. carport located behind the barn.
- There is a 140 sq. ft. shed located between the carport and the main house.
- There are two small sheds located behind the mobile home.
- There is a 454 sq. ft. shed and a 114 sq. ft. loafing shed located in front of the cottage and a small chicken coop located between the cottage and the general store.

### **Zone District Analysis**

The subject property is zoned AR-10 (Agricultural/Residential, 10 Acre). Following is an analysis of the conformance of this property with the standards of the AR-10 zone district.

1. **Lot Size.** The Improvement Survey indicates that the subject property is approximately 4.9228 acres in size. The AR-10 zone district has a minimum lot size of 10 acres. Therefore, the subject property is a non-conforming-sized lot of record. Section 9-20-10 of the Code states that a single-family residence is a permitted use on any lot or parcel which is substandard as to size.
2. **Use.** A single-family residence is a use allowed by right in the AR-10 zone district. A caretaker dwelling unit is a use allowed by special review in this zone district.
3. **Setbacks.** The minimum setbacks for a parcel of this size in the AR-10 zone district are as follows:

Front yard: 50';  
Side yard: 30'; and  
Rear yard: 30'.

The barn, loafing shed and carport are located within the front yard setback and so are non-conforming structures.

The Code imposes two additional setbacks which also have relevance to this property. These setbacks are as follows:

(a) There is a minimum 100' setback for any structure from State Highway 82. This setback is shown on the Improvement Survey Plat. The barn, carport, hay shed, loafing shed and the shed in front of the cottage are located within the 100' Highway setback and so are non-conforming structures.

(b) There is a minimum 100' riparian setback for any structure from the high water mark of the Roaring Fork River. This setback is also shown on the Improvement Survey Plat. The main residence, the mobile home, the cottage and the general store are located within the 100' riparian setback and so non-conforming structures.

4. **Height.** The maximum height for a principal structure in this zone district is 28'. Accessory structures have a 20' height limit. No information has been provided to me regarding the height of the existing structures but all appear to be within these limits.
5. **Maximum Floor Area.** The maximum allowable gross floor area in the AR-10 zone district is 9,250 square feet. However, as explained in the section of this report entitled "Growth Management/TDR's", an owner is only entitled to develop 5,750 sq. ft. of this floor area by right. In order to develop the maximum allowable floor area, the owner would need to obtain approval to land 2 TDR's on the property.

Since the subject property is located within what the County refers to as the Rural Area, all residential space on the property, whether it is above or below grade, including the carport and the accessory storage sheds, count towards the parcel's maximum allowable floor area. Because the property is less than 5 acres in size, the barn, hay shed and chicken coop also count as floor area. The loafing shed is the only structure on this property which is exempt from floor area. Therefore, the property contains more than 5,750 square feet of floor area today. If an owner wanted to expand any of the structures, it would either be necessary to demolish and remove one or more of the existing structures, to bring the floor area to below 5,750 square feet, or land one or two TDR's on the property to do so.

## **Replacement of a Non-Conforming Structure**

The zone district analysis in the prior section demonstrates that all of the existing residential structures and most of the accessory structures are non-conforming with respect to one or more setbacks. The Land Use Code authorizes an owner to continue to use those existing structures and to maintain or replace those structures.

Section 9-40 of the Land Use Code contains provisions governing non-conforming structures. It states that a non-conforming structure is authorized to continue and may receive "normal maintenance". Normal maintenance is defined in the Code as "Any work done in a period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing".

The Code also authorizes work to be done to a non-conforming structure beyond normal maintenance and repair. Sec. 9-40-30 allows a non-conforming structure to be extended or altered in any way that does not change or that decreases its non-conformity but not to be expanded in any way that increases the non-conformity. This means that the structures which are located in the front yard setback or the Highway setback cannot have their footprint extended further into the setback, nor can the mass of the structure be increased within the setback.

Sec. 9-40-60 states that a non-conforming structure may be demolished and restored by right pursuant to the standards of Sec. 9-50. Sec. 9-50 provides two options for the removal and restoration of a non-conforming structure: restoration without significant changes (Sec. 9-50-20) and restoration with significant changes (Sec. 9-50-30).

Sec. 9-50-20 authorizes a non-conforming structure to be expanded, demolished, restored and replaced by right as long as the activity does not increase the non-conformity. These activities may be approved administratively (by staff) provided there are no significant changes made to the structure.

Based on previous discussions I have had with staff, it is my understanding that if an owner wanted to demolish and replace one of the non-conforming structures, for staff to find there were no significant changes, not only would the replacement footprint need to be the same as what exists today, but the dimensions of the structure itself would also need to be replicated. The architectural design and materials used



could be updated, but the dimensions of the "box" that exist today would need to remain essentially the same.

Sec 9-50-20 does, however, offer some flexibility to a structure which is non-conforming solely with respect to the riparian setback. It authorizes a one-time, above grade, 300 sq. ft. expansion to a structure located within the setback, if the expansion area maintains at least a 50' setback from the high water mark. So this provision could allow the existing main residence (or one of the other two residences) to have a small addition of up to 300 square feet made to it.

If the owner wanted to instead make significant changes to the structure (that is, changes to the dimensions or footprint of the structure) then the non-conformity could only be restored within a setback if the owner obtained special review approval from the Board of County Commissioners pursuant to Sec. 9-50-30 of the Code.

The review standards for this type of special review require an applicant to demonstrate that there would be no adverse impacts on the neighborhood from replacing the non-conformity and that the structure would be compatible with surrounding uses. The applicant would also need to demonstrate a hardship or practical difficulty in complying with the Code or show that the planned replacement will improve the function and appearance of the structure.

Because of the extent of the 100' riparian and 100' Highway setbacks across this property, there is a very limited developable area on the property situated outside of these setbacks. This area (16,569 sq. ft.) is highlighted in the Kraemer Property Report. I believe the limited size of the developable area could provide a basis to argue to the Board that a hardship or practical difficulty exists here. Therefore, if any of the three residential structures was proposed to be removed and replaced with changes to its footprint or dimensions, the County might allow the replacement structure to be restored within the 100' riparian setback.

If an owner preferred not to apply to the Board of County Commissioners for relief from the riparian setback, an alternative approach would be to apply to the Board of Adjustment for a variance from the 100' Highway setback. As explained above, the limited developable area outside of the Highway and riparian setbacks provides the basis to argue that a hardship exists here, possibly justifying a reduction in the 100' Highway setback. The Board of Adjustment is not, however, authorized to grant a variance from the 100' riparian setback.

## **Growth Management/TDR's**

The County's Growth Management Quota System (GMQS) gives certain rights to an owner to develop the residential square footage which is allowable on a property. Sec. 6-30-110 of the Land Use Code entitles the owner to develop up to 5,750 square feet of the 9,250 square feet of floor area which can be built on this lot. In order to build the full allowance of 9,250 square feet on this parcel, the owner would need to purchase and obtain approval to land transferrable development rights (TDR's) on the property.

A TDR is a land use instrument created by Pitkin County which allows owners of certain types of land to convey a development right from their property to another property via a private market transaction. Each TDR allows an applicant to add 2,500 square feet of gross floor area to the property. So landing one TDR would increase this property's allotment to 8,250 square feet while landing a second TDR would increase the property's allotment to the maximum of 9,250 square feet.

Landing a TDR requires special review approval from the County's Hearing Officer, who would evaluate whether the proposal is compatible with the character of the neighborhood and whether the proposed design minimizes adverse effects on natural resources and surrounding properties. Given this property's site constraints and limited developable area, it may be difficult to obtain such approval.

## **Activity Envelope and Site Plan**

The Land Use Code requires an owner who proposes to expand a residence, demolish and replace a residence, or develop a vacant lot to first designate an activity envelope within which all development may occur and obtain site plan approval for the proposed development.

Activity envelope review and site plan review are administrative processes which are handled at the staff level unless an objection to the application is raised by a neighboring property owner, in which case it gets referred to the County's Hearing Officer. Recently, it has been taking approximately nine (9) to twelve (12) months from the time a complete application is submitted to when the County reaches its administrative decision on an activity envelope plan or site plan.

Based on my visits to the site and my experience with similar sites, I believe that the primary constraints which will need to be addressed

during activity envelope/site plan review for this parcel are as follows:

- Development in a mapped floodplain hazard area;
- Development within the 100' riparian setback;
- Development within the 100' Highway 82 setback; and
- Development within a low hazard wildfire area.

## **Summary of Key Findings**

1. There are three residences (main residence, mobile home and cottage) and the former Snowmass General Store/Post Office located on this property. The County Assessor's records document that the residences were being occupied on this property prior to the County's adoption of the Growth Management System. Therefore, the owner is entitled to remodel and/or replace these three residences on-site.
2. The owner is entitled to develop up to 5,750 square feet of residential floor area on the property. Because the property is located in the Rural Area and is less than 5 acres in size, all of the existing structures on the property, except for the loafing shed, count as floor area. Therefore, the property already contains more than 5,750 square feet of floor area. If an owner wanted to expand any of the residences, it would either be necessary to demolish and remove one or more of the existing structures, to bring the floor area to below 5,750 square feet, or land one or two TDR's on the property to do so.
3. An owner could purchase 1 TDR to increase the floor area allowance to 8,250 square feet. A second TDR would increase the property's floor area allowance to 9,250 square feet. However, the owner would need approval from the County's Hearing Officer to land those TDR's on this property. Given the property's site constraints, it could be difficult to obtain such approval.
4. There is a 100' minimum setback for any structure from Highway 82. There is also a 100' minimum setback for any structure or any development activity from the high water mark of the Roaring Fork River. Virtually every structure on the property is located within one of these two setbacks, making them non-conforming structures.
5. Non-conforming structures are authorized to continue and may be maintained, remodeled or demolished/replaced. If a non-conforming structure is remodeled or replaced, it may not be extended in any way that increases the non-conformity. This means these structures cannot



be extended further into the setback nor can their mass within the setback be increased. But they can be expanded in any manner which does not extend further or increase their mass within the setback.

6. A structure which is non-conforming with respect only to the riparian setback is also authorized to make a one-time, 300 square foot above grade addition within the setback if the addition is set back from the high water mark by at least 50'.

7. An owner would need to obtain Activity Envelope/Site Plan approval prior to initiating any re-development of this property. The primary issues which would need to be addressed in the application are the Highway setback and the riparian setback. The Roaring Fork River floodplain will also need to be addressed, but since the mapped floodplain is confined to well below the elevation of the riparian setback, it should not influence the location of structures to a significant extent.

8. The Kraemer Planning Report identifies an area of 16,569 square feet that complies with both of these setbacks. An applicant could chose to place all of the structures within this area and eliminate the non-conformities. An applicant could instead seek to maintain one or more of the current building footprints, with the ability to make: (a) minor changes to the footprint and dimensions via a staff approval; or (b) major changes to the footprint and dimensions by special review approval of the BOCC.

9. At this point it has not been determined whether the cottage or the general store have historic significance and could be candidates for designation to the County's historic register. Until this feedback is provided by the County, it is premature to discuss whether this property could be eligible for any of the County's historic preservation incentives.

## **Conclusion/Disclaimer**

The above represents my analysis of land use issues pertinent to the parcel located at 26513 State Highway 82. This analysis has been based on a review of the facts and regulations pertinent to the property. **At this time, however, this analysis should be considered to be a working draft and not a final report.** I am still waiting for a response from the County's Historic Preservation Officer regarding the potential historic resources on the site. I have also not yet held a meeting with Community Development Department staff to verify the findings in this report.

As you consider the findings in this analysis, I would caution you that the County's development review process can be discretionary, and interpretations of relevant provisions can vary among staff and other County officials. Consequently, no warranty of the facts, opinions, or interpretations contained herein is either expressed or implied by me.

Finally, I would point out that the County has initiated a process to complete a comprehensive rewrite of its Land Use Code. This process is expected to take the next 12-18 months to complete. I cannot predict the outcome of that effort, but significant changes to the County's land development review standards and procedures are expected to be made. It will be important for any potential purchaser of this property to stay informed about the status of that effort as it proceeds.

I trust that this report provides the information you require. Please feel free to call me if you have any questions as to its contents.