

March 30, 2021

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Delivered via Email

RE: 41 Rainbow Lane, Pitkin County, Colorado

Ms. Mason and Mr. Mason,

Based on our knowledge of the Pitkin County Land Use Code, we have prepared the following site specific review for 41 Rainbow Lane outlining an archived records search, floor area analysis, and development options for a future addition to the existing residence. In preparation of this summary, we relied on a Pitkin County records search of recorded documents and building permits and the Menendez Architects existing floor area analysis. We will update this report as needed upon receipt of additional information and/or requests for more detail.

Subject Property and Existing Conditions:

The subject lot is approximately 2.03 acres in size and is comprised of mostly flat meadow located off Rainbow Lane by way of Upper River Road. The subject property contains a metes and bounds description and is bound by small acreage residential/agricultural parcels to the east, west and



south and by the Rio Grande Trail to the north. The property is split zoned with the eastern portion of the property within the AR-10 zone district and the western portion within the RS-20 zone district.

The following setbacks apply to the property:

- Front: 30'
- Sides: 20'
- Rear: 30

Pursuant to the County Land Use Code, the front yard is the Rainbow Lane property boundary (eastern property line).

Figure 1: Subject property highlighted in blue

The property is developed with a legally permitted single-family residence and attached garage on the southwest side of the property. The survey indicates that seven (7) separate outbuildings exist with an 8th outbuilding bifurcated by the adjacent property line to the west. According to the Menendez Architects existing floor area analysis, the residence and garage total 5,438 sq. ft. of floor area and the eight (8) outbuildings total 1,857 sq. ft of floor area.

Previous Pitkin County Land Use Approvals and Permits:

Review of the Pitkin County archives show the property was issued a building permit for the existing single family residence and attached garage pursuant to a Certificate of Occupancy from 1990 (Exhibit A). The small shed closest and northwest to the residence received a building permit which identified the structure as a 96 sq. ft. "Tool shed for Nursery" (Exhibit B). The nursery use identified on this permit is consistent with the property's previous landscaping business use as stated by the previous owner, Alfred Braun, at a March 3rd site visit. Archived records show no permits were issued for the six (6) other outbuildings, consistent with the previous property owner's recollection. In examination of historical aerial photography, it appears that the outbuildings were constructed over the course of many years starting in 1991.

Allowable Gross Floor Area

Pursuant to the current County Land Use Code requirements, the property is exempt from the Growth Management Quota System (GMQS) and Transferable Development Rights (TDRs) up to 5,750 sq. ft. of gross floor area. Gross floor area is tabulated by accounting all residential space inclusive of garages and outbuildings. There are special circumstances available to properties that exceed this amount through legally permitted structures, however, if permits cannot be identified the County will not tabulate these structures for legal existing floor area.

The County Code provides a sliding scale floor area exemption for barns and agricultural buildings on parcels of a minimum size, starting at 5 acres. The County Code also provides that when agricultural buildings and barns were legally constructed prior to 2001, the structures may remain on the property and be exempted from floor area calculations.

Land Use Analysis

Two (2) permits have been identified in the County archives (single family residence and tool shed) and no permits have been identified for the six (6) other outbuildings. Because permits cannot be identified for the six (6) other outbuildings, they cannot be tabulated towards existing legally permitted gross floor area. Additionally, the subject property is 2 acres in size and does not meet the minimum 5 acre requirement to claim exempt agricultural floor area status.

With the exception of the greenhouse, all of the outbuildings reside within the yard setbacks, in violation of the County Code. There is a high likelihood that the County will require outbuilding compliance prior to the processing of any future building permits. The outbuilding straddling the northwest property boundary also tabulates towards allowable gross floor area even though it has been stated that the building is owned by the adjacent property owner.

If an addition and remodel to the existing residence is pursued, the following options can be considered:

Outbuilding Removal:

The six (6) outbuildings could be removed and an addition/remodel to the residence could be designed so that gross floor area does not exceed 5,750 sq. ft. Removal of these outbuildings will bring the property into compliance with Pitkin County zoning requirements and enable the processing of the necessary building permit(s). Because the Tool Shed received a permit, it may remain, but tabulates into the property's allowable gross floor area.

TDRs and Variances:

A TDR could be acquired and landed on the property to maintain the existing outbuildings. TDRs are worth 2,500 sq. ft. and enables development up to 8,250 sq. ft. of gross floor area. TDRs transact on the open market for approximately \$500,000. Landing a TDR is not a use by right and requires a future land use application to the County and a public hearing. TDRs have been approved in the Woody Creek area on other properties in the past.

With the exception of the greenhouse, five (5) outbuildings reside within the yard setbacks and variances are needed to keep their locations. A variance requires an application to the Pitkin County Board of Adjustment and a public hearing to prove that a "hardship" exists on the property. Given that 41 Rainbow Lane is flat and poses no other constraints, it is unlikely that variances would be granted. Alternatively, the outbuildings could be moved to a position on the property that is setback compliant, using the setback distances stated above.

Exempt Loafing Shed and Greenhouse:

If an agricultural use is pursued on the property, one (1) 300 sq. ft. exempt loafing shed is allowed. A loafing shed can only be 3 sided and used for sheltering livestock. Alternatively, if one of the existing outbuildings meets these requirements, including setbacks, it could potentially remain and classified as a loafing shed.

The property is allowed up to a 600 sq. ft. exempt greenhouse for the purpose of growing agricultural products. The existing greenhouse complies with setback requirements, and a permit could be applied for to maintain and/or upgrade the structure and not tabulate towards allowable gross floor area.

In both cases, the County will require that a deed restriction be executed for the loafing shed and greenhouse so that their intended uses are continued into the future and do not become residential floor area.

Flexibility for Agricultural Support:

Though the subject property does not meet the minimum 5 acre requirement for exempt agricultural/barn floor area, the Land Use Code enables a property owner to request "Flexibility for Agricultural Support". This flexibility allows Pitkin County to potentially approve up to a 1,000 sq. ft. exempt agricultural building for bona fide agricultural operations. This type of request is not common, and it is recommended that a thoughtful site plan and barn design are created to properly document a future agricultural use on the property. Site plans and designs that do not properly document an agricultural use will more than likely not be approved.

Summary

5,750 sq. ft. of gross floor area is allowed for this property exempt from GMQS or TDRs and, using the options identified above, there are avenues that can be pursued to bring the property into compliance. Please let me know if any of the above options are of interest and if you would like any further details.

The foregoing analysis is based on a review of the available facts and regulations pertinent to 41 Rainbow Lane. The County's land use regulations are highly subjective, and interpretations of relevant provisions of the Land Use Code may vary over time or with changes in staff or elected and appointed officials. Consequently, no warranty of facts, opinions, or interpretations contained herein is either expressed or implied by BendonAdams LLC. This report has been prepared for the exclusive use and benefit of Jennifer and Joseph Mason and is not to be transferred to or used by any third parties without the prior written consent of BendonAdams LLC.

Please do not hesitate to contact me about any of the above.

Sincerely,



Mike Kraemer
BendonAdams LLC

Exhibits:

- A. Single family residence Certificate of Occupancy and Permit
- B. Tool Shed permit

P-91-3-23

Certificate of Occupancy

ASPEN PITKIN REGIONAL BUILDING DEPARTMENT

This Certificate issued pursuant to the requirements of Section 306
of the 1976 Edition of the Uniform Building Code. It certifies that at the date of
issuance, the structure as described below was in compliance with the various resolutions
and ordinances regulating building construction and use in this jurisdiction.

Use Classification Single Family Residence Bldg Permit 12505
Legal Description Lots 6 & 7, part of 8, Woody Creek Subdivision
Building Address 0041 Rainbow Lane
Owner of Building Alfred & Valerie Braun
Owner Address P. O. Box 8923, Aspen, CO 81612
Group R-3 Type Construction V-N Use Zone _____

Description: Two levels consisting of one attached garage,
one deck, one entry foyer, three bedrooms, four full baths, one
kitchen, one dining room, one living room, one family/rec room,
one office/study, one storage room, one laundry room, one
mechanical room.

Comments & Restrictions: Fireplace: masonry.

[Signature] Date 12-17-90
Building Official

Note: Any alteration or use change of these described premises or portion thereof without
the written approval of the Building Official shall negate this C.O. and subject it to
revocation.

POST IN A CONSPICUOUS PLACE

East Main Street
 Aspen, Colorado 81611
 303/925-5973

BUILDING PERMIT APPLICATION

ASPEN PITKIN

REGIONAL BUILDING DEPARTMENT

Jurisdiction of Pitkin

General Construction Permit

1

12505 B.C.
 NO. 12505 B.C.

Applicant to complete numbered spaces only.

1. JOB ADDRESS <u>091 Rainbow Lane</u>			
2. LEGAL DESCR.	LOT NO. <u>lot 6 & 7 sec 8</u>	BLOCK	TRACT OR SUBDIVISION <u>Woody Creek</u>
3. OWNER	MAIL ADDRESS <u>Alfred & Valerie Braun P.O. Box 8923 Aspen Co. 81612</u>		PHONE <u>923-2485</u>
4. CONTRACTOR	MAIL ADDRESS <u>Alfred Braun Box 8923 Aspen Co. 81612</u>		PHONE <u>923-2485</u>
5. ARCHITECT OR DESIGNER	MAIL ADDRESS <u>Susan Johak Farr Box 421 Snowmass Co. 81654</u>		PHONE <u>816-54</u>
6. ENGINEER	MAIL ADDRESS <u>Robert Craig Garber KLP Engineer Englewood Co. 23378</u>		PHONE <u>23378</u>
7. USE OF BUILDING			
8. Class of work. <input checked="" type="checkbox"/> NEW <input type="checkbox"/> ADDITION <input type="checkbox"/> ALTERATION <input type="checkbox"/> REPAIR <input type="checkbox"/> MOVE <input checked="" type="checkbox"/> WRECK <u>645,101</u>			
9. Change of use from <u>926.01</u> to <u>1426.02</u>			

10. Valuation of work: \$ <u>104,000.-</u>	PLAN CHECK FEE <u>426.07</u>	PERMIT FEE <u>655.50</u>	TOTAL FEE
11. REMARKS: <u>Building Permit</u> <u>FP Permit # 105-282</u>	Type of Construction <u>IN</u>	Occupancy Group <u>R-3</u>	Lot Area ()
	NO. OF BEDROOMS <u>3</u>	No. of Stories <u>2</u>	Max. Occ. Load <u>NR</u>
	EXISTING <u>13</u>	Use Zone <u>FINAL</u>	Fire Sprinklers Required <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	No. of Dwelling Units <u>1 FINAL</u>	OFF STREET PARKING SPACES: Covered () Uncovered ()	

APPLICATION ACCEPTED BY <u>CMC</u>	CHECKED BY <u>Robert Wagon</u>	APPROVED FOR ISSUANCE BY <u>[Signature]</u>
DATE <u>11-7-88</u>	DATE <u>11/22/88</u>	DATE <u>11/22/88</u>

NOTICE
 SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL, PLUMBING, HEATING, VENTILATING OR AIR CONDITIONING.
 THIS PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 120 DAYS, OR IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 120 DAYS AT ANY TIME AFTER WORK IS COMMENCED.
 I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF ANY OTHER STATE OR LOCAL LAW REGULATING CONSTRUCTION OR THE PERFORMANCE OF CONSTRUCTION.

Alfred Braun 11-7-88
 SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT (DATE)

Alfred Braun 11-7-88
 SIGNATURE OF OWNER (IF OWNER BUILDER) (DATE)

Special Approvals	REQUIRED	AUTHORIZED BY	DATE
ZONING	<u>OK</u>	<u>[Signature]</u>	<u>11/1/88</u>
HEALTH DEPT.	<u>O.K.</u>	<u>[Signature]</u>	<u>11/15/88</u>
SOIL REPORT			
PARK DEDICATION			
WATER TAP			
ENG. DEPT.			
FIRE MARSHALL			
OTHER (SPECIFY)			

THIS FORM IS A PERMIT ONLY WHEN VALIDATED
 WORK STARTED WITHOUT PERMIT WILL BE DOUBLE FEE

VALIDATION
14791 11-7-88
11/23/88 14655

PERMIT VALIDATION CK. M.O. CASH PLAN CHECK VALIDATION CK. M.O. CASH

WHITE - INSPECTOR'S COPY YELLOW - ASSESSOR'S COPY PINK - BUILDING DEPARTMENT FILE GOLD - CUSTOMER'S COPY

1926.80
 still due

BUILDING INSPECTION DEPARTMENT

Exhibit B

CITY OF ASPEN - COUNTY OF PITKIN, COLORADO

ADDRESS OF JOB Woody Creek Area	GENERAL CONSTRUCTION PERMIT 1
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WHEN SIGNED AND VALIDATED BY BUILDING INSPECTION DEPARTMENT THIS PERMIT AUTHORIZES THE WORK DESCRIBED BELOW.

Nursery Tool Shed

CLASS OF WORK: NEW ADDITION ALTERATION REPAIR MOVE WRECK

OWNER NAME Alfred Braum	ADDRESS Box 3735, Aspen	PHONE
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CONTRACTOR	NAME (AS LICENSED) Self	LICENSE CLASS	LICENSE NUMBER
	ADDRESS	PHONE	INSURANCE <input type="checkbox"/>
	SUPERVISOR FOR THIS JOB NAME	DATE CERTIFIED	

LEGAL DESCRIPTION 6 Section 8 T9S R85 W 6th P.M.	LOT NO.	BLOCK NO.	ADDITION
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SURVEY BY	ATTACHED <input type="checkbox"/>	DESIGN BY Self	A LIC. NO.
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AREA (S.F.) AT GRADE 96	HEIGHT (FEET) 11'6"	NO. STORIES 1	TOTAL UNITS	OCCUPANCY GROUP J	DIV.
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BASEMENT FIN. <input type="checkbox"/> UNFIN. <input type="checkbox"/>	GARAGE SINGLE <input type="checkbox"/> ATTACHED <input type="checkbox"/> DOUBLE <input type="checkbox"/> DETACHED <input type="checkbox"/>	TOTAL ROOMS	TYPE CONSTR.	FIRE ZONE
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FOUNDATION	DEPTH BELOW GRADE	JOISTS	FIRST FLOOR SIZE SPACING SPAN	AGENCY	AUTHORIZED BY	DATE	
	EXTERIOR FOOTING SIZE		CEILING	BUILDING REVIEW			
	EXTERIOR FDN. WALL THICKNESS CONC. <input type="checkbox"/> MASY <input type="checkbox"/>		ROOF	ZONING AF-1	PARKING NA		
	THICK SLAB <input type="checkbox"/> CAISSONS & GR. BEAMS <input type="checkbox"/>		ROOFING MATERIAL	PUBLIC HEALTH NA	ENGINEERING		

EXTERIOR WALL	MASONRY THICKNESS	ABOVE 1ST FLR.	ABOVE 2ND FLR.	ABOVE 3RD FLR.
	STUD SIZE & SPACE	ABOVE 1ST FLR.	ABOVE 2ND FLR.	ABOVE 3RD FLR.

REMARKS Tool shed for Nursery

NOTES TO APPLICANT:
 FOR INSPECTIONS OR INFORMATION CALL 925-7336
 FOR ALL WORK DONE UNDER THIS PERMIT THE PERMITTEE ACCEPTS FULL RESPONSIBILITY FOR COMPLIANCE WITH THE UNIFORM BUILDING CODE, THE COUNTY ZONING RESOLUTION OR CITY ZONING ORDINANCE, AND ALL OTHER COUNTY RESOLUTIONS OR CITY ORDINANCES WHICHEVER APPLIES.
 SEPARATE PERMITS MUST BE OBTAINED FOR ELECTRICAL, PLUMBING AND HEATING, SIGNS, SWIMMING POOLS AND FENCES.
 PERMIT EXPIRES 60 DAYS FROM DATE ISSUED UNLESS WORK IS STARTED.
 REQUIRED INSPECTIONS SHALL BE REQUESTED ONE WORKING DAY IN ADVANCE.
 ALL FINAL INSPECTIONS SHALL BE MADE ON ALL ITEMS OF WORK BEFORE OCCUPANCY IS PERMITTED.
 BUILDING SHALL NOT BE OCCUPIED UNTIL A CERTIFICATE OF OCCUPANCY HAS BEEN ISSUED.
 SUBJECT TO REVOCATION OR SUSPENSION FOR VIOLATION OF ANY LAWS GOVERNING SAME.

VALUATION OF WORK \$ Less than \$200.00
PLAN FILED T P <input checked="" type="checkbox"/> TOTAL FEE \$ N/C
BUILDING DEPARTMENT APPROVAL BY <i>Foley Newberry</i> DATE

APPLICANT ONLY NAME <i>Alfred Braum</i>	DATE	PERMIT NO.	LICENSE #	RECEIPTS CLASS	AMOUNT
	5/8/72	2-75			