



PLANNING DEPARTMENT

970.668.4200  
www.SummitCountyCO.gov

0037 Peak One Dr. | PO Box 5660  
Frisco, CO 80443

**BOARD OF ADJUSTMENT  
AGENDA**

**May 31<sup>st</sup>, 2023- 5:30 p.m.**

**This meeting will be conducted virtually.**

**The public is welcome to attend by using the following information:**

**To join from your computer or laptop:**

<https://events.teams.microsoft.com/event/b0bb50d5-1412-4f22-bfec-ce987f14d88c@6fe210fb-c133-4ace-8c88-21cb41bf0710>

**Meeting ID: 279 279 000 767**

**Passcode: cC6APU**

**If you are joining from your computer or laptop, you will need to register by following the above link. Once registered, you will receive an email with the link to join.**

**Unless you have the Teams app, please click *Join from Browser* to avoid having to download the app.**

**To join using your phone, call in by dialing**

+1 719-501-2619

Phone ID: 605 775 942#

**To raise your hand in the meeting to be granted permission to speak, press \*5; to unmute, press \*6**

**I. CALL TO ORDER**

**II. ROLL CALL**

**III. APPROVAL OF SUMMARY OF MOTIONS:** April 19, 2023 BOA Meeting

**IV. APPROVAL OF AGENDA:** Additions, Deletions, Change of Order

**V. CONSENT AGENDA**

- Approval of Resolution 2023-05: A resolution denying PLN22-141, an appeal of the code administrator's determination of the open designation, lack of allowance for structures, and associated determinations for lot 11, French Creek Center Sub; located at 10944 State Hwy 9, zoned I-1

**VI. NEW BUSINESS**

None

**VII. PUBLIC HEARINGS**

None

**VIII. WORK SESSION ITEMS**

None

**IX. DISCUSSION ITEMS**

None

**X. ADJOURNMENT**

\* Allowance for Certain Site Plans to Be Placed on the Consent Agenda: Site plan reviews consisting of three (3) to a maximum of 12 multi-family units for the total development parcel or project may be placed on a Planning Commission's "consent agenda", which allows for

expeditious review and approval of these smaller projects. Site plans may only be placed on the consent agenda if the recommendation does not include any conditions. Single-family and duplex development that are required to have a site plan review by a Planning Commission due to a plat note, PUD requirement or other regulatory mechanism may also be placed on a Commission's consent agenda. A Planning Commission member may pull such agenda item off the consent agenda to allow staff or the applicant to address issues or questions related to the site plan review criteria for decision prior to taking action.

**BOARD OF ADJUSTMENT  
SUMMARY OF MOTIONS**

April 19, 2023

**CALL TO ORDER:** Ira Tane, acting chair, called the meeting of the Board of Adjustment to order at 6:10p.m.

**COMMISSION MEMBERS PRESENT:** Randy Lewis, Ira Tane, Tim McKennie, Ted Pilling, Andrew Yarosh

**STAFF PRESENT:** Steve Greer, Dylan Graves, Keely Ambrose

**APPROVAL OF SUMMARY OF MOTIONS:** The Summary of Motions of the March 15, 2023 meeting were approved as submitted.

**APPROVAL OF AGENDA:** Agenda approved as submitted.

**CONSENT AGENDA:** None

**NEW BUSINESS:** None

**PUBLIC HEARINGS:**

**A. Planning Case PLN22-141:** An appeal of the Code Administrator's Determination of the open designation, lack of allowance for structures, and associated determinations for Lot 11, French Creek Center Sub; located at 10944 State Hwy 9, zoned I-1.

**MOTION:** Randy Lewis made a motion to deny the appeal and sustain the Code Administrator's determination.

Ted Pilling seconded the motion and the motion passed with a vote of 5-0.

**WORK SESSION ITEMS:** None

**DISCUSSION ITEMS:** None

**ADJOURNMENT:** The meeting was adjourned at 7:10 p.m.

Respectfully submitted,

Dylan Graves  
Planner II

**RESOLUTION NO. 2023 - 05**

**BOARD OF ADJUSTMENT  
OF THE  
COUNTY OF SUMMIT  
STATE OF COLORADO**

**A RESOLUTION DENYING PLN22-141, AN APPEAL OF THE CODE ADMINISTRATOR'S INTERPRETATION OF THE "OPEN" DESIGNATION AND LACK OF FLOOR AREA ALLOCATION FOR LOT 11, FRENCH CREEK CENTER SUB; LOCATED AT 10944 STATE HWY 9, ZONED I-1.** (Applicant: Richard Himmelstein)

**WHEREAS**, the applicant has applied to the Board of Adjustment for an appeal of the Code Administrator's interpretation of the "open" designation and lack of floor area allocation for Lot 11, French Creek Center Sub; located AT 10944 State Hwy 9, zoned I-1; and

**WHEREAS**, the Code Administrator reviewed the plat for the French Creek Center Sub, the materials from the preliminary and final platting process for the subdivision, and applicable Land Use and Development Code requirements and determined that "no structures, regardless of floor area" shall be permitted on Lot 11, French Creek Center Sub; and

**WHEREAS**, the applicant disagreed with the Code Administrator's determination that no structures shall be allowed on site and disagreed with the interpretation that the designation of "open" on the plat and the lack of floor area allocation on the plat meant that the site was to remain free from structures; and

**WHEREAS**, the Board of Adjustment reviewed the application at a public hearing on April 19, 2023, with public notice as required by law and considered the evidence and testimony presented at the hearing; and

**WHEREAS**, the Board of Adjustment made the decision to deny the appeal and sustain the Code Administrator's determination.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE COUNTY OF SUMMIT, STATE OF COLORADO THAT** an appeal of the Code Administrator's interpretation of the "open" designation and lack of allowance for structures on Lot 11, French Creek Center Sub; located at 10944 State Hwy 9, zoned I-1, is hereby denied, with the following findings:

1. The use of the word "open" on the plat and the lack of allocation of floor area on the plat, combined with the description in the materials from the preliminary and final platting process that Lot 11 would be used for parking and snow storage, supported the Code Administrator's determination that no structures should be allowed on the property.
2. There is a process in the County's Land Use and Development Code by which the applicant could request additional density and/or uses for the property, and the BOA appeal process is not a

substitute for the proper procedure.

**ADOPTED THIS 19 DAY OF APRIL, 2023.**

**COUNTY OF SUMMIT  
STATE OF COLORADO  
BY AND THROUGH ITS  
BOARD OF ADJUSTMENT**

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Ira Tane, Chair

**ATTEST:**

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Dylan Graves, Planner II