

BOARD OF COUNTY COMMISSIONERS
JULY 13, 2021
PLANNING CASE # PLN21-002: PRELIMINARY PLAT TO SUBDIVIDE LOT 16, BLUE
RIDGE AMENDED SUB., 1.13 ACRES, ZONED R2
PUBLIC HEARING

PROJECT INFORMATION:

Location: 1009 American Way, Peak 7, Breckenridge

Request: A Class 5 Preliminary Plat application to subdivide a 1.13 acre lot into two lots: Lot 16,
Blue
Ridge Amended Sub., 1.13 acres, zoned R2.

ISSUES:

None

UPPER BLUE BASIN PLANNING COMMISSION RECOMMENDATION:

At the meeting of the Upper Blue Planning Commission on June 24, 2021, the UBPC recommended that the BOCC approve this application for Preliminary Plat with 1 condition.

RESOLUTION STATUS

Proposed resolution attached

STAFF RECOMMENDATION:

Approval with 7 findings and 1 condition.

ATTACHMENTS

1. Vicinity Map
2. Existing Conditions Survey
3. Proposed Plat
4. Public comment from 6/24/21
5. Draft Resolution

STAFF REPORT

TO: Board of County Commissioners

FROM: Sid Rivers, Planner II

FOR: Meeting of July 13, 2021

SUBJECT: PLN21-002: Preliminary Plat to subdivide Lot 16, Blue Ridge Amended Sub., 1.13 acres, zoned R2.

APPLICANT: Christie Mathews Leidal, AICP

OWNER: 1009 American Way LLC

REQUEST: A Class 5 Preliminary Plat application to subdivide a 1.13 acre lot into two lots: Lot 16, Blue Ridge Amended Sub., 1.13 acres, zoned R2.

PROJECT DESCRIPTION

Location: 1009 American Way, Peak 7, Breckenridge

Legal Description: Lot 16, Blue Ridge Amended Subdivision

Existing Zoning: R-2

Proposed Use: Single-Family Residential

Other Uses: None

Total site area:

Existing: 1.13 acres:

Proposed: Lot 16A = .633 acres, Lot 16B = .50 acres

Adjacent land uses:

Northwest: American Way

Northeast: Lot 15, Blue Ridge Amended Sub., Zoned R-2

Southeast: Parcels A, B, C, D, Ridge Crest Sub., Zoned R-2

Southwest: Lot 8A, Shadows North Amended Sub., Resub Lot 8, Zoned R-2

DEVELOPMENT REQUIREMENTS

	<u>Existing</u>	<u>Proposed (Minimum R-2 = 20,000 s.f.)</u>
Density:	1 lot	2 lots
Lot size:	1.13 acres (49,369 s.f.)	0.633 acres (27,589 s.f.) & 0.50 acres (21,780 s.f.)

BACKGROUND

The subject site is Lot 16, Blue Ridge Amended Subdivision, zoned R-2. Summit County adopted zoning regulations on June 2, 1969. The original Blue Ridge plat was recorded October 14, 1968 at Reception number 111128. The amended plat for Blue Ridge Amended Subdivision was recorded on December 19, 1969 at Reception number 114673. Lots 10, 11, 12, 13, 14, 15, and 16 of the original Blue Ridge plat were unchanged with the Blue Ridge Amended plat.

These lots were all in excess of 1 acre in size when originally platted in 1968, prior to the establishment of the R-2 zone district.

The size of Lot 16, Blue Ridge Amended Subdivision as platted is 1.14 acres. Per the surveys submitted for this application Lot 16, Blue Ridge Amended Sub. is 1.13 acres in size (49,369 square feet).

The applicant proposes to subdivide Lot 16, Blue Ridge Amended into two lots: Lot 16A will be 0.633 acres/ 27,589 s.f. in size, and Lot 16B will be 0.50 acres/ 21,780 s.f. in size.

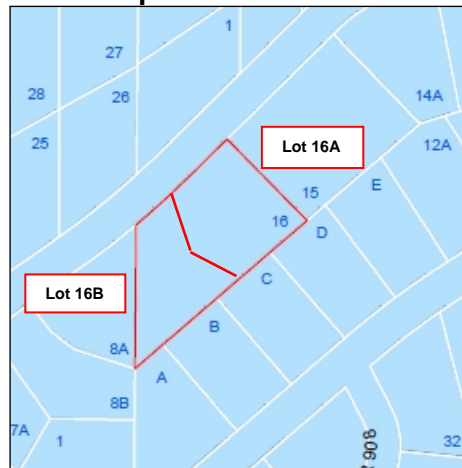
Subject Lot: Lot 16, Blue Ridge Amended

Zoning: R-2



A single family residence is located on the proposed Lot 16A portion of the property. This property has an approved accessory apartment located above a detached garage (PLN17-119). Additionally, the single-family residence has an approved Short Term Rental permit (BCA-101099).

Proposed Subdivision:



The Upper Blue Planning Commission reviewed this preliminary plat at a public hearing held on June 24, 2021 and recommended approval. The written public comments received are listed in

Attachment 4. There was not any public comment provided at the June 24, 2021 Planning Commission meeting.

At the meeting, the Commission discussed the uses permitted on each lot within the Peak 7 area. They felt that a half acre lot with a primary single-family residence and an accessory apartment essentially acted as two residences on one lot and that was too many structures and occupants for one lot.

Staff informed the Commission that accessory apartments are an allowed accessory use in the R-2 zone district. If a proposed accessory apartment met the criteria for approval and had the appropriate deed restriction in place, then it would be allowed, regardless of how many accessory apartments were located elsewhere within the vicinity.

Additional discussion took place regarding the slope of the site and proposed new lot. The average slope of the new Lot 16B is 13%. The Land Use and Development Code references "steep slopes" as being at 30% or greater slope. While this property does not fall under the category of steep slope, developing Lot 16B will require some engineering to design driveway access suitable for the site. The Engineering department has reviewed a preliminary driveway proposal for Lot 16B and they did not have any comments.

CRITERIA FOR DECISION

Section 8252.01 of the Summit County Land Use and Development Code provides that the following criteria must be met to approve a preliminary plat:

- A. The proposed subdivision is consistent with the Zoning Regulations applicable to the property.
- B. The proposed subdivision is consistent with the Subdivision Regulations applicable to the property.
- C. The proposed subdivision is in general conformance with the goals, policies/actions and provisions of the Summit County Countywide Comprehensive Plan and any applicable basin or subbasin master plans in accordance with Section 8004 of the Subdivision Regulations.
- D. The applicant has provided evidence that provisions can be made for a water supply that is sufficient in terms of quantity, quality and dependability to provide an appropriate supply of water for the type of subdivision proposed.
- E. The applicant has provided evidence to establish that, if a public wastewater treatment system is proposed, provision has been made for such system, and if onsite wastewater treatment is proposed, results from soil testing has been provided which demonstrate that wastewater treatment systems would comply with state and local laws and regulations in effect at the time of submission of the preliminary plat.
- F. The applicant has provided evidence to show that all areas of the proposed subdivision that may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed uses of these areas are compatible with such conditions.
- G. With compliance with the one condition, the applicant has provided evidence that all lots and parcels created by the subdivision will have access to the County road system and to the State highway system in conformance with the State access code.

CRITERION A: THE PROPOSED SUBDIVISION IS CONSISTENT WITH THE ZONING REGULATIONS APPLICABLE TO THE PROPERTY

Density

The zoning of the subject property is R-2, which permits a maximum of one unit per 20,000 square feet, or 2 units per acre. Subdividing Lot 16 will create two lots; Lot 16A will be 0.633 acres/ 27,589 s.f. in size, and Lot 16B will be 0.50 acres/ 21,780 s.f. in size. Both of the lots will meet the minimum lot size for the R-2 zoning district.

This parcel has been envisioned as having a build out of 2 units based on the lot size and location in the R-2 zone district. This subdivision application is not considered an upzoning, therefore the use of Transferable Development Rights (TDRs) is not required. The original plat for the Blue Ridge Amended Sub. had several lots exceeding 1 acre in size. There were not any restrictions against future subdivision of those lots. Please see the section on Conformance with Master Plans for an analysis on the density for this area.

Setbacks

The required setbacks for the R-2 zone district are 25' from the front and rear property lines, and 15' from the side property lines. A single family residence, and a detached garage with an accessory apartment exists on proposed Lot 16A. These structures are compliant with the required setbacks. Lot 16B is vacant and there is room for a single family residence and accessory uses to be located meeting the required setbacks.

Other Requirements

Other applicable zoning regulations for any future improvements to the lots such as, but not limited to, snow storage, exterior lighting, and parking will be reviewed at the time of building permit review for such improvements.

CRITERION B: THE PROPOSED SUBDIVISION IS CONSISTENT WITH THE SUBDIVISION REGULATIONS APPLICABLE TO THE PROPERTY

Fire Protection

The Red, White, and Blue Fire Department has indicated that they have no concerns or comments for this proposed subdivision.

Wildfire Hazzard

The Colorado State Forest Service commented that the wildfire hazard risk for this site is low. The fuel loads present are low to moderate for the new lot. If the new lot uses defensible space practices, the risk can be reduced to low.

Geologic Hazzard

The Colorado Geologic Survey ("CGS") commented upon the proposed application. CGS indicated that they had no comments or concerns, and that here are no steep slopes, flood hazards, or geologic hazards present on the subject property.

Access

Both lots access from American Way. The driveway to Lot 16A is existing and meets the County requirements for construction. The driveway to Lot 16B will be shared access with Lot 16A and fully constructed when a building permit for a new single family residence is obtained. The

County Engineer has commented that the new driveway for Lot 16B will be required to meet all County standards for driveway construction. An access easement for Lot 16A has been designated on the proposed plat along Lot 16B where it fronts American Way.

Trails/ Open Space

The Open Space and Trails Department has commented that the Public Use Area Fee shall apply to this application. The Public Use Area Fee shall be paid prior to recordation of the plat. A condition of approval has been added requiring the Public Use Area Fee.

Lot and Block Design Criteria

This application conforms to Section 8154 of the Code regarding the platting of new lots. Among other requirements, each lot will contain street frontage in excess of 50', the minimum required by the Code. Lot 16B as proposed will have 85' of frontage along American Way.

Water/ Wastewater/ Utilities

The Upper Blue Sanitation District, Breckenridge water, and Xcel Energy have all provided letters indicating that services can be provided to the new lot.

CRITERION C: CONFORMANCE WITH THE COUNTYWIDE COMPREHENSIVE PLAN AND THE UPPER BLUE MASTER PLAN

The goals and policies of the Countywide Comprehensive Plan ("Comprehensive Plan") and the Upper Blue Master Plan ("Master Plan"), and the Joint Upper Blue Master Plan (JUBMP) are applicable to the subject application.

Comprehensive Plan

Land Use Element:

Goal A. Focus development within existing urban areas

Policy/Action 2. Future urban development should be focused within existing urban areas

Upper Blue Master Plan

Land Use Element:

Goal A: Future land use should be consistent with a land use pattern that focuses growth in existing urban areas and seeks to maintain the character of rural areas in the Basin

Policy / Action 2. Where existing platted lots are proposed to be subdivided, as part of subdivision review the following specific considerations or criteria should be evaluated to allow for a heightened level of scrutiny and may limit density permitted by zoning:

- *Research of historic records, such as old planning case files, plat notes, covenants, etc., to ascertain, if possible, reasons for the layout of the existing subdivision and the size of lots that exist (e.g., if the lots are twice or more as large as zoning would allow).*
- *Impacts Related to Site Characteristics and Application of Important Planning Principles:*
 - *Existing site characteristics (e.g., topography, steep slopes, wetlands, soils, etc.).*
 - *Environmental constraints (e.g., environmentally sensitive areas, habitat for threatened or endangered species, etc.).*

- Access.
- Existing or planned services, utilities or infrastructure.
- Physical connections to recreational trails.
- Visually important lands or prominent landscapes.
- Historic or archaeological resources.
- **Surrounding Land Uses and Community Character:**
 - Relationship to surrounding land uses community, neighborhood or adjacent development.
 - Impacts to community character, residential compatibility or associated activities.

TDRs may be proposed and used to mitigate or offset impacts associated with or implicated by these factors.

Joint Upper Blue Master Plan

Goal A. Future land use decisions should advance an urban/rural development pattern and not increase overall density in the Basin.

Policy/Action 1. Locate new development within existing urban areas to the maximum extent possible.

The subject property is designated as Residential 2 in the Upper Blue Master Plan Land Use Designation map. The Master Plan aims to identify appropriate land uses within the unincorporated locations in the Basin. Per the direction of the Comprehensive Plan, land uses are divided under two primary headings: urban and rural. A number of land use designations are associated with each of these headings. These land use designations are identified on the Land Use Map.

The following is the applicable Master Plan Land Use Designation and description of uses per Table 2 of the Upper Blue Master Plan:

Table 2. Upper Blue Basin Master Plan Land Use Designations	
Plan Designation	Description of Uses
Urban Area	
Residential 2	Single-family residential uses with a maximum density of two units / acre.
Residential 1	Single-family residential uses with a maximum density of one unit / acre.

The land use designations contained in the Master Plan are not the equivalent of zoning and do not replace the zoning that is in effect on properties in the Basin. However, the subject property is zoned R-2. The Master Plan’s land use designations contemplate uses and densities, but they are intended to represent the long-term vision and desired character of the community. The land use designations are intended to provide guidance for certain development proposals subject to master plan consideration, including: requests for rezoning, subdivision, conditional use permits, and a number of other development reviews. When subdivision of a property is proposed, the master plan land use designations provide guidance on the types of uses and density that are appropriate on the property.

Under the Residential 2 designation, this proposal meets the intent of the goals within the Master Plan. The subject property is surrounded by Residential 2 designated properties. The original Blue Ridge plat, and Blue Ridge Amended plat did not contain any restrictions prohibiting subdivision of any lots.

This subdivision is located in the Peak 7 area of Breckenridge, an urbanized area of the County, where water and sewer infrastructure already exist in American Way. The proposed density is consistent with the zoned density and contemplated build out, as well as adjacent development patterns in the neighborhood. One of the most recent lots in this area to be subdivided into 2 lots was the site directly west of the subject parcel (Lots 8A & 8B, Shadows North Amended Sub) which was subdivided in 2016 (PLN16-039). The only remaining lot, greater than 1 acre in size from the Blue Ridge Amended plat is Lot 15. Lot 15 is contiguous to the subject parcel on the northeast side. Furthermore, this subdivision does not involve any development constraints such as wetlands, slopes over 30% grade, or geologic hazards.

CRITERION D: THE APPLICANT HAS PROVIDED EVIDENCE THAT PROVISIONS CAN BE MADE FOR A WATER SUPPLY THAT IS SUFFICIENT IN TERMS OF QUANTITY, QUALITY AND DEPENDABILITY TO PROVIDE AN APPROPRIATE SUPPLY OF WATER FOR THE TYPE OF SUBDIVISION PROPOSED

The Town of Breckenridge provided a letter stating that water service is available to the subject property. The existing residence on proposed Lot 16A is connected to the Town water system.

CRITERION E: EVIDENCE OF ADEQUATE WASTEWATER DISPOSAL

The Upper Blue Sanitation district provided a letter stating that sewer services are available to the subject property. The existing residence on proposed Lot 16A is connected to the sewer system.

CRITERION F: THE APPLICANT HAS PROVIDED EVIDENCE TO SHOW THAT ALL AREAS OF THE PROPOSED SUBDIVISION THAT MAY INVOLVE SOIL OR TOPOGRAPHICAL CONDITIONS PRESENTING HAZARDS OR REQUIRING SPECIAL PRECAUTIONS HAVE BEEN IDENTIFIED AND THAT THE PROPOSED USES OF THESE AREAS ARE COMPATIBLE WITH SUCH CONDITIONS

The Colorado Geologic Survey commented on this application and identified no significant concerns with the property that would prevent residential development.

CRITERION G: THE APPLICANT HAS PROVIDED EVIDENCE THAT ALL LOTS AND PARCELS CREATED BY THE SUBDIVISION WILL HAVE ACCESS TO THE COUNTY ROAD SYSTEM AND TO THE STATE HIGHWAY SYSTEM IN CONFORMANCE WITH THE STATE ACCESS CODE

The two proposed lots will access from American Way. The plat has an access easement for Lot 16A to access American Way from the existing driveway, which is partially located on Lot 16B. The Road and Bridge and Engineering Departments did not have any comments on this application.

STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners approve PLN21-002: a Preliminary Plat to subdivide Lot 16, Blue Ridge Amended Sub., 1.13 acres, zoned R2, with the following findings and condition.

Findings:

1. The proposed subdivision is consistent with the applicable Zoning Regulations because, without limitation, the subject property meets the density and lot size requirements of the R-2 zoning district.
2. The proposed subdivision is consistent with the Subdivision Regulations applicable to the property because, without limitation: a) fire protection is available; b) there are no geologic hazards or soil issues on site; c) public use area fee shall be paid prior to the recordation of the plat; d) the property has access to the County road system; and e) adequate utilities and services are available to the property.
3. The proposed subdivision is in general conformance with the goals, policies/actions and provisions of the Summit County Countywide Comprehensive Plan, the Upper Blue Master Plan, and the Joint Upper Blue Master Plan because, without limitation, the proposal is in general conformance with the goals and policies listed and there are no areas with environmental constraints.
4. The applicant has provided evidence that the Town of Breckenridge will provide water service to the subject property.
5. The applicant has provided evidence that the Upper Blue Sanitation District will provide sewer services to the subject property.
6. Evidence has been provided to show that there are no geologic hazards present. The Colorado Geologic Survey has indicated that there are no soil or topographic conditions that would prevent development of the subject property.
7. The applicant has provided evidence that all lots and parcels created by the subdivision will have access to the County road system and to the State highway system in conformance with the State access code. Access to the subject lots is available from American Way.

Condition:

1. The Public Use Area Fee shall be paid prior to recording the plat.