

**BOARD OF COUNTY COMMISSIONERS**  
**September 14, 2021**

**PLANNING CASE #21-075: SUNBOWL AT HAMILTON CREEK #2 - PLAT NOTE  
ALTERATION  
NEW BUSINESS**

**PROJECT INFORMATION:**

Location: Block 10, Sunbowl at Hamilton Creek Sub #2 (see vicinity map)

Project/Request: A request to alter plat note #6 of the Sunbowl at Hamilton Creek #2 plat, Reception # 500221, that states "ACCESS TO LOTS 1, 6, 7, & 8 IS RESTRICTED TO THE CUL DE SAC AS SHOWN HEREON. ACCESS FROM HAMILTON CREEK ROAD IS PROHIBITED", removing the requirement that Lot 1 take its access from the Heather Way cul-de-sac; in the Hamilton Creek PUD, zoning district on approximately 7.97 acres.

**ISSUES:**

None

**RESOLUTION STATUS**

Resolution Attached

**STAFF RECOMMENDATION:**

Approval with the findings in the attached resolution

**ATTACHMENTS:**

- A. Sunbowl at Hamilton Creek #2 Subdivision Plat
- B. Vicinity Map
- C. Engineering Department variance approval: ESP21-003 Record of Decision
- D. Proposed Resolution



**PLANNING DEPARTMENT**

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**STAFF REPORT:**

**TO:** Board of County Commissioners  
**FROM:** Dylan Graves, Planning Technician  
**FOR:** Meeting of September 14, 2021  
**SUBJECT:** Planning Case 21-075, Plat Note Alteration, Sunbowl at Hamilton Creek #2

**APPLICANT:** Luke Dokken

**OWNERS:** Luke and Jennifer Dokken

**REQUEST:** A request to alter plat note #6 of the Sunbowl at Hamilton Creek #2 plat, Reception # 500221, that states "ACCESS TO LOTS 1, 6, 7, & 8 IS RESTRICTED TO THE CUL DE SAC AS SHOWN HEREON. ACCESS FROM HAMILTON CREEK ROAD IS PROHIBITED", removing the requirement that Lot 1 take its access from the Heather Way cul-de-sac; in the Hamilton Creek PUD, zoning district on approximately 7.97 acres.

**APPLICATION MATERIALS:** Up until a decision is made by the final Review Authority, the Applicant's Submittal Materials may be found at <http://www.summitcountyco.gov/254/Projects-Under-Review> and are hereby incorporated into the official record in their entirety. Once a final decision has been made, the Submittal Materials can be obtained and/or reviewed at the Planning Department.

**PROJECT DESCRIPTION:**

**Location:** Sunbowl at Hamilton Creek #2 Subdivision (see vicinity map)  
**Legal Description:** Block 10, Sunbowl at Hamilton Creek #2  
**Existing Zoning:** Hamilton Creek PUD  
**Proposed Use:** Not Applicable  
**Other Uses:** Not Applicable  
**Adjacent land uses:**  
    **East:** Block 11, Hamilton Creek Sub – Benches #2  
    **West:** Block 9, Sunbowl at Hamilton Creek #2  
    **North:** Block 11, Hamilton Creek Sub – Benches #2 Common Area  
    **South:** Block G South Forty Sub; Block 9, Sunbowl at Hamilton Creek #2

**BACKGROUND:**

The Sunbowl at Hamilton Creek #2 Final Plat was recorded on October 2, 1995 at reception # 500221.

The Sunbowl at Hamilton Creek #2 Plat states in plat note #6 that:

“ACCESS TO LOTS 1, 6, 7, & 8 IS RESTRICTED TO THE CUL DE SAC AS SHOWN HEREON. ACCESS FROM HAMILTON CREEK ROAD IS PROHIBITED”.

The applicant is proposing to alter plat note #6 to read:

“ACCESS TO LOTS 6, 7, & 8 IS RESTRICTED TO THE CUL DE SAC AS SHOWN HEREON. ACCESS FROM HAMILTON CREEK ROAD IS PROHIBITED FOR LOTS 6, 7, AND 8.”

This proposed plat note alteration would remove the restriction that Lot 1, Block 10, Sunbowl at Hamilton Creek #2 take its access from the cul-de-sac (Heather Way), thereby allowing the lot to take access from Hamilton Creek Road. No other lots would be able to take access from Hamilton Creek Road and the plat note would still explicitly prohibit this.

According to the staff report from PLN95-123 - the planning case for the final plat for Sunbowl at Hamilton Creek #2 - the plat note was put in place at the County Engineer's request, to “ensure that direct driveway access to a collector level road be sufficiently limited”. An easement was platted for a shared access for the Lot 1, 2, and 8 driveways. Since then, the County Engineer on August 27, 2021 granted Lot 1 a variance to Engineering Codes (approved via ESP21-003) to allow Lot 1 to take access from Hamilton Creek Road, justified by a reduction in water quality impacts as compared to an access from the Heather Way cul-de-sac. Hamilton Creek Road is still classified as a collector level road according to Summit County road standards. However, construction of additional roads in the area, including Angler Mountain Ranch Road, has reduced the impact of having an additional access along Hamilton Creek Road by reducing average and peak daily vehicle trips along this stretch of Hamilton Creek Road. Coupled with the fact that the Heather Way cul-de-sac has become congested due to the number of homes taking access from the cul-de-sac, the Engineering Department has stated that adding an additional access off of Hamilton Creek Road at this location, directly across from an existing access point for 948 Hamilton Creek Road, will not have a substantial impact on road safety or public health and welfare. Sight lines are sufficient in either direction to ensure that no safety concerns should arise.

Since the plat was recorded, five of the eight lots in Block 10, Sunbowl at Hamilton creek #2 have been developed, all of which have taken access from the Heather Way cul-de-sac. A single family home was built on Lot 8 in 1996, with the garage built directly up to the 20' driveway easement boundary. This may have impacts on emergency access to Lot 1, restricting the ability for emergency services, including ladder trucks, to access the site from Heather Way.

Altering the existing plat note to the proposed new language would allow for the protection of on-site wetlands and drainage, improve access for emergency services, and reduce congestion on Heather Way. The alteration has the support of the Engineering Department, the Hamilton Creek Metro District, and the other landowners in Block 10, Sunbowl at Hamilton Creek Sub #2. Evidence provided as part of the application suggests that allowing Lot 1 to take access directly from Hamilton Creek Road will not have an impact on the safety of Hamilton Creek Road, and the Engineering Department has stated that having an access directly from Hamilton Creek Road is no more or less safe than having the access come off of Heather Way, preserving the County Engineer's original intent of ensuring public safety along Hamilton Creek Road. Traffic counts performed by a private engineer in June of 2021 for the stretch of Hamilton Creek Road

adjacent to Lot 1 indicate that average daily trips (ADT) and peak traffic flow are below the current standards for a collector level road, per Table 5-2 from the *Land Use and Development Code*, which describes collector level roads as having an ADT of 2000-3500. As such, an access for Lot 1 off of Hamilton Creek Road will not have the impacts anticipated when the final plat for Sunbowl at Hamilton Creek #2 Subdivision was approved in 1995. As a result, current conditions along Hamilton Creek Road differ from those anticipated in 1995, justifying the water quality improvements an access off of Hamilton Creek Road would have.

The plat note alteration does not substantively change the plat as previously approved by the BOCC and is consistent with the Subdivision Regulation, Zoning Regulations, and applicable provisions of the Land Use and Development Code.

### **Criteria for Decision:**

Section 8402.01.G of the Summit County Land Use and Development Code (“Code”) states that the following criteria must be met for a plat note to be altered or eliminated:

1. The alteration or elimination of the plat note(s) is justified based on one of the following: (1) changes in the County’s development policy or County goals or objectives (Code policy, master plan policy, etc.), (2) administrative need, changes in the conditions in the vicinity or changes in the Building Code or Fire Code.
2. The alteration or elimination of the plat note(s) do not substantively change the plat as previously approved by the BOCC or in any way deviate from any conditions of approval set forth by the BOCC for such plat.
3. The plat note being altered or eliminated is a regulatory requirement in favor of Summit County.
4. The alteration or elimination of the plat note is consistent with the Subdivision Regulations, Zoning Regulations and the applicable provisions of this Code.

### **DISCUSSION**

#### **Justification for the Alteration of the Plat Note:**

**The alteration or alteration of the plat note(s) is justified based on one of the following: (1) changes in the county’s development policy or county goals or objectives (code policy, master plan policy, etc.), (2) administrative need, changes in the conditions in the vicinity or changes in the building code or fire code.**

The alteration of plat note #6 is based on changes in the conditions in the vicinity of Lot 1, Block 10, Sunbowl at Hamilton Creek #2. Since the final plat was approved in 1995, traffic along Hamilton Creek Road has been reduced due to the construction of Angler Mountain Ranch Road in 2014. While the road is still considered a collector road in the Summit County road system, it does not receive the amount of traffic commensurate with a typical collector designation, per traffic studies done by the applicant’s private engineer that showed an ADT of 201 and a peak of 508 cars in a 24 hour period between June 10 and June 14, 2021. This is in line with a local access road based on demand, so while Hamilton Creek Road is still classified as a collector road for other reasons, the traffic is sufficiently low to suggest that an additional access along Hamilton Creek Road will not cause significant increases in traffic or safety concerns. Further, the Engineering Department has determined that since there is already an access to 948 Hamilton Creek Road directly across from Lot 1, one additional access will not cause any additional concerns.

Hamilton Creek Road Traffic				
Traffic Count	Lot1	Lot1	NB @	SB @
	NB	SB	CR 1893	CR 1893
Thur 6/10 (230PM)	106	80	68	77
Fri 6/11	262	246	148	214
Sat 6/12	263	216	131	183
Sun 6/13	196	154	67	110
Mon 6/14 (915AM)	50	32	34	43
ADT	232	193	119	166
Total ADT		425		285

Additionally, wetlands and drainage on-site in the area of the access easement from Heather Way would be impacted as a result of a new driveway in this area and since the final plat was approved, the Engineering Department has determined that they are willing to accept another access from Hamilton Creek Road in order to protect water quality per Chapter 7 of the Land Use and Development Code. These newly considered on-site conditions have led Engineering to approve ESP21-003, a variance to Section 5107.01 K of the *Land Use and Development Code* to allow Lot 1 to gain access via Hamilton Creek Road.

Since the final plat was approved and recorded, Lot 8 to the South built a home to within a foot of the platted access easement, thereby reduce the ability for emergency services, especially ladder trucks and other long vehicles to access Lot 1 via a driveway access from Heather Way. Emergency and fire services are now better provided directly from Hamilton Creek Road, thereby improving public health, safety, and welfare.

### **The Elimination of the Plat Note will not substantively change the Approved Plat**

The proposal will not substantively change the approved plat. All of the remaining parcels within the Sunbowl at Hamilton Creek #2 Sub will still be required to access their property from the Heather Way cul-de-sac. Only Lot 1 would be permitted to access from Hamilton Creek Road. The proposal will not affect any other properties on the plat. The configuration of the subject property and all other properties on the plat will not change.

Staff has identified that the requirement to access from Heather Way was a condition put in place at the County Engineer’s recommendation during the final platting process, approved via planning case PLN95-023, in an attempt to limit access off of Hamilton Creek Road. Since this time, the Engineering Department has granted a variance to Section 5107.03 K to allow access off of Hamilton Creek Rd via ESP21-003, which was approved on August 27, 2021, stating that “due to the narrow shape of the lot, onsite wetlands and drainage areas, and proximity to existing structures and utilities ...requiring the property to take access from Heather Way would cause exceptional practical difficulty and undue hardship on the owner based on the existing conditions.” With the Engineering Department’s decision to allow Lot 1 access to Hamilton Creek Rd, the condition put in place with PLN95-023 is no longer relevant.

The final plat for Block 10, Sunbowl at Hamilton Creek #2 also favored the protection of wetlands and water quality, which this plat note alteration will address. The final plat required a building envelope on Lot 1, Block 10 to provide an adequate buffer between any disturbed area and the riparian habitat on-site. While at the time the County Engineer determined the adequacy

of said buffer, the Engineering Department's current stance is that access being taken from Hamilton Creek Road will result in fewer water quality impacts as compared to an access taken from the Heather Way cul-de-sac and will not adversely affect the level of service on Hamilton Creek Road. As part of this application, a preliminary driveway plan was submitted, which laid out the proposed driveway access along Hamilton Creek Road. There is an existing driveway on Hamilton Creek Road directly across the street from the proposed driveway for Lot 1, and the Engineering Department has determined that an additional entryway at this location will not have any significantly greater impacts, since there is already an access point at this location along Hamilton Creek Road. Sufficient site lines are proposed both uphill and downhill from the lot, ensuring that any potential safety issues are mitigated due to an access from Lot 1 to Hamilton Creek Road.

**The Plat Note being altered is a Regulatory Requirement in Favor of Summit County.**

The change is consistent with the zoning on the property, and is not in opposition to any of the regulations of Summit County. The elimination will not negatively impede the regulatory ability of Summit County. The plat note alteration will address water quality regulations found in Chapter 7 of the Land Use and Development Code by reducing unavoidable wetland and drainage disturbance on-site as compared to taking access from the current access easement, while avoiding any adverse impacts to Hamilton Creek Road where access would instead be taken.

Additionally, it is consistent with Chapter 8: Subdivision Regulations. Section 8101 requires subdivisions to provide adequate fire protection improvements. The closest fire hydrant is directly across Hamilton Creek Road from Lot 1, far closer than the fire hydrant accessible at the South end of the Heather Way cul-de-sac. This will allow for more efficient provision of fire protection services. Summit Fire and EMS had no issues during the referral period with the alteration.

**The Plat Note Alteration is Consistent with the Subdivision and Zoning regulations, and with other applicable portions of the Code**

The alteration of the plat note is in conformance with the zoning and subdivision regulations, and other applicable portions of the Code. With the Engineering Department's approval of ESP21-003 for a variance to Section 5107.01 K, there are no concerns about inconsistency with the Land Use and Development Code.

**STAFF RECOMMENDATION:**

Staff recommends the Board of County Commissioners approve Planning Case 09-073, A plat note alteration to alter plat note #6 of the Sunbowl at Hamilton Creek #2 plat, Reception # 500221, that states "ACCESS TO LOTS 1, 6, 7, & 8 IS RESTRICTED TO THE CUL DE SAC AS SHOWN HEREON. ACCESS FROM HAMILTON CREEK ROAD IS PROHIBITED", removing the requirement that Lot 1 take its access from the cul-de-sac and allow Lot 1 to take access from Hamilton Creek Road; in the Hamilton Creek PUD, zoning district on approximately 1.254 acres.; Sunbowl at Hamilton Creek #2 Subdivision, with findings in the attached resolution. The revised plat note would read, "ACCESS TO LOTS 6, 7, & 8 IS RESTRICTED TO THE CUL DE SAC AS SHOWN HEREON. ACCESS FROM HAMILTON CREEK ROAD IS PROHIBITED FROM LOTS 6, 7, AND 8."

**Findings:**

1. The alteration of the plat note is justified based on administrative need, changes in the conditions in the vicinity or changes in the Building Code or Fire Code.

2. The alteration of the plat note does not substantively change the plat as previously approved by the BOCC or in any way deviate from any conditions of approval set forth by the BOCC for such plat.
3. The plat note being altered or eliminated is a regulatory requirement in favor of Summit County.
4. The alteration of the plat note is consistent with the Subdivision Regulations, Zoning Regulations and the applicable provisions of this Code.