

**BOARD OF COUNTY COMMISSIONERS**  
**MARCH 31, 2020 (Continued from FEBRUARY 25, 2020 Meeting)**  
**PLANNING CASE #19-096: CLASS 5 – BLUE SKY ESTATES II – PRELIMINARY REZONING**  
**OF A 2.23-ACRE LOT ZONED RURAL ESTATES (RE) TO R-1 TO ACCOMMODATE TWO**  
**SINGLE-FAMILY LOTS.**  
**PUBLIC HEARING**

**PROJECT INFORMATION:**

**Location:** 0122 Ski Hill Road

**Project/Request:** Class 5: Blue Sky Estates II – Preliminary rezoning of a 2.23 acre lot zoned Rural Estates (RE) to Single-family Residential (R-1) to accommodate two single-family lots.

**ISSUES:**

None

**UPPER BLUE PLANNING COMMISSION RECOMMENDATION:**

The Upper Blue Planning Commission unanimously (7-0) voted to recommend approval of the preliminary rezoning.

**RESOLUTION STATUS:**

Resolution attached for the BOCC's consideration.

**STAFF RECOMMENDATION:**

Approval with six findings and four conditions.

**ATTACHMENTS:**

Attachment A: Applicant's Narrative

Attachment B: Site Plan and Visual Simulations

Attachment C: Draft Resolution

Attachment D: Letters



PLANNING DEPARTMENT

970.668.4200  
[www.SummitCountyCO.gov](http://www.SummitCountyCO.gov)

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

**STAFF REPORT**

**TO:** The Board of County Commissioners (“BOCC”)  
**FROM:** Lindsay Hirsh, Senior Planner  
**FOR:** Meeting of March 31, 2020 (Continued from the February 25, 2020 Meeting)  
**SUBJECT:** PLN19-096: Class 5: Blue Sky Estates II – Preliminary rezoning of a 2.23 acre lot zoned Rural Estates (RE) to R-1 to accommodate two single-family lots.  
**APPLICANT:** Chris Hawkins, Alpine Planning, LLC  
**OWNER:** 122 Ski Hill, LLC  
**REQUEST:** Preliminary rezoning of a 2.23-acre lot zoned Rural Estates (RE) to R-1 to accommodate two single-family lots.

**PROJECT DESCRIPTION**

**Location:** 0122 Ski Hill Road  
**Legal Description:** Lot 2, Blue Sky Estates  
**Proposed Use:** Residential  
**Other Uses:** Accessory to Residential – 1 (R-1)  
**Total site area:** 2.23-acres  
**Adjacent land uses:**  
    **East:** Ski Hill Road/Discovery Sub #1 (zoned R-2)  
    **West:** USFS lands (zoned NR-2)  
    **North:** Lot 1, Blue Sky Estates, (zoned RE)  
    **South:** Ski Hill Road

**Background:**

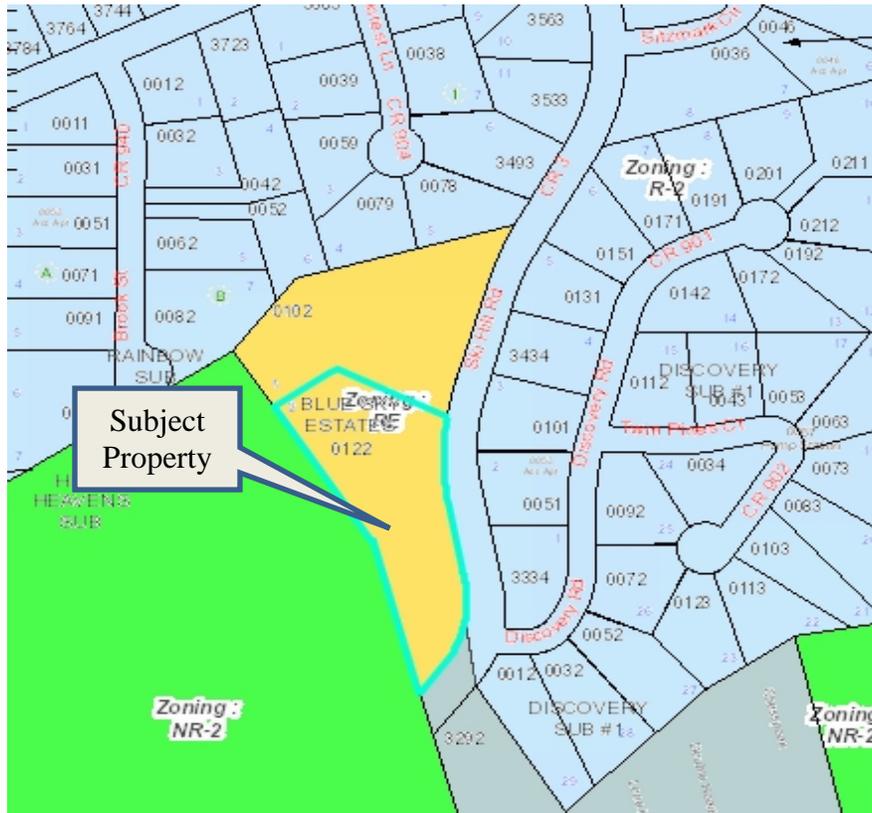
The subject property is located on the south side of the Peak 7 Neighborhood as indicated on the map on the following page. The property contains 2.23-acres and is currently zoned RE (Rural Estate) which has a minimum lot size of 2 acres. The property has approximately 430 feet of frontage onto Ski Hill Road on its eastern border. Based on the submitted topographical survey, the property has an average grade of approximately 14%. The property is relatively devoid of trees due to extensive blow down.

In 1988 the County approved the rezoning of the property from A-1 (Agricultural) to RE (Rural Estate) per Resolution Number 88-78. In 1998, the property was platted into the Blue Sky Estates Subdivision under Resolution Number 98-7, which created Lot 1 (2.26 acres) and Lot 2 (2.23-acres).

In 2005, a work session application (PLN05-095) was submitted to consider rezoning the

subject property, Lot 2, from RE to PUD to allow for 2 single-family residential lots, each approximately 1 acre in size and served via a driveway off of Ski Hill Road. At that meeting, the majority of the Planning Commissioners felt the density on the property should not be increased. However, others felt it could be supported if the access issues were resolved. A formal rezoning application under that development scenario was never submitted.

### Vicinity & Zoning Map



In 2013 another work session application (PLN13-024) was submitted to consider rezoning Lot 2 from RE to PUD to allow for four single-family lots, each approximately 0.5 acres in size. The Planning Commission offered the following comments regarding the proposal:

- Providing more information about the 2005 application would contribute to the overall analysis of the proposal.
- The proposal maximizes the development value, but the master plans have an overriding goal of reducing density. Increasing the density to four units triggers many issues. The impacts outweigh the proposed benefits.
- The additional traffic will have an impact on the neighboring properties.
- A maximum home size of 4,000 square feet is applauded, but is still big.
- The applicant should consider the community where this is proposed. The Home Energy Rating Standard (“HERS”) and the buy down proposals are great, but where is the benefit to the immediate neighborhood?
- Utilization of the TDR program is a good aspect of the application since there are few opportunities to utilize this program and fund the open space program.
- Three homes would be better than four.
- Building on steeper slopes does not meet numerous policies.

- Water is a very real issue.
- There is probably a good development plan out there for this property. The applicant should consider other alternatives that work better for this site.

A formal rezoning application under that development scenario was never submitted.

On April 25, 2019, the Planning Commission heard a work session request for a potential rezoning/subdivision for the subject lot from RE to R-1 to accommodate two single-family lots. The Planning Commission offered the following comments:

- The R-1 still provides a good transition
- Consistent with all applicable Master Plans.
- Better than what has been proposed in the past.
- Density is appropriate; utilization of a TDR is good.
- Consider disturbance envelopes to address potential visual impacts
- Property should be served by central water and sewer.
- If project moves forward, a visual analysis will be needed.
- Questioned how this proposal met the JUBMP Goal/Policy of a 25% density reduction.
- Be aware that there could be a Local Improvement District in the future.

Most recently, on January 23, 2020, the Upper Blue Planning Commission heard the subject request and on a 7 to 0 vote unanimously recommended approval of the preliminary rezoning request to the BOCC with the findings and conditions contained in this staff report.

For additional background information, staff has included the applicant's narrative for the BOCC's review and reference (Attachment A).

Based on the feedback provided at the work session, the applicant has submitted this application for a Preliminary rezoning (PLN19-096) and subdivision preliminary plat (PLN19-098), and a final rezoning (PLN19-097) and subdivision final plat (PLN19-099). The preliminary plat application was also considered and recommended for approval by the UBPC on January 23, 2020. All four applications will be considered by the BOCC at their meeting of February 25, 2020.

**Criteria for Decision:**

Section 12104.03 of the Code states that the BOCC may approve such a preliminary zoning amendment, only if the application meets all relevant County regulations and standards and provided the Review Authority make the following findings:

- A. The proposed rezoning 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.
- B. The proposal is consistent with the purpose and intent of the County's Zoning Regulations.
- C. The proposal is consistent with the County's Rezoning Policies.
- D. The proposed rezoning is compatible with present area development and will not have a significant, adverse effect on the surrounding area.
- E. The proposal is consistent with public health, safety and welfare, as well as efficiency and economy in the use of land and its resources.
- F. The proposed rezoning is justified either by the fact that the original zoning was in error, there have been changes in conditions in the vicinity or there have been changes in the

County's overall development policy.

## **DISCUSSION:**

### **General Conformance with Master Plan Goals and Policies**

The County's master plans are advisory documents and contain recommendations of the vision for the community in a number of different areas (e.g., envisioned use of land). These policies and vision are incorporated into the County's land use regulations via the Development Code, which makes "*general conformance*" with the provisions of master plans a requirement for certain development applications. The BOCC and planning commissions have the authority to consider and even require compliance with these plans and certain goals and policies contained therein in particular applications (i.e. rezoning's, PUDs, subdivisions, CUPs and regulatory revisions).

When using and applying a master plan, a Review Authority (i.e. BOCC, Planning Commission or Staff) is entitled to discretion in evaluating whether there has been "*general conformity*" and compliance with the County's master plans and assigning weight to particular goals and policies in the plans on a case-by-case basis. Accordingly, Chapter 15 of the Development Code defines general conformance as:

"When a development application is evaluated regarding its general conformance with applicable master plans, the Review Authority shall evaluate the application against the entirety of the goals, policies and actions contained in the master plans and need not require compliance with every provision contained therein. Nonetheless, the Review Authority may require that an applicant satisfy any particular goal, action or policy if such compliance is deemed necessary to attain general conformance."

The Countywide Master Plan (Comprehensive Plan), Upper Blue Master Plan (Master Plan), and the Joint Upper Blue Master Plan (JUBMP), each have policies that are applicable to this application. This application presents an opportunity for the Commission to consider the relative weight of particular goals and policies for this particular proposal, as intended under the scope of determining "general conformity".

The following represents a discussion of how the subject application addresses/considers all three of the Master Plans by topic:

### **Land Use:**

#### **Comprehensive Plan:**

The Comprehensive Plan sets forth policies to define urban areas and rural areas in basin master plans. This has been implemented in the Master Plan whereby each parcel has a designated Land Use Designation ("LUD") either under the urban or rural category. While the Comprehensive Plan does not provide definitions of rural and urban, it does include policies that describe the intent of these designations. Per the Comprehensive Plan, areas are considered urban if they:

- Are located in areas with existing or planned public sewer and water facilities.
- Are zoned for higher density uses.
- Are located in areas that avoid agricultural lands.
- Have densities high enough to support the provision of urban services and facilities in a cost-efficient manner and to promote a pedestrian-friendly environment.

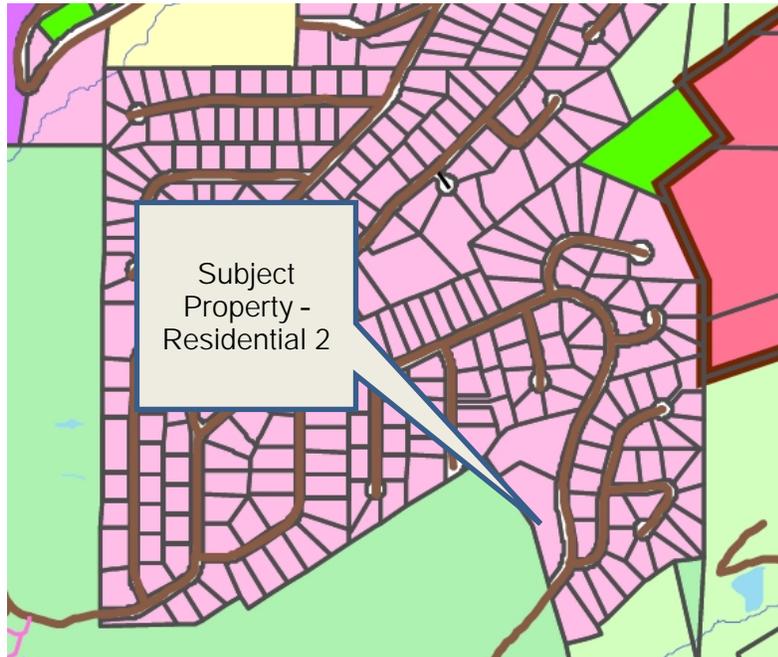
- Can facilitate mixed residential densities to create a diversity of housing types and sizes.

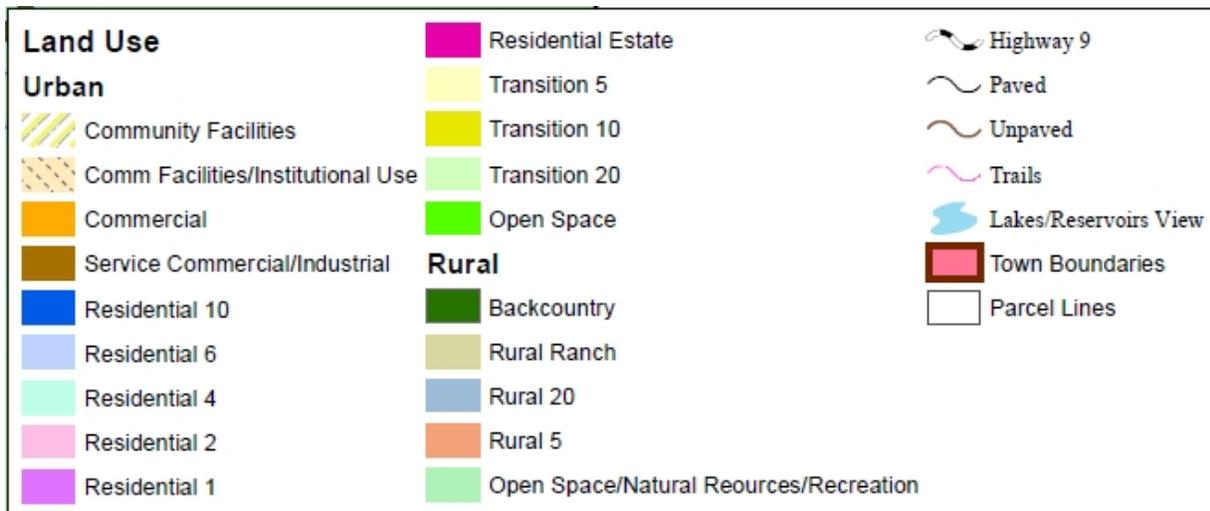
The subject property is mapped in the urban category; as the graphic/table below illustrates, the LUD for the property is identified as Residential 2.

**Master Plan:**

Since the application of master plan policies to this proposal is such a significant consideration with this application, it is important that the Review Authority be cognizant of the guiding tenets behind the master plan policies. In terms of land use, one of the key objectives of the Master Plan is 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 (see below) and the associated uses are listed and described in the Master Plan. With only a handful of exceptions, the land use designations on the Land Use Map are intended to follow property boundaries.

**Upper Blue Basin Land Use Map – February 25, 2010**





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

<b>Table 2. Upper Blue Basin Master Plan Land Use Designations</b>	
<b>Plan Designation</b>	<b>Description of Uses</b>
<b>Urban Area</b>	
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. 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 activities. When a rezoning of a property is proposed, the master plan land use designations provide guidance on the types of uses and intensities that are appropriate on the property.

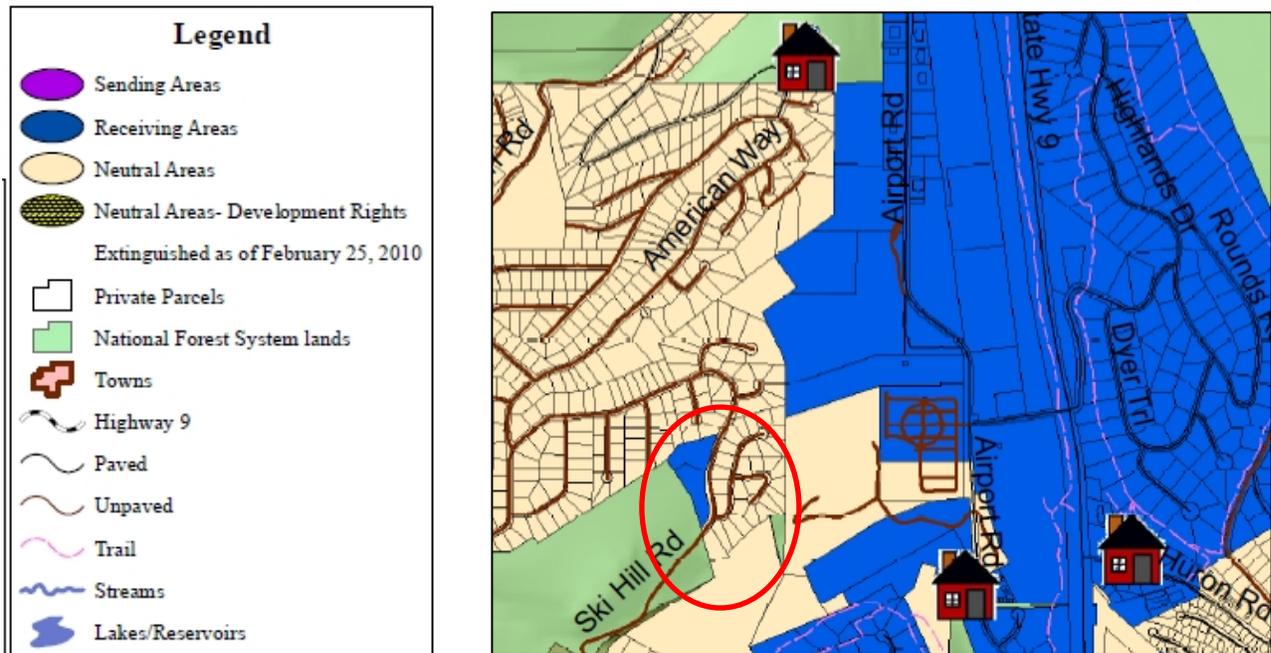
Goal A of the Master Plan states that: *“Future land use should be consistent with a land use pattern that focuses growth in existing urban areas and seeks to maintain the character of rural areas in the Basin”*. Policy/Action 1 further states that: *“The Land Use Map should be used to determine appropriate land uses within different unincorporated areas of the Basin....All rezoning proposals should be evaluated to determine if uses and densities proposed are consistent with the land use designations outlined on the Land Use Map”*.

Thus, under the current Land Use Designation (LUD), the proposal does meet the intent of the Residential 2 designation as the requested R-1 zoning district, which would allow one unit of density per acre, is less dense than what the Residential 2 LUD recommends. The subject property is surrounded by Residential 2 and Open Space designations.

**TDRs:**

The Transferrable Development Rights (TDR) designation for the property is “Receiving” as shown on the official TDR Map and in the Upper Blue Master Plan. Receiving Areas are eligible to receive density in conjunction with an upzoning and are discussed in detail in Section 3506.02.B.3 of the Code. While the designation of receiving does allow density be sent to the site, it does not guarantee the right to receive density. That decision will be made during the rezoning application based on the appropriateness of additional density on this site. Regardless, the TDR designation of “Receiving” does indicate that the site may be appropriate, and at a minimum, is eligible, to receive density. The applicant is aware that the rezoning proposal triggers a TDR requirement in order to accommodate the density provisions of the Code and Master Plans. Per Section 3506.02E.1. of the Code, one TDR for a single-family residence will allow up to 4,356 square feet of floor area. There are currently TDR’s available in the Upper Blue TDR bank and they are currently \$92,590 per development right. It should be noted that the TDR price has recently been recalculated. The previous price was \$85,000. The applicant has requested that he be allowed to purchase the TDR for \$85,000, which was the price of a TDR at the time his application for the rezoning was submitted. Unfortunately, as the TDR program is jointly operated with the Town of Breckenridge pursuant to an IGA, it is not within the scope of this application nor within the authority of the Planning Department to decide. The IGA sets forth the terms under which TDRs are to be sold and provides for an annual update of the price and the methodology for doing so. The applicant also has the option to acquire a TDR from the private market.

**Upper Blue Basin Transfer Development Rights (TDR) Map – September 8, 2017**



**Joint Upper Blue Master Plan (JUBMP):**

Applicable goals and policies of the JUBMP include the following:

- 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.
- Policy/Action 3. No new density (beyond that currently zoned) shall be approved or allocated to any parcel within the Basin unless such density is transferred to the proposed development site in accordance with the guidelines established in basin transferable development rights (TDR) programs and the Town and County Development Codes.
- Policy/Action 4. Rezoning's or other actions which increase density beyond the level currently zoned should require a transfer of development rights in accordance with established TDR program regulations.
  - Identified TDR Receiving Areas for density transfers shall be able to accommodate additional development within the limits of available services and infrastructure, site constraints and neighborhood compatibility, and also be in conformance with the Towns and County Development Codes.

The proposal would require one (1) additional unit of density and thus a TDR would be required. Staff has addressed this issue as a draft condition of approval.

**Consistency with the Purpose and Intent of the County's Zoning Regulations**

**Density/Development Standards**

With the property being zoned RE, the density is set at one unit/2 acres to one unit/4.99 acres. While the Master Plan supports density up to one unit/.5, acres (Residential 2), such policy does not guarantee nor secure an upzoning to increased density. Many factors are involved in determining the appropriate density for a property including but not limited to environmental constraints, access, density of the surrounding neighborhood, and availability of water and sewer services.

In terms of density, the Code states the following regarding the RE and R-1 zoning designations:

**RE (Rural Estate)**

It is the intent of the Rural Estate Zoning District to provide for low-density residential areas as a transition between established urban growth centers and the rural areas of the County. Permitted residential densities range from one (1) primary dwelling unit/two (2) acres to one (1) primary dwelling unit/less than five (5) acres. Each primary dwelling unit shall be located on a separate lot of at least two (2) acres.

**R-1 (Single-family Residential)**

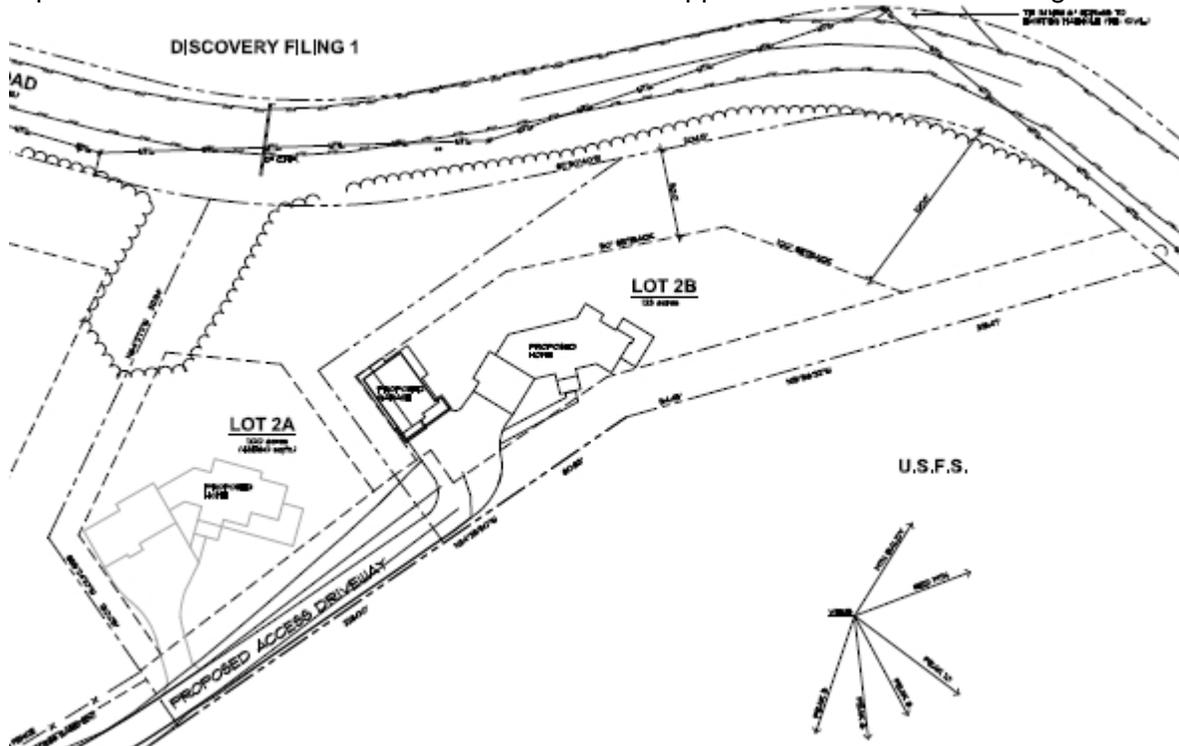
It is the intent of the R-1 Zoning District to provide for single-family residential neighborhoods at a density of no more than one (1) primary dwelling unit/acre, with no more than one (1) primary dwelling unit per lot. Land in this zoning district is usually located adjacent to established urban growth centers.

The following development standards for both districts are provided to illustrate the similarities and differences:

	<b><u>Required (R-E)</u></b>	<b><u>Required R-1</u></b>
<b>Setbacks</b>		
<b>Front:</b>	35 feet	35 feet (Adjacent to Ski Hill)

	Rd.)	
<b>Rear:</b>	35 feet	25 feet
<b>Side:</b>	35 feet	15 feet
<b>Building height:</b>	35 feet	35 feet
<b>Parking:</b>	2.0 spaces/unit	2.0 spaces/unit
<b>Density limit:</b>	1 unit/2 acres – 1 unit/4.99 acres	1 unit/40,000 sq. ft.
<b>Lot size (minimum):</b>	2 acres	40,000 sq. ft.
<b>Site coverage (maximum):</b>	None	35% Total Impervious

Based on the input from the Planning Commission work session the applicant intends on utilizing building envelopes (Attachment B). Subdivision regulations allow establishment of more limited disturbance envelopes at time of subdivision application review if there are concerns such as development constraints or another reason to limit disturbance. Staff supports the applicant's decision to use building envelopes for the two proposed lots however does believe that the proposed building envelopes can be further reduced that are adjacent to Ski Hill Road. The applicant understands Staff's concern regarding this issue and has agreed to pull the proposed building envelopes that abut Ski Hill Rd. on proposed Lot 2B up the hill by 100 feet as represented below. Staff has added a condition of approval to address this change.



Access:

The issue of access has been a focus of the previous work session reviews due to potential access utilizing Ski Hill Road. As the attached drawings indicate, this proposal instead shows access to serve the two proposed lots via Brook Street and two access easements. The Engineering Department initially required several technical driveway revisions and these revisions have been made to the satisfaction of the Engineering Department. In addition, the Engineering Department did indicate that on the Uncompahgre Engineering Sheet C3 Utility Plan, utilities are indicated to be installed outside of the proposed building envelopes and connecting directly to Ski Hill Road in two different locations. Wetlands are known to be present along Ski Hill Road in this location. This issue was discussed at the Upper Blue Planning

Commission meeting and it was agreed upon by both the Engineering Department and the applicant that if required by Engineering Department prior to issuance of a Grading and Excavation or Building permit, a wetlands delineation will need to be provided indicating that no wetlands or wetlands buffers (25') will be impacted by the proposed utility installation. If wetlands impacts are proposed, a wetlands disturbance plan by an Army Corps of Engineers approved Wetlands Consultant will need to be provided. Specifically, the location of all proposed disturbance on the properties, including any lot grading and location of all utilities, must be clearly shown to be outside of any wetlands, steep slopes, landslide areas, or any other areas of concern. The areas of concern need to be specifically shown on the plans, wetlands delineation provided, and all disturbance shown to be outside of steep slope and landslide areas. No construction or disturbance of any kind is permitted on the adjoining Forest Service land; construction fencing along the property line and erosion control fencing downhill of all proposed disturbance will need to be installed by the contractor and inspected by the Engineering Department prior to any earth disturbance, and remain in place until all construction on the property is complete.

The applicant is aware of these issues and is currently addressing them. All these comments are technical in nature and as such, staff has added the appropriate conditions to address these issues for the Board's consideration.

Official TDR Map Discussion:

As discussed in the Master Plan Section of this report, the site is designated as "Receiving" on the Official TDR Map. This designation means that the site is eligible to receive density should the Review Authority determine through the rezoning that additional density on this site is appropriate.

Should the Review Authority determine that the site is appropriate to receive density, one TDR will be required.

**Water:**

The applicant has submitted a letter from the Town of Breckenridge Public Works Department indicating that water is available and the owner/developer will be responsible for bringing the water line to the property and Plant Investment Fees (PIF's) are due at time of building permit issuance.

**Sewer:**

The applicant submitted a letter from the Upper Blue Sanitation District indicated that service is currently available and that the owner/developer is responsible for the installation/extension of the service lines and PIFs will need to be paid.

**Utilities:**

Xcel Energy reviewed the submitted information and indicated that they had no issues with the rezoning however once the property is divided into lots, sufficient easements will be required to provide electric and gas utilities to all lots.

**Cartographer:**

The County's Cartographer reviewed the submitted information and indicated that a change of address will need to occur if access to these properties will be off Brook St. (CR 940). Addresses will be assigned once building plans are submitted.

**Open Space and Trails:**

The Open Space and Trails Department has no concerns with the proposed lot subdivision; however, the applicant should be aware that a public use area fee in the amount of \$1,500 shall be required for the additional lot. This issue will be addressed as part of the subdivision application.

**Fire:**

At the time of writing this report, the Red, White and Blue Fire District (“RWB”) had not provided referral comments.

**USFS:**

Based on a response from the USFS, they had an initial concern regarding the proximity of the proposed driveway being so close to the National Forest lands that lie along the western boundary of the subject parcel. The USFS is concerned that both the construction of the driveway and ongoing maintenance/snow storage related to the driveway will encroach, intentionally and unintentionally, upon National Forest lands. The USFS would like the final plans to recognize this and provide for some set back distance from the property line to prevent inevitable trespass/encroachment on the forest. Staff has addressed this concern with as a condition of approval.

**Consistency with the County’s Rezoning Policies (Section 3200 Et. Seq.)**

Summit County has established policies (referred to herein as “Rezoning Policies”) that apply whenever a zoning amendment (rezoning) is proposed in the unincorporated area of the County (Section 3200 et seq.). These Rezoning Policies are intended to ensure that land with development constraints is avoided in accordance with the policies contained herein, and is designed in a manner consistent with the terrain and natural features of the site and is compatible with existing development in the vicinity. The Rezoning Policies are also intended to ensure that there is adequate infrastructure to accommodate a proposed zoning amendment, a project can accommodate the necessary improvements and wildfire hazards are mitigated. The Rezoning Policies in Section 3202 et seq. shall be applied by the Review Authority to all zoning amendment applications.

In determining appropriate densities for a particular property, the Review Authority shall take into account:

- the property's physical characteristics;
- the location of the property relative to available infrastructure, including but not limited to roads, water, sewer and other utility services, police protection and fire protection;
- the degree and intensity of development in the vicinity;
- the character of the surrounding neighborhood; and
- applicable master plan and TDR policies (e.g. preserving backcountry areas, preserving land with development constraints, or protecting water quality).

Per Section 3202.02 of the Code, it is the BOCC’s intent to obtain the best possible harmony between the physical characteristics of a site and the type and intensity of development proposed for the site. Accordingly, land having development constraints shall be reasonably avoided, and if development of such land cannot be reasonably avoided, it may be allowed by the County only if the impacts to land with development constraints are justified based on the implementation of a master plan policy, and the impacts to land with development constraints

are mitigated to the satisfaction of the BOCC. Slopes of greater than 30% are considered a development constraint per Section 3202.02.B of the Code. As stated above, the property has an average grade of approximately 14% and the only area of concern is the northeast portion of the property that contains an area of slopes 30% or greater. To address this issue the applicant is proposing a building envelope to avoid these areas. Based on known geotechnical/hazard concerns in the general vicinity, the Engineering Department and Colorado Geological Survey (“CGS”) requested additional information. The applicant did supply an additional supplemental report to the satisfaction of both departments/agencies.

Lastly, Section 3202.06 states that “In determining appropriate densities for a particular property, the BOCC will take into account: 1) the wildfire hazard; 2) the potential impact to the public health, safety and welfare; 3) wildfire mitigation measures as required and/or allowed by the County; and 4) the proximity of the proposed development site to existing fire stations and the corresponding response zone. Development projects seeking a zoning amendment shall ensure that wildfire hazard areas do not pose an undue risk to the public health, safety and welfare. As a part of a zoning amendment application, the County may require:

- A. The submittal of a forest management plan approved by the Colorado State Forest Service (“CSFS”) that includes proposed mitigation for any wildfire hazard area.
- B. Provisions for multiple points of access.
- C. Installation of fire suppression systems.
- D. Other measures as deemed necessary to reduce the wildfire hazard.

The subject property has experienced significant blow down of a vast majority of the trees on the property. The subject application has been reviewed by the Colorado State Forest Service and they offered the following comments:

- The wildfire hazard for the Blue Sky Estates parcel is **Low**.
- During the assessment, it was noted that existing fuel loads are light to moderate.
- It is highly recommended that defensible space be created around any new or existing development.
- It is recommended that noncombustible roof, decking and siding materials be used in all new construction.

The applicant is aware of these issues, which will be addressed as part of the building permit process prior to receiving a Certificate of Occupancy.

**The Proposed PUD is Compatible with Present Area Development, and Will Not Have a Significant, Adverse Effect on the Surrounding Area**

Surrounding land uses are primarily single-family residential in nature with a varying degree of lot sizes. More specifically, Staff has reviewed the surrounding subdivisions and their lot size ranges.

<b><i>Subdivision Name</i></b>	<b><i>Ranges of Lot Sizes</i></b>
Discovery Subdivision #1	0.50 - 0.66 acre lot sizes
Placer Acres Subdivision	0.48 - 1.08 acre lot sizes
Rainbow Subdivision	0.83 - 0.46 acre lot sizes
High Heavens Subdivision	0.46 - 0.54 acre lot sizes
Pine Vista Subdivision	0.50 - 0.70 acre lot sizes
Crestwood Subdivision	0.50 - 0.80 acre lot sizes

Based on review of the surrounding developments, the proposed rezoning and subsequent subdivision of the subject site would be compatible with the surrounding land uses as well as the Master Plan Land Use Designation for the area. The minimum lot sizes proposed in the application indicate lot sizes would be 1.00 acre and 1.23 acres. These lot sizes are larger than most of the surrounding lots located to the north, east, and northwest of the subject site. To the west of the subject site is U.S. Forest Service lands.

During the work session review of the application, there were a couple of adjacent property owners that expressed concern regarding potential visual impacts. These properties are located on Discovery Road, below the subject property. Based on the submitted visual simulations (Attachment C) and the existing topography, staff believes that the potential visual impacts on the surrounding properties will be minimal.

**The Proposal is Consistent with Public Health, Safety and Welfare, as Well as Efficiency and Economy in the Use of Land and Its Resources**

From a public health, safety and welfare perspective based on referral comments from Breckenridge Public Works, Upper Blue Sanitation District, and Xcel Energy, the proposed rezoning can be accommodated by the applicable utility agencies. From a perspective of efficiency and economy, the proposed R-1 density appears to be more consistent with the surrounding density and lot sizes than the existing RE two-acre minimum.

**The Proposed Rezoning is Justified Either by the Fact that the Original Zoning Was in Error, there have been Changes in Conditions in the Vicinity or there have been Changes in the County's Overall Development Policy**

Staff does not believe that the original or subsequent rezonings were made in error. However, because it can be found that the proposed rezoning is in conformance with the current applicable plans and zoning requirements, the proposed R-1 density appears to be more consistent than the existing RE two-acre minimum. In addition, the property can receive TDRs to accommodate the increase in density.

**Staff Recommendation**

Staff recommends that the BOCC approve PLN19-096, a preliminary rezoning of a 2.23-acre lot zoned Rural Estates (RE) to Residential (R-1) to accommodate two single-family lots with the following findings and conditions:

**Findings:**

1. The proposed rezoning 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.
2. The proposal is consistent with the purpose and intent of the County's Zoning Regulations.
3. The proposal is consistent with the County's Rezoning Policies.
4. The proposed rezoning is compatible with present area development and will not have a significant, adverse effect on the surrounding area.
5. The proposal is consistent with public health, safety and welfare, as well as efficiency and economy in the use of land and its resources.
6. The proposed rezoning is justified because there have been changes in conditions in the vicinity as development has occurred since the prior rezoning in 1988.

**Conditions:**

1. Prior to the recordation of the final rezoning, the applicant shall obtain one TDR for the additional lot being permitted by the rezoning from RE to R-1.
2. Prior to the issuance of a building permit, if deemed necessary by the Summit County Engineering Department a wetlands delineation shall be submitted that indicates that no soil disturbance will be located within 25 feet of any identified wetland.
3. No earth disturbing activities or snow storage shall be conducted or located on adjacent USFS lands.
4. Prior to the recordation of the final plat, the proposed plat shall be amended to illustrate a 100 foot separation from the property line along Ski Hill Road and the building envelope.

**ATTACHMENTS**

Attachment A: Applicant's Narrative

Attachment B: Site Plan and Visual Simulations

Attachment C: Draft Resolution

Attachment D: Letters