

BOARD OF COUNTY COMMISSIONERS
MARCH 31, 2020 (Continued from FEBRUARY 25, 2020 Meeting)
PLANNING CASE #19-098: CLASS 5 – BLUE SKY ESTATES II – PRELIMINARY PLAT TO
SUBDIVIDE A 2.23-ACRE LOT ZONED SINGLE-FAMILY RESIDENTIAL (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 plat to subdivide a 2.23-acre lot zoned 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 plat.

RESOLUTION STATUS:

Resolution attached for the BOCC's consideration.

STAFF RECOMMENDATION:

Approval with seven findings and five conditions.

ATTACHMENTS:

Attachment A: Applicant's Narrative
Attachment B: Proposed Plat, Site Plan and Visual Simulations
Attachment C: Draft Resolution
Attachment D: Letters



PLANNING DEPARTMENT

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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: PLN19-098: Class 5: Blue Sky Estates II – Preliminary plat to subdivide a 2.23-acre lot zoned Single-family Residential (R-1) to accommodate two single-family lots.
APPLICANT: Chris Hawkins, Alpine Planning, LLC
OWNER: 112 Ski Hill, LLC
REQUEST: Preliminary plat to subdivide a 2.23 acre lot zoned 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
 West: USFS lands (zoned NR-2)
 North: Lot 1, Blue Sky Estates, (zoned RE)
 South: Ski Hill Road

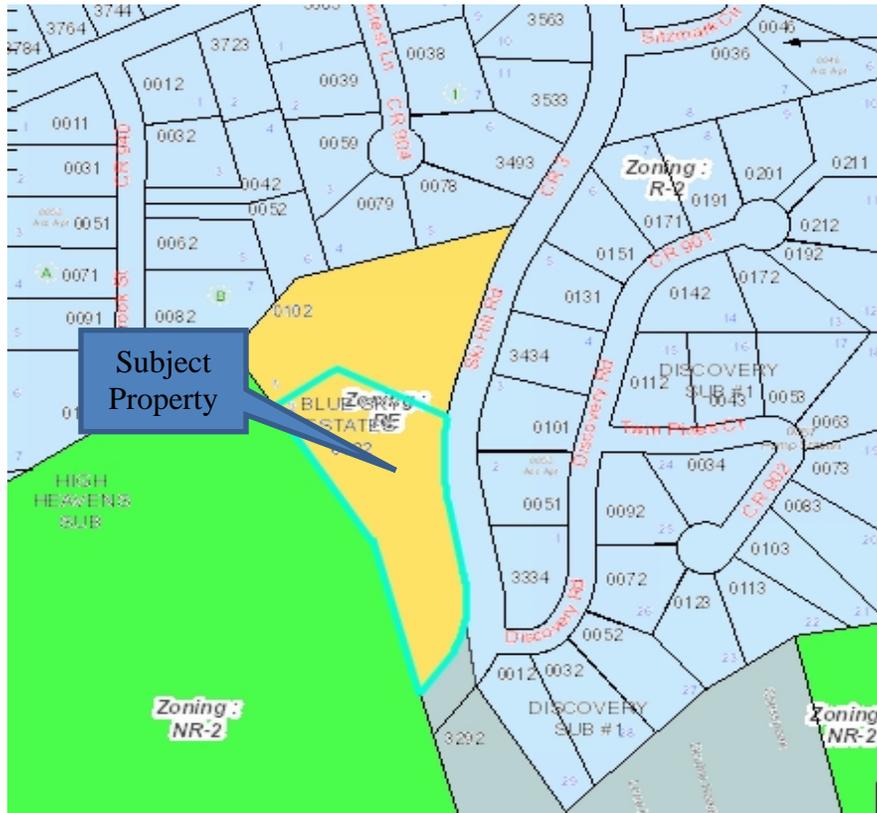
Background:

This application is being reviewed and processed concurrently with PLN19-096 and PLN19-097, preliminary/final rezoning applications to rezone the subject property from RE to R-1 and the final plat (PLN19-099.)

The subject property is located on the south side of the Peak 7 Neighborhood as indicated in the map on the following page. The property contains 2.23-acres and is currently zoned RE (Rural Estate). The property has approximately 429 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.

As illustrated in the attached drawings (Attachment B), the applicant is proposing to subdivide the subject 2.23-acre property into two lots (1.00 acres and 1.23 acres to accommodate single-family residences and the accessory uses that are allowed in the R-1 zoning district. An extension of an existing driveway off Brook Street has been designed to accommodate the proposed lots.

Vicinity & Zoning Map



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 plat request to the BOCC with the findings and conditions contained in this staff report.

For additional background information, please refer to the PLN19-096 staff report and the applicant's narrative (Attachment A).

Criteria for Decision:

Section 8252.01 of the Code states that the BOCC may approve such a preliminary plat, only if the application meets all relevant County regulations and standards and provided the Review Authority makes the following findings:

- 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. 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.

DISCUSSION:

Consistency with the Purpose and Intent of the County’s Zoning Regulations

As stated above, this subdivision process is being reviewed concurrently with PLN19-096 and PLN19-097 to rezone the subject property from RE to R-1. In terms of density and development standards, the Code states the following regarding the R-1 zoning designation:

R-1 (Single-family Residential)

The purpose and intent of these regulations is to insure compatibility of land uses, efficient and economical use of land and adequate light and air in development projects. They are also intended to prevent development in areas subject to environmental hazards and encourage development projects that are functional, exhibit good design and aesthetics and protect the County’s natural resources and scenic beauty.

As discussed above, the property is currently zoned RE however this subdivision application is being processed concurrently with the rezoning request (PLN19-096) and as such cannot be approved until such time the zoning request is approved. Staff supports the recommendation to rezone the property to R-1. However, if the concurrent rezoning is not approved, the applicant will not be able to proceed with the proposed preliminary plat and will be required to withdraw their application request.

The following development standards for the R-1 zoning district are as follows:

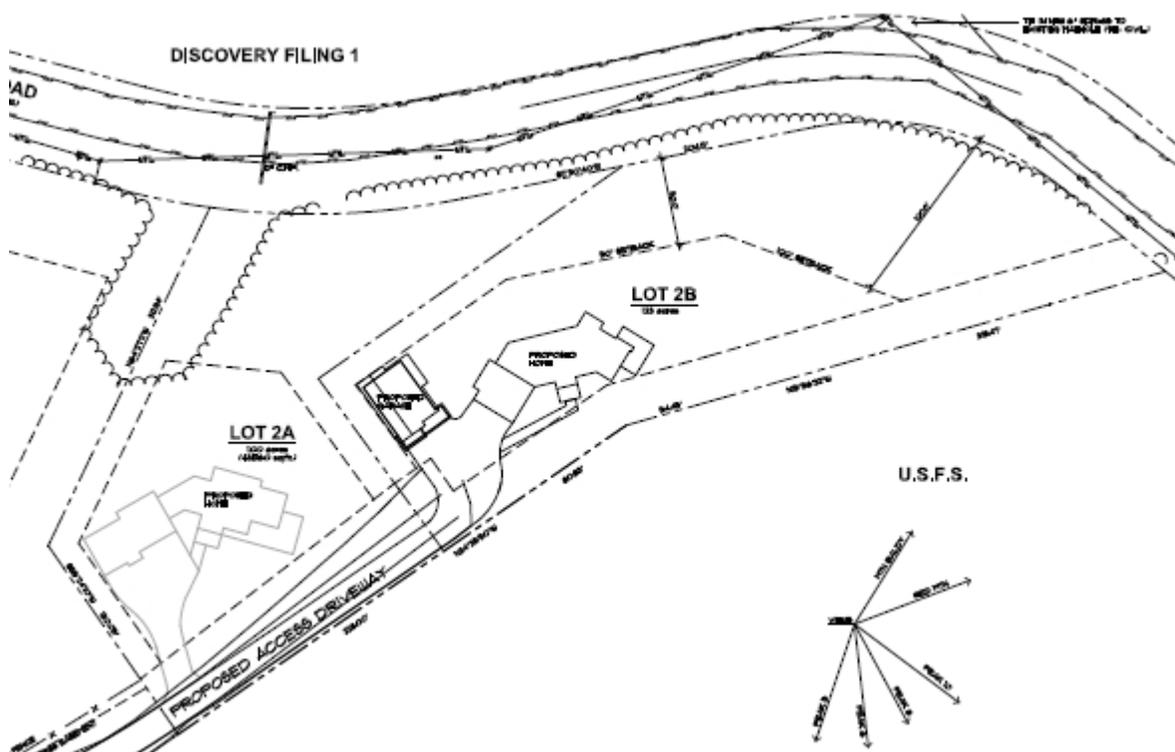
	<u>Required R-1</u>
Setbacks	
Front:	35 feet (Adjacent to Ski Hill Rd.)
Rear:	25 feet
Side:	15 feet
Building height:	35 feet
Parking:	2.0 spaces/unit
Density limit:	1 unit/1 acre (40,000 sq. ft.)
Lot size (minimum):	1 acre (40,000 sq. ft.)

Site coverage (maximum): 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.

Consistency with the County's Subdivision Regulations

Chapter 8 of the County's Land Use and Development Code regulate proposals to subdivide land in unincorporated Summit County. The regulations for the subdivision of land to assure that lots created and uses developed by means of such subdivision processes provide an adequate water supply, means of wastewater treatment, and utilities, and ensure access to the public street. The proposed plat is attached as Attachment B of this staff report for the Board's consideration.



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.

Utilities:

Xcel Energy reviewed the submitted information and indicated that they had no issues with the application. However, they did indicate that once the property is divided into lots, sufficient easements will be required to provide electric and gas utilities to all lots. The applicant has worked with Xcel Energy on this issue and the appropriate easements have been placed on the proposed plat.

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). Additional addresses will be assigned once building site 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 has been included as a condition of approval.

Subdivision Improvements Agreement (SIA):

The applicant has submitted a SIA for the proposed improvements associated with the proposed two-lot subdivision. The SIA has been reviewed by the Engineering Department and appears to be revised for the scope of work being proposed. Prior to the issuance of a Grading and Excavation permit, the final SIA and financial guarantee covering the cost of the proposed improvements will need to be finalized. Staff has included this issue as a condition of approval for the Planning Commission's consideration.

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) and such goals or policies do not have the force and effect of law. Nevertheless, the Development Code 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. rezonings, 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:

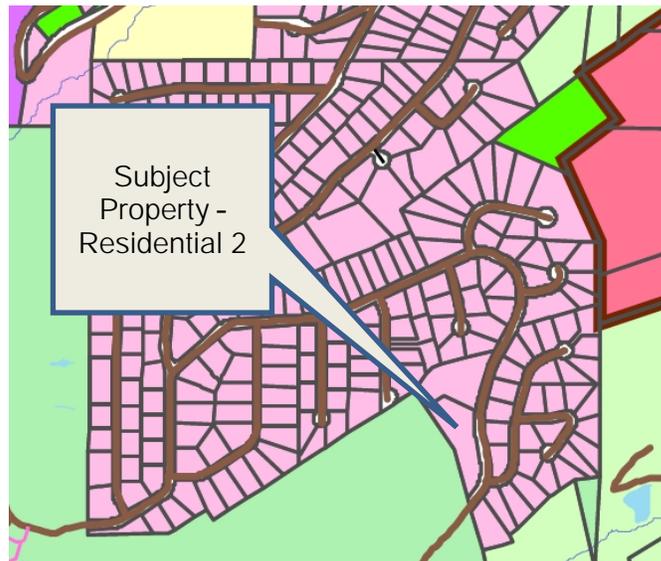
- ❑ Are located in areas with existing or planned public sewer and water facilities.
- ❑ Are zoned for higher density uses.
- ❑ Are located in areas that avoid agricultural lands.
- ❑ Have densities high enough to support the provision of urban services and facilities in a cost-efficient manner and to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



Land Use			
Urban		Residential Estate	Highway 9
Community Facilities	Transition 5	Transition 10	Paved
Comm Facilities/Institutional Use	Transition 20	Open Space	Unpaved
Commercial			Trails
Service Commercial/Industrial	Rural	Backcountry	Lakes/Reservoirs View
Residential 10	Rural Ranch	Rural 20	Town Boundaries
Residential 6	Rural 20	Rural 5	Parcel Lines
Residential 4	Open Space/Natural Resources/Recreation		
Residential 2			
Residential 1			

The following are the applicable Master Plan Land Use Designations 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. 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.

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”*.

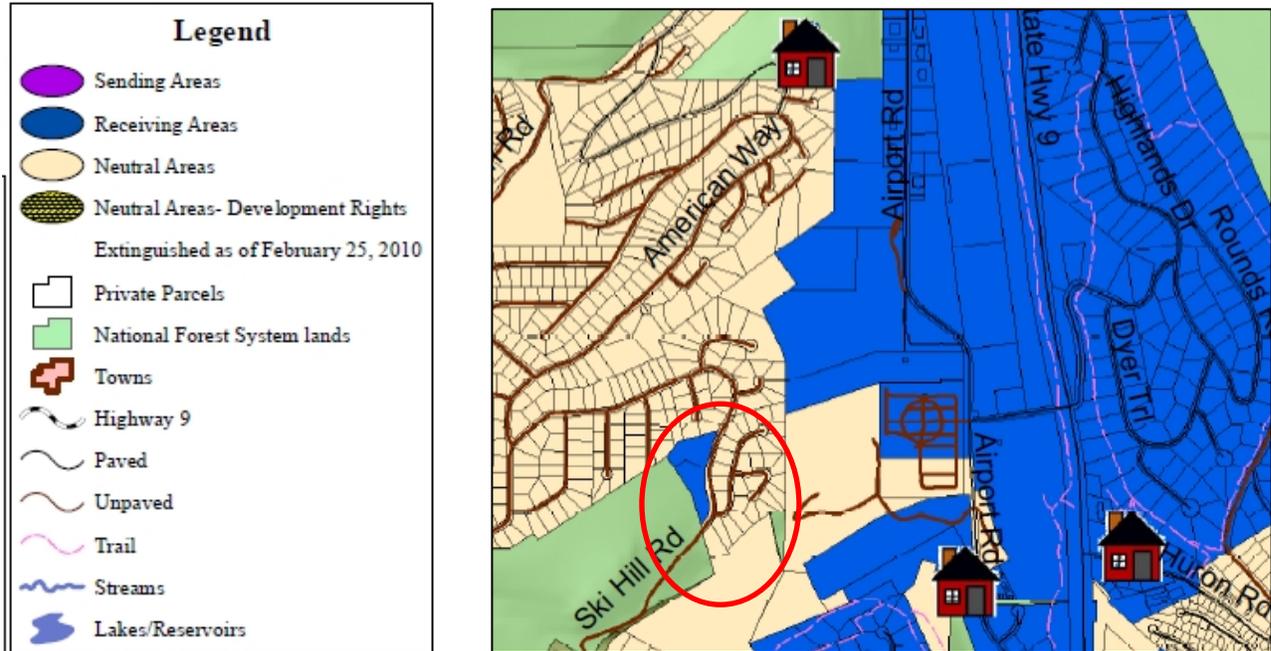
Thus, under the current LUD, the proposal does meet the intent of the Residential 2 designation as the requested R-1 zoning district is less dense than what the Residential 2 LUD recommends. The subject property is surrounded by a Residential 2 and Open Space designations.

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 priced at \$92,590 per development right. It should be noted that the TDR price has recently been recalculated. 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 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. This issue is further addressed in the rezoning applications.

Evidence of Adequate Water Supply:

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.

Evidence of Adequate Sewer Service:

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 that PIF's will need to be paid.

Evidence 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 subject subdivision was referred to the Colorado Geologic Survey (CGS) and the Middle Park Conservation District and they initially had some concerns related to the property being in a landslide area and some soil related issues. As a result, the applicant retained Kumar & Associates which conducted a more detailed study that has been reviewed by CGS, which found that the new report adequately addressed the initial concerns.

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:

As stated above, the proposal indicates access to serve the two proposed lots via Brook Street and two access easements. The proposed access has been reviewed by the County Engineer and as discussed in the rezoning staff report.

Staff Recommendation

Staff recommends that the BOCC approve PLN19-098, a preliminary plat of a 2.23-acre lot zoned R-1 to accommodate two single family lots with the following findings and conditions:

Findings:

1. This application is being processed concurrently with PLN19-096, a request to rezone the subject property from RE to R-1. If PLN19-096 is approved, the proposed subdivision will be consistent with the applicable Zoning Regulations because, without limitation, the subject property meets the density and lot size requirements of the R-1 zoning district. If PLN19-096 is not approved, this criterion will not be met and the application cannot be approved.
2. The proposed subdivision is consistent with the Subdivision Regulations applicable to the property because, without limitation: a) fire protection is available from the Red, White and Blue Fire District; b) geologic or soil issues can be mitigated; c) the property has access to the County road system; and d) 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 and the Upper Blue Master Plan and the Joint Upper Blue Master Plan. Without limitation, the proposal is in general conformance with the Residential land use designation indicated in the Upper Blue Master Plan and the proposed building envelopes are placed to address areas with environmental constraints or visually prominent areas.

4. The applicant has provided evidence that the Town of Breckenridge Water Division will provide service to the subject property.
5. The applicant has provided evidence that Upper Blue Sanitation District will provide sewer services to the subject property.
6. Evidence has been provided to show that there are no significant geologic hazards present that cannot be addressed through standard engineering practices. The Colorado Geologic Survey and Middle Park Conservation District have indicated that the intended use can be engineered to address the soil or topographic conditions that exist and these conditions can be mitigated so that they would not 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 property is available from Brook Street.

Conditions:

1. Prior to the recordation of the final plat, the applicant shall pay the public use area fee in the amount of \$1,500 for the additional lot.
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 issuance of a Grading and Excavation Permit, the applicant shall execute a Subdivision Improvements Agreement and provide a financial guarantee to the satisfaction of the County Engineering Department.
5. 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