

**BOARD OF COUNTY COMMISSIONERS**

**JULY 14, 2020**

**PLANNING CASE #PLN20-009:**

**CLASS 6: TRAILS AT BERLIN PLACER - GENERAL SUBDIVISION EXEMPTION PLAT TO  
DIVIDE A 23.4 ACRE PARCEL INTO 7 SEPARATE TRACTS OF LAND.**

**NEW BUSINESS**

**PROJECT INFORMATION:**

Location: 0106 Sallie Barber Road

Project/Request: General Subdivision Exemption plat to divide a 23.4 acre parcel into 7  
separate tracts of land.

**ISSUES:**

None

**PLANNING COMMISSION RECOMMENDATION:**

The Upper Blue Planning Commission does not act on General Subdivision Exemptions

**RESOLUTION STATUS**

Proposed Resolution Attached

**STAFF RECOMMENDATION:**

Approval

.

**ATTACHMENTS:**

- A. Applicant's Narrative
- B. Proposed Plat
- C. Proposed Resolution



**STAFF REPORT**

**TO:** Board of County Commissioners (“BOCC”)

**FROM:** Lindsay Hirsh, Senior Planner

**FOR:** Meeting of July 14, 2020

**SUBJECT:** PLN20-009 - General Subdivision Exemption plat to divide a 23.4 acre parcel into 7 separate tracts of land.

**APPLICANT:** Jeff Francis, Berlin Placer Development LLC

**OWNER:** Andy Hayhurst, Lange Berger LLC

**REQUEST:** General Subdivision Exemption plat to divide a 23.4 acre parcel into 7 separate tracts of land.

**APPLICATION MATERIALS:** Up until a decision is made by the final Review Authority, the Applicant’s Submittal Materials can be found at <http://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:** 0106 Sallie Barber Road

**Legal Description:** T7S, 77W Sec 05 Qtr. 1, 6<sup>th</sup> P.M., Mining Claim(s) cont. 23.4 acres Berlin Placer, MS# 2379 TH Fuller Placer, MS# 86.

**Existing Zoning:** Trails at Berlin Placer PUD

**Existing Use:** Vacant

**Proposed Use:** Up to 22 deed restricted units, 14 single family units and several public and private open space parcels

**Total site area:** 23.4 acres

**Adjacent land uses:**

**East:** Woodmoor at Breckenridge Subdivision, (R-4 with Plan)

**West:** Baldy Road and Juniata Subdivision, (Juniata PUD)

**North:** Country Boy Subdivision, (Juniata PUD, unplatted Mining Claims (A-1))

**South:** Baldy Road and Gold Point Condominiums, (R-4 with Plan)

## **BACKGROUND:**

The subject property was rezoned from A-1 (Agricultural) to Trails at Berlin Placer PUD via PLN17-013, approved by the BOCC on August 22, 2017 and recorded on April 22, 2020 under Reception #1224491. The PUD allows for 22 deed-restricted Workforce Housing Units (1 of which is a Habitat for Humanity Unit and 1 of which is an on-site employee housing unit), and 14 market rate units for a total of 36 units of residential housing.

The subject property is currently an unplatted 23.4-acre parcel. The proposed General Subdivision Exemption Plat ("GSE") will divide the property into seven tracts with the acreages and permitted uses as listed below:

Tract A: 2.457 ac; 17 Workforce Housing Units

Tract B: 1.171 ac; 4 Workforce Housing Units

Tract C: 5.144 ac: Public Open Space Dedicated to Summit County

Tract D: 0.810 ac: Private Open Space / Common Area for Trails at Berlin Placer Community

Tract E: 0.241 ac: Trash and Recycling, 1 Workforce Housing Unit incorporated into HOA bldg

Tract F-N and F-S: 10.493 ac; 14 Single-family Market Rate Dwelling Units

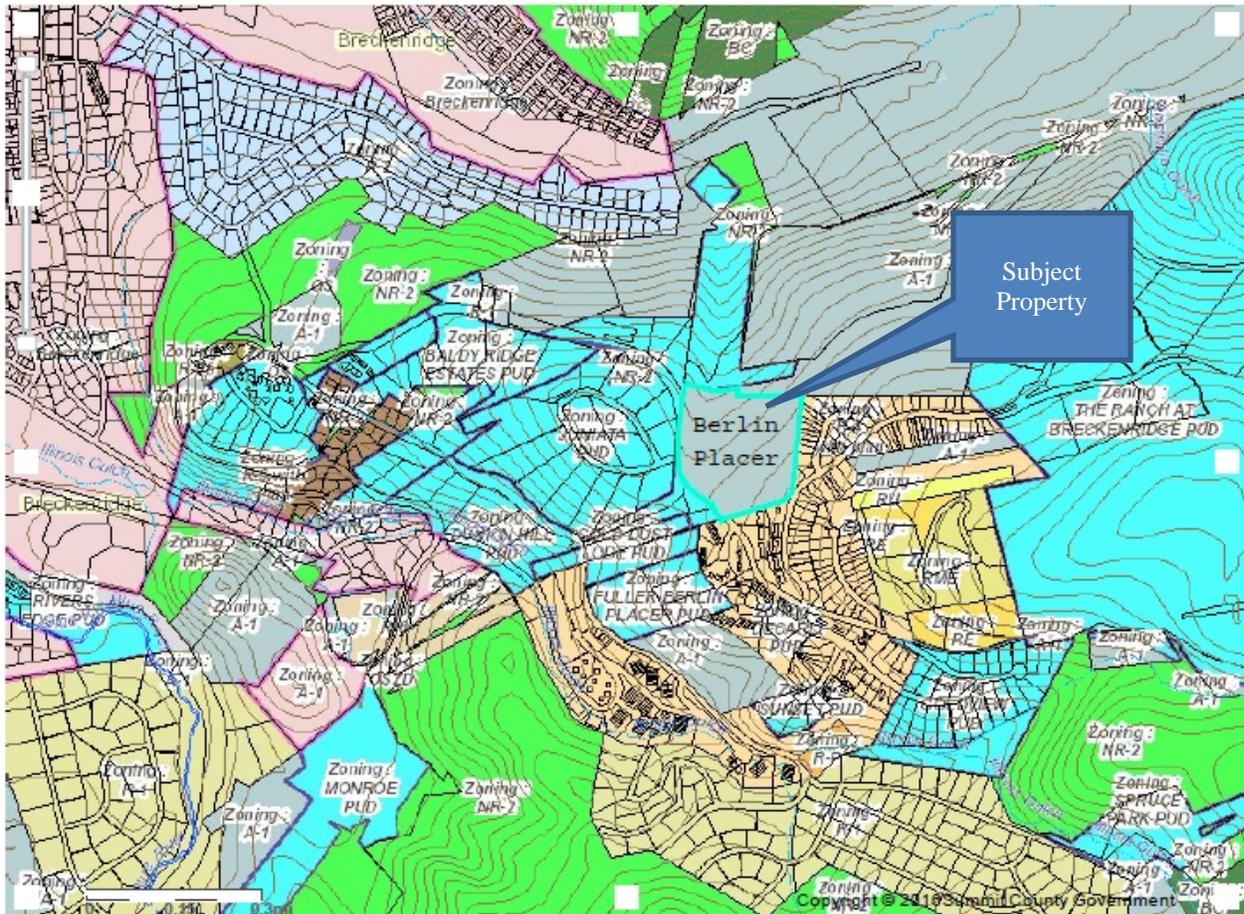
ROW: 3.095 ac: Rights-of-way

It is important to note that no aspect of this GSE Plat will provide for any sale of, or development activity for, any residential lots or structures. In order for any such sales or development to occur, the County must first conduct the appropriate development review of the pertinent applications. Once the deed-restricted workforce housing is under construction, townhome plats will need to be prepared and submitted to the County for approval prior to them being saleable to qualified buyers. The Berlin Placer PUD is a comprehensive zoning document laying out the uses, density, timing of development, public benefits, and organization of this mixed affordable and market rate housing project. The PUD is the product of an intensive review and analysis on every aspect of the development, including the appropriateness of the density to the area, the provision of water and sewer service, dedication of public areas, preservation of open space, mitigation of impacts, and location of development outside of environmental hazards. Each aspect of the development is laid out in detail in the PUD, and is further documented and governed by a development agreement that ensures the careful planning and timing of the development will be followed and all requirements complied with.

As detailed in the PUD approval documents, which are incorporated herein by reference and with which the BOCC is very familiar, the Berlin Placer PUD furthers a number of important policy goals laid out in the Code and the applicable Master Plans, including goals related to affordable housing, open space, transportation, and transferable development rights. While the development of the Berlin Placer PUD has been delayed due to litigation, the applicants have been diligent in pursuing and accomplishing the needed steps to get to this point, including securing the required TDRs and recording the PUD.

The current application to split the parcel into development tracts is the next step in the development process; however actual development on any tract is governed by the PUD and development agreement and must go through additional approvals prior to any dirt disturbance. Due to the complex nature of the development, the PUD triggers, development agreement, and conditions are designed to time each phase of development with each mitigation measure and dedication requirement, carefully balanced with the financial viability of the development plan.

## Vicinity Map



### **CRITERIA FOR DECISION**

Per Section 8402.01.A of the County's Land Use & Development Code ("Code"), general subdivision exemptions shall comply with the following Criteria for Approval:

1. The division of land created by the subdivision exemption is not within the purposes of the State subdivision statutes (C.R.S. §30-28-133 et seq.).
2. The lots resulting from the subdivision exemption are in compliance with County Zoning Regulations.
3. The subdivision exemption is in compliance with County Subdivision Regulations and standards (Chapter 8).
4. The proposed subdivision exemption is in general conformance with the advisory goals, policies and provisions of the Summit County Countywide Comprehensive Plan and any applicable basin or subbasin master plans.
5. The applicant has provided evidence that all areas of the proposed subdivision exemption 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.

6. The applicant has provided certification from the County Treasurer's office that all ad valorem taxes applicable to the proposed subdivision exemption, for years prior to the year in which approval is under consideration, have been paid.
7. The exemption plat is drawn in accordance with standards in the Subdivision Regulations and is suitable for recordation.

**Criterion 1: Application is not within the purposes of the State Subdivision Regulations.**

This application will not circumvent the intent of the State Subdivision Regulations. During the rezoning process, the GSE process was contemplated as an initial step and is specifically identified in the Trails at Berlin Placer PUD. Development allowances are not being created by this process; each of the seven tracts created with this plat will require additional future review to fulfill the development plans as presented in the PUD and Development Agreement.

**Criterion 2: Compliance with County Zoning Regulations**

This GSE is in compliance with the Summit County Zoning Regulations. The 23.4 acre property was rezoned from A-1 to the Trails at Berlin PUD which is a comprehensive zoning document that contains not only all the applicable development standards (i.e. specific uses, setback/disturbance envelopes, height), but a relatively complex development trigger based system. It is the PUD document which requires the site disturbance envelopes to be shown for Tracts A and B, as depicted on the proposed plat. The proposed GSE plat is an organizational mechanism by which the other specific triggers for the development of the property can occur. The subject plat meets all applicable requirements of the Trails at Berlin PUD and the County's Land Use and Development Code.

**Criterion 3: Compliance with County Subdivision Regulations and Standards (Chapter 8)**

As no new density or building sites are being created by the proposed subdivision exemption plat, the proposed subdivision exemption meets the intent of the Subdivision Regulations.

For informational purposes, during the time of consideration of the PUD approval, it was ensured the property could be served by adequate infrastructure and utilities being brought to the property, and all applicable access requirements have been met and reviewed by the County Engineering Department.

The County's Engineering Department reviewed the subject application and initially requested additional information and revisions related to the Existing Conditions Survey, Engineered Site Plans, Preliminary Drainage Report, Wetlands Delineation and Disturbance Plan, and Preliminary Geotechnical Engineering Study. The applicant has addressed all of the Engineering Department's concerns through subsequent revisions to the various plans and reports. The only outstanding issue is related to an area located on proposed Tract C that was historically hydraulically mined. The issue stems from erosion from this area of the property, which the applicant will dedicate to the County as required by the PUD. This plat does not dedicate the tract, but creates the tract. With this in mind, Staff and the applicant have mutually developed and agreed upon the following condition to address this concern:

1. *Prior to the County accepting the proposed open space Tract C, the unstable areas identified in the Geotechnical Engineering Study, Pavement Thickness Design and*

*Geological Hazards Evaluation dated April 9, 2020 and revised on April 27, 2020 by Kumar and Associates shall be remediated to the satisfaction of the County Engineer. The work associated with this remediation must be included in the SIA Exhibit A.*

Staff has put the condition in the draft resolution for the BOCC's consideration.

Lastly, Planning and Engineering staff recommend the following items be added as conditions of approval of the GSE plat in an effort to ensure they are clear and not missed at a later date, including the following:

2. *Prior to recordation of the plat, add a plat note stating 'drainage improvements are allowed outside of disturbance envelopes'.*
3. *Prior to recordation of the plat, depict all drainage easements on the plat (Tracts B & C).*
4. *Prior to recordation of the plat, add a plat note stating 'a maintenance agreement must be finalized prior to the dedication of Tract C to Summit County as Open Space'.*
5. *Prior to recordation of the plat, add a plat note stating 'tracts cannot be sold separately'.*

#### **Criterion 4: Compliance with County Comprehensive Plan & Basin Master Plan**

This criterion was thoroughly reviewed and evaluated with the rezoning application and subsequent public hearings. The proposed GSE Plat, which does not create any additional density or building sites, is in general conformance with the Countywide Comprehensive Plan, the Joint Upper Blue Master Plan and the Upper Blue Master Plan. More specifically, all three plans address the provision of creating more affordable housing opportunities, and open spaces and trails for enjoyment by residents and visitors alike. The proposed General Subdivision Exemption Plat will facilitate the creation of Tracts A and B which will be the first step in providing up to 22 new affordable workforce housing units. In addition, the GSE creates the tracts identified in the PUD as open space to be dedicated to the County, and is the first step in constructing a new and improved parking area and trailhead at Sallie Barber Road.

#### **Criterion 5: Compliance with Soil or Topographical Conditions**

There are no soil or topographical conditions present on the subject properties that would preclude the approval of this Subdivision Exemption. This issue was thoroughly reviewed and analyzed with the rezoning application. The applicant has provided a preliminary Geotechnical Engineering Study, Pavement Thickness Design and Geological Hazards Evaluation for the entire Trails at Berlin Property has been prepared by HP Kumar. The County's Engineering Department reviewed the submitted information and with the condition listed above is satisfied with all soil and topographical issues.

#### **Criterion 6: Taxes Paid**

The applicant has submitted Tax Certificates indicating that taxes have been paid for the subject property.

#### **Criterion 7: The plat is drawn in accordance with the standards in the Code and is suitable for recordation**

Staff and the County Surveyor have reviewed the proposed plat and confirm that it meets all applicable requirements of Section 8700 of the County's Land Use & Development Code and is suitable for recordation.

**STAFF RECOMMENDATION:**

Staff recommends that the Board of County Commissioners approve PLN20-009, a General Subdivision Exemption plat to divide a 23.4 acre parcel into 7 separate tracts of land with the following findings and one condition:

**FINDINGS:**

The division of land created by the subdivision exemption is not within the purposes of the State subdivision statutes (C.R.S. §30-28-133 et seq.).

1. This GSE will not circumvent the intent of the State Subdivision Regulations. The proposed division of land is not within the purposes of the Colorado subdivision statutes. The GSE process is contemplated as an initial step in the rezoning process to facilitate the dedication of required open space and provide a basis for the phased development of the property. No new development allowances are being created by this process.
2. This GSE is in compliance with the Summit County Zoning Regulations. The subject plat meets all applicable requirements of the Trails at Berlin PUD and the County's Land Use and Development Code.
3. This subdivision exemption meets the intent of the Subdivision Regulations. Adequate infrastructure and utilities will be brought to the property, per the requirements of the PUD and the Development Code.
4. The proposed subdivision exemption is in general conformity with the goals, policies/actions and provisions of the Summit County Countywide Comprehensive Plan, Upper Blue Master Plan, and the Joint Upper Blue Master Plan. The proposed plat will facilitate the development of a PUD that speaks to multiple elements in each of the master plans including but not limited to: affordable housing, transportation, recreation and trails, and open space supporting general conformity with the master plans.
5. With the addition of the condition listed below, the applicant has provided evidence that there are no areas of the soil or topographical hazards present on the site.
6. The applicant has provided certification from the County Treasurer's office that all ad valorem taxes for years prior to the year in which approval is under consideration.
7. The general subdivision exemption plat has been drawn according to Development Code regulations and is suitable for recording.

**CONDITIONS:**

1. Prior to the County accepting the proposed open space Tract C, the unstable areas identified in the Geotechnical Engineering Study, Pavement Thickness Design and Geological Hazards Evaluation dated April 9, 2020 and revised on April 27, 2020 by Kumar and Associates shall be remediated to the satisfaction of the County Engineer. The work associated with this remediation must be included in the SIA Exhibit A.
2. Prior to recordation of the plat, a plat note will be added stating 'drainage improvements are allowed outside of disturbance envelopes'.
3. Prior to recordation of the plat, the plat shall be revised to depict drainage easements on the plat (Tracts B & C).
4. Prior to recordation of the plat, a plat note will be added stating 'a maintenance agreement must be finalized prior to the dedication of Tract C to Summit County as Open Space'.
5. Prior to recordation of the plat, add a plat note stating 'tracts cannot be sold separately'.