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# Dobell Rezoning Zone Change

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**ACTIVITY #:** PL20220074

**HEARING DATES:** Planning Commission: 11/3/2022 at 6:00 pm  
Board of County Commissioners: 11/15/2022 at 10:35 am

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**PETITIONER:** Dobell Family c/o Paul Sachs  
**PETITION:** Rezone remainder of property from Agriculture & Forestry to Medium Density Residential  
**LEGAL:** LOTS 12-16 & S 1/2 OF LOT 16 1/2 BLOCK 11 & PARCELS A & C PER RES#2018-P-026  
**LOCATION:** 38725 Main St Milner, CO  
**ZONE DISTRICT:** Existing: Agriculture & Forestry and Medium Density Residential  
Proposed: Medium Density Residential  
**STAFF CONTACT:** Michael Fitz – mfitz@co.routt.co.us  
**ATTACHMENTS:**

- Applicant Narrative
- Exhibit of Existing Zoning
- Existing Conditions Survey
- Site Photos

## History:

Milner is a historic settlement dating to the early 1900s that has developed in an urban fashion in unincorporated Routt County, with small lots of approximately 3,000 square feet. Most parcels were created by combining two or more lots to create a building site of approximately 6,000 square feet. When Routt County adopted zoning in 1972, Milner was originally zoned Agriculture/Forestry (A/F), in recognition of the lack of urban-scale water & wastewater infrastructure and because the area remained unincorporated. Today, Routt County operates a combined sewer collection system to serve the town of Milner. Over the past two decades, the County has done several large-scale rezonings in Milner to Medium-Density Residential (MDR), which has more appropriate setbacks, and minimum lot size of 6,000 square feet, to fit the urban density found there. Some parcels, and all of the rights-of-way, remain zoned A/F, and these areas are rezoned on a case-by-case basis where appropriate. The subject property was previously rezoned to MDR, but due to a recent right-of-way vacation, additional land was acquired, and the property now includes the former right-of-way, which is still zoned A/F.

## Site Description:

The existing MDR-zoned lots containing the existing Dobell residence, including the vacated portion of alley to the west, are fairly flat with a slight slope to the south. The flat, buildable portion of the site extends south into the vacated portion of 1<sup>st</sup> Ave, an area of approximately the same size of two additional historic Milner lots. The land then slopes steeply downward toward the railroad tracks. This area also contains a sewer line easement that runs northwest to the Milner Mobile Home Park, roughly parallel with the tracks.

## Project Description:

The purpose of this Zone Change application is to rezone the portions of the subject property that were acquired through a previous vacation application (PL-18-113) to Medium-Density

Residential. This matches the zoning of the rest of the subject property and allows the applicants to utilize the acquired land for additional development. It also eliminates a situation of “split zoning,” an undesirable situation where a single parcel contains multiple zone districts. The applicant is proposing a future property split between lots 12 and 13 that would result in the existing house sitting upon lots 13, 14, 15, 16, and the south half of Lot 16 ½. The new southern property would include the vacated 1<sup>st</sup> St right-of-way, as well as Lot 12.

**Staff Comments:**

Over the past two decades, the County has encouraged Milner property owners to consent to being included in Zone Change applications that put them into the Medium-Density Residential zone district. This is supported by the Routt County Master Plan and is substantially more conforming to the existing development patterns in Milner. Based on the proposed future split into two properties, the MDR zone district would allow the southern property to conform to the minimum lot size and would provide an appropriately-sized building envelope to build a future single-family home without setback issues.

## **Compliance with the Routt County Master Plan, Sub Area Plans and Zoning Resolution**

The Routt County Master Plan, Sub Area plans and Zoning Resolution contain dozens of policies and regulations regarding land use. Section 5 of the regulations are designed to limit or eliminate conditions that could negatively impact the environment and/or use of surrounding properties, and shall apply in all Zone Districts and to all land uses unless otherwise noted. Section 6 Regulations apply to all Minor, Administrative, Conditional or Special uses allowed by permit only, PUD plans, Site plans, and Subdivisions.

The following checklist was developed by Planning Staff to highlight the policies and regulations most directly applicable to this petition. The checklist is divided into two (2) major categories:

1. Zoning Amendment Standards
2. Community Character and Visual Concerns

Interested parties are encouraged to review the Master Plan, Sub Area plans and Zoning Resolution to determine if there are other policies and regulations that may be applicable to the review of this petition.

Staff Comments are included at the end of each section, highlighting items where the public, referral agencies, or planning staff have expressed questions and/or comments regarding the proposal. **Staff comments regarding compliance with regulations and policies are noted in bold below.**

### **Zoning Amendment Standards**

#### **Applicable Regulations – Routt County Zoning Resolution**

##### **4.9 Medium Density Residential**

##### **8.2.1 Standards for Zoning Amendments – Part 1**

In any petition for zoning amendment, the petitioner shall have the burden of showing that all of the following exist:

- 8.2.1.A That the proposed zone change is consistent with the goals and policies of the Master Plan and any applicable sub-area plans.

- 8.2.1.B That the area in question possesses geological, physiological and other environmental conditions compatible with the characteristic of the Zone District requested.
- 8.2.1.C That the advantages of the Zone District requested substantially outweigh the disadvantages to the County and neighboring land occasioned by the amendment.
- 8.2.1.D That the applicable provisions of these Regulations have been met
- 8.2.1.E That in the case of a zone amendment request that would increase allowable residential, commercial, or industrial density, that adequate facilities such as roads, water and sanitation, fire protection, emergency services and public utilities shall be available to serve the areas.

**8.2.2 Standards for Zoning Amendments – Part 2**

- In addition, zoning amendments shall be allowed only after the petitioner demonstrates that rezoning is necessary for one or more of the following reasons:
- 8.2.2.A The existing Zone District is inconsistent with the policies and goals of the applicable Master Plan and any applicable adopted area or community plan; or
  - 8.2.2.B The area for which rezoning is requested has changed or is changing to such a degree that it is in the public interest to encourage a new use or density in the area; or
  - 8.2.2.C The proposed rezoning is necessary in order to provide land for a demonstrated community need; or
  - 8.2.2.D The existing zone classification currently shown on the Official Zoning Map is an error.

**Staff comments: There is no sub-area plan specific to Milner. The Routt County Master Plan designates Milner as a potential growth center suitable for urban-type growth and density in areas that meet the criteria listed in the definition of a growth center – having intensive/significant amounts of development and uses at a higher density, existing platting, access, and central sewer facilities to support growth. The existing platting and development patterns are inconsistent with the A/F zone district and are far more appropriate for the MDR zone district, which allows for area-appropriate development patterns that require fewer Variances.**

*\*\*Is the application in compliance with the Policies and Regulation outlined above? Yes or No*

**Community Character and Visual Concerns**

**Applicable Regulations – Routt County Zoning Resolution**

- 6.1.7.K Land Use Compatibility.
- 6.1.7.O Historical Significance.

**Staff comments: The MDR zone district is designed to provide areas for single-family, two-family and multiple-family dwellings on medium density lots, designed in a manner to create livable spaces in a rural community setting. This is consistent with both current and historical development patterns in the town of Milner.**

*\*\*Is the application in compliance with the Policies and Regulation outlined above? Yes or No*

**PLANNING COMMISSION / BOARD OF COUNTY COMMISSIONERS:**

**Approve the Zone Change request without conditions** if it is determined that the petition will not adversely affect the public health, safety, and welfare and the proposed use is compatible with the immediately adjacent and nearby neighborhood properties and uses and the proposal is in compliance with the Routt County Zoning Regulations and complies with the guidelines of the Routt County Master Plan. The applicable provisions of Sections 5 and 6 have been reviewed and appropriate findings and conditions are included in the approval outlined herein.

**Approve the Zone Change request with conditions and/or performance standards** if it is determined that certain conditions and/or performance standards are necessary to ensure public, health, safety, and welfare and/or make the use compatible with immediately adjacent and neighborhood properties and uses and/or bring the proposal into compliance with the Routt County Zoning Regulations and Routt County Master Plan.

**Deny the Zone Change request** if it is determined that the petition will adversely affect the public health, safety, and welfare and/or the proposed use is not compatible with the immediately adjacent and nearby neighborhood properties and uses and/or the proposed use is not in compliance with the Routt County Zoning Regulations and/or the Routt County Master Plan. Make specific findings of fact; cite specific regulations or policies by number from the Routt County Master Plan, and the Routt County Zoning Regulations.

**Table the Zone Change request** if additional information is required to fully evaluate the petition. Give specific direction to the petitioner and staff.

**FINDINGS OF FACT** that may be appropriate if the Zone Change is approved:

1. The proposal with the following conditions meets the applicable guidelines of the Routt County Master Plan and is in compliance with the applicable provisions of Sections 8 of the Routt County Zoning Regulations.

**CONDITIONS** that may be appropriate may include the following:

1. The change of zone from Agriculture/Forestry to Medium Density Residential shall become effective upon signing of a resolution amending the Official Zoning Map by the Board of County Commissioners, said resolution to be recorded in the Routt County Clerk and Records Office.