
Zayatz Consolidation Consolidation, Zone Change and Vacation of Easements

Consent Agenda Item

ACTIVITY #: PL20220032

HEARING DATES: Planning Commission: 12/1/2022 at 6:00 pm
Board of County Commissioners: 12/20/2022 at 9:30 am

PETITIONER: Scott Zayatz

PETITION:

- 1) Consolidation of 8 lots to create 1 new lot
- 2) Rezone from HDR to MRE
- 3) Vacation of Utility and Drainage easements along interior lot lines

LEGAL DESCRIPTION: Lots 47, 48, 49, 50, 53, 54, 55, 56, Horseback at Stagecoach

LOCATION: Parcel of land fronting on Kickapoo Way and Pima Way approximately 500' from their western intersection.

ZONE DISTRICT: Existing: High Density Residential (HDR)
Proposed: Mountain Residential Estates

AREA: 5.62 acres

STAFF CONTACT: Michael Fitz – mfitz@co.routt.co.us

ATTACHMENTS:

- Applicant Narrative
- Existing Conditions Survey
- Proposed (Draft) Plat
- Site Photos

Consent Agenda Item:

Items that have been recommended for approval by the Planning Director can be placed on the Consent Agenda. These items are voted on without a formal presentation of the project unless a Planning Commissioner or a County Commissioner requests that the item be removed from the Consent Agenda and placed on the regular agenda.

History:

Horseback at Stagecoach was platted on April 3, 1973. At the time, small lots between 1/2 and 1 acre were platted with the expectation that they would be served by central water & sewer service. This infrastructure was never installed Horseback at Stagecoach, and the lots are undevelopable at their present size due to the lack of sufficient area for a septic system, unless the owner opts to install a vault. Vaults are generally undesirable as permanent sewage options for single-family homes due to the associated maintenance and limited capacity.

Site Description:

The property is made of 8 original Horseback at Stagecoach lots; 47 through 50 fronting on Kickapoo Way on the north side, and 53 through 56 on the south side, fronting on Pima Way.

The property's highest point is in the southeast and slopes down to Kickapoo Way. There is one steep portion mainly in the southeast, and the property is otherwise sloping but developable, with no waterbodies or other significant impediments. An overhead power line is adjacent to the west and south, and the land is a mix of grassland and some trees.

Project Description:

The applicant proposes to combine all 8 lots into one 5.62-acre lot, which would be buildable in the MRE zone district with a well & septic system. Internal easements will be vacated to result in a larger building site. No current building proposal has been submitted, but a home and a secondary unit would be allowed wherever they can meet setbacks.

Staff Comments:

Water and sewer lines do not access these lots. If a property owner can obtain 5 contiguous acres, a Zone Change and Lot Consolidation can be considered which would allow the construction of a septic system (ISDS) on the property, allowing for a single-family home and secondary unit under the current Routt County Zoning Regulations. This application is to combine 8 lots totaling 5.62 acres with a zone change to Mountain Residential Estates which allows the construction of a septic system. The applicant will separately vacate internal easements dedicated to the Stagecoach Property Owners' Association (SPOA) and the Morrison Creek Water & Sanitation District. The Planning Department received one public comment via telephone expressing support for the application.

Compliance with the Routt County Master Plan, Sub Area Plans and Subdivision Regulations

The Routt County Master Plan, Sub Area plans and Subdivision Regulations contain dozens of policies and regulations regarding land use. Section 3 of the Subdivision Regulations are in place to ensure that a subdivision application is designed in a manner to best serve the public. Section 4 Regulations are in place to make sure that all of the required infrastructure is accounted for, designed so as to create efficient and buildable lots and to ensure that the required infrastructure is installed.

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 seven (7) major categories:

1. Public Health, Safety and Nuisances
2. Regulations and Standards
3. Zoning Amendment Standards
4. Easement/ROW Vacation Standards
5. Community Character and Visual Impacts
6. Roads, Transportation and Site Design
7. Natural Environment

Interested parties are encouraged to review the Master Plan, Sub Area plans and Subdivision Regulations 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.**

Public Health, Safety and Nuisances

Applicable Regulations – Routt County Zoning Resolution

- 6.1.7.C Natural Hazards
- 6.1.7.I Noise
- 6.1.7.H Wildland Fire

Applicable Regulations – Routt County Subdivision Resolution

- 3.1.D Steep land greater than a 30% slope, unstable land, land subject to flooding or to inadequate drainage, or otherwise substandard land shall not be platted for occupancy or any use which might endanger health, life, property or which may aggravate flood or erosion hazards. Land not usable for residential purposes may be set aside for open area uses such as parks, conservation areas, farm land, recreational areas.
- 3.1.M The soil and drainage conditions shall be of a sufficiently stable nature, as shown in a current soils test, as to support development including whatever sewage disposal treatment is utilized.
- 3.1.N The proposed subdivision shall not create fire hazards and shall include wildland fire mitigation measures if necessary.

Applicable Policies – Stagecoach Community Plan

- 5.5.1 Natural, Scenic and Environmentally Sensitive Areas
 - a. New construction should avoid the hazards associated with building on steep slopes and geologically unstable areas.
 - f. New construction on slopes over 30% should not be approved, unless no other building site is available on the parcel, or unless building on an alternative site would violate other portions of this Plan.
 - j. New improvements for human occupancy should be located outside of designated severe wildfire hazard areas wherever possible, and should be designed to comply with the “Colorado State Forest Service Guidelines on Defensible Space.”

Applicable Policies – Routt County Master Plan

- 11.12 Discourage land uses that increase the potential for wildfires in high risk wildfire hazard areas.
- 11.15 Prohibit all development on slopes of 30% or greater. Development in steep draws or valleys, which tend to channel fire movement, is particularly dangerous and is also strongly discouraged.
- 11.17 Prohibit all construction and excavations on potential hazard areas including landslides, rockfall areas, unstable slopes, mudflows, and steep drainages.

Staff comments: The current lots are in a geographically ideal location with no geologic hazards and are mapped for low fire risk by the County’s GIS. The reduction in platted density from 8 lots to 1 is anticipated to reduce noise and wildlife impacts, reduce overall environmental impacts on this property and reduce the need for critical community services. There are no waterbodies on the property.

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

Consolidation Regulations and Standards

Applicable Regulations – Routt County Zoning Resolution

- 6.1.2 The proposal shall be consistent with applicable Master Plans and sub-area plans.
- 6.1.5 Industry Standards: The proposal shall meet or exceed accepted industry standards and Best Management Practices (BMP's).

Applicable Regulations – Routt County Subdivision Resolution

- 3.1.P Proposed subdivisions shall be in substantial conformance with the Routt County Master Plan and all adopted sub-area plans.
- 3.1.Q Proposed subdivisions shall be in substantial conformance with Section 6 of the Routt County Zoning Regulations.

Applicable Policies – Stagecoach Community Plan

5.4.1. Infill and Replats (Lot Consolidations)

- a. The preservation of open space and limited-density development should be encouraged in areas that lack infrastructure, unless infrastructure can be provided.
- d. Infill development and consolidations for residential development should be encouraged in the South Area of Stagecoach.
- f. The development of single family lots of sufficient size to ensure safe setbacks from individual septic systems and water wells should be supported through the lot consolidation process.

Staff comments: This proposal reduces density in an area that is far from growth centers. The Stagecoach Community Plan is very clear and enthusiastic about encouraging the consolidation of small lots into 5+ acres due to a lack of infrastructure to support denser development. This proposal is exactly what the plan anticipates.

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

Zoning Amendment Regulations and Standards

Applicable Regulations – Routt County Zoning Resolution

4.5 Mountain Residential Estates

Except as provided for in the Routt County Master Plan or an adopted sub-area plan, or for the purpose of rezoning from LDR, MDR, or HDR to MRE, no additional land will be placed in the MRE Zone District after July 1, 2006. The principal purpose of this Zone District is to allow rural residential development compatible with adjacent agricultural uses. The Zone District also provides for other uses, most requiring permits.

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

Applicable Policies – Stagecoach Community Plan

5.6.1. Housing

- a. Support rezoning of five-acre lots in order to allow the use of OWTSSs.

Applicable Policies – Routt County Master Plan

- 4.2 Support infill development and redevelopment that is complementary to existing character and consistent with available resources to accommodate evolving community needs within the Future Growth Areas.

Staff comments: It appears that the petition meets all of the required criteria for a rezoning approval, as well as criteria 8.2.2.A. The proposed rezoning and vacation are supported by policies 5.6.1a in the Stagecoach Community Plan. The environmental conditions of the land is substantially similar to much of the other land zoned MRE in the County. The advantages to the County, including fulfilling Master Plan and sub-area plan policies and creating buildable lots where there were unbuildable lots, outweigh any disadvantages, which may include environmental impacts from development. The proposal would not increase allowable density, because the land is currently zoned for much higher density than that proposed. The existing zone district is inconsistent with policy 4.2 of the Master Plan and would help solve the development challenges identified in the Stagecoach Community Plan.

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

Easement/Right-of-Way Vacation Regulations and Standards

Applicable Regulations – Routt County Subdivision Resolution

- 2.8.1.A In the case of a plat, the plat to be vacated is a legal plat of record.
- 2.8.1.B Vacation will not interfere with development of, nor deny access via public thoroughfare to adjoin property, utility services or other improvements.
- 2.8.1.C Vacation will not interfere with the orderly development of utilities to nearby properties.
- 2.8.1.D Vacation will not be contrary to the Routt County Master Plan or Zoning Regulations.

Staff comments: All utilities have signed off on this vacation request, and all right-of-ways are being maintained. Easements around the perimeter of the properties are remaining to ensure utility development is not hampered in the future.

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

Community Character and Visual Impacts

Applicable Regulations – Routt County Zoning Resolution

- 5.10 Standards for Structures within mapped Skyline Areas
- 6.1.6 Outdoor Lighting: The proposal shall comply with the Outdoor Lighting Standards in Section 6.3 of these Regulations.
- 6.1.7.G Visual Amenities and Scenic Qualities.
- 6.1.7.K Land Use Compatibility
- 6.1.7.O Historical Significance

Applicable Regulations – Routt County Subdivision Resolution

- 3.1.K The proposed subdivision shall not create water, air, noise or visual impacts that cannot be mitigated.
- 3.1.L The proposed subdivision shall include plans for adequate screening from major access roads, including landscaping and other means to preserve privacy and mitigate visual impacts to surrounding areas.
- 4.5.5 All fixtures shall be downcast and opaquely shielded. For purposes of this section, opaquely shielded shall mean fixtures constructed so that light rays emitted are projected below, and not above, the horizontal plane of the fixture and not onto the facades of nearby residential dwellings.

Applicable Policies – Stagecoach Community Plan

- 5.5.1 Natural, Scenic and Environmentally Sensitive Areas
 - c. Development on ridges that results in skylining should be discouraged.
 - d. If possible, site grading and driveway cuts should be located to minimize visibility from CRs 16, 18A and 212. All cut or filled areas should be revegetated with native vegetation within one growing season.
 - h. New improvements should be located to minimize site grading, unless a site that would require more extensive grading would reduce visibility from Routt CRs 16, 18A and 212.

Applicable Policies – Routt County Master Plan

- 4.1 Direct new growth and development to Tier 1, Tier 2, and Tier 3 Future Growth Areas, in that order and as defined in the Growth & Land Use Chapter.
- 4.6 Support efforts to maintain Dark Skies and control light pollution.
- 4.9 Discourage development on ridges that result in sky lining.
- 6.4 Small-scale developments should be considered in Tier 3 Small Established Communities like Phippsburg and Milner if they provide community benefits such as lowincome or workforce housing, or services.
- 9.3 Discourage development that changes the rural character or historic agricultural uses and/or practices.
- 9.8 Strongly discourage scattered development and 35-acre subdivisions.
- 9.16 Protect unique view corridors with high aesthetic value, including the south valley floor and the Hwy 40 and CR 129 corridors.

Staff comments: It is not expected that the area’s scenic qualities will be altered from what could occur otherwise on platted lots. No historical significance or land use compatibility conflicts are believed to exist. No visual, air, water, or noise impacts are expected as a result of this proposal. The reduction in density resulting from this consolidation follows the County’s prioritization of Tier 1, 2, and 3 areas and increases compatibility with agriculture, open spaces, and their associated rural character. A plat note is suggested that would require lighting to be downcast and opaquely shielded. By consolidating these lots and making them buildable, an alternative product to 35 acre parcels is being provided, potentially preventing the creation of 35 acre lots for residential development.

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

Roads, Transportation and Site Design

Applicable Regulations – Routt County Zoning Resolution

- 5.2 Dimensional Standards
- 5.4 Parking Standards
- 5.5 Addressing
- 5.6 Access to Buildable Lot Standards
- 5.7 Right of Way Access Standards
- 5.8 Road Construction Standards
- 6.1.4 Public Road Use Performance Standards: The proposal shall comply with the Public Road Use Performance Standards in Section 6.2 of these Regulations.
- 6.1.7.A Public Roads, Services and Infrastructure
- 6.1.7.B Road Capacity, traffic, and traffic safety
- 6.1.7.N Snow Storage

Applicable Regulations – Routt County Subdivision Resolution

- 3.1.H The proposed subdivision shall not create undue traffic congestion or traffic hazards.
- 3.4.A Lot dimensions and sizes shall conform to applicable zoning requirements.

Applicable Policies – Routt County Master Plan

- 7.15 Ensure that future development occurs where roads can accommodate projected traffic volumes and patterns.
- 9.4 Preserve open space.

Staff comments: This consolidation will meet MRE zone district sizes, and provide sufficient buildable space for future structures to meet dimensional and parking standards. Addressing will be assigned during a future building permit. Road access will not be changing, and this subdivision will actually reduce the potential future density at full build-out due to the reduction in lots from 8 to 1. The reduction in density furthers the County’s goals of minimizing development in remote areas, minimizing impact to infrastructure, and reducing negative impacts to the landscape.

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

Natural Environment

Applicable Regulations – Routt County Zoning Resolution

- 6.1.7.D Wildlife and Wildlife Habitat.

- 6.1.7.E Water Quality and Quantity.
- 6.1.7.F Air Quality
- 6.1.7.J Wetlands.
- 6.1.7.Q Noxious Weeds.

Applicable Regulations – Routt County Subdivision Resolution

- 3.1.E Any land subject to flooding or in a natural drainage channel shall not be platted for occupancy. The areas subject to flooding should be left as open space or reserved as conservation easement areas.
- 3.1.J An adequate water supply shall be available for the proposed subdivision.
- 3.4.D Lot area requirements for water and sewer systems shall be required pursuant to the Routt County Zoning Regulations and the ISDS Regulations.
- 3.3.E Sufficient area for leach fields where individual sewage disposal systems are proposed in conformance with the Routt County Department of Environmental Health regulations; and
- 3.3.F Suitable location for wells where individual septic systems are proposed in conformance with the Routt County ISDS Regulations.

Applicable Policies – Stagecoach Community Plan

5.5.1 Natural, Scenic and Environmentally Sensitive Areas

- g. New improvements in critical wildlife habitat areas (as designated CPW) should not be approved, unless no other building site is available on the parcel, or unless building on an alternative site would violate other portions of this Plan. All property fencing should be of a type approved by the CPW to minimize risks to wildlife.
- i. New improvements should not be approved for sites within 50 feet of water bodies, unless no other building sites are available on the parcel, or unless building on an alternative building site would violate other portions of this Plan..
- k. New improvements should incorporate grass-lined swales between paved areas and nearby streams

Applicable Policies – Routt County Master Plan

- 9.12 Noxious weeds must be controlled at the expense of the landowner.
- 9.13 Enforce the weed management program and educate new or unaware landowners or those that refuse to manage weeds.
- 11.3 Protect wildlife species and their habitats.
- 11.5 Encourage land use practices that will minimize conflicts between wildlife and human uses.

Applicable Policies – Stagecoach Community Plan

5.5.1. Policies

- g. New improvements in critical wildlife habitat areas (as designated CPW) should not be Approved, unless no other building site is available on the parcel, or unless building on an alternative site would violate other portions of this Plan. All property fencing should be of a type approved by the CPW to minimize risks to wildlife.
- j. New improvements for human occupancy should be located outside of designated severe wildfire hazard areas wherever possible, and should be designed to comply with the “Colorado State Forest Service Guidelines on Defensible Space.”

Staff comments: This consolidation will reduce impacts to the natural environment due to a reduction in potentially buildable lots from 8 to 1. This will reduce the number of

future homesites that may conflict with wildlife, impose demands on water supply, and assembles sufficient land for a septic system. Future septic permitting will be handled at building permit by Routt County Environmental Health. No impacts to air quality or wetlands are anticipated. A condition requiring revegetation is suggested to avoid the proliferation of weeds. A reduction in density will have a corresponding reduction in impacts on wildlife and their habitat.

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

PLANNING COMMISSION/BOARD OF COMMISSIONER OPTIONS:

1. **Approve the Consolidation, Zone Change and Easement Vacation 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 and Subdivision Regulations and complies with the guidelines of the Routt County Master Plan.
2. **Deny the Consolidation, Zone Change and Easement Vacation 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 and Subdivision 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.
3. **Table the Consolidation, Zone Change and Easement Vacation request** if additional information is required to fully evaluate the petition. Give specific direction to the petitioner and staff.
4. **Approve the Consolidation, Zone Change and Easement Vacation 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 and Subdivision Regulations and the Routt County Master Plan.

PLANNING DIRECTOR RECOMMENDATION:

The Planning Director may recommend approval with or without conditions, or denial of the application. Conditions will reflect mitigation measures to achieve compliance with the Zoning and Subdivision Regulations.

Approval*: _____

Date: _____

* The Planning Director's recommendation of approval is based upon finding that the proposal is in compliance with the applicable requirements of the Routt County Zoning and Subdivision Regulations.

Consolidation

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

1. The proposal with the following conditions complies with the applicable guidelines of the Routt County Master Plan and Stagecoach Community Plan and is in compliance with Sections 4, 5,

and 6 of the Routt County Zoning Regulations, Sections 3 and 4 of the Routt County Subdivision Regulations.

CONDITIONS that may be appropriate may include the following:

1. The Final Plat shall be finalized and recorded within one (1) year unless an extension is granted pursuant to Section 2.1.6, Routt County Subdivision Regulations. Extensions to up to one (1) year may be approved administratively.
2. Prior to recordation, the applicant shall submit an electronic copy of the approved plat to the County Planning Department in a .DWG format or other format acceptable to the GIS Department.
3. All property taxes must be paid prior to the recording of the plat. A certificate of taxes due shall be submitted showing a \$0 balance prior to recording the plat.
4. The right of way for County Roads Kickapoo Way and Pima Way shall be appropriately dedicated on the final plat.
5. The following notes shall be shown on the plat:
 - a. Routt County is not responsible for maintaining or improving subdivision roads. The right of ways shown hereon have been accepted by Routt County, however the County is not responsible for maintaining or improving subdivision roads.
 - b. The suitability of these lots for an individual septic disposal system and the availability of permits for individual septic disposal systems have not been established and such shall be a condition of obtaining a building permit for these lots.
 - c. Existing and new accesses shall meet access standards set forth by the Routt County Road and Bridge Department and Fire Prevention Services.
 - d. The availability of water and permits for wells on the lots or parcels hereon shown has not been established.
 - e. Routt County (County) and the Oak Creek Fire Protection District (District) shall be held harmless from any injury, damage, or claim that may be made against the County or the District by reason of the County's or the District's failure to provide ambulance, fire, rescue or police protection to the property described on this plat, provided that the failure to provide such services is due to inaccessibility of the property by reason of internal roads being impassable. This conditions shall not relieve the County or the District of their responsibility to make a bona fide effort to provide emergency services should the need arise.
6. Address signage shall be in conformance with Routt County Road Addressing, Naming, and Signing Policy shall be located at the entrance to the driveway.
7. A current soils test showing that the soils are sufficiently stable to support development will be required before obtaining a building permit.
8. Revegetation of disturbed areas shall occur within one growing season with a seed mix that avoids the use of aggressive grasses. See the Colorado State University Extension Office for appropriate grass mixes.
9. All exterior lighting shall be downcast and opaquely shielded.
10. A 'no build' zone shall be indicated on the plat to avoid construction of structures, septic fields and roads in areas including, but not limited to 30% or greater slopes. The "no build" zones shall be defined on the plat and approved by the Planning Director before the plat is recorded.
11. The recommendations for defensible space around structures from the Colorado State Forest Service should be adhered to for development of this lot.

ZONE CHANGE

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 Stagecoach Community 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 HDR to MRE 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 Recorders Office.
2. The zone change is contingent upon a Final Plat being recorded.

UTILITY AND DRAINAGE EASEMENT VACATION

FINDINGS OF FACT that may be appropriate if the Utility and Drainage Easement Vacation is approved:

1. The proposal with the following conditions complies with the applicable guidelines of the Routt County Master Plan and Stagecoach Community Plan and is in compliance with Sections 4, 5, and 6 of the Routt County Zoning Regulations, Sections 2, 3 and 4 of the Routt County Subdivision Regulations.

CONDITIONS that may be appropriate may include the following:

1. A resolution vacating portions of the utility and drainage easements shall be recorded concurrently with the Final Plat.
2. Utility and drainage easements shall be shown and dedicated on the final plat. The plat shall show all required drainage and utility easements on the vacated portion of roadways.