
Tie Across Haul Road

Division of Land for Public Purposes

ACTIVITY #: PL20220103

DIRECTOR DECISION: December 20, 2022

PETITIONER: Routt County Public Works

PETITION: Division of Land for Public Purposes so Routt County may gain a Right of Way for the Tie Across Haul Road connecting RCR 53 to RCR 27.

LEGAL: Lands in 6-87 PT of SE4 W of RCR 27 Less 3.0A Strip along west side of RCR 27 17-6-87 95.5A

LOCATION: Southeast of the Town of Hayden on the West side of RCR 27

ZONE DISTRICT: I/AF

AREA: 4.6 miles in length

STAFF CONTACT: Sally Ross, sross@co.routt.co.us

ATTACHMENTS:

- Site Plan
- Narrative

History:

The Tie Across Haul Road (Road) was built by Seneca Coal Company to minimize the traffic impact from coal shipments and heavy coal mining equipment through the Town of Hayden. Peabody Energy Company (Peabody) assumed ownership of the Road in 2005, as well as all affiliated Right of Way (ROW) agreements and access easements between Seneca Coal Company and the State Land Board (SLB), Xcel Energy, and six private parcels.

In 2014, Peabody approached the County about assuming ownership and maintenance of the Road. Peabody obtained ROW agreements through the six private parcels; the County obtained a ROW agreement through the SLB parcel.

The access easement held by Peabody allowing passage through the Xcel Energy parcel is the final portion of the Road requiring a ROW by the County so that Routt County may purchase and maintain the Road as a public road.

Site Description:

The Road is approximately 4.6 miles long and is located Southwest of the Town of Hayden. It connects RCR 53 to RCR 27.

Project Description:

Xcel Energy has provided Routt County Public Works (Public Works) a statement of ownership and approval for Public Works to apply for a Subdivision of Land for Public Purposes for the applicable parcel so that Routt County may purchase the ROW and maintain the Road as a public road.

Staff Comments:

On November 14, Planning provided notification of the application to adjacent landowners and external agencies that may be impacted by the decision, including the Hayden School District, the Town of Hayden, and the Colorado Division of Reclamation, Mining, and Safety. The review period for comments closed November 28. An email provided by Hayden School District Superintendent indicated that Hayden School District and the Town of Hayden did not have concerns regarding the application. No other comments were submitted.

2.7.1 Applicability

Divisions of land to create parcels of land to be conveyed to the county, state or federal governments, to municipalities or to special districts for public purposes such as but not limited to:

- A. The creation or expansion of public rights-of-way;
- B. The creation of public parking sites;
- C. The creation of public access easements, but in no event shall the creation of any such easement result in the creation of any additional Buildable Lots;
- D. The division of land for parks.

Staff Recommendation

Staff recommends that the application be **RECOMMENDED FOR APPROVAL** to the Board of County Commissioners.

*****Issues for Discussion*****

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

The Routt County Master Plan (Master Plan), Sub Area Plans and Subdivision Regulations contain dozens of land use policies and regulations that are intended to reinforce the guiding principals of the Master Plan. This report categorizes subject matter content that is important to consider when reviewing. The categories include:

1. Health, Safety and Nuisances
2. Regulations and Standards
3. Community Character and Visual Issues
4. Roads, Transportation and Site Design
5. Natural Environment

Within each category are applicable policies and regulations. Specific Zoning Regulations sections include:

- 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 of the Subdivision 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.
- Section 6 of the Zoning Regulations, contains mitigation techniques and applies to all Minor, Administrative, Conditional or Special Uses allowed by permit only, PUD plans, Site plans, and Subdivisions.

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

Staff comments are included in bold at the end of each category and highlight questions and/or comments from the general public, referral agencies, and/or Planning Staff.

1. Public Health, Safety and Nuisances

Applicable Regulations – Routt County Zoning Resolution

6.1.7.C Natural Hazards

6.1.7.H Wildland Fire

Applicable Regulations – Routt County Subdivision Resolution

3.1.N The proposed subdivision shall not create fire hazards and shall include wildland fire mitigation measures if necessary.

Staff comments: It may be assumed that traffic along the Road will increase with public access. Wildfire risk during fire prone conditions may also increase. To manage this risk, West Routt Fire should be notified of the Road becoming a public road. Recommendations by West Routt Fire to mitigate fire risk in proximity to the road should be implemented.

To address increased traffic safety concerns, additional signage will be placed on CR 27 to caution travelers in locations where visibility is difficult. This will also help notify individuals who have used the Haul Road historically that there will now be more traffic entering and exiting the roadway. Information informing the public of the road designation will be broadly circulated through public messaging venues.

Is the application in compliance with the Policies and Regulations outlined above? **Yes

2. 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

- 2.7.2 A Division of Land for Public Purposes Plat shall meet all the applicable requirements of sections 3, 4 and 7 of these Regulations and the Routt County Zoning Regulations, except the Planning Director may waive certain requirements if the strict application of those requirements is not in the public interest.
- 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.

Staff comments: Although the RC Master Plan and the Hayden Master Plan don't specifically address acquisition of roads, they do address infrastructure needs. Since this is an existing road, requires no new construction, and provides the public with additional transportation routes, staff is of the opinion that it is in compliance with these plans. This application is also in compliance with both the Zoning and Subdivision Regulations.

***Is the application in compliance with the Policies and Regulations outlined above? Yes*

3. Community Character and Visual Concerns

Applicable Regulations – Routt County Zoning Resolution

- 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.

Applicable Routt County Master Plan Policies

- 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.
- 4.2 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.
- 4.4 Support needed housing, economic and infrastructure development to accommodate growth in Future Growth Areas as defined.

Applicable Hayden Forward Master Plan Policies

PRO.HL3 Preserve and protect Hayden's natural resources to maintain the rural scenic character of the Community.

Staff comments: No impacts to visual amenities and scenic qualities are expected since no new construction is being proposed. This road has existed for many years, showing that it is compatible with surrounding lands and fits within the historic character of the area. Maintaining and operating the Road as a public road may support nearby residential development proposed in Hayden.

***Is the application in compliance with the Policies and Regulations outlined above? Yes*

4. Roads, Transportation and Site Design**Applicable Regulations – Routt County Zoning Resolution**

- 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 General Design Standards**

- 3.1.G The subdivision layout shall be designed to preserve natural topography and existing vegetation to the greatest extent possible while still meeting all the technical requirements of these Regulations (street width, street grade, access etc.). Overlot grading shall not be allowed.

3.2.1 Streets and Roads

- 3.2.1.A All streets and roads shall conform to the requirements of the Routt County Road & Bridge Department and the Routt County Zoning Regulations and amendments thereto.
- 3.2.1.C In certain areas, the Uniform Fire Code as currently adopted by the fire district in which the land lies, may apply.

Applicable Routt County Master Plan Policies

- 7.13 Ensure that roadway design is compatible with topography, soils, vegetation, geology, visual and other natural features and limitations.
- 7.15 Ensure that future development occurs where roads can accommodate projected traffic volumes and patterns.

Applicable Hayden Forward Master Plan Policies

- T.ED2 Vehicular Circulation: Require future transportation networks to contribute to an efficient, well-connected circulation system that provides a logical continuation of the existing street and pathway system.
- RE.ED5: Regional Assets: Promote Hayden's regional connections (roadway, rail and air-travel) and technological infrastructure investment to support development.

Staff comments: This road was originally constructed so that fully loaded coal trucks could access the Hayden Station without going through the Town of Hayden. This road is constructed to a standard that will handle the amount and type of traffic anticipated to use it. Providing an additional public road in the Hayden area could help to alleviate future transportation congestion issues as Hayden expands.

***Is the application in compliance with the Policies and Regulations outlined above? Yes*

5. 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.J Wetlands.
- 6.1.7.Q Noxious Weeds.

Applicable Hayden Forward Master Plan Policies

- PRO.HL3 Preserve and protect Hayden's natural resources to maintain the rural scenic character of the Community.

Staff comments: Section PRO. HL3 of the Hayden Forward Master Plan is applicable because the project site is within the 3-mile boundary designated for the Hayden Forward Master Plan. The Town of Hayden was included for external agency review for this application. The comments provided are included as an attachment to this Staff Report and stated that there are no concerns with the proposal.

Since this is an existing road, no impacts to wildlife, wildlife habitat, water quality, or wetlands is anticipated. Public Works has a crew dedicated to treating noxious weeds that exist in the ROW and this road will be added to their maintenance schedule.

***Is the application in compliance with the Policies and Regulations outlined above? Yes*

PLANNING DIRECTOR'S OPTIONS:

1. **Approve the Division of Land for Public Purposes 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 Division of Land for Public Purposes 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 Division of Land for Public Purposes request** if additional information is required to fully evaluate the petition. Give specific direction to the petitioner and staff.
4. **Approve the Division of Land for Public Purposes 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.

FINDINGS OF FACT that may be appropriate if the Preliminary Subdivision is approved:

1. The proposal with the following conditions meets the guidelines of the Routt County Master Plan and the Hayden Master Plan and is in compliance with Sections 6 of the Routt County Zoning Regulations and Sections 3 and 4 of the Routt County Subdivision Regulations.

CONDITIONS that may be appropriate may include the following:

General Conditions:

1. Prior to recordation, the applicant shall submit an electronic copy of the legal description of the ROW to the County Planning Department in a .DWG format or other format acceptable to the GIS Department.
2. 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.
3. A resolution for the Division of Land for Public Purposes shall be finalized and recorded within six months of the Planning Director's approval. The resolution shall contain the legal description of the right of way that will be conveyed to the County. Extensions up to six months may be approved administratively.

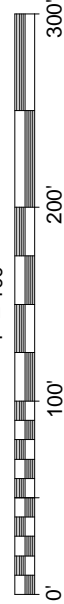
I hereby approve this Exemption from Subdivision Regulations for Public Purposes.



Planning Director

December 20, 2022
Date

NW1/4 SE1/4 OF SECTION 17, T6N R87W, 6th P.M.,
ROUTT COUNTY, COLORADO



INDICATES MONUMENT FOUND AS NOTED

REV. 1 8/10/22 REVISE LINE CHART PER COUNTY COMMENTS

SAGE CREEK LAND & RESERVES		NW1/4 SE1/4 OF SECTION 17, T6N R57W, dbd F.M.		SUBDIVISION EXEMPTION																			
<table border="1"> <tr> <td colspan="6">ROUTT COUNTY, COLORADO</td> </tr> <tr> <td>SCALE</td> <td>DWG</td> <td>DATE</td> <td>REV</td> <td colspan="2">FILE</td> </tr> <tr> <td>1" = 100'</td> <td>GRD</td> <td>7/12/22</td> <td>8/10/22</td> <td colspan="2">PREPARED</td> </tr> </table>		ROUTT COUNTY, COLORADO						SCALE	DWG	DATE	REV	FILE		1" = 100'	GRD	7/12/22	8/10/22	PREPARED		DOWLING LAND SURVEYORS P.O. BOX 954 HAYDEN, CO. 81639 (970) 276-3613 FAX 276-4595			
ROUTT COUNTY, COLORADO																							
SCALE	DWG	DATE	REV	FILE																			
1" = 100'	GRD	7/12/22	8/10/22	PREPARED																			

Case	Onset	Duration	Outcome
1	7/12/99	8/10/99	Recovered



136 6th Street, #103
Steamboat Springs, CO 80487
970-870-5552

Date: November 4, 2022

To: Routt County Planning Department

RE: Narrative for Subdivision of land for Public Purpose

Dear Ms. Winsler,

Please accept this application for the Subdivision of Land for Public Purpose. The subdivision is being requested so that Routt County can gain a Right of Way for the Tie Across Haul Road southwest of the Town of Hayden.

The Tie Across Haul Road was built by the Seneca Coal Company to ensure that coal shipments and heavy coal mining equipment did not need to travel through the Town of Hayden as their truck route. The road in its current state connects Routt County Road 53 to Routt County Road 27. The road is approximately 4.6 miles in length. The Seneca mine ceased operation in 2005 and the road has remained under the ownership of Peabody Energy Company. Peabody has held access easements and agreements with the 6 property owners along the Haul Road.

In 2014, Peabody approached the County about taking over the ownership and maintenance of the Haul Road from them. Peabody would work with the surrounding property owners to gain a public Right of Way across their property. The State Land Board and Xcel energy requested that they work directly with the County on a Right of Way Across their property. In March of 2020, the County was granted a Right of Way Contract with the Colorado State Land Board across their property.

Since 2018, Routt County and Peabody Energy has had on and off conversations with Xcel Energy about a Right of Way through their parcel. From the statement of ownership and approval from Xcel (attached) Routt County is applying for the subdivision of land for Public Purpose of the parcel PIN# 939174001 so that Routt County can gain a right of Way to maintain the Tie Across Haul Road as a public road.

Routt County Public Works is the applicant because we will be the final owner of the road. Peabody owns the road and has an easement agreement with Xcel Energy. If the application is approved, Routt County will have a public Right of Way for the entire length of the road. At that time, Peabody Energy will then hand over ownership of the Tie Across Haul Road to Routt County.

This road has been in use for years and we expect no significant impacts to the surrounding area from this subdivision.

We look forward to a full review of the attached application materials and the ability to move forward taking ownership of the Tie Across Haul Road.

Please let me know if you have additional questions.

Regards,

A handwritten signature in blue ink, appearing to read "M. T. Mordi".

Michael T. Mordi, P.E.
Director
Routt County Public Works