

**SAN MIGUEL COUNTY PLANNING COMMISSION
MINUTES – REGULAR MEETING**

April 21, 2022

On-line Meeting

Present: Lee Taylor, Chair
Josselin Lifton-Zoline, Vice-Chair
M.J. Schillaci, Secretary (via Zoom)
Ian Bald, Member
Matthew Bayma, Member
Tobin Brown, Sr. Alternate (via Zoom)

Planning Staff Present: Kaye Simonson, Planning Director
John Huebner, Senior Planner

County Staff Present: Amy Markwell, County Attorney
Nancy Hrupcin, Legal Assistant, County Attorney's Office
Carmen Warfield, Clerk to the Board

9:19 a.m. Chair called the meeting to order.

The commission began by considering if any members had a conflict of interest or if there had been any ex-parte communication regarding the application. While some of the members did state they lived in Aldasoro, none had any vested interest or had participated in any ex parte communications prior to the hearing.

9:15 A.M. PUBLIC HEARING: REZONE APPLICATION

Representative: SE Group and Klein Cote Edwards Citron LLC
Applicant(s): Town of Telluride / San Miguel County
Property Owner: Diamond Ridge Telluride, LLC
Location: Last Dollar Road Parcel(s): Lots 1-R-A, 2-R, 3-R Diamond Ridge;
PIN#: 456530318011, 456530317012, 456530317013
Zone District: (F) Forestry, Agriculture and Open
Proposal: Request to Rezone a portion of the subject property to the Community Housing (CH) Zone District, LUC Section 5-324, with the remainder of the property to continue to be zoned Forestry, Agriculture and Open (F), LUC Section 5-307 MOTION

Kaye Simonson, Planning Director, gave the background and presented the rezone application for The Ridge, a community housing project rezone to Community Housing (CH). San Miguel County and the Town of Telluride are currently under contract to purchase Lots 1-R-A, 2-R and 3-R, Diamond Ridge. The intent is to rezone a portion of the property to Community Housing

(CH), for the purpose of developing affordable housing in the future. A development plan has not been prepared. Should the property be rezoned and the purchase completed, the Town and County would then move forward with development plans, at which time specific details regarding density, site design, and services would be addressed.

The subject of the proposed rezone application is Lots 1-R-A, 2-R, and 3-R of Diamond Ridge, containing about 105 acres. The property is currently zoned Forestry, Agriculture, and Open (F). The airport is immediately to the south and is zoned Public (P). The Deep Creek Ranches subdivision to the north is zoned Low Density (LD), while the other adjoining parcels are zoned F. Aldasoro Ranch, father to the east, is also zoned LD.

It is proposed to rezone only a portion of the three parcels to Community Housing (CH), with the remainder continuing to be zoned F. If approved, the BOCC resolution will include a legal description describing the boundaries of the zone district. The rezoning area is 39.21 acres.

While split zoning of parcels is not expressly prohibited by the Land Use Code, issues can be alleviated by a very specific delineation of the zoning in the approving resolution. Because the Town and County have not yet purchased the property, a property line adjustment application has not been submitted; the current owner would not want the property reconfigured. If the property is purchased, staff strongly recommends proceeding with a property line adjustment application so no parcel has more than one zoning designation.

There is a developed access point from Last Dollar Road. It is expected that development would be clustered, leaving a significant amount of area for open space, recreational trails, and other uses. Water service would come from the Town of Telluride; the Town has stated that they would be able to serve this property. Wastewater would either go to the regional wastewater treatment plants, or to an onsite system, depending on cost, design, and other development-specific considerations.

Because the actual number of units that would be developed is not known, it is not possible to do a full traffic study at this time. It is known that Last Dollar Road would have to be paved from the intersection with the airport road to the property.

Public notice was mailed to all property owners within 500 feet of the subject parcels prior to March 31, 2022. Notice was also mailed to the Bureau of Land Management as mineral rights holder on March 22, 2022. Notice of the Public meeting was posted on the property on March 25, 2022, and re-posted on April 8, 2022, after the original notice was discovered to have been removed. Removal of posted notices by parties other than the applicant does not invalidate the posting of the notice as required by the Land Use Code. The posting of the required sign was photographically documented both times.

The meeting agenda was published in the Telluride Daily Planet and Norwood Post on April 6, 2022, and the application has been available online since March 21, 2022.

The application for the rezone was sent to referral agencies with comments received from the County Surveyor, requesting corrections to the legal description. There were also comments

received from the Aldasoro Ranch Owners Company, Meadows at Deep Creek Mesa (MDCM) HOA, and the Deep Creek Ranches HOA.

There were also 99 written comments from 97 individuals received. (One person submitted 3 letters.) Of those, 77 have been in support of the rezoning, and 22 (20 individuals) have been in opposition. Those in support have written of the significant community need for affordable, workforce housing.

10:08 a.m. Break

10:15 a.m. Reconvene.

Gabby Voeller, Senior Planner with the SE Group gave her presentation. She iterated that this is a unique opportunity to house residents of the community. There are very few opportunities left close to town. It is estimated there would be 10.5 tons less of CO2 emissions with a closer commute. It is proposed as a clustered development within the R-1 school district, with municipal water that can be developed.

Jody Edwards then added to the presentation. He stated that the application is for rezoning, not development.

Kevin Geiger, Town of Telluride, Town Attorney, added that the town has evaluated the current system and can accommodate the additional demands on water independent of the Society Turn project. The commission asked what number of units the water demand was based on. Kevin replied that it was based on 150-240 units which are parallel to the Lawson Hill use. It is anticipated it would take 5-7% of the system-wide demand.

11:07 a.m. Break

11:15 a.m. Reconvene

The Chair opened up Public Comment.

Those who addressed the commission:

Doug Tooley- Concerns about County's process

Adrienne Christie, TOT Council – Neighborhood & community character, agrees the project meets standards for the rezone

Christine Mitchell, Aldasoro family – The family is following their father's wishes. Vickers asked them to release the covenants. They are asking for denial of the rezoning.

Rick Simonson, Specie Mesa Resident – Does not support the density and infrastructure issues. Feels it is in the wrong order.

Ashley Story, Aldasoro family – Wants the rezone denied

Shanna Peterson, Aldasoro family – Against the rezone. Issues with DOLA application. Feels it was negligent not to include the FAA.

Dan Enright, TOT Council – Please focus on the application. Speculative & hypothetical development is not part of this application.

Melanie Brown, owner Deep Creek Meadows – Inconsistencies in the application. Feels it should be delayed

David Lavender, Deep Creek resident – Could have a profoundly negative impact on the Telluride region. Understands the desire to live here. Feels they want more affordable housing to build more hotels. It is all about the money to be made. Against development in the region. Feels this will be the end of Deep Creek Mesa as we know it.

Dave Pressler, 3620 Last Dollar – Opposes the rezoning. He was limited on his construction and only allowed one well. Feels there needs to be more discussion and participation. Requesting denial.

Virginia Luccarelli, 26-year Deep Creek resident – Against the rezoning. Feels it is moving too fast. Concerned with roads and traffic. Feels the project is not affordable. Urges a no vote.

Jim Luccarelli, Vice-Chair of Telluride Fire District board believes the District was not consulted. Feels lack of planning and thought in the application. Talked of plane crashes in the area, not a safe location for the density. The no-left turn at the Spur is not an acceptable choice.

Sarah Lavender Smith, Last Dollar Road resident – Is for affordable housing but wants delays. Will change their neighborhood. Would like the area turned into a conservation easement and preserved for Open Space.

Pam Bennett, Aldasoro sister – Original ranch was zoned in the 1970s for low-density population and sheep grazing. In 1990 Aldasoro decided to utilize the reserved zoning and to downzone Deep Creek Mesa. At that time 300 acres were zoned for the airport and the remaining area as Agriculture Forestry with one home per 35 acres. Likes the low density. PUD Agreement with Vickers and Aldasoro shows on the Title Commitment and the property transfers. Asked the Planning Commission to support the memorandum between Aldasoro and Vickers and deny the application.

Angie Peterson, Aldasoro sister- Feels all land is sacred. This location does not work for rezoning. This proposal that is before you is not with the keeping with the original plan or spirit of Deep Creek Mesa. It goes against what we as a family, and Jack Vickers agreed to when the potential golf course was denied. Even with the denial, dad still had pending financial commitments to pay off his sister Mary Louise. They were ranchers, not developers. Jack Vickers committed to buy the property even if the golf course was denied. I assure you Jack Vickers stood up, shook Aldasoro's hand. They had a deal

worked out with all the restrictions explained and agreed to. That handshake is memorialized in a recorded document with both men's signatures. This is the why behind Diamond Ranch subdivision and sale to Jack Vickers. Please hold Jack Vickers to his handshake and signature. Aldasoro's are not NIMBYists, they want to be part of the solution.

Scott Bennett, 4th Generation Local-Concern of fire danger in high density, water availability, and wastewater treatment. Struggling to keep up with current and future water demand and there are no clear funding sources. Feels should consider alternate sites for Affordable Housing. Would like to deny or continue this application

Erik Aura- Recreates in the area. Concerns of access to trails. Traffic concerns to the round-about; felt airport traffic was not included.

12:15 p.m. Break

12:24 p.m. Reconvene

Todd Creel, TOT Resident-There is a need for housing in the area. He was hired by Jack Vickers in 2017 as his broker. Feels it is a cart before the horse with this up-zoning. He stated Mr. Vickers had told him he wanted out of the agreements with the Aldasoro family. Concerns about transparency and the availability of water.

Lisa Henson-Concerned about further rezoning on the mesa.

Amy Levek, long-time SMC resident- Has seen a lot of change in our community, and the last few years have been pretty brutal with people being displaced, gentrification, and other changes that have eroded the community. Housing is the basis for keeping a community. This is a rezoning application, not a development plan. Look to the future and replace much of the housing that has been lost in addition to filling the need for affordable housing. The land does meet the feasibility of this use.

Karen Lavender, Last Dollar Resident – Main concern is traffic. The traffic makes students late to school. She is part of the three pioneering families of the mesa, Collins, Lavender and Aldasoro. Consider the history of their presence and that they are against the application.

Frannie Aura- Owns three businesses. Distressed regarding the alignment with Jack Vickers. Feels lack of due process regarding the DOLA grant. Concerned with wildlife, especially elk. Requesting a no vote. Committed to Deed Restriction, just not here.

Joanna Spindler- Supportive of the rezoning. Democracy at work. Feels these are visionary and collaborative efforts to build affordable housing. Feels the Planning Commission has used due process and aligned with years of desires for affordable housing. Pushing affordable housing out is detrimental.

Rosie Cusack-Appreciates discussion. Feels that the consultants not living here. The rezone is not right for the community. Feels that Jack Vickers should rezone all his land to help the community. Is for affordable housing.

Emily Scott Robinson- Supportive of the rezoning. Historically, the land was Ute lands before the white man's history and the Aldasoro's owned it. Feels our officials have worked so hard to develop affordable housing and this is a practical project.

Jim Farrar, Deep Creek Resident – Feels that this process is not transparent.

Jennifer Barker, Last Dollar Resident- Does not support the rezoning. The mesa is a jewel, home to wildlife. Concern for the elk.

Carolyn Farkouh, Telluride resident- Feels community housing is not compatible with Deep Creek Mesa. Feels the mesa should be preserved, not developed. Feels could do better than what is proposed.

Jesse Niethammer, works with water distribution in Aldasoro. Agree we need affordable housing. Concerns with environmental impacts on bringing water to the area. Concerned that the land cannot support this development. Objects to the rezoning.

Laurie Collins, Deep Creek Road resident – Supportive of affordable housing. Concerns with increased traffic and railroading the covenant. Wants the process to be slow and careful to avoid unintended consequences

Geneva Shaunette, TOT Council- Affordable housing is encouraged by the state. Water rights have to be approved by council and are a really big deal. There were 77 letters of support. Many members of the community are for this. Sometimes big problems take big spending to solve. There are valid concerns, if there was a perfect location the housing would already be built.

John Miller, Gold Run resident of Telluride- Supportive of the project. Every project has impacts. Not many parcels are available this close to town.

Peter Lundeen- Housing, traffic, and wildlife are concerns. Need balance. Feels there is a need for further information. Against the rezone.

Debra Harvey- Concerns with large-scale and environmental impacts. Does not feel it is a good use of taxpayer money.

Nick Farkouh, on behalf of 16 members of the Deep Creek Subdivision – Agrees with the opposition. Concerns about the process. Feels the pro-comments are misleading and 'Facebook' like. Doesn't feel it is compatible with the surrounding zone districts.

Morgan Smith- Filed a long written comment. Concerns about density and feels the community concerns are being ignored.

John Pandolfo, Superintendent of Telluride School District- The school district really needs affordable housing, it is a big issue. Public housing is of utmost importance.

Michael Saftler- The idea of affordable housing is at the forefront. Concerns with the process, water, traffic and expense. Wants to stop the process right now.

1:46 p.m. Closed Public Comment.

1:47 p.m. Recessed.

2:20 p.m. Reconvened.

The commission asked if water was considered in regards to fire suppression. Kevin Geiger confirmed that the demands for fire were included in the calculations. There would need to be a tank installed, similar to the one up Tomboy Road and in Two Rivers, to be used for fire suppression.

The commission further inquired about the wildlife pathways, to which Gabby replied there would need to be a study and referral to the CPW with the development plan. It was also discussed that the FAA and Fire District were notified as referral agencies, but did not respond.

Questions were asked about a traffic report. There was only the letter submitted from the engineer that is in the application; there is no hidden traffic report.

The commission was asked by Amy Markwell, County Attorney, if they had enough information to make a decision to recommend to the BOCC regarding this rezoning.

Ian Bald asked what the negative consequences would be of having a continuance of this discussion. Kaye Simonson iterated that it would certainly affect the land purchase. If there is no rezone the land will no longer fit the goals for affordable housing and then the property would no longer be a viable choice for the town and county to purchase. She added that the rezoning is only the first step, and then there will be a full development process with ample public review.

Matt Bayma inquired if the county had done any research on the private agreements. Kevin Geiger, TOT Attorney, responded that the property in question is not in the Aldasoro PUD. There are some linked provisions. In regards to the agreement, it is a private agreement, a personal covenant with no statement that it runs with the land. They have done some analysis and it is a contract between private parties and does not run with the property. Kevin also spoke of some interesting developments in current case law, specifically a case involving the Town of Monument, and the government not being liable for the diminution of property when buying land for residential use as the government entity obtained the property for a public purpose. The case looked at the nature of a private covenant and asked if a private covenant can restrict a governmental entity from exercising its legitimate authority to advance a public purpose. The holding states, that where a governmental entity has obtained property for public purposes (affordable housing being a public purpose) the government may use that land for a purpose inconsistent with a restrictive covenant without compensating all the other landowners who are subject to that restrictive covenant. It is as if that restrictive covenant does not apply to the

governmental entity as long as they are advancing that public purpose. He continued that, one of the comments said that it has to go through a condemnation first and get a court to decide that is the issue. That is actually not what Monument says, it's the exact opposite. It says there is no compensable interest there. It is not necessary to go through a condemnation case as it doesn't exist. It doesn't run against the government when the government is advancing a public purpose. Once the town or county acquires that property to advance a genuine governmental purpose, that private, restricting covenant has no effect on the government as the owner of the property.

The importance of the public process was discussed. The underlying zoning needs to be done before a development plan can be prepared. The commission spoke regarding how the creation of the Community Housing Zone was not for a specific property. As the housing crisis is very serious, the intent was for an opportunity for landowners to build affordable housing without going through extreme costs and processes to make it easier for a developer to create affordable housing projects.

Addressing the concern that this was a strategy for a back-door way for Mr. Vickers to get water. Kevin Geiger replied that there is a term in the contract that the Town would consider the extension of water to his remaining parcels. But it just says, 'in good faith', which doesn't commit to it. Town Council would have to take the issue up and be passed by Ordinance with the recommendation of the town manager and the planning commission. They could also impose further conditions.

Toby stated his concern with the pace of the application. The commission also requested a site visit prior to the BOCC hearing.

Ian Bald added that it is nice to see a proposal that is not always sticking the workforce in undesirable, shady lots.

MJ also added her thoughts that the rezone will change the Mesa, but we need housing for the people that are here right now. She supports the rezone becoming effective at the closing. Concerns about the wildlife corridors and looking at traffic from the Deep Creek Road access.

Josselin agreed with MJ, adding that we are playing catch up on housing and there is an ethical obligation to house workers. We need to consider who has the right to live here, who gets to live here, and how hard it is to live here.

Lee Taylor questioned the possibility of continuing and what that would do to the grant process. Mike Bordogna, County Manager stated that more than a week's delay would put a monkey wrench in the process and compromises the closing date, causing the deal to fall through. The grant can only be given if the property can be rezoned.

MOTION by Josselin Lifton-Zoline to approve Resolution No. 2022-01 and recommend the Board of County Commissioners approve rezoning a portion of Lots 1-A-R, 2-A, and 3-A, Diamond Ridge, to Community Housing, based on the following findings:

1. The proposed rezoning complies with the standards of Land Use Code Section 5-1803, Rezoning;

2 The proposed rezoning is consistent with the Purpose of Land Use Code Section 5-324, Community Housing and the higher density that may be proposed is not incompatible with surrounding land uses, neighborhood characteristics or community character:

3. The Applicant and Representatives have demonstrated that the Property can be developed in a way that protects the public health, safety and welfare, including the provision of water and wastewater treatment; mitigation of geohazards; site access; and mitigation of impacts on the environment, consistent with the purpose and standards of Land Use Section 5-324 Community Housing;

4. The proposed rezoning implements Land Use Code Article 2, Land Use Policies and in particular the policies of Section 2-29, Housing;

5. The proposed rezoning is consistent with Land Use Code Section 1-4, Purposes of the Land Use Code;

6. The proposed rezoning is consistent with and implements the Telluride Regional Area Master Plan, an element of the San Miguel County Comprehensive Development Plan, and in particular Section E, Affordable Housing, in that it will help provide an adequate self-contained supply of affordable and community housing to meet the needs of seasonal employees and permanent residents.

And with the addition to the resolution to request that the application is re-sent to referral agencies asking for review and response prior to the BOCC hearing, that CPW be added as a referral agency, and that a site visit be conducted prior to the BOCC hearing, and with a request that the planning department follow-up with those referral agencies.

SECONDED By MJ Schillaci

AMENDMENT requested by Lee Taylor to further require an opinion letter from the traffic consultant regarding traffic down to the spur and Deep Creek as it was not addressed.

Josselin and MJ accepted the amendment.

AMENDMENT requested by Lee Taylor to add CDOT to the referral agencies.

Josselin and MJ accepted the amendment.

To incorporate those amendments and as finally adopted, the resolution included the following: ***“BE IT FURTHER RESOLVED that the application shall be sent to referral agencies asking for their review and response prior the BOCC hearing; that CPW and CDOT be added as referral agencies; that a traffic letter be provided analyzing impacts on Deep Creek; and that a site visit be conducted prior to or concurrent with the BOCC hearing.”***

Josselin and MJ accepted the amendment **VOTE PASSED 3-2**

Lee Taylor	Aye	<u>Nay</u>	Abstain	Absent
Ian Bald	<u>Aye</u>	Nay	Abstain	Absent
M.J. Schillaci	<u>Aye</u>	Nay	Abstain	Absent
Josselin Lifton-Zoline	<u>Aye</u>	Nay	Abstain	Absent
Matthew Bayma	Aye	<u>Nay</u>	Abstain	Absent
Tobin Brown	Aye	Nay	Abstain	Absent

4:00 p.m. Recessed.
4:10 p.m. Reconvened.

LAND USE CODE AMENDMENT:

Amending LUC Section 5-307 Forestry, Agriculture and Open (F) adding Social and Scenic Uses as a use subject to Two-Step Special Use Permit Review/MOTION

Kaye Simonson began the presentation by describing how in the past year, the Planning Department became aware of properties being used for wedding venues in the Forestry, Agriculture, and Open (F) zone. LUC Section 5-307 lists the uses that may be permitted in that zone district, by right; by administrative review; by one-step Planning Commission review; by one-step BOCC review; and by two-step Special Use Permit review. Renting of property for weddings and similar events is considered a commercial activity but there are no listed uses under which it might be allowed in the F zone. The proposed amendment would allow Social and Scenic Uses, which includes weddings and special events, on parcels larger than 35 acres.

4:28 p.m. Opened Public Comment

Doug Tooley – Comment about noise

Nicole Pietrese – In support. Consider amending LUC Section 5-307 F to add social and scenic uses for over 200 people. Do events under 200 people need commission approval or just an administrative review.

Ashley Story – Commented that the LUC is not clear of the actual process to go through.

DeLanie Young – Asked if there was a replat anticipated for Nicole's clients.

Pam Bennett – Supporting the 35-acre standard size.

4:38 p.m. Closed Public Comment

Kaye Simonson added that there has been a shift over the last several years in how property is being used. Staff is not interested in events for under 200 people being an administrative approval as each application can have lots of variables.

The commission asked if this use is going to increase with more events such as weddings happening.

MOTION by MJ Schallici to recommend to the Board of County Commissioners to adopt the amendment to San Miguel County Land Use Code Section 5-307 D, Uses Allowed Subject to One-step Planning Commission Review and Section 5-307 F, Uses Allowed Subject to Two-Step Special Use Permit Review, to allow "Social and Scenic Uses" in the Forestry, Agricultural and Open (F) zone district, based on the finding that the proposed amendment complies with the standards of Land Use Code Section 5-1802, Land Use Amendments, and is consistent with Land Use Code Section 1-4, Purposes of the Land Use Code, as follows:

1. Amend Section 5-307 D to add:

XII. Social and Scenic Uses, such as a location for weddings, meetings, retreats, reunions, video and film photo shoots and commercials, on parcels containing

thirty-five (35) acres or more, and with attendance of two hundred (200) or fewer guests.

2. Amend Section 5-307 F to add:

XV. Social and Scenic Uses, such as a location for weddings, meetings, retreats, reunions, video and film photo shoots and commercials, on parcels containing thirty-five (35) acres or more, and with attendance of more than two hundred (200) guests.

SECONDED by Josselin Lifton-Zoline. **VOTE PASSED 4-1**

Lee Taylor	<u>Aye</u>	Nay	Abstain	Absent
Ian Bald	<u>Aye</u>	<u>Nay</u>	Abstain	Absent
M.J. Schillaci	<u>Aye</u>	Nay	Abstain	Absent
Josselin Lifton-Zoline	<u>Aye</u>	Nay	Abstain	Absent
Matthew Bayma	<u>Aye</u>	Nay	Abstain	Absent
Tobin Brown	<u>Aye</u>	Nay	Abstain	Absent

APPROVAL OF MINUTES

MOTION by MJ Schillaci to approve the March 10, 2022 minutes as presented.

SECONDED by Ian Bald. **VOTE PASSED 5-0.**

Lee Taylor	<u>Aye</u>	Nay	Abstain	Absent
Ian Bald	<u>Aye</u>	Nay	Abstain	Absent
M.J. Schillaci	<u>Aye</u>	Nay	Abstain	Absent
Josselin Lifton-Zoline	<u>Aye</u>	Nay	Abstain	Absent
Matthew Bayma	<u>Aye</u>	Nay	Abstain	Absent
Tobin Brown	<u>Aye</u>	Nay	Abstain	Absent

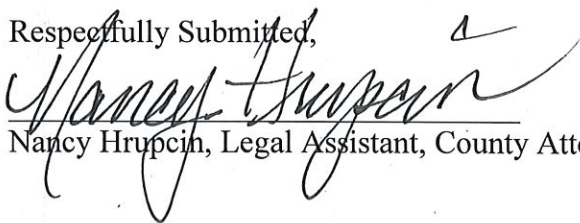
4.54 p.m. Matt Bayma left the meeting.

PLANNING COMMISSION AND STAFF COMMENTS

- 1.) May meeting will be on May 12 at the Norwood library
- 2.) SUP application in Placerville
- 3.) Norwood area SUP
- 4.) LUC Code Amendment for the mitigation fee

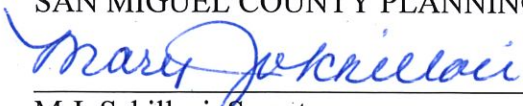
5:00 p.m. Adjourned.

Respectfully Submitted,


Nancy Hrupcin, Legal Assistant, County Attorney

Approved on June 9, 2022.

SAN MIGUEL COUNTY PLANNING COMMISSION


M.J. Schillaci, Secretary

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