



May 11, 2022

Board of County Commissioners of San Miguel County
P.O. Box 548
Telluride, CO 81435-0548

ALSO VIA EMAIL TO bocc@sanmiguelcountyco.gov; mikeb@sanmiguelcountyco.gov; and kayes@sanmiguelcountyco.gov

Re: PROPOSED REZONE OF DIAMOND RIDGE PARCELS 1-R-1, 2-R AND 3-R; PARCELS NO. 4565-303-18-011, 45650303-17-012, AND 4565-303-17-013 (“the Property”) FROM FORESTRY/AGRICULTURE/OPEN (F) TO COMMUNITY HOUSING (CH)

Dear Board of County Commissioners:

This letter is provided on behalf of the Aldasoro Ranch Homeowners Company (“Aldasoro Ranch”) in reference to the above-referenced rezone application which is on your agenda for a public hearing on May 18, 2022. Aldasoro Ranch is a review agency for purposes of this rezone and the comments in this letter are provided in that capacity.

Aldasoro Ranch is situated to the northeast of the Property, and it shares with the Property the primary access from Highway 145 via Airport Road to Last Dollar Road. As such Aldasoro Ranch will be directly subjected to the effects of the intensity of the land uses that are allowed by right in the CH zone district, including without limitation those described in this letter. Aldasoro Ranch has taken considerable measures, including adoption and enforcement of detailed restrictive covenants, to create and maintain a community that is open, quiet, and in harmony with the natural surroundings and wildlife, conserving the beautiful natural resources for which Telluride and San Miguel County are known and which make it a unique and exceptional place to live and work. We therefore oppose the rezone and respectfully request that the BOCC deny the requested rezone to CH.

Because the BOCC is not considering a specific development plan as it would with a planned unit development zoning decision, but rather is considering a “straight” zone district that could result in development as a matter of right at the highest potential density/intensity, the Board must consider *all* the potential uses that are allowed by right in the new zone district in order to properly determine whether the Property is suitable for the proposed zoning. In particular, the Board must consider development at the highest end of the allowed density and intensity in the

CH zone district, which includes development of twenty units per acre (20 du/ac), as well as all of the uses listed in the attached Appendix 1. Once the Property is rezoned to CH, any of these uses is possible; most by right, some with a minor technical administrative review.¹

It is worth noting that 20 du/ac could result in up to seven hundred (700) units on the Property, equating to approximately 2100 people living in a roughly 17-20 acre area. To contrast that with the surrounding residential areas, to the east of the Property there are about 660 people living on 1500+ acres in Aldasoro Ranch, and 104 people living on approximately 850 acres in Sunnyside Subdivision.

Although repeatedly urged to do so by the applicants in its application materials, it is improper for the BOCC to fail or refuse to consider any of the rezone criteria on the grounds that the rezone decision stage is “too soon” to discuss them. Because the straight zone district of CH creates uses by right of considerable intensity, the rezone stage is precisely when the criteria should be duly considered and thoroughly addressed.

CH Zone District and Recent LUC Text Amendments. The BOCC has very recently amended the San Miguel County Land Use Code (LUC) to eliminate density as a consideration for determining compatibility of the CH zone district with surrounding land uses, neighborhood characteristics or community character and to almost completely curtail the ability of the BOCC to carefully consider the potential effects of its rezoning decisions on the community.² This amendment appears to have been pushed through the legislative process with far too little public input and discussion, especially given that its practical effect is to curtail all public discussion and consideration of the actual impacts of density on such surrounding land uses, neighborhood characteristics and community character. to remove from the rezone process any meaningful input from surrounding landowners and to gut their reasonable expectations of neighborhood character.

It is worth noting that the rezone application relies entirely on those text amendments as support for the rezone; it does not even attempt to address any of the substantive criteria otherwise applicable to a rezone decision. It is highly unlikely that, without the ill-conceived text amendments, a 20 du/ac development next door to rural residential land uses would be considered compatible, and the application does not even attempt to insinuate that it would be.

A better approach to the zoning of the Property would be undertaking a planned unit development process. This approach would allow San Miguel County and the Town of Telluride to find solutions to the urgent affordable housing deficit while still allowing a reasoned and careful consideration of meaningful input from the surrounding landowners and review agencies and the exercise meaningful and useful control over the development so as to protect and preserve the value of the community and surrounding neighborhoods.

¹ In addition, with Planning Commission approval, the uses could also include Flex Space and Neighborhood Commercial Uses.

² “When rezoning land to the CH zone district, the higher density that may be achieved in that zone shall not be considered incompatible with surrounding land uses, neighborhood characteristics or community character.” LUC, §5-324A. “...[D]ifferent densities and intensity of uses are not in and of themselves incompatible.” LUC §5-1803. “” Shall approve or disapprove rezoning on the basis of whether the proposed rezoning ... meets any applicable Sections of the Land Use Code.” LUC, §5-1803 (emphasis added).

Rezone Criteria. Density aside and text amendments aside, the LUC does not allow the BOCC to ignore the rezone criteria. When considering this rezone, the Board must consider the rezone criteria of LUC Section 5-1803.

Traffic Generation and Road Safety. The applicant's information on traffic generation and road safety is woefully inadequate to provide the BOCC with the information it needs to make a reasoned rezone decision. It does not even attempt to analyze the traffic generated by 2100 people living in a 17-20 acre area, which is the actual analysis that the BOCC should be requiring in order to make its rezone decision. In addition, the safety and congestion impacts of traffic generated by 2,100 people on a two lane road which requires a left turn from Airport Road to reach Telluride have been omitted.

Impacts to Wildlife. The dense and intense land uses allowed in the CH zone district will have detrimental impacts on the elk, mule deer, and bighorn sheep habitat, including critical winter habitat, within the Property as well as within the surrounding neighborhoods and areas. not have any meaningful impact on wildlife. The Applicants' own report references such areas (Application, page 68).

Impacts to the Natural Environment. The land uses allowed by right in the CH zone district, which include an estimated 2100 people living in the 17-20 acre area, will have irrevocable impacts on and will completely change the natural environment of the Property and of the surrounding areas, including Aldasoro Ranch. The application states, disingenuously, that the rezone will "of itself have no impacts on the natural environment" (Application, p. 71). If that were true this would not ever have been a rezone criteria in the first place, and the idea that the addition of 700 housing units and 2100 people (with their vehicles) to such a small area will have no impacts on the natural environment is a bit incredulous.

Demands on Public Facilities and Existing Infrastructure. The rezone application does not describe in any meaningful or substantive way the demands on public facilities and existing infrastructure resulting from a development of 20 du/ac, nor does it establish any evidence that the public facilities and existing infrastructure are sufficient to support such density. Rather, it just conclusively states that "all required services are nearby" (Application, page 70) and asserts, incorrectly, that the BOCC should, or must, rezone the property without any meaningful consideration of this criterion and wait until the development plan review stage to determine whether public facilities or existing infrastructure are sufficient. At that stage, it is too late.

Water. Water is a scarce and valuable resource in the community, and one that is particularly important to rezone decisions. Other than a bald statement that municipal water can be extended to the Property, the rezone application in no way demonstrates that the water resources will not be unreasonably strained by the land uses allowed by right in the CH zone district on the Property.

Character and Compatibility. The proposed zone district must be compatible with the surrounding zone districts and land uses, considering existing land use, neighborhood characteristics, and community character. The existing land uses are rural residential. The uses

allowed by right in the CH zone district are very urban residential (20 du/ac), with profoundly different and more intense impacts to the surrounding areas, including Aldasoro Ranch.

Other Considerations.

Housing Needs. We understand the critical need for housing that is affordable for those who provide services and are employed in the Telluride area of San Miguel County, and support the County's goal of making it easier for developers to create such housing in the area. However, the goal of affordable housing is not the only goal the BOCC should consider, although it is the only goal discussed or put forth by the applicant. Rather, the goal of affordable housing must be balanced among the other goals set forth in the LUC and Comprehensive Plan and the overall goal of zoning and land use regulation, which is to promote the ordered and balanced development and use of land in a community. To that end, there are other properties and areas of the community that are better suited to support a CH zone district and high density housing than this property.

Affordability. The application describes a need for extension of municipal water service, extension of municipal sewer service or the development of an on-site package wastewater treatment plant for the property, and on-site solar energy generation. As the densities proposed, the infrastructure costs will be considerable. Even with the subsidization proposed by the Town of Telluride, there is insufficient information that the housing units that will be developed will be in any meaningful sense "affordable."

Restrictive Covenants. The PUD zoning of the Property came with an agreement by the County to limit the density of residential uses of the Property to 1 unit per 35 acres; the rezone of this Property arguably violates the County's prior agreement and the resulting restrictive covenant on the Property. This is likely to embroil the County and the applicants in litigation that will unnecessarily drain the public coffers and other public resources that could be better turned to the actual goals of affordable housing and the other goals of the Comprehensive Plan.

Such considerations lead us to conclude that the Property is not suitable for land uses allowed by right in the CH zone district and that such land uses are not compatible with the neighboring areas, including Aldasoro Ranch. Without assurances of effective mitigation measures such as could be required with a planned unit development zoning process, the impacts of the rezone decision will irrevocably harm and change the rural residential character of the area including Aldasoro Ranch.

We urge the BOCC to deny the rezone request.

Sincerely,

Robert McMahon

Robert McMahon (May 11, 2022 13:05 MDT)

Aldasoro Ranch Homeowners Company

Robert McMahon, President

Representing 160 Property Owners

APPENDIX 1

USES ALLOWED BY RIGHT IN THE CH ZONE DISTRICT

- high density residential,
- customary residential accessory buildings,
- day care homes,
- home occupations,
- temporary alternative living space sites,
- day care centers,
- public transportation facilities,
- public utilities and infrastructure,
- single family residences,
- duplexes,
- multifamily dwellings,
- rooming houses,
- RV, tiny home, yurt and other alternative living spaces,
- churches,
- community meeting halls,
- libraries,
- civic and community service facilities,
- parks, playgrounds, playing fields, and other rec facilities.






BOCC 5-11_001

Final Audit Report

2022-05-11

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