

ORDINANCE NO. 2023-__

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE,
COLORADO CONDITIONALLY APPROVING REZONING AND DENSITY TRANSFER FOR
LOTS 126R AND 152R AND TRACTS OSP-118 AND OSP-126**

WHEREAS, Base Telluride, LLC (the “**Developer**”) is the owner of certain real property described as Lot 126R, Lot 152R, Tract OSP-118, and Tract OSP-126, Telluride Mountain Village, Colorado, according to the plat recorded as Reception No. 397455 (together, the “**Property**”); and

WHEREAS, the Developer has submitted a Major Subdivision application to the Town of Mountain Village (the “**Town**”) to replat the Property (“**Subdivision Application**”) for the purpose of including the Property in an integrated development that will include the creation of a common interest community and an owners’ association; and

WHEREAS, in connection with its Subdivision Application, the Developer has applied to rezone Lot 126R from Multi-Family to Single Family, rezone OSP-118 from Active/Passive Open Space to Resource Conservation Active Open Space, expand OSP-126, rezone certain density, and decrease the overall density, transferring excess density into the Mountain Village Density Bank (“**Rezoning Application**”), which application consists of the materials submitted and itemized on Exhibit A, attached hereto, plus all statements, representations, and additional documents of the Developer and its representatives made or submitted at the public hearings before the Design Review Board (“**DRB**”) and the Town of Mountain Village Town Council (“**Town Council**”); and

WHEREAS, the Subdivision Application and the Rezoning Application are being processed and considered concurrently by the DRB and Town Council; and

WHEREAS, the DRB held a public hearing on February 2, 2023, to consider the Rezoning Application and testimony and comments from the Developer, Town Staff, and members of the public, and voted unanimously to issue a recommendation of approval to Town Council of the Rezoning Application, subject to conditions; and

WHEREAS, the Town Council held a public meeting on February 16, 2023 to consider the Rezoning Application, the DRB’s recommendations, and testimony and comments from the Developer, Town Staff, and members of the public, and voted ___ to approve the Rezoning Application on first reading, subject to conditions and a second reading of this Ordinance to be held at a public hearing on _____, 2023; and

WHEREAS, the Town Council held a public hearing on _____, 2023 to consider the second reading of this Ordinance and testimony and comments from the Developer, Town Staff, and members of the public, and voted ___ to approve the Rezoning Application (“**Rezoning Application**”); and

WHEREAS, the public hearings and meetings to consider the Rezoning Application were duly noticed and held in accordance with the Town’s Community Development Code (“**CDC**”); and

WHEREAS, the Town entered into an agreement with San Miguel County regarding platted open space, which agreement is recorded as Reception No. 426873 (“**County IGA**”) and was codified as CDC Section 17.3.10; and

WHEREAS, the Town has determined that the rezoning and density transfer accomplished by this approval will comply with the County IGA and that there will be no net loss in open space acreage thereby; and

WHEREAS, with respect to the requested rezoning, the Town Council has considered the criteria set forth in Section 17.4.9 of the CDC and finds that each of the following has been satisfied or will be satisfied upon compliance with the conditions of this Ordinance set forth below and in the Development Agreement:

1. The proposed rezoning is in general conformity with the policies, principles and standards set forth in the Comprehensive Plan;
2. The proposed rezoning is consistent with the Zoning and Land Use Regulations;
3. The proposed rezoning meets the Comprehensive Plan project standards;
4. The proposed rezoning is consistent with public health, safety, and welfare, as well as efficiency and economy in the use of land and its resources;
5. The proposed rezoning is justified because there is an error in the current zoning, there have been changes in conditions in the vicinity or there are specific policies in the Comprehensive Plan that contemplate the rezoning;
6. Adequate public facilities and services are available to serve the intended land uses;
7. The proposed rezoning shall not create vehicular or pedestrian circulation hazards or cause parking, trash, or service delivery congestion; and
8. The proposed rezoning meets all applicable Town regulations and standards.

WHEREAS, with respect to the requested density transfer, the Town Council has considered the criteria set forth in Section 17.4.10 of the CDC and finds that each of the following has been satisfied or will be satisfied upon compliance with the conditions of this Ordinance set forth below and in the Development Agreement:

1. The criteria for decision for a rezoning are met, since such density transfer must be processed concurrently with a rezoning development application (except for MPUD development applications);
2. The density transfer meets the density transfer and density bank policies; and
3. The proposed density transfer meets all applicable Town regulations and standards.

WHEREAS, the Town Council now desires to approve the Rezoning Application, subject to the terms and conditions set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO, as follows:

SECTION 1. RECITALS. The above recitals are hereby incorporated as findings of the Town Council in support of the enactment of this Ordinance.

SECTION 2. APPROVALS.

2.1. **REZONING APPLICATION.** The Town Council hereby approves the Rezoning Application and Development Agreement (defined below), subject to the conditions set forth below, and authorizes the Mayor and Town Clerk to sign the Development Agreement on behalf of the Town following approval of the same by the Town Manager. All exhibits to this Ordinance are available for inspection at the Town Clerk's Office.

2.2. **ZONING AND DENSITY.** The Town Council approves the rezoning of and density transfers for the Property as follows. The depiction of the Property included as Exhibit B shall constitute the map of the rezoned area required by CDC Section 17.4.9(D)(1)(a).

Table 1. Current and Proposed Rezoning.

Lot	Current Zoning	New Zoning
126R	Multi-Family	Single Family
OSP-118	Active/Passive Open Space	Resource Conservation Active Open Space*
OSP-126	Passive Open Space	Passive Open Space*

* Passive Open Space cannot be rezoned; therefore, the former Passive Open Space area is expressed on the Replat as an overlay and further extended via the Rezoning Application and the Subdivision Application. Active Open Space can be rezoned and relocated so long as there is no net loss of open space and it remains within the same area. The Rezoning Application proposes a slight increases in open space and otherwise meets the requirements of the CDC.

Table 2. Current and Proposed Zoning Designations.

Lot	Current Density-Zoning Designation	Number of Units	New Zoning Designation	Number of Units
126R	Condominium	44	Single Family	9
	Hotel	56		
	Hotel Efficiency	19		
	Employee Dormitory	17		
	Employee Apartment	5		
	Commercial	34,001 sq ft		
152R	Condominium	23	Condominiums	8
	Commercial	4,665 sq ft	Employee Condominium	1
			Commercial	*

* Commercial and ancillary uses as allowed pursuant to Table 3-1 Town of Mountain Village Land Use Schedule in CDC Section 17.3.3 will be proposed with development and show on the future condominium map.

Table 3. Lot 126R Density to be Rezoned.

Density Units to be Rezoned	Number of Units	Persons per Unit	Total Persons
Condominium Units to be Rezoned to Single Family	12	3	36
Density with New Zoning Designation	Number of Units	Persons per Unit	Total Persons
Single Family	9	4	36

Table 4. Lot 126R Density to be Transferred to Density Bank.

Zoning Designation	Number of Units	Persons per Unit	Total Persons
Condominium	32	3	96
Hotel	56	1.5	84
Hotel Efficiency	19	2	38
	Total Free Market Persons		
Employee Dorm	17	1	17
Employee Apartment	4	3	12
	Total Employee Persons		32
	Total Persons		150

Table 5. Lot 152R Density to be Transferred to Density Bank.

Zoning Designation	Number of Units	Persons per Unit	Total Persons
Condominium	15	3	45

SECTION 3. CONDITIONS. The approval of the Rezoning Application is subject to the following terms and conditions:

3.1. All conditions of the approval of the Subdivision Application as set forth in Town Council Resolution No. 2022-__ (“**Subdivision Approval**”) are incorporated by reference as conditions of this approval.

3.2. The Town and Developer shall enter into a Development Agreement in substantially the form set forth in Exhibit C, attached hereto, which shall incorporate by reference all conditions of this approval and the Subdivision Approval. The Town Manager is authorized to approve the final version of the Development Agreement and, upon such approval, the Development Agreement and all related documents necessary to effectuate the intent of this Ordinance may be executed by the Town Manager, Director of Community Development, Mayor, and Town Clerk, as appropriate or necessary.

3.3. The Developer is responsible for all dues, fees, and any taxes associated with the existing density and density once placed into the Density Bank.

3.4. The open space locations and zoning will be consistent with the Replat associated with the Subdivision Approval.

3.5. The Density Bank certificates will be issued concurrently with the recording of the Replat.

3.6. If the employee zoning designation density is approved to be moved into the Density Bank, except for the one (1) Employee Condominium proposed, then the housing mitigation requirement is set at 100% for all buildings and relevant structures on Lots 126R and 152R, as proposed to be replatted. This requirement will be outlined in the Development Agreement.

3.7. The one (1) proposed Employee Condominium is subject to the affordable housing deed restriction requirements of the Mountain Village Municipal Code.

3.8. Town Staff shall update the Mountain Village Zoning Map consistent with this approval and the Subdivision Approval.

3.9. All representations of the Developer, whether within Rezoning or Subdivision Applications submittal materials or at the DRB or Town Council public hearings, are conditions of this approval.

SECTION 4. SEVERABILITY. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective on _____, 2023 (“**Effective Date**”) and shall be recorded in the official records of the Town, kept for that purpose, and shall be authenticated by the signatures of the Mayor and the Town Clerk.

SECTION 6. RECORDATION. This Ordinance shall be recorded with the San Miguel County Clerk & Recorder contemporaneously with the recordation of the Property Replat and Development Agreement.

SECTION 7. PUBLIC HEARING. A public hearing on this Ordinance was held on the ___ day of _____, 2023 in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado 81435.

SECTION 8. PUBLICATION. The Town Clerk or Deputy Town Clerk shall post and publish notice of this Ordinance as required by Article V, Section 5.9 of the Charter.

INTRODUCED, READ, AND REFERRED to public hearing before the Town Council of the Town of Mountain Village, Colorado on the 16th day of February, 2023.

TOWN OF MOUNTAIN VILLAGE:

**TOWN OF MOUNTAIN VILLAGE, COLORADO,
A HOME-RULE MUNICIPALITY**

By: _____
Laila Benitez, Mayor

ATTEST:

Susan Johnston, Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village, Colorado this ___ day of _____, 2023.

TOWN OF MOUNTAIN VILLAGE:

**TOWN OF MOUNTAIN VILLAGE, COLORADO
A HOME-RULE MUNICIPALITY**

By: _____
Laila Benitez, Mayor

ATTEST:

Susan Johnston, Town Clerk

Approved as to Form:

David McConaughy, Town Attorney

I, Susan Johnston, the duly qualified and acting Town Clerk of the Town of Mountain Village, Colorado ("Town") do hereby certify that:

1. The attached copy of Ordinance No. 2023-__ ("Ordinance") is a true, correct, and complete copy thereof.
2. The Ordinance was introduced, read by title, approved on first reading and referred to public hearing by the Town Council the Town ("Council") at a regular meeting held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on _____, 2023, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Laila Benitez, Mayor				
Dan Caton, Mayor Pro-Tem				
Marti Prohaska				
Harvey Mogenson				
Patrick Berry				
Peter Duprey				
Jack Gilbride				

3. After the Council's approval of the first reading of the Ordinance, notice of the public hearing, containing the date, time and location of the public hearing and a description of the subject matter of the proposed Ordinance was posted and published in the Telluride Daily Planet, a newspaper of general circulation in the Town, on _____, 2023 in accordance with Section 5.2(d) of the Town of Mountain Village Home Rule Charter.
4. A public hearing on the Ordinance was held by the Town Council at a regular meeting of the Town Council held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on _____, 2023. At the public hearing, the Ordinance was considered, read by title, and approved without amendment by the Town Council, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Laila Benitez, Mayor				
Dan Caton, Mayor Pro-Tem				
Marti Prohaska				
Harvey Mogenson				
Patrick Berry				
Peter Duprey				
Jack Gilbride				

5. The Ordinance has been signed by the Mayor, sealed with the Town seal, attested by me as Town Clerk, and duly numbered and recorded in the official records of the Town.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town this ____ day of _____, 2023.

 Susan Johnston, Town Clerk
 (SEAL)

Exhibit A

[LIST OF REZONING APPLICATION MATERIALS]

Exhibit B

[PROPERTY REPLAT]

Exhibit C

[DEVELOPMENT AGREEMENT]