

RECORD OF PROCEEDINGS

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**TOWN OF DILLON  
PLANNING AND ZONING COMMISSION**

**REGULAR MEETING  
WEDNESDAY, November 1, 2023  
5:30 p.m.**

**COUNCIL CHAMBERS  
275 LAKE DILLON DRIVE**

**1. CALL TO ORDER**

The regular meeting of the Planning and Zoning Commission of the Town of Dillon, Colorado, was held on Wednesday, November 1, 2023, in person at Town Hall. Chairperson Alison Johnston, called the meeting to order at 5:32 p.m. Commissioners present were Alison Johnston, Suzanne Pugsley, Michael Parsons, and Mark Cribbet. Staff members present were Ned West, AICP, Sr. Town Planner; Jonathon Blank, Planner I; Nick Cotton-Baez, Town Attorney; and Libba Muzi, Recording Secretary.

**2. APPROVAL OF THE MINUTES OF OCTOBER 4, 2023, REGULAR MEETING**

Commissioner Parsons moved to approve the minutes from the October 4, 2023, regular meeting. Commissioner Cribbet seconded the motion, which passed unanimously.

**3. PUBLIC COMMENTS**

No public comment.

**4. EDAC UPDATE:**

Alison Johnston attended the October 11 EDAC meeting in place of the Commission's primary representative, Michael Parsons, who was unable to attend. The group reviewed all the items on the EDAC agenda. Beginning with an Arapahoe Café discussion that came down to the Town not being able to do much about it; it is privately owned, and the current operators chose to close it, even with their lease still in effect into 2024. It came down to them being ready to retire from the restaurant business. The concept of moving the landmark structure, though not historic since it had previously been moved, was investigated by the Town. The structure would need to be brought entirely into compliance with new building, electrical, sustainability, and fire codes. As such, it has been determined to be far less expensive to build an entirely new structure, yet there remains the fact that the current restaurateur has no interest in continuing.

The Commission briefly discussed the fact that Pug Ryan's is under contract with the Porritt Group [specifically JGJP Dillon LLC]. They also discussed the Summit Daily and how the Town needs to become more involved with relaying information to the public in order to ensure

accuracy of the information that is published. Lastly, they discussed the public financing agreement for JPJG that would come to vote at the November 7<sup>th</sup> Town Council meeting.

**5. RESOLUTION: PZ 07-23, SERIES OF 2023 A RESOLUTION RECOMMENDING APPROVAL OF AN ORDINANCE AMENDING SECTION 16-8-70 OF THE DILLON MUNICIPAL CODE REGARDING WASTE AND RECYCLING ENCLOSURES. (Public Hearing)**

**PUBLIC HEARING:**

A Public Hearing is required for this application. The Planning and Zoning Commission shall open a Public Hearing on the application and hear testimony from Town staff, the applicant, and any public testimony submitted during the Public Hearing.

Chair Alison Johnston opened the public hearing at 5:58p.m.

Ned West gave an overview of the proposed Code amendment related to waste and recycling enclosures and what they would mean for future developments.

**SUMMARY**

This resolution recommends the Town Council approve Dillon Municipal Code (“DMC” or “Code”) Chapter 16 – “Zoning” amendments related to requirements and design guidelines for trash and recycling enclosures. The Dillon Municipal Code currently lacks clear regulations and design guidelines for waste and recycling enclosures. The Planning Commission has been studying this topic during several public meetings and has stated they are prepared to consider the resolution to recommend approval.

The Code currently states:

“Sec. 16-8-70. - Service areas.

Service areas, outdoor storage, garbage cans and trash storage areas shall be screened from adjacent properties, streets and other public areas by fences, planting or other suitable means as approved by the Town.

(Ord. 19-96 §8.03)”

**Proposed Code Criteria:**

**Section 1.** Chapter 16, Article IV of the Dillon Municipal Code is recommended to be amended by the addition of a new Sec on 16-4-55, to read as follows:

**Sec. 16-4-55. - Waste and recycling enclosures required**

*A. New development.*

1. All development projects undertaken following the effective date of the ordinance codified herein must provide at least one (1) permanent waste receptacle and one (1) permanent recycling receptacle of a size, scale, and capacity sufficient to accommodate the development and its occupants on site, whether attached to or detached from the principal structure on the site.

2. Waste and recycling receptacles installed as part of new development projects must be fully contained within a single enclosure, on the subject development property, that meets the design specifications set forth in Section 16-8-75. However, properties providing more than two (2) receptacles, may construct more than one (1) enclosure if not prevented by other provisions of this Code.

3. Enclosures may be attached to or detached from the principal structure on the site; except that, enclosures associated with large commercial structures shall to the greatest extent practicable, incorporate the waste receptacle enclosure into the primary structure.

4. Enclosures must be sited such that they are not a dominant feature on the frontage of the property.

5. Trash and recycling storage enclosures or structures meeting the definition set forth in Section 16-1-200 for accessory structure, will be classified as such. Enclosures not meeting such definition will be classified as primary uses.

*[NOTE: Accessory structure means a detached subordinate building located on the same lot as the principal building, the use of which is incidental to the principal building or use of the lot; such building shall not be used for living or sleeping quarters and shall not contain plumbing capable of facilitating a bathroom or a kitchen, with the exception of detached accessory dwelling units approved in accordance with this Code. (DMC § 16-1-200)]*

B. *Permits required.* Notwithstanding anything in this Code to the contrary, it is unlawful for any person to construct, or cause to be constructed, a trash and recycling enclosure without having first obtained a valid development permit and building permit.

*[NOTE: -Development Permit review: Level I (120 SF or less) or Level II (greater than 120 SF), and a Level III process, thus a Planning Commission review and approval, is required for all enclosures greater than 200 SF on non-residentially zoned properties.]*

C. *Enclosure maintenance requirements; existing and new.*

1. All enclosures shall be structurally sound, maintained in good condition and repair, kept clear of snow and ice, and kept clean at all times by the owner of the subject property.

2. Any enclosure that is determined by the Town to be in disrepair or pose a hazard to safety, health, or public welfare, shall be deemed a nuisance, and the Town shall have each of the remedies set forth in Chapter 7 of this Code determined necessary to abate such nuisance (e.g., cleaning, repair, maintenance, or removal and replacement), including the authority to abate the nuisance, following the owner's failure to do so on its own during the applicable notice period, and charge the property owner for the full cost of the work, which if unpaid will become a lien upon the respective property. The foregoing remedy may be exercised in addition to the Town's exercise of any other remedies set forth in this Code.

**Section 2.** Section 16-8-70 of the Dillon Municipal Code is recommended to be amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

**Sec. 16-8-70. - Service areas.**

Service areas, outdoor storage, waste and recycling receptacles, ~~garbage cans~~ and waste and recycling enclosures and ~~trash~~ storage areas shall be screened from adjacent properties, streets and other public areas by fences, planting or other suitable means as approved by the Town.

**Section 3.** Chapter 16, Article VIII of the Dillon Municipal Code is recommended to be amended by the addition of a new Section 16-8-75, to read as follows:

**Sec. 16-8-75. - Waste and recycling enclosure.**

A. Design specifications. Waste and recycling enclosures required pursuant to Section 16-4-55 of this Code must meet the following design specifications:

1. Enclosures must be fitted with a roof designed to support snow and wind loads, and such that the roof will not be damaged during the servicing of containers within the enclosure.

2. Enclosure design submittals must include at least one (1) written statement from a licensed waste hauler confirming that such waste hauler is able to access the waste receptacle or container with the waste hauler's standard hauling equipment for waste removal based on the proposed design and site configuration. Access to the waste receptacle by haulers shall be designed to avoid interference with vehicle traffic to the greatest extent practicable.

3. To prevent damage to the enclosure and receptacle during servicing, enclosures for large capacity steel receptacles, "Dumpsters", must be designed with bollards along the interior backside of the enclosure, and on each side of the container perpendicular to the service opening to the enclosure.

4. Service openings on enclosures must be designed to provide not less than eighteen inches (18") of clearance on each side of the proposed container. The opening corners must be designed with protection (bollards, steel angle iron, etc.) to prevent damage during servicing.

5. Swing gates must have a minimum eight inch (8") clearance above the ground to accommodate potential clearance issues such as snow accumulation. Overhead doors are preferred and recommended as they are not subject to issues with snow accumulation and create a seal superior to swing gates to prevent the attraction of vermin.

6. Enclosure must be designed with a pedestrian access doorway, with a minimum width of thirty-six inches (36").

7. All enclosures must provide space for a recycling container equal to fifty percent (50%) of the space provided for the trash container. Enclosures associated with restaurants shall also provide adequate space for a grease container.

8. The design, color, and materials of the enclosure must be architecturally compatible with the primary structure on the site.

9. Enclosures must be ventilated but the ventilation does not need to be mechanical unless required by applicable building codes.

10. Enclosures must be landscaped sufficiently to screen the structure from adjoining properties or roadways.

11. Proposed trash and recycling enclosures associated with large commercial structures shall, to the greatest extent possible, incorporate the waste receptacle enclosure into the primary structure.

### COMMISSIONER QUESTIONS

Alison Johnston asked if the Commission was to approve and then later wanted to add drawings for reference, would they have to go through the approval process again. Nick Cotton-Baez and Ned West confirmed that they would not.

### PUBLIC COMMENT

No public comment

**RECORD OF PLANNING COMMISSION ACTION**

Commissioner Cribbet moved to approved Resolution No. PZ 07-23 Series of 2023.  
Commissioner Parsons seconded the motion, which passed unanimously.

Alison Johnston closed the public hearing at 6:07 p.m.

**6. RESOLUTION: PZ 08-23, SERIES OF 2023 A RESOLUTION RECOMMENDING APPROVAL OF AN ORDINANCE AMENDING DIVISION 2, ARTICLE III, CHAPTER 16 OF THE DILLON MUNICIPAL CODE REGARDING A NEW MARINA OVERLAY ZONE DISTRICT. (Public Hearing)**

**PUBLIC HEARING:**

A Public Hearing is required for this application. The Planning and Zoning Commission shall open a Public Hearing on the application and hear testimony from Town staff, the applicant, and any public testimony submitted during the Public Hearing.

Chair Alison Johnston opened the public hearing at 6:09 p.m. Ned West provided a summary of the proposed Code amendment for the Marina Overlay district and detailed the permitted and conditional uses. He also presented the overlay district map which is to be adopted along with the overlay district.

**SUMMARY:**

The Dillon Marina is currently located in two (2) zone districts: Parks & Open Space (POS) and Urban Reserve (UR). Only in the POS zone district is a marina use identified as a permitted use. By its name, the UR district consists of undefined, “reserve” areas of the Town. The UR zone district was originally intended to provide a zoning district for properties annexed by the Town that would not be developed for some time, and it was presumed properties within the UR district would be rezoned prior to their development. Thus, essentially no permitted uses are identified in the UR zone district, and conditional uses are limited to existing uses and their potential expansion in accordance with conditional use criteria. In fact, the majority of the UR zoned areas are owned by Denver Water, who currently has no interest in any sort of development. They also are not presently interested in seeking a rezoning of their properties.

Due to the complexities arising from its inclusion in two (2) zoning districts, and the fact that a portion of the Marina is located on property leased from Denver Water, Town staff has determined the most appropriate course of action is to better define the activities associated with the Marina by the creation of an overlay district. The “Marina Overlay District” would function similarly to a Planned Unit Development (PUD) overlay district, but with defined permitted uses. The resolution recommending the

Town Council approve the Code amendment includes provisions to create a new zoning overlay district to include the following:

Sec. 16-3-210. – Marina Overlay Zone (MOZ).

(a) In the MOZ, the following regulations shall apply:

(1) Purpose. The purpose of the MOZ is to overlay the underlying zone districts (POS and UR) in recognition of existing and potential uses appropriate to the Dillon Marina.

(2) Overlay. All provisions of the underlying zoning district over which the MOZ is located shall continue to apply unless varied or waived by the provisions of this Section. The requirement in the UR zone, Section 16-3-200(4), that projects must be proposed as planned developments (PUDs), or processed as zone changes, shall not apply to UR properties overlaid by the MOZ.

(3) Permitted uses. In the MOZ, the following uses and their accessory uses are permitted, and may be allowed by the Town when in conformance with the provisions of this Code and approved utilizing the processes outlined in this Code:

- a. Marina.
- b. Yacht Clubs.
- c. Restaurants, Snack Bars, Food Vendors, and Bars.
- d. Convention Center.
- e. Parking and Parking Structures.
- f. Maintenance and Service Facilities.
- g. Rental and Retail Facilities.
- h. Concessions and Concessionaires.
- i. Events, Entertainment, and Recreational Uses.

j. Accessory uses and structures to include but not to be limited to schools and activities associated with watercraft, knots, weather, nature, wildlife, ice or snow sports, wind sports, kite sports, or other similarly associated activities; storage; boat washing and Aquatic Nuisance Species (ANS) treatment services; restrooms and shower facilities; sanitary sewer lift stations; waste and recycling receptacles and enclosures; waste and recycling sorting and storage facilities; docks; moorings; lifts and cranes; launch ramps; racks; mast steps; fueling facilities and fuel sales; and outdoor recreation.

(4) Conditional uses. The following uses and their accessory uses may be permitted if in conformance with the intent of this Chapter, subject to the provisions of Article IV, Division 2, and after an appropriate review has been conducted:

- a. Child care facility, if integrated into a planned marina development.
- b. Hotel/motel, if integrated into a planned marina development.
- c. Two-family dwelling, for employees of the marina only.

**COMMISSIONER QUESTIONS:**

The Commission began discussion with acknowledging the need to strike through “waste and recycling sorting and storage facilities.”

Alison Johnston then asked if this proposed overlay would overall make things easier and it was discussed that it would.

Alison then questioned whether the convention center term should be included as it is so broad. The Commission discussed the phrase “convention center” and the intent. Ned West explained that the intent is that a restaurant could have a meeting room or event space. The Commission settled on changing it to “meeting room or event space associated with a restaurant.”

The commission also found an error in the use table in section two of the resolution.

**RECORD OF PLANNING COMMISSION ACTION**

Michael Parsons made a motion to revise the use table in section two. Mark Cribbet seconded the motion, which then passed unanimously.

Mark Cribbet made a motion to revise the ordinance such that a convention center would not be approved on its own but only as an event space in conjunction with restaurant use. Alison Johnston seconded the motion, which then passed unanimously.

Michael Parsons moved to approve Resolution 08-23 as revised. Mark Cribbet seconded the motion, which then passed unanimously.

Alison Johnston closed the public hearing at 6:31 p.m.



## **7. DISCUSSION: CORE AREA RESTAURANT PARKING**

Ned West presented the staff summary to the Commission.

### **SUMMARY:**

The Dillon Municipal Code (“Code”) currently requires one (1) parking space per one hundred twenty (120) gross square feet of a restaurant.

“In those instances where the applicant for a development permit within the Core Area, including a request for a change of use, cannot or desires not to provide all parking spaces required in this Chapter [16 – Zoning] , the applicant may request to enter into an agreement with the Town to pay a fee per deficient parking space as set forth below; such request may be granted or denied in the Town Council's sole discretion. Fees per deficient parking spaces shall only be charged for the number of required parking spaces a development is deficient, and no fee per deficient parking space shall be charged for parking spaces actually provided.” (DMC § 16-6-50(a)). This fee is “not applicable to residential uses” (DMC § 16-6-50(b)(1)).

According to this fee schedule, a two-thousand four hundred (2,400) square foot restaurant in the Core Area zone district unable to provide on-site parking (not in the Town’s public parking pool, but on the business property) would be required to pay \$1.306 Million for parking fees for the deficiency of twenty (20) parking spaces. In addition, an outdoor patio or outdoor dining area greater than twenty percent (20%) of the gross square footage of the restaurant area requires additional parking spaces at the same rate.

For that matter, the Code requires one (1) parking space per four hundred twenty (400) gross square feet of a commercial business. As such, an eight thousand (8,000) square foot commercial building, unable to provide on-site parking, will equally be required to pay \$1.306 Million for parking fees.

Noteworthy, as written, the Code would limit the maximum size of a new Core Area restaurant unable to provide parking on site to 2,400 square feet, and the area of a new commercial building would be limited to 8,000 square feet because the maximum number of deficient spaces that may be offset by a fee is twenty (20) parking spaces. Not only does this potentially limit economic development in the town, but it may also possibly make property values uncertain. Also worthy of consideration is that such parking fees may only be paid for commercial developments. Residential developments must provide parking on site.

The Council discussed the parking fee schedule and wishes to consider amending the Code to address potential issues arising from the current Code requirements and / or explore incentives to spur economic development in the Town. The fees are found in Chapter 19 – “Fees” Appendix 19-A “Schedule of Fees” which is not under the prevue of the Planning and Zoning Commission; however, Section 16-6-50 – “Participation in future parking improvements and parking fees” is located in Chapter 16 – “Zoning”

and thus it is under recommendation from the Planning Commission that this section would potentially be amended.

Town staff intends to bring forward a resolution recommending a Code amendment during the next regular Planning Commission meeting.

**COMMISSIONER QUESTIONS:**

Alison Johnston asked if there could be a capacity requirement for parking similar to that of water and sewer tap fees, rather than a square footage requirement. Ned West said that might be problematic given that all other uses and their required parking are based on the gross square footage of the particular use. He stated he would look into the concept, but was not sure it could be implemented.

He further expressed that he has explored many other approaches.

Michael Parsons expressed that he believes that the commercial fees should be much less. As the Commission discussed the subject of fees, they felt it was a disincentive, and the Commission ultimately determined unanimously that currently there should be no fees.

**8. DISCUSSION: STATE LEGISLATION REGARDING THE PROHIBITION OF CERTAIN LANDSCAPE PRACTICES**

Ned West provided an overview of the proposed state legislation to limit certain types of landscapes on public lands and limiting sod areas to “functional turf” such as parks and ball fields.

**SUMMARY:**

State legislators in the Water Resources and Agriculture Committee have introduced legislation in the Second Regular Session of the Seventy-fourth General Assembly of the State of Colorado to add Article 99 to Title 37 “Water and Irrigation” concerning “Prohibition of Nonfunctional Turf, Artificial Turf, and Invasive Plant Species”. This concerns the conservation of water in the state through the prohibition of certain landscaping practices.

Town staff are introducing this subject to gain feedback from the Planning Commission such that we may provide comments to the Colorado Municipal League (CML) related to the proposed legislation. The Planning Commission may also consider potential Dillon Municipal Code amendments related to landscaping requirements and design guidelines for the prohibition of nonfunctional turf, artificial turf, and invasive plant species to align with the work the Commission has been engaged with during the study of the Comprehensive Plan and proposed amendments related to water conservation.

**COMMISSIONER QUESTIONS:**

Suzanne Pugsley asked if the artificial turf materials in question are difficult to dispose of. Ned West contributed that there are some studies finding that crumb rubber from these artificial turf field is showing up in nearby surface water bodies as well as in groundwater. This is something that needs to be investigated and discussed further.

Alison Johnston suggested revising the landscaping code language. Then she asked if the town would have to re-do the new Town Park. Ned West commented that although many cities are currently removing such playing surfaces, the science on their potential toxicity is still being determined through studies. At present it does not appear that the new artificial turf ball diamond infield will presently need to be removed, it may in the future should toxicity be proven to be a concern.

**9. DISCUSSION: WAYFINDING PRESENTATION - UNIVERSITY TECHNICAL ASSISTANCE PROGRAM (UTAP)**

Ned West presented the UTAP wayfinding presentation to the Commission and discussed the overarching goal of wayfinding to unify messaging through the Town, to provide clear directions, to highlight nodes of various modes of transit, and to create a Town identity recognizable throughout the Town.

**SUMMARY:**

The Dillon Town Core Master Plan states wayfinding is a town core goal.

- Wayfinding is needed for revitalization of the town core
- Consistency throughout all town signage
- Increase walkability and multi modal transportation in town core.

**COMMISSIONER QUESTIONS:**

Ned West told the commission that the presentation was given to the Town Council and not much came out of it.

**PROJECT UPDATES:**

- A-Dock at the Marina was successfully installed. It will eventually be moved to the other side of the launch ramp after a future abutment project is completed.
- Uptown 240 – in bankruptcy, for sale – some bidders; the Town remains uncertain of what might happen with the stalled project.

## RECORD OF PROCEEDINGS

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### **OTHER BUSINESS:**

- No applications for January 3<sup>rd</sup>, 2024 meeting, suggested to cancel. The Commission agreed to cancel the January 3, 2024 Planning and Zoning Commission meeting.

### **ADJOURNMENT**

There being no further business, Alison Johnston adjourned the meeting at 7:56 p.m.

Respectfully submitted,

*Libba Muzi*

Libba Muzi  
Secretary to the Commission