

ORDINANCE NO. 01-19
Series of 2019

AN ORDINANCE APPROVING A VARIANCE AND ADOPTING AND APPROVING A PUD DEVELOPMENT PLAN FOR THE DILLON MEDICAL BUILDING

WHEREAS, there has been submitted to the Town Council an application (“Application”) for approval of the Dillon Medical Building PUD Development Plan, a Level IV Development as defined in Dillon Municipal Code (“DMC”) Section 16-1-50, to be located on Block 12R (“Site”) of Dillon Ridge Marketplace Replat E (“Replat”), which Replat was considered by the Town Council concurrently with this Application, for purposes of combining Blocks 12, 13, and 14 of the Dillon Ridge Marketplace Subdivision and Tract B of Lookout Ridge Townhomes Phase I, Dillon, Colorado into a single developable lot; and

WHEREAS, the Application proposes a medical building consisting of an urgent care, medical clinics, an outpatient surgery facility with associated supports, a parking structure, and associated landscaping to be developed in two phases; and

WHEREAS, the Application proposes development of a completed building and all site amenities—including but not limited to infrastructure, landscaping, pedestrian ways, stormwater detention, vehicular circulation, and parking—during Phase I, and development of an expansion to the building developed in Phase I during Phase II; and

WHEREAS, the Application includes a request for a variance to the requirements of Appendix 17-C to Chapter 17 (“Appendix 17-C”) of the DMC on the basis of contesting the delineation of a wetland boundary line in a stormwater detention area on the Site (“Variance”); and

WHEREAS, on December 5, 2018, the Planning and Zoning Commission (“Commission”) held a properly noticed public hearing on the Application and request for a Variance, and following the public hearing the Commission, by Resolution No. PZ 18-18, Series of 2018, recommended the Town Council approve the application subject to certain conditions; and

WHEREAS, pursuant to DMC §§ 16-2-120 and 16-5-130(e), the Town Council has held a properly noticed public hearing on the Application and Variance; and

WHEREAS, following the public hearing, the Town Council has made certain findings of fact regarding the Application and has determined that certain conditions, which are reasonable and necessary to and relate to impacts created by the development, should attach to the Town Council’s approval of the Application; and

WHEREAS, based on information, testimony and the documents made part of the record at the public hearing, the Town Council desires to approve the Application and Variance in essentially the same form as accompanies this Ordinance, subject to certain conditions.

NOW, THEREFORE, BE IT ORDAINED, BY THE TOWN COUNCIL OF THE TOWN OF DILLON, COLORADO, AS FOLLOWS:

Section 1. The Town Council, following the required notice, held a public hearing on January 15, 2019 on the Application for the Dillon Medical Building PUD Development Plan (“Application”) and the request for a variance to the Town of Dillon Wetland Regulations (“Variance”), and following said public hearing makes the following findings of fact:

- A. That the Application is complete.
- B. That the Application meets all applicable Town of Dillon Municipal Code (“Town Code”) requirements, including those of the Level IV Development Permit process and the Wetland Regulations as provided for in Appendix 17-C to Chapter 17 (“Appendix 17-C”) of the Dillon Municipal Code.
- C. That the Application is compatible with the Mixed Use Zoning District and is compatible with surrounding uses.
- D. That the Application is in general compliance with the Town of Dillon Comprehensive Plan.
- E. That the United States Army Corps of Engineers (“USACE”), in a letter dated April 22, 2016, made an approved jurisdictional determination that waters of the United States are not located in the stormwater detention area aquatic resource located on Block 14 of the Dillon Ridge Marketplace Subdivision, and therefore, the aquatic resource is not a jurisdictional wetland. The letter states that only storm runoff feeds into the man-made detention pond area and there is no other permanent source of water. The letter further declares that the stormwater detention area may be filled without any jurisdictional oversight as it pertains to Section 404 of the Federal Clean Water Act.
- F. That USACE, in an October 2018 email, affirmed the April 22, 2016 letter after reviewing the Dillon Medical Building development plans.
- G. That the Town Code states that a “*Wetland* does not include man-made ponds built for the purposes of detaining runoff”. Appendix 17-C, Part 3.
- H. That, pursuant to Part 11(C) of Appendix 17-C of the Town Code, the Applicant requests a variance from the Town’s Wetland Regulations by contesting the delineation of the boundary line of a Wetland or Wetland Buffer Area (“WBA”) boundary based on the technical data of the non-jurisdictional determination from USACE.
- I. That the granting of the Variance will not result in a substantial degradation of the natural and wildlife features of WBAs or wetland areas nor disrupt the purposes of the Dillon Municipal Code Wetland Regulations.

- J. That the phasing of development proposed in the Application meets the criterion set forth in Subsection 16-5-120(1) of the Dillon Municipal Code; specifically, failure to proceed to Phase II will not have a substantial adverse impact on the PUD or its surroundings.

Section 2. The Town Council for the Town of Dillon hereby approves the Variance and adopts and approves the proposed Dillon Medical Building PUD Development Plan, the legal description of which property is set forth in Exhibit A attached hereto, subject to the conditions set forth in Exhibit B attached hereto.

Section 3. Upon satisfaction of the conditions of approval set forth in Exhibit B, and upon this Ordinance becoming effective pursuant to Section 3-8 of the Town of Dillon Home Rule Charter and as set forth herein, this Ordinance and the final PUD Development Plan for the Dillon Medical Building shall be recorded with the Summit County Clerk and Recorder pursuant to Section 16-5-130(e)(2) of the Dillon Municipal Code; the approved PUD Development Plan shall be recorded on the Official Town Zoning Map pursuant to DMC § 16-5-130(e)(4); and pursuant to DMC § 16-2-130, Town staff is authorized to issue a Level IV Development Permit with such conditions as may be appropriate to ensure construction and use of the property in accordance with the approved PUD Development Plan, including but not limited to the following:

- A. The Applicant shall pay all fees required by the Dillon Municipal Code prior to issuance of a Building Permit. Those fees include but are not limited to water tap fees, sewer tap fees, encroachment license fees, development impact fees, grading permit fees, right-of-way undertaking fees and outstanding legal fees associated with the review of the application and its associated licenses and agreements.

Section 4. Pursuant to Section 16-5-130(f)(3) of the Dillon Municipal Code, the Town Manager is authorized to approve corrections and adjustments to the PUD Development Plan, including but not limited to the following:

- A. Amount and location of final landscaping elements including fences, trees and shrubs.
- B. Final layout and configuration of the site plan and right-of-way improvements, streetscaping, utility service locations and utility infrastructure improvements.
- C. Additional minor changes that do not change the character or intent of the Planned Unit Development as approved by this Ordinance.
- D. Confirmation that the final mechanical design conceals rooftop mechanical installations per Town of Dillon standards.
- E. Final pathway alignments.

Section 5. Severance Clause. If an article, section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts may be declared invalid or unconstitutional.

Section 6. Effective Date. This Ordinance shall take effect five days after publication following final passage.

INTRODUCED, READ AND ORDERED PUBLISHED BY TITLE ONLY THIS 18th DAY OF DECEMBER 2018.

PASSED, ADOPTED AND APPROVED AND ORDERED PUBLISHED BY TITLE ONLY THIS ___ DAY OF _____, 2019.

TOWN OF DILLON,
a Colorado municipal corporation

By: _____
Carolyn Skowyra, Mayor

ATTEST:

Adrienne Stuckey, Town Clerk

EXHIBIT A
Dillon Medical Building PUD Development Plan
(Legal Description)

Block 12R Dillon Ridge Marketplace Replat E, A Replat of Blocks 12, 13, and 14, Dillon Ridge Marketplace Replat C and a Portion of Future Phase Tract B, Lookout Ridge Townhomes Phase I, Situated in the South Half of Section 7, Township 5 South, Range 77 West of the Sixth Principal Meridian, Town of Dillon, County of Summit, State of Colorado.

EXHIBIT B
Dillon Medical Building PUD Development Plan
(Conditions of Approval)

1. The PUD Development Plan shall be updated once all conditions have been met prior to issuance of a Building Permit.

2. Prior to the issuance of a Building Permit, final architectural floorplans and elevations, architectural materials board, site plans, utility plans, landscape plans, site lighting plans, and building configuration shall be submitted and reviewed by Town staff. The architectural design and renderings shall then be reviewed by the Town's architectural consultant for conformance with the Town of Dillon's architectural standards. The Applicant will be required to pay for the cost of the additional architectural review. The final architectural design and renderings shall then be reviewed and approved by the Town of Dillon Planning and Zoning Commission in a public hearing to be set at a future date.

3. Prior to applying for a Building Permit and prior to recording of the final subdivision plat, the Applicant shall enter into a Development Improvements Agreement with the Town of Dillon, which Agreement shall include without limitation the following obligations of the Applicant:

a. The Applicant shall relocate the water main running north-south through the middle of the property to the east as shown on the plans. All costs associated with the design and construction of the water main shall be the Applicant's responsibility. The Applicant shall dedicate a new Utility Easement to the Town of Dillon for the relocated water main as shown on the plans.

b. The Applicant shall relocate the water main running northeasterly through the Block 13 and Block 14 portion of the property to the south as shown on the plans. All costs associated with the design and construction of the water main shall be the Applicant's responsibility. The Applicant shall dedicate a new Utility Easement to the Town of Dillon for the relocated water main as shown on the plans.

c. The Applicant shall submit an easement vacation application to the Town of Dillon for approval of the vacation of the existing utility easements running through the portions of the site prior to construction of the building after the existing Town of Dillon Water mains are relocated to the new locations and accepted by the Town, and the new corresponding utility easements are dedicated to the Town and recorded at Summit County Clerk & Recorder's office.

d. The applicant shall be required to build new water main, storm sewer, concrete sidewalk and curb & gutter improvements within the Dillon Ridge Road, North Dillon Dam Road, and U.S. Highway 6 rights-of-way.

e. The Applicant shall provide a letter of credit in an amount determined by the Town in accordance with the Town Code, to ensure that all required improvements are in fact constructed as required in the Development Agreement.